

RESOLUTION NO. ___-___

RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2015-5 OF THE CITY OF LAKE ELSINORE (TRIESTE), TO AUTHORIZE THE LEVY OF A SPECIAL TAX TO PAY THE COSTS OF ACQUIRING OR CONSTRUCTING CERTAIN FACILITIES AND PROVIDING CERTAIN SERVICES AND EXPENSES OF THE DISTRICT AND TO PAY DEBT SERVICE ON BONDED INDEBTEDNESS

WHEREAS, the City of Lake Elsinore (the "City") received a petition signed by the owner of more than ten percent of the land within the boundaries of the territory which is proposed for inclusion in a proposed community facilities district, which petition meets the requirements of Sections 53318 and 53319 of the Government Code of the State of California; and

WHEREAS, the City Council of the City (the "City Council") desires to adopt this resolution of intention as provided in Section 53321 of the Government Code of the State of California to establish a community facilities district consisting of the territory described in Attachment "A" hereto and incorporated herein by this reference, which the City Council hereby determines shall be known as "Community Facilities District No. 2015-5 of the City of Lake Elsinore (Trieste)" ("Community Facilities District No. 2015-5" or the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act") to finance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of certain real or other tangible property described in Attachment "B" hereto and incorporated herein by this reference, including all furnishings, equipment and supplies related thereto (collectively, the "Facilities"), which Facilities have a useful life of five years or longer, (2) the incidental expenses to be incurred in connection with financing the Facilities and forming and administering the District (the "Facilities Incidental Expenses"), (3) maintaining, servicing, repairing and/or replacing streetlight improvements in public street right-of-ways areas officially dedicated for public use (the "Services"), and (4) the incidental expenses to be incurred in connection with forming and administering the District and financing the Services (the "Services Incidental Expenses" and together with the Facilities Incidental Expenses, the "Incidental Expenses"); and

WHEREAS, the City Council further intends to approve an estimate of the costs of the Facilities, the Services and the Incidental Expenses for Community Facilities District No. 2015-5; and

WHEREAS, it is the intention of the City Council to consider financing the Facilities, the Services and the Incidental Expenses through the formation of Community Facilities District No. 2015-5 and the issuance of bonded indebtedness in an amount not to exceed \$2,700,000 with respect to the Facilities and the Facilities Incidental Expenses and the levy of a special tax to pay for the Facilities (the "Facilities Special Tax"), the Services (to be levied contingent upon the inability of a property owner association to maintain the Services (the "Services Special Tax" and together with the Facilities Special Tax, the "Special Tax") and the Incidental Expenses and to pay debt service on the bonded indebtedness, provided that the bond sale and such special tax levy are approved at an election to be held within the boundaries of Community Facilities District No. 2015-5; and,

WHEREAS, the City desires to enter into a reimbursement agreement with Far West Industries, a California corporation (the “Developer”), the form of which is on file with the City Clerk (the “Reimbursement Agreement”), to provide for the reimbursement of certain amounts advanced by the Developer in connection with the formation of the District.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The above recitals are true and correct.

Section 2. A community facilities district is proposed to be established under the terms of the Act. It is further proposed that the boundaries of the community facilities district shall be the legal boundaries as described in Attachment “A” hereto, which boundaries shall, upon recordation of the boundary map for the District, include the entirety of any parcel subject to taxation by the District, and as depicted on the map of the proposed Community Facilities District No. 2015-5 which is on file with the City Clerk. The City Clerk is hereby directed to sign the original map of the District and record it with all proper endorsements thereon with the Assessor-County Clerk-Recorder of the County of Riverside within 15 days after the adoption of this resolution, all as required by Section 3111 of the Streets and Highways Code of the State of California.

Section 3. The name of the proposed community facilities district shall be “Community Facilities District No. 2015-5 of the City of Lake Elsinore (Trieste).”

Section 4. The Facilities proposed to be provided within Community Facilities District No. 2015-5 are public facilities as defined in the Act, which the City and the Elsinore Valley Municipal Water District, with respect to certain water and sewer facilities, are authorized by law to construct, acquire, own and operate. The City Council hereby finds and determines that the description of the Facilities herein is sufficiently informative to allow taxpayers within the proposed District to understand what the funds of the District may be used to finance. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of forming the District, issuing bonds and levying and collecting a special tax within the proposed District. The Facilities may be acquired from one or more of the property owners within the District as completed public improvements or may be constructed from bond or Special Tax proceeds.

All or a portion of the Facilities may be purchased with District funds as completed public facilities pursuant to Section 53314.9 or as discrete portions or phases pursuant to Section 53313.51 of the Act and/or constructed with District funds pursuant to Section 53316.2 of the Act. Any portion of the Facilities may be financed through a lease or lease-purchase arrangement if the District hereafter determines that such arrangement is of benefit to the District.

The Services proposed to be provided for the benefit of Community Facilities District No. 2015-5 are public services as defined in the Act, and this City Council finds and determines that the Services to be financed are in addition to those provided in the territory of the District at the present time and do not supplant services already available within the territory of the District. The City Council hereby finds and determines that the description of the Services herein is sufficiently informative to allow taxpayers within the proposed District, to understand what the funds of the District may be used to finance. The Services Incidental Expenses expected to be incurred include the costs of planning the Services, the costs of forming the District, the cost of

levying and collecting the Services Special Tax within the proposed District and the cost of administration.

Section 5. Except where funds are otherwise available, it is the intention of the City Council to levy annually in accordance with the procedures contained in the Act the Facilities Special Tax, secured by recordation of a continuing lien against all nonexempt real property in the District, sufficient to pay for: (i) the Facilities and Facilities Incidental Expenses; and (ii) the principal and interest and other periodic costs on bonds or other indebtedness issued to finance the Facilities and Facilities Incidental Expenses, including the establishment and replenishment of any reserve funds deemed necessary by the District, and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash). The rate and method of apportionment and manner of collection of the special tax are described in detail in Attachment "C" attached hereto, which Attachment "C" is incorporated herein by this reference. Attachment "C" allows each landowner within the District to estimate the maximum amount of the Facilities Special Tax that may be levied against each parcel. In the first year in which such Facilities Special Tax is levied, the levy shall include an amount sufficient to repay to the District all amounts, if any, transferred to the District pursuant to Section 53314 of the Act and interest thereon.

If the Facilities Special Tax is levied against any parcel used for private residential purposes, (i) the maximum Facilities Special Tax rate shall be specified as a dollar amount which shall be calculated and established not later than the date on which the parcel is first subject to the Special Tax because of its use for private residential purposes and shall not be increased over time except that it may be increased by an amount not to exceed one percent (1%) per year to the extent permitted in the rate and method of apportionment of the special tax set forth in Attachment "C," (ii) such Facilities Special Tax not shall be levied after fiscal year 2057-58, as described in Attachment "C" hereto, and (iii) under no circumstances will the Special Tax levied against any such parcel used for private residential uses be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the District by more than ten percent (10%) above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults.

The Facilities Special Tax is based on the expected demand that each parcel of real property within proposed Community Facilities District No. 2015-5 will place on the Facilities and on the benefit that each parcel derives from the right to access the Facilities. The City Council hereby determines that the proposed Facilities are necessary to meet the increased demand placed upon the City and the existing infrastructure in the City as a result of the development of the land proposed for inclusion in the District. The City Council hereby determines the rate and method of apportionment of the special tax with respect to the Facilities Special Tax set forth in Attachment "C" to be reasonable. The Facilities Special Tax is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act and such special tax is not on or based upon the value or ownership of real property. In the event that a portion of the property within Community Facilities District No. 2015-5 shall become for any reason exempt, wholly or partially, from the levy of the Special Tax specified on Attachment "C," the City Council shall, on behalf of Community Facilities District No. 2015-5, cause the levy to be increased, subject to the limitation of the maximum Facilities Special Tax for a parcel as set forth in Attachment "C," to the extent necessary upon the remaining property within proposed Community Facilities District No. 2015-5 which is not exempt in order to yield the Facilities Special Tax revenues required for the purposes described in this Section 5. The obligation to pay the Facilities Special Tax may be prepaid only as set forth in Section G of Attachment "C" hereto.

Section 6. Except where funds are otherwise available, it is the intention of the City Council to levy annually in accordance with the procedures contained in the Act the Services Special Tax, secured by recordation of a continuing lien against all nonexempt real property in the District, sufficient to pay for the Services and the Services Incidental Expenses. The rate and method of apportionment and manner of collection of the Services Special Tax are described in detail in Attachment "C" attached hereto. Attachment "C" allows each landowner within the District to estimate the maximum amount of the Services Special Tax that may be levied against each parcel.

The Services Special Tax may be increased by the greater of the increase in the consumer price index or two percent (2%) per year, to the extent permitted in the Rate and Method. The Services Special Tax may be levied for such period as the Services are needed, as further described in Attachment "C" hereto, provided that under no circumstances will such special tax be increased with respect to residential property as a consequence of delinquency or default by the owner of any other parcel or parcels within the District by more than ten percent (10%).

The Services Special Tax is based on the expected demand that each parcel of real property within proposed Community Facilities District No. 2015-5 will place on the Services. The City Council hereby determines that the proposed Services are necessary to meet the increased demand placed upon the City as a result of the development of the land proposed for inclusion in the District. The City Council hereby determines the rate and method of apportionment of the special taxes set forth in Attachment "C" to be reasonable. The Services Special Tax is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act and such Services Special Tax is not on or based upon the value or ownership of real property.

Section 7. A public hearing (the "Hearing") on the establishment of the proposed Community Facilities District No. 2015-5, the proposed rate and method of apportionment of the Special Tax and the proposed issuance of bonds to finance the Facilities and the Incidental Expenses shall be held at 7:00 p.m., or as soon thereafter as practicable, on July 26, 2016, at the City Cultural Center, 183 North Main Street, Lake Elsinore, California. Should the City Council determine to form the District, a special election will be held to authorize the issuance of the bonds and the levy of the special tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the election will be a landowner vote with each landowner who is the owner of record of land within the District at the close of the Hearing, or the authorized representative thereof, having one vote for each acre or portion thereof owned within the proposed District. Ballots for the special election may be distributed by mail or by personal service.

Section 8. At the time and place set forth above for the Hearing, the City Council will receive testimony as to whether the proposed Community Facilities District No. 2015-5 shall be established and as to the method of apportionment of the special tax and shall consider:

(a) if an ad valorem property tax is currently being levied on property within proposed Community Facilities District No. 2015-5 for the exclusive purpose of paying principal of or interest on bonds, lease payments or other indebtedness incurred to finance construction of capital facilities; and

(b) if the capital facilities to be financed and constructed by Community Facilities District No. 2015-5 will provide the same services as were provided by the capital facilities mentioned in subsection (a); and

(c) if the City Council makes the findings specified in subsections (a) and (b) above, it will consider appropriate action to determine whether the total annual amount of ad valorem property tax revenue due from parcels within Community Facilities District No. 2015-5, for purposes of paying principal and interest on the debt identified in subsection (a) above, shall not be increased after the date on which Community Facilities District No. 2015-5 is established, or after a later date determined by the City Council with the concurrence of the legislative body which levied the property tax in question.

Section 9. At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within proposed Community Facilities District No. 2015-5, may appear and be heard.

Section 10. Each City officer who is or will be responsible for providing the Facilities within proposed Community Facilities District No. 2015-5, if it is established, is hereby directed to study the proposed District and, at or before the time of the above-mentioned Hearing, file a report with the City Council containing a brief description of the public facilities by type which will in his or her opinion be required to meet adequately the needs of Community Facilities District No. 2015-5 and an estimate of the cost of providing those public facilities, including the cost of environmental evaluations of such facilities and an estimate of the fair and reasonable cost of any Incidental Expenses to be incurred.

Section 11. The District may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred in creating Community Facilities District No. 2015-5. The District may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by the City Council, with or without interest.

Section 12. The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of proposed Community Facilities District No. 2015-5. The City Clerk is further directed to mail a copy of the Notice to each of the landowners within the boundaries of the District at least 15 days prior to the Hearing. The Notice shall contain the text or a summary of this Resolution, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed district and a description of the proposed voting procedure for the election required by the Act. Such publication shall be completed at least seven (7) days prior to the date of the Hearing.

Section 13. The reasonably expected maximum principal amount of the bonded indebtedness to be incurred by the District for the Facilities and Incidental Expenses is Two Million Seven Hundred Thousand Dollars (\$2,700,000).

Section 14. The form of the Reimbursement Agreement is hereby approved. The Mayor, the City Manager, the Director of Administrative Services, or their written designees are hereby authorized and directed to execute and deliver the Reimbursement Agreement in the

form on file with the City Clerk with such changes, insertions and omissions as may be approved by the officer or officers executing such agreement, said execution being conclusive evidence of such approval.

Section 15. Except to the extent limited in any bond resolution or trust indenture related to the issuance of bonds, the City Council hereby reserves to itself all rights and powers set forth in Section 53344.1 of the Act (relating to tenders in full or partial payment).

Section 16. This Resolution shall be effective upon its adoption.

PASSED AND ADOPTED this 14th day of June, 2016.

Brian Tisdale, Mayor

APPROVED AS TO FORM:

ATTEST:

Susan M. Domen, CMC
City Clerk

Barbara Zeid Leibold
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LAKE ELSINORE)

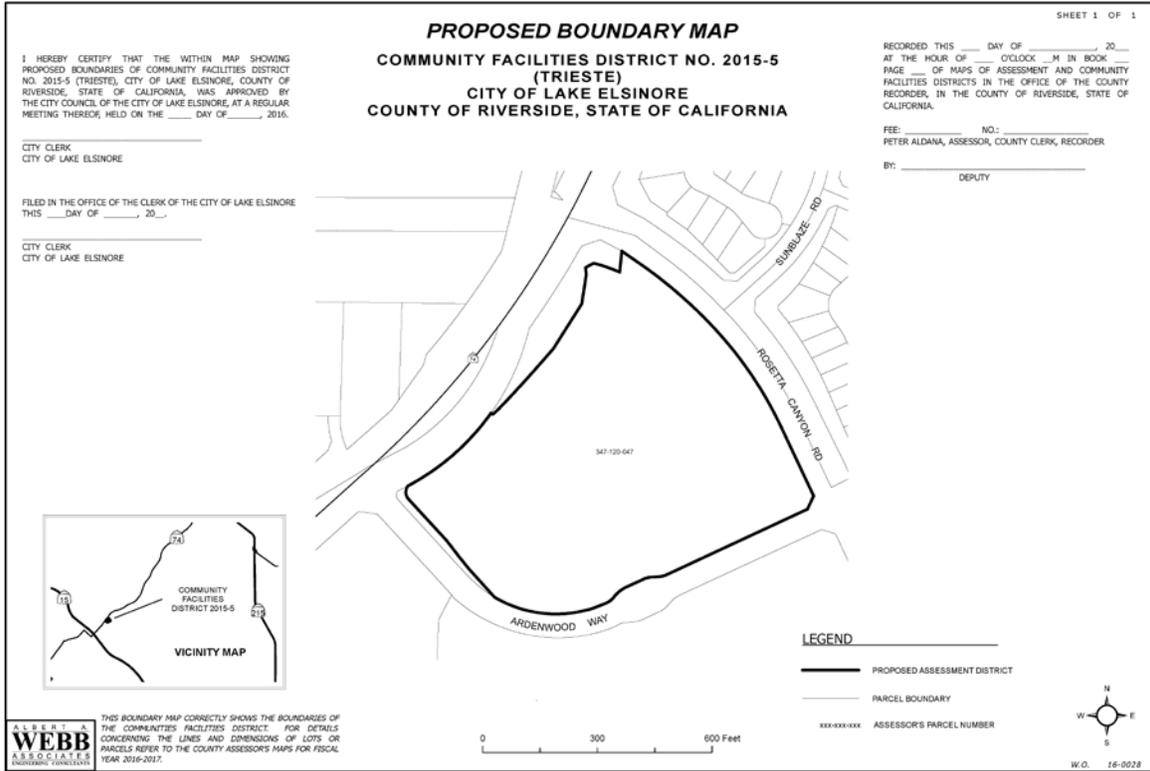
I, Susan M. Domen, CMC, City Clerk of the City of Lake Elsinore, California, do hereby certify that Resolution No. _____ was adopted by the City Council of the City of Lake Elsinore, California, at the regular meeting of June 14, 2016 and that the same was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Susan M. Domen, CMC
City Clerk

ATTACHMENT A

BOUNDARY MAP



ATTACHMENT B

Types of Facilities to Be Financed by Community Facilities District No. 2015-5 of the City of Lake Elsinore

The proposed types of public facilities and expenses to be financed by the District include:

The construction, purchase, modification, expansion, rehabilitation and/or improvement of (i) drainage, library, park, roadway and other public facilities of the City, including the foregoing public facilities which are included in the City's fee programs with respect to such facilities and authorized to be financed under the Mello-Roos Community Facilities Act of 1982, as amended (the "City Facilities") and (ii) water and sewer facilities including the acquisition of capacity in the sewer system and/or water system of the Elsinore Valley Municipal Water District which are included in Elsinore Valley Municipal Water District's water and sewer capacity and connection fee programs (the "Water District Facilities" and together, with the City Facilities, the "Facilities"), and all appurtenances and appurtenant work in connection with the foregoing Facilities, including the cost of engineering, planning, designing, materials testing, coordination, construction staking, construction management and supervision for such Facilities, and to finance the incidental expenses to be incurred, including:

- a. The cost of engineering, planning and designing the Facilities;
- b. All costs, including costs of the property owner petitioning to form the District, associated with the creation of the District, the issuance of the bonds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the District; and
- c. Any other expenses incidental to the construction, acquisition, modification, rehabilitation, completion and inspection of the Facilities.

Capitalized terms used and not defined herein shall have the meaning set forth in the Rate and Method of Apportionment of Special Taxes for the District.

**Types of Services
to Be Financed by Community
Facilities District No. 2015-5 of the City of Lake Elsinore**

The services which may be funded with proceeds of Special Tax B (Contingent) of CFD No. 2015-5, as provided by Section 53313 of the Act, will include all costs attributable to maintaining, servicing, repairing and/or replacing streetlight improvements (may include reserves for replacement) in public street right-of ways areas officially dedicated for public use.

The authorized Special Tax B Services include the maintenance and lighting of parks, parkways, streets, roads and open space, which maintenance and lighting services may include, without limitation, furnishing of electrical power to street lights; repair and replacement of damaged or inoperative light bulbs, fixtures and standards.

In addition to payment of the cost and expense of the forgoing services, proceeds of Special Tax B (Contingent) may be expended to pay "Administrative Expenses," as said term is defined in the Rate and Method of Apportionment.

ATTACHMENT C

**RATE AND METHOD OF APPORTIONMENT FOR
COMMUNITY FACILITIES DISTRICT NO. 2015-5
OF THE CITY OF LAKE ELSINORE
(TRIESTE)**