

RESOLUTION NO. 23-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENIFEE ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2023-2 (CIMARRON RIDGE) OF THE CITY OF MENIFEE AND IMPROVEMENT AREAS THEREIN, AUTHORIZING THE LEVY OF A SPECIAL TAX THEREIN, CALLING AN ELECTION WITHIN EACH IMPROVEMENT AREA AND APPROVING AND AUTHORIZING CERTAIN ACTIONS RELATED THERETO

WHEREAS, the City Council (the "City Council") of the City of Menifee (the "City") has heretofore adopted Resolution No. 23-1296 stating its intention to form Community Facilities District No. 2023-2 (Cimarron Ridge) of the City of Menifee ("Community Facilities District No. 2023-2" or the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the "Act") and to form two improvement areas within proposed Community Facilities District No. 2023-2 to be known as "Improvement Area No. 1 of Community Facilities District No. 2023-2 (Cimarron Ridge) of the City of Menifee ("Improvement Area No. 1") and "Improvement Area No. 2 of Community Facilities District No. 2023-2 (Cimarron Ridge) of the City of Menifee" ("Improvement Area No. 2" and together with Improvement Area No. 1, the "Improvement Areas" and each individually an "Improvement Area"); and

WHEREAS, a copy of Resolution No 23-1296 setting forth a description of the proposed boundaries of Community Facilities District No. 2023-2 and each of the Improvement Areas, the facilities and incidental expenses to be financed by the District and the rate and method of apportionment of the special tax proposed to be levied within each Improvement Area is on file with the City Clerk; and

WHEREAS, notice was published and mailed to all landowners of the land proposed to be included within the District as required by law relative to the intention of this City Council to form proposed Community Facilities District No. 2023-2 and the Improvement Areas and to levy a special tax (the "Special Tax") within each Improvement Area and to incur bonded indebtedness in the maximum aggregate amount of up to \$10,000,000 within proposed Improvement Area No. 1 and \$15,000,000 within proposed Improvement Area No. 2 therein to finance the facilities and incidental expenses described in Resolution No. 23-1296; and

WHEREAS, on April 19, 2023, this City Council conducted a noticed public hearing as required by law relative to the proposed formation of Community Facilities District No. 2023-2 and the Improvement Areas, the levy of the Special Tax within each Improvement Area and the issuance of bonded indebtedness by the District for each Improvement Area; and

WHEREAS, at the April 19, 2023 public hearing there was filed with this City Council a report containing a description of the facilities necessary to meet the needs of the District and an estimate of the cost of such facilities as required by Section 53321.5 of the Act (the "Engineer's Report"); and

WHEREAS, at the April 19, 2023 public hearing all persons desiring to be heard on all matters pertaining to the formation of Community Facilities District No. 2023-2 and the Improvement Areas, the levy of the Special Tax within each Improvement Area and the issuance of bonded indebtedness by the District for each of the Improvement Areas were heard and full and fair hearings were held; and

WHEREAS, following the public hearing, this City Council has determined to authorize the formation of the District to finance the types of facilities (the “Facilities”) and the incidental expenses (the “Incidental Expenses”) set forth in Attachment A hereto, which are described in more detail in the Engineer’s Report; and

WHEREAS, at the public hearing evidence was presented to this City Council on the matters before it, and the proposed Special Tax to be levied within each of the Improvement Areas was not precluded by a majority protest of the type described in Section 53324 of the Act, and this City Council at the conclusion of the hearing was fully advised as to all matters relating to the formation of the District and the Improvement Areas, the levy of the Special Tax and the issuance of bonded indebtedness within each of the Improvement Areas; and

WHEREAS, this City Council has determined, based on a Certificate of Registrar of Voters of the County of Riverside on file in the office of the City Clerk, that no registered voters have been residing in the proposed boundaries of Community Facilities District No. 2023-2 for each of the 90 days prior to April 19, 2023 and that the qualified electors in Community Facilities District No. 2023-2 are the landowners within the District; and

WHEREAS, on the basis of all of the foregoing, this City Council has determined to proceed with the establishment of Community Facilities District No. 2023-2 and the Improvement Areas and to call an election within each Improvement Area to authorize (i) the levy of a Special Tax within Improvement Area No. 1 pursuant to the rate and method of apportionment of the special tax, as set forth in Attachment C to Resolution No. 23-1296 (the “Improvement Area No. 1 Rate and Method”), (ii) the levy of a Special Tax within Improvement Area No. 2 pursuant to the rate and method of apportionment of the special tax, as set forth in Attachment D to Resolution No. 23-1296 (the “Improvement Area No. 2 Rate and Method”) (iii) the issuance of bonds within each of the Improvement Areas to finance the Facilities and Incidental Expenses, and (iv) the establishment of an appropriations limit for Community Facilities District No. 2023-2; and

WHEREAS, in order to facilitate the funding of the Facilities, the legislative body of the District desires to enter into an Acquisition, Construction and Funding Agreement (the “Agreement”) with Pulte Home Company, LLC, a Michigan limited liability company (the “Developer”) and the form of the Agreement is on file with the City Clerk; and

WHEREAS, in connection with the proposed formation of the District, the City proposes to enter into a Joint Community Facilities Agreement (the “JCFA”) with Eastern Municipal Water District (the “Water District”) and the Developer, relating to certain facilities proposed to be financed by the District and owned and operated by the Water District and the form of the JCFA is on file with the City Clerk;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Menifee, California:

Section 1. Each of the above recitals is true and correct.

Section 2. A community facilities district to be designated “Community Facilities District No. 2023-2 (Cimarron Ridge) of the City of Menifee” is hereby established pursuant to the Act and Improvement Area No. 1 and Improvement Area No. 2 are hereby designated within the District in accordance with 53350 of the Act. The City

Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the District were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

Section 3. The boundaries of Community Facilities District No. 2023-2 and each of the Improvement Areas are established as shown on the map designated “Proposed Boundary Map of Community Facilities District No. 2023-2 (Cimarron Ridge) of the City of Menifee, County of Riverside, State of California”, which map is on file in the office of the City Clerk and was recorded pursuant to Sections 3111 and 3113 of the Streets and Highways Code in the County Book of Maps of Assessment and Community Facilities Districts in the Assessor-County Clerk-Recorder’s office of the County of Riverside in Book No. 90 Page Nos. 81-83 on March 22, 2023 as Instrument No. 2023-0081945.

Section 4. The types of Facilities and Incidental Expenses authorized to be provided for Community Facilities District No. 2023-2 are those set forth in Attachment A attached hereto. The estimated cost of the Facilities and Incidental Expenses to be financed is set forth in the Engineer’s Report, which estimates may change as the Facilities are designed and bid for construction and acquisition, as applicable.

The City is authorized by the Act to contribute revenue to, or to construct or acquire the Facilities, all in accordance with the Act. The City Council finds and determines that the proposed Facilities are necessary to meet the increased demand that will be placed upon local agencies and public infrastructure as a result of new development within the District and that the Facilities to be financed, including those to be financed pursuant to the JCFA to be entered into with the Water District, benefit residents of the City and the future residents of the District.

Section 5. Except where funds are otherwise available, it is the intention of this City Council, subject to the approval of the eligible voters within each Improvement Area, to levy annually a Special Tax at the rates set forth in the Improvement Area No. 1 Rate and Method and the Improvement Area No. 2 Rate and Method, on all non-exempt property within Improvement Area No. 1 and Improvement Area No. 2, respectively, sufficient to pay for (i) the Facilities, (ii) principal and interest and other periodic costs on the bonds proposed to be issued to finance the Facilities and Incidental Expenses to be financed by such Improvement Area, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees and other expenses of the type permitted by Section 53345.3 of the Act, and (iii) the Incidental Expenses. The District expects to incur, and in certain cases has already incurred, Incidental Expenses in connection with the creation of the District, the issuance of bonds, the levying and collecting of the Special Tax, the completion and inspection of the Facilities and the annual administration of the bonds and the District. The Improvement Area No. 1 Rate and Method is described in detail in Attachment C to Resolution No. 23-1296 and is incorporated herein by this reference, and the City Council hereby finds that the Improvement Area No. 1 Rate and Method contains sufficient detail to allow each landowner within Improvement Area No. 1 to estimate the maximum amount that may be levied against each parcel. The

Improvement Area No. 2 Rate and Method is described in detail in Attachment D to Resolution No. 23-1296 and is incorporated herein by this reference, and the City Council hereby finds that the Improvement Area No. 2 Rate and Method contains sufficient detail to allow each landowner within Improvement Area No. 2 to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Engineer's Report, which is incorporated by reference herein, the Special Tax to be levied within an Improvement Area is based on the expected demand that each parcel of real property within the Improvement Area will place on the Facilities and on the benefit that each parcel will derive from the right to access the Facilities and, accordingly, is hereby determined to be reasonable. The Special Tax within the Improvement Areas shall be levied on each assessor's parcel in accordance with the Improvement Area No. 1 Rate and Method and the Improvement Area No. 2 Rate and Method, as applicable, provided, however, that the Special Tax within the Improvement Areas shall not be levied after Fiscal Year 2069-70. The Special Tax is apportioned to each parcel within an Improvement Area on the foregoing bases pursuant to Section 53325.3 of the Act and such Special Tax is not on or based upon the ownership of real property or the assessed value of real property.

If Special Taxes of an Improvement Area are levied against any parcel used for private residential purposes, (i) the maximum 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 as authorized under the rate and method of apportionment of the Special Tax for such Improvement Area; (ii) the Special Tax within the Improvement Area shall not be levied after Fiscal Year 2069-70, and (iii) under no circumstances will the Special Tax levied in any fiscal year 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 such Improvement Area by more than ten percent above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults.

The City Manager of the City of Menifee, or his or her designee, will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

Section 6.

In the event that a portion of the property within Improvement Area No. 1 shall become for any reason exempt, wholly or partially, from the levy of the Special Tax specified in the Improvement Area No. 1 Rate and Method, or in the event of delinquencies in the payment of Special Taxes levied, the City Council shall, on behalf of Community Facilities District No. 2023-2, increase the levy to the extent necessary and permitted by law and these proceedings upon the remaining property within Improvement Area No. 1 which is not exempt or delinquent in order to yield the required debt service payments on any outstanding bonds of the District for Improvement Area No. 1, or to prevent the District from defaulting on any other of its obligations or liabilities payable from Improvement Area No. 1 special taxes; provided, however, under no circumstances will the Special Tax

levied against any parcel in Improvement Area No. 1 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 Improvement Area No. 1 by more than ten percent above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. The amount of the Special Tax for parcels within Improvement Area No. 1 will be set in accordance with the Improvement Area No. 1 Rate and Method. The obligation to pay Special Taxes may be prepaid only as set forth in Section G of the Improvement Area No. 1 Rate and Method.

In the event that a portion of the property within Improvement Area No. 2 shall become for any reason exempt, wholly or partially, from the levy of the Special Tax specified in the Improvement Area No. 2 Rate and Method, or in the event of delinquencies in the payment of Special Taxes levied, the City Council shall, on behalf of Community Facilities District No. 2023-2, increase the levy to the extent necessary and permitted by law and these proceedings upon the remaining property within Improvement Area No. 2 which is not exempt or delinquent in order to yield the required debt service payments on any outstanding bonds of the District for Improvement Area No. 2, or to prevent the District from defaulting on any other of its obligations or liabilities payable from Improvement Area No. 2 special taxes; provided, however, under no circumstances will the Special Tax levied against any parcel in Improvement Area No. 2 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 Improvement Area No. 2 by more than ten percent above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. The amount of the Special Tax for parcels within Improvement Area No. 2 will be set in accordance with the Improvement Area No. 2 Rate and Method. The obligation to pay Special Taxes may be prepaid only as set forth in Section G of the Improvement Area No. 2 Rate and Method.

Section 7. Upon recordation of a notice of special tax lien for an Improvement Area pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all non-exempt real property in such Improvement Area and this lien shall continue in force and effect until the Special Tax obligation is prepaid and permanently satisfied and the lien canceled with respect to such Improvement Area in accordance with law or until collection of the Special Tax for such Improvement Area by the District ceases.

Section 8. Consistent with Section 53325.6 of the Act, the City Council finds and determines that the land within Community Facilities District No. 2023-2, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products is contiguous to other land within Community Facilities District No. 2023-2 and will be benefited by the Facilities proposed to be provided within Community Facilities District No. 2023-2.

Section 9. It is hereby further determined that there is no *ad valorem* property tax currently being levied on property within proposed Community Facilities District No. 2023-2 for the exclusive purpose of paying the principal of or interest on bonds or other

indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of Community Facilities District No. 2023-2 as are proposed to be provided by the Facilities to be financed by Community Facilities District No. 2023-2.

Section 10. Written protests against the establishment of the District and the designation of the Improvement Areas have not been filed by one-half or more of the registered voters within the boundaries of the District or either Improvement Area or by the property owners of one-half (1/2) or more of the area of land within the District or either Improvement Area. The City Council hereby finds that the proposed Special Tax has not been precluded by a majority protest pursuant to Section 53324 of the Act.

Section 11. An election is hereby called for Improvement Area No. 1 on the propositions of levying the Special Tax on the property within Improvement Area No. 1 and establishing an appropriations limit for the District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness for Improvement Area No. 1, pursuant to Sections 53351 and 53353.5 of the Act. The language of the propositions to be placed on the ballot is attached hereto as Attachment B.

An election is hereby called for Improvement Area No. 2 on the propositions of levying the Special Tax on the property within Improvement Area No. 2 and establishing an appropriations limit for the District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness for Improvement Area No. 2. Pursuant to Section 53351 and 53353.5 of the Act. The language of the propositions to be placed on the ballot is attached hereto as Attachment C.

Section 12. The date of the elections for each of the Improvement Areas on the propositions of incurring the bonded indebtedness, authorizing the levy of the Special Tax and establishing an appropriations limit for the District shall be April 19, 2023, or such later date as is consented to by the City Clerk or any Acting City Clerk (referred to herein as the "City Clerk") of the City of Menifee; provided that, if the election is to take place sooner than 90 days after April 19, 2023, then the unanimous written consent of each qualified elector within such Improvement Area to such election date must be obtained. The polls shall be open for said election immediately following the close of the public hearing on April 19, 2023. The election shall be conducted by the City Clerk. Except as otherwise provided by the Act, the election shall be conducted in accordance with the provisions of law regulating elections of the City of Menifee insofar as such provisions are determined by the City Clerk to be applicable. The City Clerk is authorized to conduct the election following the adoption of this resolution, and all ballots shall be received by, and the City Clerk shall close the election by, 11:00 p.m. on the election day; provided the election shall be closed at such earlier time as all qualified electors have voted as provided in Section 53326(d) of the Act. Pursuant to Section 53326 of the Act, the ballots for the special election shall be distributed in person or by mail with return postage prepaid, to the qualified electors within each of the Improvement Areas. The City Clerk has secured certificates from the Registrar of Voters of the County of Riverside certifying that

there were no registered voters within the District as of the date of such certificate. Accordingly, since there were fewer than 12 registered voters within the District for each of the 90 days preceding April 19, 2023, the qualified electors shall be the landowners within each of the Improvement Areas and each landowner, or the authorized representative thereof, shall have one vote for each acre or portion thereof that such landowner owns within the respective Improvement Area, as provided in Section 53326 of the Act. The sole landowner within Improvement Area No. 1 has executed and delivered a waiver of certain election law requirements and consenting to the holding of the election on April 19, 2023, which waiver is on file with the City Clerk. The sole landowner within Improvement Area No. 2 has executed and delivered a waiver of certain election law requirements and consenting to the holding of the election on April 19, 2023, which waiver is on file with the City Clerk.

Section 13. The preparation of the Engineer's Report is hereby ratified. The Engineer's Report, as submitted, is hereby approved and was made a part of the record of the public hearing regarding the formation of Community Facilities District No. 2023-2. The Engineer's Report is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

Section 14. 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. 2023-2. 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 15. The form of the Agreement on file with the City Clerk is approved as to form, and each of the City Manager, the Assistant City Manager, and their written designees, is authorized to execute the Agreement in substantially the form on file with the City Clerk, together with such changes as are approved by the officer executing the same, with the approval of such changes to be conclusively evidenced by the execution and delivery thereof. Notwithstanding City Policy No. FN-09, the City Council hereby waives the requirement for the approval of the Agreement prior to the adoption of the resolution of intention to establish the District. The City Council hereby finds that such waiver is reasonable given that the projects as listed in the Agreement are expected to provide public benefits to the future residents in the District.

Section 16. The form of the JCFA on file with the City Clerk is approved as to form, and each of the City Manager, the Assistant City Manager, and their written designees, is authorized to execute the JCFA in substantially the form on file with the City Clerk, together with such changes as are approved by the officer executing the same, with the approval of such changes to be conclusively evidenced by the execution and delivery thereof.

Section 17. This Resolution shall be effective upon its adoption.

PASSED, APPROVED AND ADOPTED this the 19th day of April, 2023.

Bill Zimmerman, Mayor

Attest:

A. Kay Vinson, Acting City Clerk

Approved as to form:

Jeffrey T. Melching, City Attorney

ATTACHMENT A

Types of Facilities To Be Financed By Community Facilities District No. 2023-2

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

The construction, purchase, modification, rehabilitation, expansion and/or improvement of (i) drainage, library, park, roadway, traffic, administration and general government facilities, animal shelter facilities, fire and safety, 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"); (ii) water and sewer facilities including the acquisition of capacity in the sewer system and/or water system of the Eastern Municipal Water District which are included in Eastern Municipal Water District's water and sewer capacity and connection fee programs (the "Water District Facilities"); and (iii) interim and permanent school facilities of Menifee Union School District, Romoland School District and Perris Union High School District, including classrooms, multi-purpose facilities, administration and auxiliary space at school facilities, athletic fields, playgrounds and recreational facilities and improvements thereto, landscaping, access roadways, drainage, sidewalks and gutters and utility lines, furniture, equipment and technology, including technology upgrades and mobile devices and infrastructure therefore, with a useful life of at least five (5) years at such school facilities (the "School Facilities" and together, with the City Facilities and the Water 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.

ATTACHMENT B

BALLOT PROPOSITIONS

**COMMUNITY FACILITIES DISTRICT NO. 2023-2 (CIMARRON RIDGE)
OF THE CITY OF MENIFEE**

IMPROVEMENT AREA NO. 1

SPECIAL TAX AND SPECIAL BOND ELECTION

April 19, 2023

PROPOSITION A: Shall Community Facilities District No. 2023-2 (Cimarron Ridge) of the City of Menifee (the "District") incur an indebtedness and issue bonds in the maximum principal amount of \$10,000,000 for Improvement Area No. 1 therein (the "Improvement Area") with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 23-1296 of the City Council of the City of Menifee?

YES _____

NO _____

PROPOSITION B: Shall a special tax with a rate and method of apportionment for the Improvement Area as provided in Resolution No. 23-1296 of the City Council of the City of Menifee be levied to pay for the Facilities, Incidental Expenses and other purposes described in Resolution No. 23-1296, including the payment of the principal of and interest on bonds issued by the District for the Improvement Area to finance the Facilities and Incidental Expenses?

YES _____

NO _____

PROPOSITION C: For each year commencing with Fiscal Year 2023-2024, shall the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for Community Facilities District No. 2023-2 be an amount equal to \$7,500,000?

YES _____

NO _____

ATTACHMENT C

BALLOT PROPOSITIONS

**COMMUNITY FACILITIES DISTRICT NO. 2023-2 (CIMARRON RIDGE)
OF THE CITY OF MENIFEE**

IMPROVEMENT AREA NO. 2

SPECIAL TAX AND SPECIAL BOND ELECTION

April 19, 2023

PROPOSITION D: Shall Community Facilities District No. 2023-2 (Cimarron Ridge) of the City of Menifee (the "District") incur an indebtedness and issue bonds in the maximum principal amount of \$15,000,000 for Improvement Area No. 2 therein (the "Improvement Area") with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 23-1296 of the City Council of the City of Menifee?

YES _____

NO _____

PROPOSITION E: Shall a special tax with a rate and method of apportionment for the Improvement Area as provided in Resolution No. 23-1296 of the City Council of the City of Menifee be levied to pay for the Facilities, Incidental Expenses and other purposes described in Resolution No. 23-1296, including the payment of the principal of and interest on bonds issued by the District for the Improvement Area to finance the Facilities and Incidental Expenses?

YES _____

NO _____

PROPOSITION F: For each year commencing with Fiscal Year 2023-2024, shall the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for Community Facilities District No. 2023-2 be an amount equal to \$7,500,000?

YES _____

NO _____