

CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
ALAMEDA, CALIFORNIA, ESTABLISHING THE  
FORMATION OF A COMMUNITY FACILITIES DISTRICT

CITY OF ALAMEDA  
COMMUNITY FACILITIES DISTRICT NO. 14-1  
(MARINA COVE II)

WHEREAS, on July 15, 2014, this City Council (the "City Council") of the City of Alameda (the "City") adopted Resolution No. 14953 entitled "A Resolution of the City Council of the City of Alameda, California Declaring its Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes" (the "Resolution of Intention"), stating its intention to form the City of Alameda, Community Facilities District No. 14-1 (Marina Cove II) (the "District"), of the City pursuant to the City of Alameda Special Tax Financing Improvement Code, constituting Section 3-70.1 et seq. of the City of Alameda Municipal Code (the "Code"); and

WHEREAS, the Resolution of Intention, incorporating a map of the proposed boundaries of the District and stating the services to be provided, the estimated cost of providing such services, and the rate and method of apportionment of the special tax to be levied within the District to pay for the services, is on file with the City Clerk and the provisions thereof are incorporated herein by reference as if fully set forth herein; and

WHEREAS, under the Resolution of Intention, the Finance Director of the City was directed to make, or cause to be made, and file with the City Clerk a report (the "Report") in writing, presenting the improvements and services to be provided and an estimate of the reasonable cost of providing the improvements and services. The Report was prepared and submitted to the City Clerk prior to the public hearing described below; and

WHEREAS, the Resolution of Intention called for a public hearing pertaining to the formation of the District and the levy of said special tax to be held on September 2, 2014, at 7:00 p.m. at the meeting place of the City Council; and

WHEREAS, under the Resolution of Intention, the City Clerk was directed to cause notice of said public hearing to be given by publication one time in a newspaper published in the area of the District, and the City Clerk caused the publication of such notice at least seven (7) days before the date set for said public hearing; and

WHEREAS, on this date, this City Council held a noticed public hearing as required by the Code and the Resolution of Intention relative to the proposed formation of the District; and

WHEREAS, at the public hearing all interested persons desiring to be heard on all matters pertaining to the formation of the District, the services to be provided therein and the levy of such special tax were heard and a full and fair public hearing was held; and

WHEREAS, written protests with respect to the formation of the District, the furnishing of specified types of services and the rate and method of apportionment of the special taxes have not been filed with the City Clerk by fifty percent (50%) or more of the registered voters residing within the territory of the District or property owners of one-half (1/2) or more of the area of land within the District and not exempt from the proposed special taxes; and

WHEREAS, the special tax proposed to be levied in the District to pay for the proposed services has not been eliminated by protest by fifty percent (50%) or more of the registered voters residing within the territory of the District or the owners of one-half (1/2) or more of the area of land within the District and not exempt from the special taxes.

NOW, THEREFORE, the City Council of the City of Alameda, DOES HEREBY RESOLVE as follows:

1. The foregoing recitals are true and correct.
2. All prior proceedings taken by the City Council in connection with the establishment of the District and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the requirements of the Code.
3. The proposed special tax to be levied within the District has not been precluded by majority protest pursuant to subsection 3-70.30 of the Code.
4. The facilities and/or services proposed to be funded with the proceeds of the special tax shall consist of those items shown in Exhibit A hereto and by this reference incorporated herein (the "Improvements and Services"). It is hereby found and determined that the Services are necessary to meet increased demands placed upon local agencies, including the City, as the result of development occurring in the District.
5. The rate and method of apportionment of the special tax among the parcels of real property within the District, in sufficient detail to allow each landowner within the District to estimate the maximum amount such owner will have to pay, is shown in Exhibit B attached hereto and hereby incorporated herein.
6. The Finance Director of the City, 2263 Santa Clara Avenue, City of Alameda, California, 94501, telephone number (510) 747-7400, is the officer of the City who will be responsible for preparing annually a current roll of the levy of special tax obligations by assessor's parcel number and who will be responsible for estimating future special tax levies pursuant to subsection 3-70.29 of the Code.

7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the District and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City Council ceases.

8. The boundary map of the District, entitled "Map of Proposed Boundaries of City of Alameda Community Facilities District No. 14-1 (Marina Cove II), City of Alameda, County of Alameda, State of California" has been recorded in the Alameda County Recorder's Office in Book 18 at Page 51 of Maps of Assessment and Community Facilities Districts.

9. The proposition of the levy of the special tax shall be submitted to the qualified electors of the District, required under subsection 3-70.37 of the Code, at an election, the time, place and conditions of which election shall be as specified by a separate resolution of this City Council.

10. The annual appropriations limit of the District, under subsection 3-70.36 of the Code, is hereby preliminarily established at \$168,728.70 and such appropriations limit shall be submitted to the voters of the District as hereafter provided. The proposition establishing such annual appropriations limit shall become effective if approved by the qualified electors voting on the proposition and shall be adjusted in accordance with the applicable provisions of the Code and the California Constitution.

11. This Resolution shall take effect upon its adoption.

CITY OF ALAMEDA  
COMMUNITY FACILITIES DISTRICT NO. 14-1  
(MARINA COVE II)

DESCRIPTION OF IMPROVEMENTS AND SERVICES TO BE  
FINANCED BY THE DISTRICT

It is intended that the District will be eligible to fund all or a portion of the improvements and services, within or adjacent to the District, described below for the Marina Cove II subdivision.

Improvements and Services:

The improvements and services to be funded, in whole or in part, by the District include the following:

- Park maintenance, including benches and tables, drinking fountains, tot-lot equipment (including ground surface), fencing and gates, pathway lights, pole lights, concrete pathways and sidewalks, viewing platform and overlook, shoreline protection systems, surface drainage systems, shoreline railing, parking lot, landscaping and irrigation, curbs, ramps, mowing strips, and public signage.
- Maintenance of the Arbor Street Pump Station.
- Maintenance of traffic signals within and in the vicinity of the District, including traffic signals, electrical energy, LED replacement, maintenance, and replacement.
- Construction or installation, including the maintenance or servicing, of public streets, roads, and avenues in the vicinity of the area of the District, including bike paths, slurry, overlay, curbs and gutters, curb ramps, striping, and street sweeping.
- Public safety services, including police and fire protection.
- Maintenance of bus shelters and bus stops within or adjacent to the area of the District.
- The construction or installation, including the maintenance or servicing, or both, of public lighting facilities, including standards, poles, and electric current or energy. Maintenance of street lighting located within or in the vicinity of the District, including street lights, decorative lighting, and pull box assemblies.

- Maintenance of sanitary sewers within, or serving, the area of the District, except those maintained by the HOA, including sewer systems, pipes, manholes, cleanouts, video inspection, and FOG and spot jetting.
- Maintenance of storm drainage systems within, or serving, the area of the District, except those maintained by the HOA, including storm drain pipes (solid and perforated), manholes, catch basins and drop inlets, cleanout of storm drains and catch basin cleaning and inspection.
- Graffiti removal from public improvements within and in the area of the District.
- Maintenance of public signage in or near the District.

The District may fund any of the following related to the services described above: the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of the improvements, including repair, removal or replacement of all or part of any of the improvements, the furnishing of water for the irrigation and the furnishing of electric current or energy, for any lights or irrigation facilities, obtaining, constructing, furnishing, operating and maintaining equipment, apparatus or facilities related to providing the services and/or equipment, apparatus, facilities or fixtures in areas to be maintained, obtaining supplies or appurtenant facilities necessary for such maintenance, paying the salaries and benefits of personnel necessary or convenient to provide the services, payment of insurance costs and other related expenses and the provision of reserves for repairs and replacements and for the future provision of services. It is expected that the services will be provided by the City, either with its own employees or by contract with third parties, or any combination thereof.

#### Administrative Expenses:

The administrative expenses to be funded by the District include the direct and indirect expenses incurred by the City in carrying out its duties with respect to the District (including, but not limited to, the levy and collection of the special taxes) including the fees and expenses of attorneys, any fees of the County of Alameda related to the District or the collection of special taxes, an allocable share of the salaries of the City staff directly related thereto and a proportionate amount of the City's general administrative overhead related thereto, any amounts paid by the City from its general fund with respect to the District or the services authorized to be financed by the District, and expenses incurred by the City in undertaking action to foreclose on properties for which the payment of special taxes is delinquent, and all other costs and expenses of the City in any way related to the District.

#### Other:

The incidental expenses that may be funded by the District include, in addition to the administrative expenses identified above, the payment or reimbursement to the City of all costs associated with the establishment and administration of the District.

CITY OF ALAMEDA  
COMMUNITY FACILITIES DISTRICT NO. 14-1  
(MARINA COVE II)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Taxable Property in City of Alameda Community Facilities District No. 14-1 (Marina Cove II) (the "CFD") and collected each Fiscal Year, commencing in Fiscal Year 2015-2016, in an amount determined by the City Council of the City of Alameda (the "City") or its designee through the application of the Rate and Method of Apportionment as described below. All of the real property in the CFD, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**"Acre" or "Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map. The square footage of an Assessor's Parcel is equal to the Acreage multiplied by 43,560.

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of the CFD: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs associated with responding to public inquiries regarding the Special Taxes; the costs of the City, the CFD or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated to be needed for or advanced by the City or the CFD for any other administrative purposes of the CFD, including attorney's fees and other costs related to the collection of delinquent Special Taxes.

**"Affordable Housing Unit"** means a Developed Property containing an attached or detached dwelling unit owned by the City's Housing Authority or its non-profit development partner, Resources for Community Development or a partnership formed for the purpose of securing low-income housing tax credit financing, and rented to persons or families meeting the qualifying income

standards for low income and very low income households as defined by California Health and Safety Code Sections 50079.5 and 50105, or any successor statute thereto.

**“Assessor’s Parcel”** means a lot or parcel shown in an Assessor’s Parcel Map with an assigned Assessor’s parcel number.

**“Assessor’s Parcel Map”** means an official map of the County Assessor of the County designating parcels by Assessor’s parcel number.

**"Building Permit"** means a permit for the construction of a residential dwelling or non-residential structure. For purposes of this definition, "Building Permit" shall not include permits for construction or installation of, retaining walls, utility improvements, or other such improvements not constituting a residential dwelling.

**"Calendar Year"** means the period commencing January 1 of any year and ending the following December 31.

**“CFD”** means City of Alameda Community Facilities District No. 14-1 (Marina Cove II).

**“CFD Administrator”** means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of Special Taxes.

**“City”** means the City of Alameda.

**“Code”** means the City of Alameda Special Tax Financing Improvement Code (Section 3-70 of the Alameda Municipal Code), which provides an alternative method of financing certain facilities and municipal services.

**“Council”** means the City Council of the City.

**“County”** means the County of Alameda.

**“Developed Property”** means, for each Fiscal Year, all Taxable Property, for which a building permit for new construction was issued prior to May 1 of the prior Fiscal Year.

**“Final Mapped Property”** means for each Fiscal Year all Taxable Property, exclusive of Developed Property, which as of May 1 of the prior Fiscal Year was located within (i) a final map, a phased final map, or portion thereof recorded pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates individual lots for which building permits may be issued, or (ii) for condominiums, a final map recorded and a

condominium plan recorded pursuant to California Civil Code Section 1352 creating such individual lots. The term “Final Mapped Property” shall include any recorded parcel map or subdivision map or portion thereof which creates individual lots for which a building permit may be issued, including parcels that are designated as a remainder parcel.

**“Fiscal Year”** means the period starting July 1 and ending on the following June 30.

**“Homeowners’ Association”** means the Homeowners’ Association established for the development within the CFD as defined in the Declaration of Covenants, Conditions and Restrictions of Marina Cove II.

**“Homeowners’ Association Common Areas”** means areas intended for common use by all members of the Homeowners Association and which are privately maintained by the Homeowners’ Association using funds collected by the Homeowners’ Association.

**“Land Use Class”** means any of the classes listed in Table 1 below.

**“Maximum Special Tax”** means the greatest amount of Special Tax that can be levied in any Fiscal Year determined under this Rate and Method.

**“Moderate Income Unit”** means a Developed Property containing an attached or detached dwelling unit that was privately developed and is privately owned or rented but where ownership or rentals are restricted to persons or families meeting the qualifying income standards for moderate income households as defined by California Health and Safety Code Sections 50093, or any successor statute thereto. The Maximum Special Tax for a Moderate Income Unit is eighty percent (80%) the Maximum Special Tax for a Residential Dwelling Unit.

**“Proportionately”** means, for Taxable Property, that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Taxable Property.

**“Public Property”** means any property within the boundaries of the CFD that is (i) used for parks, schools, drainage and detention easements, rights-of-way or any other public purpose and is owned by or irrevocably offered for dedication to the federal government, the State of California, the County, the City or any other public agency or (ii) encumbered by an unmanned utility easement making impractical its utilization for purposes other than the purpose set forth in the easement, provided, however, that any property leased by a public agency to a private entity and subject to taxation under

Section 3-70.17 of the Code shall be taxed and classified in accordance with its use.

**“Rate and Method”** means this Rate and Method of Apportionment of Special Tax.

**“Residential Dwelling Unit”** means an attached or detached dwelling unit in private ownership, where ownership is not restricted or qualified because of income, on Developed Property. This includes single-family residential, multi-family residential, condominium, and townhome units.

**“Improvements and Services”** means the improvements and services eligible to be funded by the CFD.

**“Special Tax”** means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Special Tax Requirement.

**“Special Tax Requirement”** means that amount required in any Fiscal Year for the CFD to pay the costs of: (i) the Improvements and Services to be provided in the Calendar Year which commences in such Fiscal Year; (ii) Administrative Expenses; (iii) funding a reserve for the replacement of improvements; and, (iv) an amount equal to reasonably anticipated delinquent Special Taxes, as determined by the CFD Administrator.

**“Taxable Property”** means any Assessor’s Parcel within the CFD, which is not exempt from the Special Tax by applicable law or this Rate and Method. Taxable Property does not include: (i) Public Property, except Public Property leased to a private entity and subject to taxation under Section 3-70.17 of the Code, excluding property classified as Affordable Housing Units, or (ii) Homeowners’ Association Common Areas

**“Undeveloped Residential Property”** means for each Fiscal Year all Taxable Property not classified as Developed Property or Final Mapped Property that is zoned for residential use.

## **B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, all Taxable Property within the CFD shall be classified as Developed Property, Final Mapped Property or Undeveloped Property by the CFD Administrator and shall be subject to Special Taxes determined pursuant to Sections C and D below. Once Taxable Property has been assigned to a Developed Property Classification by the CFD Administrator, it shall remain in that classification for all future Fiscal Years.

**C. MAXIMUM SPECIAL TAX**

1. Maximum Special Tax Rates

The Maximum Special Taxes for Taxable Property are identified in Table 1 below.

**TABLE 1**

**MAXIMUM SPECIAL TAXES  
FISCAL YEAR 2015-16**

Land Use Class	Description	Maximum Special Tax
1	Affordable Housing Unit	\$0.00 per unit
2	Moderate Income Unit	\$1,735.00 per unit
3	Residential Dwelling Unit	\$2,168.75 per unit
4	Final Mapped Property designated for Moderate Income Unit	\$1,735.00 per unit
5	Final Mapped Property designated for Residential Dwelling Unit	\$2,168.75 per unit
6	Undeveloped Residential Property	\$23,618.24 per acre

2. Increases in the Maximum Special Tax

On each July 1, commencing on July 1, 2016, the Maximum Special Tax shall be adjusted to account for inflation. The amount of the annual adjustment shall be the lessor of 5% or the percentage increase in the Consumer Price Index (CPI) for the San Francisco Bay Area for the current Calendar Year over CPI for the San Francisco Bay Area for the previous Calendar Year, each as of April 1. In no case will the Maximum Special Tax be decreased as a result of a percentage decrease in the CPI.

**D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2015-2016 and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement and the City shall levy the Special Tax until the amount of Special Taxes equal the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year

Proportionately on each Assessor's Parcel of Taxable Property at up to 100% of the applicable Maximum Special Tax.

**E. APPEALS**

Any property owner claiming that the amount or application of the Special Tax is not correct may file a written notice of appeal with the CFD Administrator not later than one calendar year after having paid the Special Tax that is disputed. The CFD Administrator shall promptly review the appeal and, if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, and decide the appeal. If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be binding. If the decision of the CFD Administrator (if the appeal is not filed with the City Council) or the City Council (if the appeal is filed with the City Council) requires the Special Tax to be modified in favor of the property owner, no cash refund shall be made for prior years' Special Tax levies, but an adjustment shall be made to the next Special Tax levy(ies). This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

**F. MANNER OF COLLECTION**

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that the Council reserves the right to provide for any alternative method of collection authorized by the Code, including but not limited to (a) direct billing and (b) billing, whether direct or through the services of the County, at different times, upon the CFD Administrator making a determination that such alternative method of collection better enables the CFD to meet its financial obligations. In its capacity as the legislative body of the CFD, the Council may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels as permitted by the Code.

**G. INTERPRETATION OF SPECIAL TAX FORMULA**

The City Council reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City Council's discretion. Interpretations may be made by the City Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in the Rate and Method of Apportionment of Special Taxes.

**H. TERM OF THE SPECIAL TAX**

The Special Tax may be levied in perpetuity to satisfy the Special Tax Requirement.

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I, the undersigned, hereby certify that the foregoing resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 2nd day of September, 2014, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 3rd day of September, 2014.

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Lara Weisiger, City Clerk  
City of Alameda

APPROVED AS TO FORM:

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Janet C. Kern  
City Attorney