

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AMENDING AND RESTATING ORDINANCE LEVYING SPECIAL
TAXES WITHIN THE CITY OF ALAMEDA COMMUNITY FACILITIES
DISTRICT NO. 13-1 (Alameda Landing Public Improvements)

WHEREAS, on December 3, 2013, this City Council of the City of Alameda (the "City") adopted a resolution "Declaring Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes Therein – Alameda Landing Public Improvements" (the "Resolution of Intention"), stating its intention to establish the City of Alameda Community Facilities District No. 13-1 (Alameda Landing Public Improvements) (the "District") pursuant to the City of Alameda Special Tax Financing Improvement Code, Section 3-70.1 et seq. of the Alameda Municipal Code (the "Law"), to finance costs of certain public improvements; and

WHEREAS, notice was published as required by the Law of the public hearing to occur on January 7, 2014, as called pursuant to the Resolution of Intention relative to the intention of this City Council to form the District to provide for costs of the Facilities; and

WHEREAS, the public hearing was held on January 7, 2014, and at the public hearing all persons desiring to be heard on all matters pertaining to the formation of the District and the levy of special taxes on real property in the District were heard, substantial evidence was presented and considered by this City Council and a full and fair hearing was held; and

WHEREAS, subsequent to the close of the public hearing, this City Council adopted resolutions "Of Formation of the City of Alameda Community Facilities District No. 13-1 (Alameda Landing Public Improvements), Authorizing the Levy of a Special Tax Within the District, Preliminarily Establishing Appropriations Limits for the District, and Submitting Levy of the Special Tax and the Establishment of an Appropriations Limit to the Qualified Electors of the District" (the "Resolution of Formation"), "Determining the Necessity to Incur Bonded Indebtedness Within the City of Alameda Community Facilities District No. 13-1 (Alameda Landing Public Improvements) and Submitting Proposition to the Qualified Electors of the District" and "Calling Special Election Within the City of Alameda Community Facilities District No. 13-1 (Alameda Landing Public Improvements)," which resolutions established the District, authorized the levy of a special tax within the District, and called an election within the District on the proposition of incurring indebtedness of, levying a special tax on property in, and establishing an appropriation limit for the District; and

WHEREAS, on January 7, 2014 an election was held within the District in which the then eligible landowner electors approved said propositions for the District by more than a two-thirds vote; and

WHEREAS, on January 21, 2014, this City Council enacted Ordinance No. 3084 New Series (the "Original Ordinance") levying the special taxes on property in the District; and

WHEREAS, pursuant to a Resolution of Consideration to Alter the Facilities to be Financed by and the Rate and Method of Apportionment of Special Taxes for, and the Bonded Indebtedness Limit of, Community Facilities District No. 13-1 (Alameda Landing Public Improvements) adopted by this City Council on April 7, 2015, this City Council conducted proceedings (the "Alteration Proceedings") under the Law to alter the facilities eligible to be financed by and the rate and method of apportionment of special tax for, and to increase the bonded indebtedness limit of, the District; and

WHEREAS, this City Council now desires to amend and restate the Original Ordinance to take into account the Alteration Proceedings and any possible future alteration of the rate and method of apportionment of special tax for the District.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Alameda that:

1. By the passage of this Ordinance this City Council hereby authorizes and levies special taxes within the District, pursuant to the Law, at the rates and in accordance with the rate and method of apportionment of special taxes for the District approved by the Resolution of Formation, as modified by the Alteration Proceedings and as it may subsequently be amended, modified or restated in accordance with proceedings conducted under the Law. The special taxes are hereby levied commencing in the current fiscal year and in each fiscal year thereafter until payment in full of any bonds issued by the City for the District as contemplated by the Resolution of Formation and the Resolution of Necessity, and payment in full all costs of administering the District.

2. The City Finance Director is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied for each parcel of real property within the District, in the manner and as provided in the rate and method of apportionment of special taxes for the District, as in effect on the date of adoption of this Ordinance, and as it may be amended, modified or restated in the future in accordance with proceedings conducted under the Law.

3. Properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes in the District, to the extent set forth in the rate and method of apportionment of special taxes for the District. In no event shall the special taxes be levied on any parcel within the District in excess of the maximum tax specified in the rate and method of apportionment of special taxes for the District.

4. All of the collections of the special tax for the District shall be used as provided for in the Law, in the Resolution of Formation and otherwise pursuant to the Alteration Proceedings, including the payment directly of the costs of Facilities authorized to be funded by the District, the payment of principal and interest on the bonds issued for the

District, the replenishment of the reserves for any such bonds, the payment of the costs of the City in administering the District, and the payment of the costs of collecting and administering the special tax.

5. The special taxes shall be collected from time to time for the District as necessary to meet the financial obligations of the District on the secured real property tax roll in the same manner as ordinary ad valorem taxes are collected. The special taxes shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes. In addition, the provisions of Section 3-70.90 of the Law shall apply to delinquent special tax payments. The City Finance Director is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Alameda and to otherwise take all actions necessary in order to effect proper billing and collection of the special tax, so that the special tax shall be levied and collected in sufficient amounts and at the times necessary to satisfy the financial obligations of the District in each fiscal year.

Notwithstanding the foregoing, the City Finance Director may collect one or more installments of the special taxes (including but not limited to the special tax levy for the current fiscal year) on any one or more parcels in the District by means of direct billing by the City of the property owners within the District, if, in the judgment of the City Finance Director, such means of collection will reduce the administrative burden on the City in administering the District or is otherwise appropriate in the circumstances. In such event, the special taxes shall become delinquent if not paid when due as set forth in any such respective billing of the applicable property owners.

6. The City Finance Director is hereby directed to establish an account for the District (which need not be a separate deposit account, but may be a separate general ledger account so long as funds for the District can be separately accounted for, or may be an account held by a fiscal agent on behalf of the City) into which proceeds of the special tax levied for the District will be deposited, and the City Finance Director is hereby directed to file an annual report with this City Council for the District as required by Section 50075.3 of the California Government Code.

7. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the District, by a Court of competent jurisdiction, the balance of this Ordinance, and the application of the special tax to the remaining parcels within the District shall not be affected.

8. This Ordinance amends and restates the Original Ordinance in full, and on the effective date of this Ordinance the Original Ordinance shall no longer be in effect.

9. This Ordinance shall be in full force and effect from and after expiration of 30 days from the date of its final passage.

Presiding Officer of the Council

Attest:

Lara Weisiger, City Clerk

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the _____ day of _____, 2015, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this _____ day of _____, 2015.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM

Janet C. Kern, City Attorney
City of Alameda