

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

RESOLUTION OF CONSIDERATION TO ALTER THE RATE AND METHOD  
OF APPORTIONMENT OF SPECIAL TAXES FOR COMMUNITY FACILITIES  
DISTRICT NO. 17-1 (ALAMEDA POINT PUBLIC SERVICES DISTRICT)

WHEREAS, on March 21, 2017, the City Council of the City of Alameda (the "City Council") adopted Resolution No. 15249 (the "Resolution of Formation"), forming the City of Alameda Community Facilities District No. 17-1 (Alameda Point Public Services District) (the "District") pursuant to the City of Alameda Special Tax Financing Improvement Code, constituting Section 3-70.1 et seq. of the Alameda Municipal Code (the "Law"); and

WHEREAS, the proceedings for the formation of the District allow for the levy of an annual special tax on certain property in the District in order to fund the costs of municipal services (the "Services") and the costs to administer the District, as described in the Resolution of Formation; and

WHEREAS, the Resolution of Formation approved a Rate and Method of Apportionment of Special Taxes for the District (the "Rate and Method of Apportionment"), which specified the property in the District that would be subject to the special tax levy and that provided for two distinct "Tax Zones" in which property in the District would be situated; and

WHEREAS, it has been determined that there is an error in the definition of "Developed Property" in the Rate and Method of Apportionment (and a related error in the definition of "Non-Residential Property" in the Rate and Method of Apportionment) that may prevent the City from realizing the special tax revenues to be derived from property located in Tax Zone 2 of the District that were anticipated to be available to pay for the Services at the time of formation of the District; and

WHEREAS, in order to correct the error in the Rate and Method of Apportionment, the City Council must undertake proceedings under Division III of the Law; and

WHEREAS, the City Council now desires to conduct the necessary proceedings to alter the Rate and Method of Apportionment in order to correct the error and to assure the correct levy of the special taxes needed to pay for the Services, as was anticipated when the District was formed.

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

1. The City Council hereby finds and determines that the public convenience and necessity require that the Rate and Method of Apportionment be altered as provided for in this Resolution.

2. The name of the District is “City of Alameda Community Facilities District No. 17-1 (Alameda Point Public Services District).” Reference is hereby made to the Resolution of Formation for further particulars regarding the District.

3. The territory included in the District, and the original boundaries of the District, are as shown on the map of the District recorded in the office of the Alameda County Recorder on March 9, 2017 in Book 18 at Pages 77-80 of Maps of Assessment and Community Facilities Districts. Territory was annexed to the District as shown in Exhibit A to the Amendment No. 1 to Notice of Special Tax Lien recorded in the office of the Alameda County Recorder on March 15, 2018.

4. The Rate and Method of Apportionment for the District is proposed to be altered for Fiscal Years commencing with Fiscal Year 2018-2019 by amending and restating the definitions of “Developed Property” and “Non-Residential Property” to be as described in Exhibit A to this Resolution, which Exhibit A is by this reference incorporated in this Resolution.

5. The alteration of the Rate and Method of Apportionment as described in Exhibit A shall be subject to the approval of the qualified electors of the District at a special election. This City Council finds that there are less than twelve persons registered to vote with an address located within the District for each of the ninety (90) days preceding the date of adoption of this Resolution. Accordingly, and pursuant to Section 3-70.37b of the Law, the proposed voting procedure shall be by mailed or hand-delivered ballot among the owners of land in the District, with each landowner having one vote per acre or portion of an acre of land owned within the District at the time of the close of the public hearing referred to in Section 6 below.

6. Tuesday, October 16, 2018, at 7:00 p.m. or as soon thereafter as the matter may be heard, in the regular meeting place of the City Council, City Council Chambers, City Hall, 2263 Santa Clara Avenue, Alameda, California, is hereby set as the time and place when and where the City Council, as legislative body for the District, will conduct a public hearing on the alteration of the Rate and Method of Apportionment, and consider and finally determine whether the public interest, convenience and necessity require said alteration.

7. The City Clerk is hereby directed to cause notice of the public hearing described in Section 6 above to be given by publication one time in a newspaper published in the area of the District. The publication of the notice shall be completed at least seven days before the date herein set for the public hearing. The notice shall be substantially in the form of Exhibit B hereto.

8. The City has engaged the law firm of Quint & Thimmig LLP as Special Community Facilities District Counsel to assist the City in connection with these proceedings. The Interim City Manager is hereby authorized to execute an agreement with said firm for its services, in a form acceptable to the Interim City Manager and the City Attorney.

9. This Resolution shall take effect upon its adoption.

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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 October, 2018, 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 October, 2018.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

APPROVED AS TO FORM:

\_\_\_\_\_  
Janet C. Kern, City Attorney  
City of Alameda

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9/18/18

## EXHIBIT A

### DESCRIPTION OF PROPOSED ALTERATION OF THE RATE AND METHOD OF APPORTIONMENT

The definition of “Developed Property” in the Rate and Method of Apportionment is to be amended and restated to be as follows:

**“Developed Property”** means, for each Fiscal Year: (i) all Taxable Property in Tax Zone 1 for which a building permit was issued after January 1, 2016 and on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied; and (ii) all Taxable Property in Tax Zone 2 which has transferred from public ownership to private ownership and has been improved with any improvements that have or have had an improvement value on the County Assessor’s roll.

The definition of “Non-Residential Property” in the Rate and Method of Apportionment is to be amended and restated to be as follows:

**“Non-Residential Property”** means all Assessor’s Parcels of Developed Property that have been improved with vertical improvements other than one or more residential facilities, and includes Taxable Property Owner Association Property and Taxable Public Property.

## EXHIBIT B

### CITY OF ALAMEDA COMMUNITY FACILITIES DISTRICT NO. 17-1 (Alameda Point Public Services District)

#### NOTICE OF PUBLIC HEARING

Notice is hereby given that on October 2, 2018, the City Council of the City of Alameda adopted A Resolution of Consideration to Alter the Rate and Method of Apportionment of Special Taxes for Community Facilities District No. 17-1 (Alameda Point Public Services District) (the "Resolution of Consideration"). Pursuant to the Resolution of Consideration and the City of Alameda Special Tax Financing Improvement Code, the City Council of the City of Alameda hereby gives notice as follows:

A. The text of the Resolution of Consideration is as follows:

WHEREAS, on March 21, 2017, the City Council of the City of Alameda (the "City Council") adopted Resolution No. 15249 (the "Resolution of Formation"), forming the City of Alameda Community Facilities District No. 17-1 (Alameda Point Public Services District) (the "District") pursuant to the City of Alameda Special Tax Financing Improvement Code, constituting Section 3-70.1 et seq. of the Alameda Municipal Code (the "Law"); and

WHEREAS, the proceedings for the formation of the District allow for the levy of an annual special tax on certain property in the District in order to fund the costs of municipal services (the "Services") and the costs to administer the District, as described in the Resolution of Formation; and

WHEREAS, the Resolution of Formation approved a Rate and Method of Apportionment of Special Taxes for the District (the "Rate and Method of Apportionment"), which specified the property in the District that would be subject to the special tax levy and that provided for two distinct "Tax Zones" in which property in the District would be situated; and

WHEREAS, it has been determined that there is an error in the definition of "Developed Property" in the Rate and Method of Apportionment (and a related error in the definition of "Non-Residential Property" in the Rate and Method of Apportionment) that may prevent the City from realizing the special tax revenues to be derived from property located in Tax Zone 2 of the District that were anticipated to be available to pay for the Services at the time of formation of the District; and

WHEREAS, in order to correct the error in the Rate and Method of Apportionment, the City Council must undertake proceedings under Division III of the Law; and

WHEREAS, the City Council now desires to conduct the necessary proceedings to alter the Rate and Method of Apportionment in order to correct the

error and to assure the correct levy of the special taxes needed to pay for the Services, as was anticipated when the District was formed.

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

1. The City Council hereby finds and determines that the public convenience and necessity require that the Rate and Method of Apportionment be altered as provided for in this Resolution.

2. The name of the District is "City of Alameda Community Facilities District No. 17-1 (Alameda Point Public Services District)." Reference is hereby made to the Resolution of Formation for further particulars regarding the District.

3. The territory included in the District, and the original boundaries of the District, are as shown on the map of the District recorded in the office of the Alameda County Recorder on March 9, 2017 in Book 18 at Pages 77-80 of Maps of Assessment and Community Facilities Districts. Territory was annexed to the District as shown in Exhibit A to the Amendment No. 1 to Notice of Special Tax Lien recorded in the office of the Alameda County Recorder on March 15, 2018.

4. The Rate and Method of Apportionment for the District is proposed to be altered by amending and restating the definitions of "Developed Property" and "Non-Residential Property" to be as described in Exhibit A to this Resolution, which Exhibit A is by this reference incorporated in this Resolution.

5. The alteration of the Rate and Method of Apportionment as described in Exhibit A shall be subject to the approval of the qualified electors of the District at a special election. This City Council finds that there are less than twelve persons registered to vote with an address located within the District for each of the ninety (90) days preceding the date of adoption of this Resolution. Accordingly, and pursuant to Section 3-70.37b of the Law, the proposed voting procedure shall be by mailed or hand-delivered ballot among the owners of land in the District, with each landowner having one vote per acre or portion of an acre of land owned within the District at the time of the close of the public hearing referred to in Section 6 below.

6. Tuesday, October 16, 2018, at 7:00 p.m. or as soon thereafter as the matter may be heard, in the regular meeting place of the City Council, City Council Chambers, City Hall, 2263 Santa Clara Avenue, Alameda, California, is hereby set as the time and place when and where the City Council, as legislative body for the District, will conduct a public hearing on the alteration of the Rate and Method of Apportionment, and consider and finally determine whether the public interest, convenience and necessity require said alteration.

7. The City Clerk is hereby directed to cause notice of the public hearing described in Section 6 above to be given by publication one time in a newspaper published in the area of the District. The publication of the notice shall be completed at least seven days before the date herein set for the public hearing. The notice shall be substantially in the form of Exhibit B hereto.

8. The City has engaged the law firm of Quint & Thimmig LLP as Special Community Facilities District Counsel to assist the City in connection with these proceedings. The Interim City Manager is hereby authorized to execute an agreement with said firm for its services, in a form acceptable to the Interim City Manager and the City Attorney.

9. This Resolution shall take effect upon its adoption.

B. A complete copy of the Resolution of Consideration, including Exhibit A to the Resolution of Consideration which describes the proposed alteration of the rate and method of apportionment of special taxes for the District, is on file in the office of the City Clerk.

C. The time and place established under the Resolution of Consideration for the public hearing required under the Law are Tuesday, October 16, 2018, at the hour of 7:00 p.m. or as soon thereafter as the matter may be heard, in the regular meeting place of the City Council, City Council Chambers, City Hall, 2263 Santa Clara Avenue, Alameda, California.

D. At the public hearing, the testimony of all interested persons or taxpayers for or against the alteration of the rate and method of apportionment of special taxes for the District will be heard. Any person interested may file a protest in writing with the City Clerk. If fifty percent or more of the registered voters, or six registered voters, whichever is more, residing in the territory in the District, or the owners of one-half or more of the area of land in the territory included in the District and not exempt from the special tax file written protests against the alteration of the rate and method of apportionment of special taxes for the District, and the protests are not withdrawn to reduce the value of the protests to less than a majority, the City Council shall take no further action to so alter the rate and method of apportionment for a period of six months from the date on which the public hearing was closed.

E. The proposed voting procedure shall be by special mail or hand-delivered ballot of the persons owning property in the District as of the date of the close of the public hearing.

/s/ Lara Weisiger

City Clerk,  
City of Alameda