

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

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)

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 certain specified 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, in 2018, it was determined that there was 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 would have prevented 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, on October 2, 2018, the City Council adopted Resolution No. 15435 (the "2018 Alteration Proceedings Resolution") pursuant to which it undertook proceedings under Division III of the Law 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; and

WHEREAS, following the holding of an election held on December 6, 2018, at which more than two-thirds of the votes cast in the election were in favor of the alteration, the City Clerk recorded an Amendment No. 3 to Notice of Special Tax Lien on February 27, 2019 against the property then included in the District, Exhibit B to which described the then voter-approved alteration of the Rate and Method of Apportionment; and

WHEREAS, due to unforeseen changes in circumstances with respect to the development of the property in the District, the City Council now desires to conduct proceedings to again alter the Rate and Method of Apportionment so that it better aligns with the property in the District that has been developed, is being developed, and is expected in

the future to be developed as generally described in Exhibit A hereto, and as reflected in the Amended and Restated Rate and Method of Apportionment of Special Taxes set forth in Exhibit B hereto (the "Amended Rate and Method of Apportionment").

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, as altered by the proceedings conducted pursuant to the 2018 Alteration Proceedings Resolution, is proposed to be altered for Fiscal Years commencing with Fiscal Year 2021-2022 as generally described in Exhibit A to this Resolution and as embodied in the Amended and Restated Rate and Method of Apportionment of Special Taxes (the "Amended Rate and Method of Apportionment") set forth in Exhibit B to this Resolution, which Exhibit B is by this reference incorporated in this Resolution.

5. The Amended Rate and Method of Apportionment shall be subject to the approval of the qualified electors of the District at a special election. This City Council finds that there are more 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 persons registered to vote with an address in the District as of the date of the public hearing referred to below, with each such person entitled to cast a ballot in the election.

6. Tuesday, February 16, 2021, 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.

Due to California Governor Executive Order N-29-20, City Council meetings are being conducted via Zoom and the City allows public participation at the public hearing via Zoom and via telephone. Zoom information is included on the agenda for the City Council

meeting, which will be posted here: <https://www.alamedaca.gov/GOVERNMENT/Agendas-Minutes-Announcements>.

Any requests for reasonable accommodations should be made by contacting the City Clerk's office: [clerk@alamedaca.gov](mailto:clerk@alamedaca.gov) or 510-747-4800. City Hall will NOT be open to the public during the meeting.

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 C hereto.

8. This Resolution shall take effect upon its adoption.

\* \* \* \* \*

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 2<sup>nd</sup> day of February, 2021, 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 3<sup>rd</sup> day of February, 2021.

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Lara Weisiger, City Clerk  
City of Alameda

APPROVED AS TO FORM:

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Yibin Shen, City Attorney  
City of Alameda

01019.33:J17165  
12/2/20

## EXHIBIT A

### GENERAL DESCRIPTION OF PROPOSED ALTERATION OF THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

In order to bring the District special tax apportionment methodology into better alignment with the property that has been developed, is being developed or will be developed, changes are proposed to be made to the Rate and Method of Apportionment of Special Taxes for the District (the “Rate and Method”) that:

- Specify that the apartments that have already received land use approvals/entitlements or are under construction will be taxed on a per acre basis per the original provisions of the Rate and Method, and apartments to be constructed in the future and that are not currently entitled or under construction will be taxed on a per unit basis.
- Clarify that below market rate units are those that meet low and very low income standards. These units are exempt from special taxes.
- Add an additional below market rate unit classification for those units that meet moderate income standards. These units are to be taxed at a rate of 80% of special tax applicable to the same type of unit that is not below market rate.
- Clarify that property in Tax Zone 2<sup>(1)</sup> as identified in the Rate and Method that has transferred public to private ownership is considered developed at the earlier of (i) issuance by the City of a temporary certificate of occupancy or final certificate of occupancy, or (ii) five years after transfer of the property to a private owner. Also, Alameda County Assessor’s Parcel No. 074 -1375-001-00 is considered developed as of Fiscal Year 2024/25 unless a temporary or final certificate of occupancy is issued earlier.
- Specify that a townhome unit in Tax Zone 2<sup>(1)</sup> as identified in the Rate and Method refers to a unit that is greater than 1,500 square feet of residential floor area.
- Clarify the definition of Townhome Unit for Tax Zone 1 as identified in the Rate and Method.

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(1) The District and the Future Annexation Area of the District are generally bounded by Main Street and West Red Line Avenue to the north, Main Street to the east, the parcels directly west of Monarch Street to the west and West Hornet Avenue and the Bay to the south. Tax Zone 1 as identified in the Rate and Method is that area generally bounded by Main Street to the east, Ralph Appezato Memorial Parkway to the south, West Trident Avenue to the north and Ferry Point to the west. Tax Zone 2 as identified in the Rate and Method includes certain parcels that are generally to the west of Ferry Point and Pan Am Way.

## EXHIBIT B

### CITY OF ALAMEDA COMMUNITY FACILITIES DISTRICT NO. 17-1 (ALAMEDA POINT PUBLIC SERVICES DISTRICT)

#### AMENDED AND RESTATED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

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. 17-1 (Alameda Point Public Services District) ("CFD No. 17-1") and collected each Fiscal Year, with the levy commencing in Fiscal Year 2016-17, in an amount determined by the City Council or its designee through the application of the appropriate Special Tax as described below. All Taxable Property in CFD No. 17-1, unless exempted by law or by the provisions hereof, shall be taxed for these purposes, to the extent and in the manner herein provided.

#### **A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**"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 subdivision map, parcel map, condominium plan, record of survey, or other map or plan recorded with the County. The square footage of an Assessor's Parcel is equal to the Acreage of such parcel multiplied by 43,560.

**"Act"** means the City's Special Tax Financing Improvement Code, Section 3-70.1 *et seq.* of the City Municipal Code.

**"Administrative Expenses"** means the actual or estimated costs directly related to the administration of CFD No. 17-1 including, but not limited to, the following: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs to the City, CFD No. 17-1, or any designee thereof of complying with CFD No. 17-1 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs to the City, CFD No. 17-1, or any designee thereof related to an appeal of the levy or application of the Special Tax; and any City expenses related to the administration of CFD No. 17-1, including but not limited to an allocable portion of City employee salaries, overhead, and any third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 17-1 for any other administrative purposes of CFD No. 17-1, including, but not limited to, attorney's fees and other costs related to tax collection of delinquent Special Taxes, and commencing and pursuing to completion any foreclosure in respect of delinquent Special Taxes.

**"Apartment Property"** means the first 5.009 Acres of Residential Property, initially Assessor's Parcels 074 -1377-002-00, 074 -1378-002-00 and 074 -1378-007-00, on which is located all or any portion of a structure or structures with multiple residential Dwelling Units, all of which are offered for rent and are not available for sale to individual owners (which may include buildings where some, but not all, of the Dwelling Units are BMR or MIBMR units). Apartment Property status shall be assigned to Residential Property by the CFD Administrator in the chronological order in which property in CFD No. 17-1 is classified as Apartment Property. Residential Property that would be classified as "Apartment Property" but for the 5.0091 Acres limitation shall be classified and taxed at the greater of the rate for Condominium Units (based on the number of units located on the respective parcel), or

the rate for Apartment Property. If Residential Property classified as Apartment Property is subsequently reclassified as Townhome Units or Condominium Units, Special Taxes levied on such Units shall be modified to match those of Townhome Units or Condominium Units. Furthermore, should such reclassification occur, any other Assessor's Parcel or portion thereof that would have been designated as Apartment Property but for the limitation on the total amount of acres that can be so classified shall be re-classified as Apartment Property if and to the extent that (a) such reclassification does not result in more than 5.0091 Acres of Apartment Property and (b) the aggregate amount of the Maximum Special Tax applicable to all Taxable Property after the reclassifications of (i) the applicable Apartment Property to Townhome Units and Condominium Units and (ii) the applicable Townhome Units and Condominium Units to Apartment Property, is not less than the aggregate amount of the Maximum Special Tax applicable to all Taxable Property before such reclassifications occurred. Also, any Residential Property with only BMR or MIBMR Units shall be taxed at the BMR or MIBMR unit rate, respectively.

**"Assessor's Parcel"** means a lot or parcel to which an Assessor's parcel number is assigned as determined from an Assessor Parcel Map or the applicable assessment roll.

**"Assessor's Parcel Map"** means an official map of the Assessor of the County designating parcels by Assessor's Parcel number.

**"Authorized Services"** means those municipal and other services and costs eligible to be funded by CFD No. 17 -1, as provided in the proceedings to form CFD No. 17-1.

**"Below Market Rate Units" or "BMR Units"** means a Dwelling Unit owned by the City's Housing Authority or its non-profit development entity, Resources for Community Development or an entity formed for the purpose of securing low-income housing tax credit financing, and rented to person 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.

**"CFD"** means the. City of Alameda Community Facilities District No. 17-1 (Alameda Point Public Services District).

**"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 the Special Taxes.

**"City"** means the City of Alameda, California.

**"City Council"** means the City Council of the City.

**"Condominium Unit"** means (1) a residential condominium as described in Civil Code Section 4125 and (2) any Dwelling Unit that is not a Townhome Unit, BMR Unit, MIBMR Unit or a Dwelling Unit located on Apartment Property, as determined by the CFD Administrator.

**"County"** means the County of Alameda, California.

**"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; (ii) all Taxable Property in Tax Zone 2 for which either a certificate of occupancy was issued on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied or five Fiscal Years after the date the property has transferred from public ownership to private ownership; and (iii) APN 074 -1375-001-00 is considered Developed Property beginning in Fiscal Year 2024/25 unless a certificate of occupancy

or temporary certificate of occupancy was issued on or before May 1 of any prior Fiscal Year, in which case it will be considered Developed Property in the subsequent Fiscal Year. Notwithstanding the foregoing, should a Written Agreement (as defined below) be in place with the City relative to the Special Tax for any Assessor's Parcel, that agreement shall govern.

**"Dwelling Unit"** means a building or portion thereof designed as a residence, either permanently or temporarily, for occupancy by an individual or a family. Boarding or lodging houses, dormitories, and hotels shall not be defined as Dwelling Units unless the land use permit specifies a residential use.

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

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

**"Maximum Special Tax"** means the maximum Special Tax, determined in accordance with Section C below, that can be levied in any Fiscal Year on any Assessor's Parcel of Taxable Property.

**"Moderate Income Below Market Rate Units" or "MIBMR Units"** means a 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 50079.5 and 50105, or any successor statute thereto.

**"Non-Residential Floor Area"** means the total building square footage of the non-residential building(s) or the non-residential portion of a building with both residential and non-residential areas located on an Assessor's Parcel of Developed Property, measured from outside wall to outside wall, exclusive of overhangs, porches, patios, carports, or similar spaces attached to the building but generally open on at least two sides. The determination of Non-Residential Floor Area shall be made by reference to the building permit(s), certificate of occupancy or temporary certificate of occupancy issued for such Assessor's Parcel and/or to the appropriate records kept by the City's Permit Center, as determined by the CFD Administrator.

**"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 (as both are defined below).

**"Property Owner Association Property"** means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 17-1 that is owned by, to be conveyed or irrevocably offered for dedication to a property owner association, including any master or sub-association, not including any such property that is located directly under a residential structure.

**"Proportionately"** means, that the ratio of the actual Special Tax levy for Developed Property, Taxable Property Owner Association Property, and Taxable Public Property categories within Tax Zone 1 and Tax Zone 2 to the Maximum Special Tax of their respective Land Use Class and Tax Zone, is equal, subject to any Written Agreement

**"Public Property"** means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 17-1 that is owned by or irrevocably offered for dedication to the federal government, the State, the City, or any other public agency; 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 Act, as such section may be amended or replaced, shall be exempted from such a tax until title for such property is conveyed after the adoption by the City Council of the Resolution of Formation; or (ii) any property within the boundaries of CFD No. 17-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement. To ensure that property is classified as Public

Property in the first Fiscal Year after it is acquired by, irrevocably offered for dedication to, or dedicated to a public agency, the property owner shall notify the CFD Administrator in writing of such acquisition, offer, or dedication not later than May 1 of the Fiscal Year in which the acquisition, offer, or dedication occurred, and in any event, the Administrator shall make the final determination as to whether the property qualifies as Public Property for the next Fiscal Year.

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

**“Residential Floor Area”** means all of the square footage of living area within the perimeter of a residential structure located on Residential Property, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area and not including any Non-Residential Floor Area. The CFD Administrator shall make a determination of Residential Floor Area for an Assessor’s Parcel by reference to the building permit(s) issued for such Assessor’s Parcel.

**“Residential Property”** means all Assessor’s Parcels of Developed Property for which a building permit permitting the construction thereon of one or more residential Dwelling Units has been issued by the City. Residential Property includes Townhome Units, Condominium Units, BMR Units, MIBMR Units and Apartment Property.

**“Resolution of Formation”** means the resolution forming CFD No. 17-1.

**“San Francisco Urban Consumer Price Index”** means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the San Francisco - Oakland - San Jose Area, measured as of the month of December in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the San Francisco Urban Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the San Francisco - Oakland - San Jose Area.

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

**“Special Tax Requirement”** means that amount to be collected in any Fiscal Year for CFD No. 17-1 to pay for certain costs as required to meet the needs of CFD No. 17-1 in that Fiscal Year. The costs to be covered shall be the costs for (i) Authorized Services, including the establishment of reserves for future costs of Authorized Services, (ii) Administrative Expenses, and (iii) an amount to cover anticipated delinquencies for the payment of Special Taxes, based on the delinquency rate for the preceding Fiscal Year, less a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator.

**“State”** means the State of California.

**“Tax Zone”** means one of the two (2) mutually exclusive geographic areas defined below and identified in Appendix A of this Rate and Method of Apportionment.

**“Tax Zone 1”** means the geographic area specifically identified as Tax Zone 1 in Appendix A of this Rate and Method of Apportionment.

**“Tax Zone 2”** means the geographic area specifically identified as Tax Zone 2 in Appendix A of this Rate and Method of Apportionment.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 17-1 which are not exempt from the Special Tax pursuant to applicable law or Section F below.



**“Taxable Property Owner Association Property”** means all Assessor’s Parcels of Property Owner Association Property that are not exempt pursuant to Section F below.

**“Taxable Public Property”** means all Assessor’s Parcels of Public Property that are not exempt pursuant to Section F below.

**“Townhome Unit”** means, for Tax Zone 1, an individual Dwelling Unit that (i) shares one or more common walls with another residential Dwelling Unit, (ii) is physically attached to the land underneath the unit, and (iii) the fee simple land underneath the unit is or will be conveyed with each such unit excluding an undivided fee simple interest in common area, Property Owner Association Property, corporation property or the like. Townhome Unit means, for Tax Zone 2, an individual Dwelling Unit that has Residential Floor Area of 1,500 square feet or more.

**“Undeveloped Property”** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Taxable Property Owner Association Property, or Taxable Public Property.

**“Written Agreement”** means a fully executed written agreement entered in to by the City and any property owner with respect to Special Taxes.

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

Each Fiscal Year, all Assessor’s Parcels within CFD No. 17-1 shall be classified by the CFD Administrator as Developed Property, Undeveloped Property, Taxable Property Owner Association Property, or Taxable Public Property. However, only Developed Property, Taxable Property Owner Association Property and Taxable Public Property shall be subject to annual Special Taxes in accordance with this Rate and Method of Apportionment as determined by the CFD Administrator pursuant to Sections C and D below. The CFD Administrator’s allocation of property to each type of Land Use Class shall be conclusive and binding. The CFD Administrator shall also determine the Tax Zone within which each Assessor’s Parcel is located.

## **C. MAXIMUM SPECIAL TAX RATE**

### **1. Developed Property**

#### **a. Maximum Special Tax**

The Maximum Special Tax for Fiscal Year 2016-17 for Developed Property is shown below. Under no circumstances shall a Special Tax be levied on additions to Dwelling Units (but not the creation of completely new, separate areas constituting Dwelling Units), where such Dwelling Units had been categorized in prior Fiscal Years as Developed Property.

**TABLE 1**  
**MAXIMUM SPECIAL TAXES FOR DEVELOPED PROPERTY**  
**FOR FISCAL YEAR 2016-17**  
**COMMUNITY FACILITIES DISTRICT NO 17-1**

Land Use Class	Description	Maximum Special Tax	
		Zone 1	Zone 2
1	Residential Property - Townhomes	\$3,600 per Dwelling Unit	\$2,858 per Dwelling Unit
2	Residential Property - Condominiums	\$1,010 per Dwelling Unit	\$1,816 per Dwelling Unit
3	Residential Property – Apartment Property	\$82,400 per Acre of Apartment Property	\$1,652 per Dwelling Unit
4	Residential Property – BMR Units	\$0 per Dwelling Unit	\$0 per Dwelling Unit
5	Residential Property – MIBMR Units	80% of the applicable Townhome, Condominium or Apartment Property Maximum Special Tax Rate as shown above	80% of the applicable Townhome, Condominium or Apartment Property Maximum Special Tax Rate as shown above
6	Non-Residential Property - All	\$0.60 per Sq. Ft. of Non-Residential Floor Area	\$0.70 per Sq. Ft. of Non-Residential Floor Area

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2017, the Maximum Special Tax for Developed Property shall be increased annually by the greater of the change in the San Francisco Urban Consumer Price Index (during the twelve (12) months prior to December of the previous Fiscal Year) or two percent (2.00%).

c. Multiple Land Use Classes

In some instances, an Assessor's Parcel of Developed Property may contain more than one Land Use' Class. The Maximum Special Tax levied on an Assessor's Parcel in such case shall be the sum of the Maximum Special Tax for all Land Use Classes located on that Assessor's Parcel. The CFD Administrator's allocation of each type of property shall be conclusive and binding.

**2. Undeveloped Property**

No Special Taxes shall be levied on Undeveloped Property.

**3. Prepayment of Special Tax**

No prepayment of the Special Tax shall be permitted in CFD No. 17-1.

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

Commencing with Fiscal Year 2016-17 and for each following Fiscal Year, the City Council shall levy the annual Special Tax Proportionately for each Assessor's Parcel of Developed Property within all Tax Zones, as determined by the CFD Administrator at up to 100% of the applicable Maximum Special Tax, or until the amount of Special Taxes equals the Special Tax Requirement.

## **E. FUTURE ANNEXATIONS**

It is anticipated that additional properties will be annexed to CFD No. 17-1 from time to time. As each annexation is proposed, an analysis will be prepared to determine the annual cost for providing Authorized Services to such parcels. Based on this analysis, any parcels to be annexed, pursuant to California Government Code section 53339 et seq. will be assigned the approximate Maximum Special Tax rates for the Tax Zone When annexed and included in Appendix A.

## **F. EXEMPTIONS**

In addition to Undeveloped Property being exempt from annual Special Taxes, no Special Tax shall be levied on Public Property or Property Owner Association Property. However, should an Assessor's Parcel, originally categorized as Public Property or Property Owner Association Property, no longer be classified as Public Property or Property Owner Association Property for any Fiscal Year, such Assessor's Parcel shall, upon each reclassification, no longer be exempt from Special Taxes per the appropriate Land Use Class as outlined in Section B.

## **G. INTERPRETATION OF SPECIAL TAX FORMULA**

The City Council, as the legislative body for CFD No. 17-1, may interpret this Rate and Method of Apportionment for purposes of clarifying any ambiguity as it relates to the Special Tax rate, the method of apportionment, the allocation of Special Taxes among Assessor's Parcels, the classification of properties, or any definition applicable to CFD No. 17 -1. Any decision of the City Council shall be final and binding as to all persons.

## **H. MANNER OF COLLECTION**

The annual Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that the City may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary or otherwise advisable to meet the financial obligations of CFD No. 17-1, and the City may foreclose on Assessor's Parcels with delinquent Special Taxes as permitted by the Act.

## **I. APPEALS**

Any property owner who pays the Special Tax and claims the amount of the Special Tax levied on his or her Assessor's Parcel is in error shall first consult with the CFD Administrator regarding such error not later than one year after first having paid the first installment of the Special Tax that is disputed. If following such consultation, the CFD Administrator determines that an error has occurred, then the CFD Administrator may take any of the following actions, in order of priority, in order to correct the error:

- (i) Amend the Special Tax Levy on the property owner's Assessor's Parcel (s) for the current Fiscal Year prior to the payment date;
- (ii) Grant a credit against, eliminate, or reduce future Special Taxes on the property owner's Assessor's Parcel(s) in the amount of the overpayment; or
- (iii) Require CFD No. 17-1 to reimburse the property owner for the amount of the overpayment to the extent of unencumbered and otherwise available CFD funds.

If following such consultation and action by the CFD Administrator, the property owner believes such error still exists, such a person may file a written notice of appeal with the City Council. Upon the

receipt of such notice, the City Council or designee may establish such procedures as deemed necessary to undertake the review of any such appeal. If the City Council or designee determines an error still exists, the CFD Administrator shall take any of the actions described as (i), (ii), and (iii) above, in order of priority, in order to correct the error.

The filing of a written notice or an appeal shall not relieve the taxpayer of the obligation to pay the Special Tax when due.

#### **J. TERM OF SPECIAL TAX**

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement, unless no longer required to pay for Authorized Services as determined at the sole discretion of the City Council.

## EXHIBIT C

### CITY OF ALAMEDA COMMUNITY FACILITIES DISTRICT NO. 17-1 (ALAMEDA POINT PUBLIC SERVICES DISTRICT)

#### NOTICE OF PUBLIC HEARING

Notice is hereby given that on February 16, 2021, 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 certain specified 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, in 2018, it was determined that there was 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 would have prevented 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, on October 2, 2018, the City Council adopted Resolution No. 15435 (the "2018 Alteration Proceedings Resolution") pursuant to which it undertook proceedings under Division III of the Law 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; and

WHEREAS, following the holding of an election held on December 6, 2018, at which more than two-thirds of the votes cast in the election were in favor of the alteration, the City Clerk recorded an Amendment No. 3 to Notice of Special Tax Lien on February 27, 2019 against the property then included in the District, Exhibit B to which described the then voter-approved alteration of the Rate and Method of Apportionment; and

WHEREAS, due to unforeseen changes in circumstances with respect to the development of the property in the District, the City Council now desires to conduct proceedings to again alter the Rate and Method of Apportionment so that it better aligns with the property in the District that has been developed, is being developed, and is expected in the future to be developed as generally described in Exhibit A hereto, and as reflected in the Amended and Restated Rate and Method of Apportionment of Special Taxes set forth in Exhibit B hereto (the "Amended Rate and Method of Apportionment").

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, as altered by the proceedings conducted pursuant to the 2018 Alteration Proceedings Resolution, is proposed to be altered for Fiscal Years commencing with Fiscal Year 2021-2022 as generally described in Exhibit A to this Resolution and as embodied in the Amended and Restated Rate and Method of Apportionment of Special Taxes (the "Amended Rate and Method of Apportionment") set forth in Exhibit B to this Resolution, which Exhibit B is by this reference incorporated in this Resolution.

5. The Amended Rate and Method of Apportionment shall be subject to the approval of the qualified electors of the District at a special election. This City Council finds that there are more 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 persons registered to vote with an address in the District as of the date of the public hearing referred to below, with each such person entitled to cast a ballot in the election.

6. Tuesday, February 16, 2021, 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.

Due to California Governor Executive Order N-29-20, City Council meetings are being conducted via Zoom and the City allows public participation at the public hearing via Zoom and via telephone. Zoom information is included on the agenda for the City Council meeting, which will be posted here: <https://www.alamedaca.gov/GOVERNMENT/Agendas-Minutes-Announcements>.

Any requests for reasonable accommodations should be made by contacting the City Clerk's office: [clerk@alamedaca.gov](mailto:clerk@alamedaca.gov) or 510-747-4800. City Hall will NOT be open to the public during the meeting.

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 C hereto.

8. 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 generally describes the proposed alteration of the rate and method of apportionment of special taxes for the District and Exhibit B which sets forth the proposed Amended and Restated 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, February 16, 2021, 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.

Due to California Governor Executive Order N-29-20, City Council meetings are being conducted via Zoom and the City allows public participation at the public hearing via Zoom and via telephone. Zoom information is included on the agenda for the City Council meeting, which will be posted here: <https://www.alamedaca.gov/GOVERNMENT/Agendas-Minutes-Announcements>.

Any requests for reasonable accommodations should be made by contacting the City Clerk's office: clerk@alamedaca.gov or 510-747-4800. City Hall will NOT be open to the public during the meeting.

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 registered voters described in Section 5 of the Resolution of Consideration.

/s/ Lara Weisiger

City Clerk,  
City of Alameda