

RESOLUTION NO. 2015-89

A RESOLUTION OF THE CITY OF MARINA CERTIFYING
COMPLIANCE WITH STATE LAW WITH RESPECT TO
LEVYING OF SPECIAL TAX FOR FISCAL YEAR 2015-2016

WHEREAS, the City of Marina requests that the Monterey County Auditor-Controller enter the special tax identified in Exhibit "A" on the property tax roll for collection and distribution by the Monterey County Treasurer-Tax Collector commencing with the property tax bills for fiscal year 2015-2016 ("**EXHIBIT A**").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marina as follows:

1. The City hereby certifies that it has, without limitation, complied with all legal procedures and requirements necessary for the levying and imposition of the general or special taxes and assessments identified in **EXHIBIT A** regardless of whether those procedures and requirements are set forth in the Constitution of the State of California, in State statutes, or in the applicable decisional law of the State of California.
2. The City further certifies that, except for the sole negligence or misconduct of the County of Monterey, its officers, employees and agents, the City shall be solely liable and responsible for defending, at its sole expense, cost and risk, each and every action, suit or other proceeding brought against the County of Monterey, its officers, employees and agents for every claim, demand or challenge to the levying or imposition of the general or special taxes and assessments identified in **EXHIBIT A** and that the City shall pay or satisfy any judgment rendered against the County of Monterey, its officers, employees and agents on every such action, suit, or other proceeding, including all claims for refunds and interest thereon, legal fees, court costs and administrative expenses of the County of Monterey to correct the tax rolls.

PASSED AND ADOPTED by the City of Marina City Council at a regular meeting duly held on the 21st day of July, 2015, by the following vote:

AYES: Council Members: Amadeo, Brown, Morton, O'Connell, Delgado

NOES: Council Members: None

ABSENT: Council Members: None

ABSTAIN: Council Members: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Flanagan, Deputy City Clerk

EXHIBIT A

ATTACHMENT TO RESOLUTION NO. 2015-___ OF THE CITY OF MARINA, COUNTY OF MONTEREY, CALIFORNIA, CERTIFYING COMPLIANCE WITH STATE LAW WITH RESPECT TO THE LEVYING OF SPECIAL TAX FOR FISCAL YEAR 2015-2016

PER-PARCEL ASSESSMENTS:

Community Facilities District – Operations:

- The Dunes 2015-1 \$437.22

PER-ACRE ASSESSMENTS:

Community Facilities District – Operations:

- The Dunes 2015-1 \$5,187.00

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of July 21, 2015

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2015-,
CERTIFYING CITY OF MARINA COMPLIANCE WITH STATE LAW
(PROPOSITION 218) WITH RESPECT TO A SPECIAL TAX FOR THE CITY
OF MARINA COMMUNITY FACILITIES DISTRICT NO. 2015-1 AS
AUTHORIZED BY ORDINANCE NO. 2015-03 FOR FISCAL YEAR 2015-16**

RECOMMENDATION:

It is requested that the City Council:

1. Consider adopting Resolution No. 2015-, certifying City of Marina compliance with State law (Proposition 218) with respect to a special tax for the City of Marina Community Facilities District No. 2015-1 as authorized by Ordinance No. 2015-03 for Fiscal Year 2015-16.

BACKGROUND:

Pursuant to a special election held on June 2, 2015, on June 16, 2015, the City Council unanimously passed Ordinance No. 2015-03, forming the City of Marina Community Facilities District No. 2015-1 (commonly referred to as The Dunes CFD). Ordinance 2015-03 also authorized an annual special tax levy for the purpose of street, sidewalk, curb & gutter, decorative lighting and storm drain maintenance. The total special tax for the first levied fiscal year 2015-16 is detailed in **EXHIBIT A**.

Under estimates prepared by Engineering staff, in conjunction with the City Manager and Shea Homes, there could be a shortfall between the actual cost of providing the required Services and the special taxes that may be levied under the Rate and Method on Developed Property and on Undeveloped Property during the period when the property in the CFD is under development (including the periods when property annexed from the Future Annexation Area into the CFD is under development). On the regular meeting of June 2, 2015, the City Council adopted Resolution 2015-62, approving the Services Funding Agreement between the City of Marina and Marina Community Partners Limited Liability Company (MCP) for MCP to make up any special tax shortfalls during the build-out period. Total funds to be collected for the District are detailed in **EXHIBIT B**.

Each subsequent fiscal year, Ordinance 2015-03 requires the special tax to be adjusted by the escalation factor defined as the lesser of the percentage increase, if any, in the Construction Cost Index for the San Francisco region in the twelve (12)-month period ending June 1 of the prior Fiscal Year, as published in the Engineering News Record or four percent (4.0%). If, in any Fiscal Year, it is determined that the Construction Cost Index decreased in the prior Fiscal Year, the Escalation Factor shall be zero and no decrease in the Maximum Special Taxes shall be calculated.

Except for the Constitutionally-limited 1% ad valorem tax, the Monterey County Auditor-Controller will not place taxes, assessments, fees or charges on the rolls unless the City Council certifies by resolution that the City is in compliance with Proposition 218, the 1996 *'Right to Vote on Taxes Act'* with respect to each such tax. A certification resolution must contain hold harmless and indemnification provisions for administrative expenses of the County associated with collection of the City's taxes, assessments, fees and charges placed on the rolls. The certification, along with copies of the resolution setting the tax and certain other documentation, must be submitted to the County no later than August 3, 2015.

ANALYSIS:

The following special levy is for District's operations and must be included in the certification adopted by the Council:

The Dunes 2015-1 Community Facilities District	\$ 487.22 per Residential Unit
	\$5,187.00 per Acre, Undeveloped

(NOTE: Monterey County requires that rates be divisible by 2 for placement on the rolls, so calculations are rounded)

FISCAL IMPACT:

Special Taxes finance the Community Facilities District approved maintenance. Total to be credited to the district is as follows:

The Dunes 2015-1 Community Facilities District

- \$ 54,176.66 through Special Tax Levy
- \$ 1,438.55 through the Services Funding Agreement adopted by Resolution No. 2015-62.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer, Engineering Division
Community Development Department
City of Marina

REVIEWED/CONCUR:

Nourdin Khayata, P.E.
Acting City Engineer
City of Marina

Layne P. Long
City Manager
City of Marina