

RESOLUTION NO. 2023-75

A RESOLUTION OF THE CITY OF MARINA CERTIFYING
COMPLIANCE WITH STATE LAW (PROPOSITION 218) WITH RESPECT TO
LEVYING OF SPECIAL TAXES ON BEHALF OF CITY OF MARINA COMMUNITY
FACILITIES DISTRICT NO. 2015-1 FOR FISCAL YEAR 2023-2024

WHEREAS, the City of Marina “Public Agency” requests that the Monterey County Auditor-Controller enter those general or special taxes, assessments, or property-related Fees or charges identified in Exhibit “A” on the tax roll for collection and distribution by the Monterey County Treasurer-Tax Collector commencing with the property tax bills for fiscal year 2023-24

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Public Agency 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, assessments, or property-related fees or charges 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 law of the State of California.
2. The Public Agency further certifies that, except for the sole negligence or misconduct of the County of Monterey, its officers, employees, and agents, with regards to the handling of the Cd or electronic file identified as Exhibit “A”, the Public Agency 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, assessments, or property –related fees or charges identified in Exhibit “A” and that it 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 and 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 18th day of July 2023, by the following vote:

AYES: COUNCIL MEMBERS: McCarthy, Biala, Medina Dirksen, Biala

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST:

Bruce C. Delgado, Mayor

Anita Sharp, Deputy City Clerk

EXHIBIT A

ATTACHMENT TO RESOLUTION NO. 2023-74 and RESOLUTION NO. 2023-75 OF THE CITY OF MARINA, COUNTY OF MONTEREY, CALIFORNIA, CERTIFYING COMPLIANCE WITH STATE LAW WITH RESPECT TO THE LEVYING OF SPECIAL TAX

FISCAL YEAR 2023-24

SPECIAL TAXES:

City of Marina CFD No. 2015-1 (The Dunes)

- Developed Property
 - Residential Rate (Per-Unit Rate) \$541.70
 - Non-Residential Rate (Per-Acre Rate) \$6,426.26
- Undeveloped Property (Per-Acre Rate) \$6,426.26

Special Tax Levy Summary		
Developed Property		
Residential	548 Units	\$296,851.60
Non-Residential	0.00 Acres	\$0.00
Undeveloped Property	0.17 Acres	\$1,092.48
Total		\$297,944.08

RESOLUTION NO. 2023-74

A RESOLUTION OF THE CITY OF MARINA CONFIRMING
LEVY OF A SPECIAL TAX FOR THE CITY OF MARINA COMMUNITY FACILITIES
DISTRICT NO. 2015-1 AS AUTHORIZED BY ORDINANCE NO. 2015-03 FOR FISCAL
YEAR 2023-24

WHEREAS, Ordinance 2015-03 authorized the levy of a special tax for the benefit of The City of Marina Community Facilities District 2015-1 starting in Fiscal Year 2015-16 and increasing by the lesser of 4% or the Construction Cost Index as published in the Engineering News Record (ENR) from the previous approved Maximum Special Tax. For Fiscal Year 23/24, the Construction Cost Index increased by 0.1%. The Rates and Apportionment for this District therefore applies an annual rate increase of 0.1%, and;

WHEREAS the Administrator has calculated the maximum Fiscal Year 2023/24 special tax to be \$541.70 per parcel and \$6,426.26 per Acre of undeveloped property, and;

WHEREAS, the CFD administrator having further considered the special tax requirements in accordance with Exhibit A to Ordinance 2015-03, by which Community Facilities District 2015-1 was established and continues, has determined that a special tax for fiscal year 2023-24 be assessed at \$541.70 per parcel and \$6,426.26 per Acre of undeveloped property.

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

1. The City does hereby confirm the diagram and assessment as described in the Engineer's Report on file with the City Clerk.
2. The City does hereby order the levy and collection of said assessment \$541.70 per parcel and \$6,426.26 per Acre of undeveloped property for FY 2023/24 assessment for The Dunes CFD No. 2015-1.
3. It is the intention of the City of Marina that any monetary advance made by it during any fiscal year to cover a deficit in the improvement fund of Community Facilities District No. 2015-1 shall be repaid from the next annual assessments levied and collected within Community Facilities District No. 2015-1
4. The City Clerk is hereby authorized and directed to file a certified copy of said diagram and assessment with the Monterey County Auditor prior to August 1, 2023.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 18th day of July 2023, by the following vote:

AYES: COUNCIL MEMBERS: McCarthy, Biala, Medina Dirksen, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

July 10, 2023

Item No. **10f(1)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of July 18, 2023

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2023-,
CONFIRMING LEVY OF THE SPECIAL TAX FOR THE CITY OF
MARINA COMMUNITY FACILITIES DISTRICT NO. 2015-1 (THE
DUNES) FOR FISCAL YEAR 2023-24 AS AUTHORIZED BY
ORDINANCE NO. 2015-03; AND RESOLUTION NO. 2023-,
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
2023-24**

RECOMMENDATION:

It is requested that the City Council:

1. Consider adopting Resolution No. 2023-, confirming levy of the special tax for the City of Marina Community Facilities District No. 2015-1 (The Dunes) for Fiscal Year 2022-23 as authorized by Ordinance No. 2015-03, and;
2. Resolution No. 2023-, 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 2023-24

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 administration and services of District maintenance of streets, sidewalks, curb & gutters, street lighting and storm drains. The special tax was first levied for fiscal year 2015-16, in the amount of \$437.22 for each of the assessed residential units and \$5,187 per acre of undeveloped property. The assessment was calculated for the ongoing phased future maintenance of the District improvements. Each subsequent year, Ordinance 2015-03 requires the special tax to be increased by the lesser of 4% or the Construction Cost Index as published in the Engineering News Record (ENR) from the previous approved Maximum Special Tax. For Fiscal Year 22/23, the Construction Cost Index increased by 4.0%. The Rates and Apportionment for this District therefore applies a maximum annual rate increase of 4.0%.

On June 21, 2016, the City Council adopted Resolution 2016-96, accepting annexation of property into the City of Marina Community Facilities District No. 2015-1(The Dunes). The annexation area incorporates the Dunes Residential Subdivision Phase 1C Final Map 2.

On April 4, 2017, the City Council adopted Resolution 2017-35, accepting annexation of property into the City of Marina Community Facilities District No. 2015-1(The Dunes). The annexation area incorporates the Dunes Residential Subdivision Phase 1C Final Map 3.

On February 15, 2022, the City Council adopted Resolution 2022-21, accepting annexation of property into the City of Marina Community Facilities District No. 2015-1(The Dunes). The annexation area incorporates the Dunes Subdivision Phase 2 East/Residential.

Accordingly, the special tax for each fiscal year since inception has been as follows (NOTE: Monterey County requires that rates be divisible by 2 for placement on the rolls, so calculations are rounded each year):

Fiscal Year	Tax Per Parcel	Tax Per Acre	Total Special Tax (to be) Collected	End of FY Audit Balance
FY 15/16	\$437.22	\$5,187.00	\$54,228.30	
FY 16/17	\$452.66	\$5,369.89	\$101,268.60	
FY 17/18	\$459.46	\$5,450.69	\$162,605.34	
FY 18/19	\$470.92	\$5,586.73	\$160,509.62	
FY 19/20	\$484.24	\$5,744.70	\$160,767.68	
FY 20/21	\$501.52	\$5,974.48	\$166,504.64	
FY 21/22	\$520.50	\$6,174.70	\$172,806.00	\$948,045.00
FY 22/23	\$541.32	\$6,421.69	\$303,025.22	
FY 23/24	\$541.70	\$6,426.16	\$297,944.08	

ANALYSIS:

Each year's special tax is collected by the Monterey County Tax Collector, and then disbursed to the City. When received by the City, special taxes are credited in the accounting system to Fund 252 - CFD Dunes No. 2015-1. Likewise, expenditures and costs incurred on behalf of the District are posted to Fund 252 expenditure accounts.

A small decrease in revenue is shown for FY 23/24 due to the development of housing units. At the beginning of FY 22/23, much of the newly annexed Residential Phase 2 East was undeveloped. The special tax per acre of undeveloped land, paid for by the Developer, is larger than the special tax per housing unit. The revenue from this fiscal year was higher than normal, allowing the District to build an account balance for the maintenance of the new infrastructure annexed into. For FY 23/24, nearly all of the housing units have been constructed and very little undeveloped land is remaining. The final proposed revenue collection is the correct, expected amount to be collected for proper maintenance of the District.

As of June 30, 2022, the fund balance in Fund 252 (cumulative tax revenue in excess of expenditures since inception) is projected to be approximately \$948,045. Due to the age of the District improvements, scheduled maintenance service expenditures were expected in FY 22/23, but due to various construction projects in the area the maintenance is delayed until FY 23/24. Anticipated maintenance costs are approximately \$345,740, including a scheduled slurry seal of various streets along with video inspections of the underground stormwater system as shown on **EXHIBIT C**. Improvements are scheduled per the maintenance plan attached as **EXHIBIT D** to cover ongoing maintenance of streets, sidewalks, curbs and gutters, and storm drains. The maintenance funding needs formed the basis for establishing the district and setting the initial assessment.

Ordinance 2015-03 authorizes the finance director "...to determine the specific special tax to be levied for the next ensuing fiscal year for each parcel of real property within the CFD (including any parcel or parcels in the future annexation area that annex into the CFD), in the manner and as provided in the resolution of formation."

However, Monterey County will not impose or collect the special tax on the District's behalf unless the City submits, in a form provided by the County, a certification of compliance with State Law (Proposition 218) that includes a hold harmless and indemnification provision for administrative expenses of the County associated with collection of the City's taxes, assessments, fees or charges, other than the Constitutionally authorized 1% ad valorem tax.

Attached is a resolution which, if adopted by the Council will satisfy the County's certification, hold-harmless and indemnification requirements with respect to the City of Marina Community Facilities District No. 2015-1 Special Tax for the 2023-24 fiscal year.

FISCAL IMPACT:

Special assessments finance the CFD's approved maintenance services. Total to be credited to the district is as follows:

Fund 252 Community Facilities District No. 2015-1	\$297,944.08
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CONCLUSION:

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

Respectfully submitted,

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

REVIEWED/CONCUR:

Juan Lopez
Finance Director
City of Marina

Brian McMinn, P.E., P.L.S.
Public Works Director/City Engineer
City of Marina

Layne P. Long
City Manager
City of Marina