

RESOLUTION NO. 2024-80

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING A REIMBURSEMENT AGREEMENT REGARDING THE
PROPOSED COMMUNITY FACILITIES DISTRICT NO. 2024-1 OF THE CITY
OF MARINA (THE DUNES WEST SIDE SERVICES)**

THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Shea Homes-Marina Community Partners (the “Developer”) has submitted to the City Manager of the City of Marina (the “City”) a check in the amount of \$100,000.00 (the “Deposit”), to be used by the City to pay costs of the City in connection with proceedings under section 53311 *et seq.* of the California Government Code (the “Act”) to create a community facilities district to be designated “Community Facilities District No. 2024-1 of the City of Marina (The Dunes West Side Services)” (the “CFD”).

Section 2. There has also been submitted a Reimbursement Agreement (the “Agreement”), to be entered into by the Developer and the City (for itself and on behalf of the CFD), and the City now desires to enter into the Agreement with the Developer in order to assist with the formation of the CFD.

Section 3. The City Council hereby approves and authorizes the City Manager to execute and deliver the Agreement, in the form on file with the City Clerk and to take all actions on his part necessary to implement the Agreement. The City Manager is hereby authorized and directed to accept the Deposit and to use the Deposit (and any subsequent Deposits, as defined in the Agreement) in the manner contemplated by the Agreement.

Section 4. The firm of Goodwin Consulting Group, Inc. is hereby designated as Special Tax Consultant to the City for the CFD, the firm of Fieldman, Rolapp & Associates, Inc. is hereby designated as municipal advisor to the City for the CFD, and the firm of Stradling Yocca Carlson & Rauth LLP is hereby designated as Formation Counsel to the City for the CFD. The City Manager is hereby authorized and directed to execute agreements with said firms for their services in connection with the CFD, in the respective forms filed with the City Manager of the City. In any event, the fees and expenses of such consultants shall be payable solely from Deposits.

Section 5. The Mayor, the City Manager, the Finance Director, City Clerk and all other officers of the City are hereby authorized and directed to take all actions and do all things necessary or desirable hereunder with respect to the implementation of the Agreement, including but not limited to the execution and delivery of any and all agreements, certificates, instruments and other documents, which they, or any of them, may deem necessary or desirable and not inconsistent with the purposes of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 2nd day of July 2024, by the following vote:

AYES: COUNCIL MEMBERS: McAdams, McCarthy, Biala, Delgado

NOES: COUNCIL MEMBERS: None

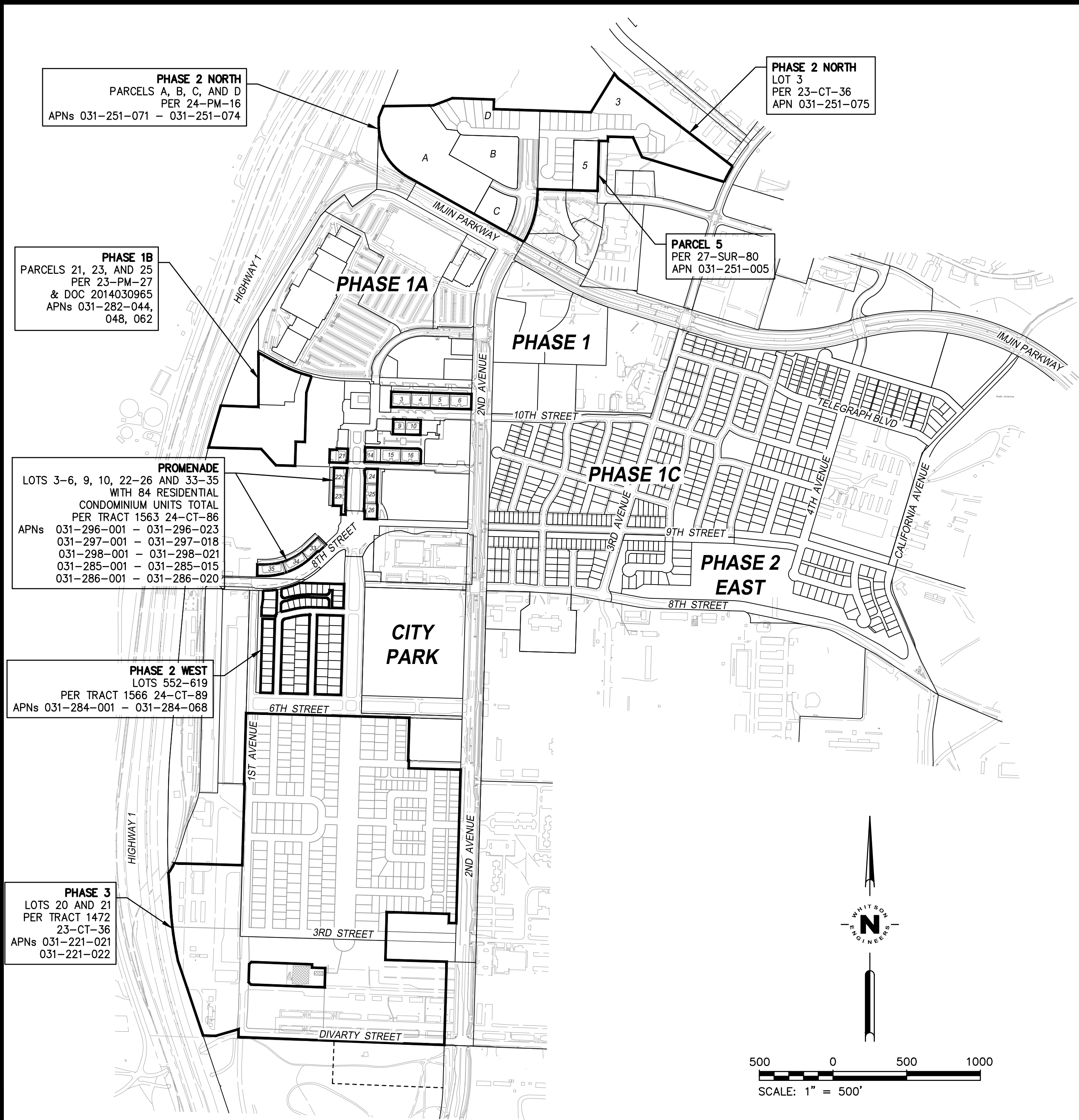
ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ATTEST:

Anita Sharp, Deputy City Clerk

Bruce Delgado, Mayor



CITY CLERK'S STATEMENT

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MARINA
THIS _____, DAY OF _____, 2024

BY: _____
ANITA SHEPHERD-SHARP
DEPUTY CITY CLERK OF MARINA

CITY CLERK'S STATEMENT

I, ANITA SHEPHERD-SHARP, DEPUTY CITY CLERK OF THE CITY OF MARINA, HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF THE CITY OF MARINA COMMUNITY FACILITIES DISTRICT CFD 2024-1 (THE DUNES WEST SIDE SERVICES), CITY OF MARINA, COUNTY OF MONTEREY, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MARINA, AT A REGULAR MEETING THEREOF, HELD ON THE _____, DAY OF _____, 2024 BY ITS RESOLUTION No. _____

BY: _____
ANITA SHEPHERD-SHARP
DEPUTY CITY CLERK OF MARINA

COUNTY RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2024, AT _____:_____M. IN VOLUME _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE _____ THEREOF IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA.

XOCHITL MARINA CAMACHO
MONTEREY COUNTY CLERK-RECORDER
BY: _____
NAME: _____,DEPUTY

DOCUMENT NO.: _____ FEE: \$ _____

LEGEND

_____ COMMUNITY FACILITIES DISTRICT NO. 2024-1
_____ ADJACENT PROPERTY LINE

**PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT
CFD No. 2024-1
(THE DUNES WEST SIDE SERVICES)**

CITY OF MARINA, COUNTY OF MONTEREY,
STATE OF CALIFORNIA

PREPARED BY:
WHITSON ENGINEERS
6 HARRIS COURT, MONTEREY CALIFORNIA

REIMBURSEMENT AGREEMENT**REGARDING THE PROPOSED
COMMUNITY FACILITIES DISTRICT NO. 2024-1
OF THE CITY OF MARINA (THE DUNES WEST SIDE SERVICES)**

THIS REIMBURSEMENT AGREEMENT REGARDING THE PROPOSED COMMUNITY FACILITIES DISTRICT NO. 2024-1 OF THE CITY OF MARINA (THE DUNES—SERVICES) (the “Agreement”) dated as of July 1, 2024, is entered into by and between the CITY OF MARINA, a general law city organized and existing under the laws and constitution of the State of California (the “City”), and MARINA COMMUNITY PARTNERS, LLC, a Delaware limited liability company (the “Owner”).

RECITALS:

A. The Owner and affiliates of Owner own approximately 70 acres of land described in Exhibit A attached hereto (the “Property”), which the Owner desires to include within proposed Community Facilities District No. 2024-1 of the City of Marina (The Dunes West Side Services) (the “District”) to be established by the City pursuant to the Mello-Roos Community Facilities Act of 1982 (Section 53311 *et seq.* of the California Government Code), as incorporated into the Marina Municipal Code, with certain modifications, as Chapter 3.35 of the Marina Municipal Code.

B. The City and the Owner are desirous of entering into this Agreement in order to provide a mechanism by which the Owner may advance certain costs related to the cost of formation of the District, and to provide that such District, if formed, will reimburse the Owner for the amounts advanced hereunder.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.
2. Potential Formation of the District.

(a) At the request of the Owner, the City will undertake to form the District. The City will retain, at the Owner’s expense, the necessary consultants to analyze the proposed formation of the District, including an engineer, special tax consultant, financial advisor, formation counsel, and other consultants deemed necessary by the City. In addition, City staff time spent in connection with the formation of the District shall be at Owner’s expense.

(b) In order to begin the process of analyzing the potential formation of the District, the Owner has advanced to the City a sum totaling \$100,000.00. From time to time, the Owner shall make additional advances to the City within 15 days following receipt from the City of a request for an additional advance to cover the costs of forming the District. In the event the Owner does not deliver the requested amount to the City within such 15-day period, the City will have no obligation to proceed with the analysis or formation unless and until such additional advance is received. The Owner shall have the right to notify the City at any time, in writing, of its

intention to abandon the formation of the District. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Owner shall be responsible to pay all costs and expenses incurred by the City or any City consultant or advisor prior to the date on which the City's consultants are notified of the Owner's notice of abandonment. Notwithstanding a decision of the Owner to abandon the formation of the District, the City may, in its sole discretion, elect to proceed with formation of the District with funds other than those of the Owner; provided, however, that, in executing this Agreement, the Owner shall not be deemed to have waived their right to object to the formation of the District.

(c) The City will provide to the Owner on request a summary of how the advances have been spent and the unexpended balance remaining. The amounts advanced by the Owner will be reimbursable to the Owner, without interest, from the proceeds of special taxes of the District when and if the District is formed.

3. Reimbursement Procedure. The City shall return any funds which have been advanced by the Owner which are not expended on the purposes set forth in Section 2 above. Such returned funds shall be without interest.

4. Abandonment of CFD Formation Process. The Owner understands that any formation of the District shall be in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the District or to annex the Property to any other district or improvement area of the City. The City shall have no liability to Owner for its decision not to form the District.

5. Indemnification and Hold Harmless. The Owner hereby assumes the defense of, and indemnifies and saves harmless, jointly and severally, the City and each of its officers, directors, employees and agents, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or arising out of any acts or omissions taken by the Owner or any of the Owner's officers, employees, contractors and agents with respect to the formation of the District.

6. Notices. Any notice to be provided pursuant to this Agreement shall be delivered to the following addresses:

Owner:	Marina Community Partners, LLC 90 Tenth Street Marina, CA 93933 Attention: Mr. Doug Yount, Director Telephone: (831) 277-3918 Email: doug.yount@sheahomes.com
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City:	City of Marina 211 Hillcrest Avenue Marina, CA 93933 Attn: City Manager Telephone: (831) 884-1278 Email: llong@cityofmarina.org
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With a copy to: Stradling Yocca Carlson & Rauth LLP
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
Attention: Brian D. Quint, Esq.
Telephone: (949) 725-4063
Email: bquint@stradlinglaw.com

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

7. Assignment. The Owner may assign its interest in this Agreement at any time provided, however, that the Owner shall provide written evidence of any assignment to the City.

8. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

9. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein.

10. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties.

11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

12. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

13. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City and the Owner, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

14. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

15. Termination. This Agreement shall terminate and be of no further force and effect on December 1, 2028, unless expressly amended by the parties; provided, however, that the Owner's obligations under Section 5 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 3 for expenses incurred prior to the termination date shall also survive termination.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

CITY OF MARINA

By _____
City Manager

ATTEST:

City Clerk

MARINA COMMUNITY PARTNERS, LLC a
Delaware limited liability company

By: Shea Homes Limited Partnership
a California limited partnership
Its Sole Member

By: _____
Name: _____
Its: Authorized Agent

By: _____
Name: _____
Its: Authorized Agent

EXHIBIT A

DESCRIPTION OF PROPERTY

Real property in the City of Marina, County of Monterey, State of California, described as follows:

Monterey County Assessor Parcel Nos.:

1. Tax Zone 1: All parcels owned by Shea Homes Limited Partnership. APNs:

031-296-001-0000	031-298-020-0000	031-284-019-000
031-296-002-0000	031-298-021-0000	031-284-020-000
031-296-003-0000	031-285-001-0000	031-284-021-000
031-296-004-0000	031-285-002-0000	031-284-022-000
031-296-005-0000	031-285-003-0000	031-284-023-000
031-296-007-0000	031-285-004-0000	031-284-024-000
031-296-008-0000	031-285-006-0000	031-284-025-000
031-296-009-0000	031-285-007-0000	031-284-026-000
031-296-010-0000	031-285-008-0000	031-284-027-000
031-296-011-0000	031-285-009-0000	031-284-028-000
031-296-013-0000	031-285-010-0000	031-284-029-000
031-296-014-0000	031-285-012-0000	031-284-030-000
031-296-015-0000	031-285-013-0000	031-284-031-000
031-296-016-0000	031-285-014-0000	031-284-032-000
031-296-017-0000	031-285-015-0000	031-284-033-000
031-296-019-0000	031-286-001-0000	031-284-034-000
031-296-020-0000	031-286-002-0000	031-284-035-000
031-296-021-0000	031-286-003-0000	031-284-036-000
031-296-022-0000	031-286-004-0000	031-284-037-000
031-296-023-0000	031-286-005-0000	031-284-038-000
031-297-001-0000	031-286-006-0000	031-284-039-000
031-297-002-0000	031-286-008-0000	031-284-040-000
031-297-003-0000	031-286-009-0000	031-284-041-000
031-297-005	031-286-010-0000	031-284-042-000
031-297-006	031-286-011-0000	031-284-043-000
031-297-007	031-286-012-0000	031-284-044-000
031-297-008	031-286-013-0000	031-284-045-000
031-297-010-0000	031-286-015-0000	031-284-046-000
031-297-011-0000	031-286-016-0000	031-284-047-000
031-297-012-0000	031-286-017-0000	031-284-048-000
031-297-014-0000	031-286-018-0000	031-284-049-000
031-297-015-0000	031-286-019-0000	031-284-050-000
031-297-016-0000	031-286-020-0000	031-284-051-000
031-297-017-0000	031-284-001-000	031-284-052-000
031-297-018-0000	031-284-002-000	031-284-053-000
031-298-001-0000	031-284-003-000	031-284-054-000
031-298-002-0000	031-284-004-000	031-284-055-000

031-298-003-0000	031-284-005-000	031-284-056-000
031-298-004-0000	031-284-006-000	031-284-057-000
031-298-005-0000	031-284-007-000	031-284-058-000
031-298-007-0000	031-284-008-000	031-284-059-000
031-298-008-0000	031-284-009-000	031-284-060-000
031-298-009-0000	031-284-010-000	031-284-061-000
031-298-011-0000	031-284-011-000	031-284-062-000
031-298-012-0000	031-284-012-000	031-284-063-000
031-298-013-0000	031-284-013-000	031-284-064-000
031-298-014-0000	031-284-014-000	031-284-065-000
031-298-015-0000	031-284-015-000	031-284-066-000
031-298-017-0000	031-284-016-000	031-284-067-000
031-298-018-0000	031-284-017-000	031-284-068-000
031-298-019-0000	031-284-018-000	

2. Tax Zone 2:

- a. Parcel 031-282-044-000: Marina Community Partners, LLC, a Delaware limited liability company
- b. Parcel 031-282-048-000: Marina Community Partners, LLC, a Delaware limited liability company
- c. Parcel 031-282-062-000: Marina Community Partners, LLC, a Delaware limited liability company
- d. Parcel 031-251-073-000: Dunes Development LP, a California limited partnership
- e. Parcel 031-251-074-000: Marina Community Partners, LLC, a Delaware limited liability company
- f. Parcel 031-221-021-000: Marina Community Partners, LLC, a Delaware limited liability company

3. Additional parcels proposed for inclusion in the District or an Annexation Area, which are not owned by Owner or Owner's Affiliates:

- a. Parcel 031-251-071-000: Monterey Bay Hotels, LP, a California limited partnership
- b. Parcel 031-251-072-000: Monterey Bay Hotels, LP, a California limited partnership
- e. Parcel 031-251-075-000: City of Marina, a municipal corporation
- f. Parcel 031-251-005-000: The Marina Redevelopment Agency
- h. Parcel 031-221-022-000: City of Marina, a municipal corporation

June 24, 2024

Item No. **10g(2)**

Honorable Mayor and Members
Of the Marina City Council

City Council Meeting
of July 2, 2024

**RECOMMENDATION THAT CITY COUNCIL CONSIDER ADOPTING
RESOLUTION NO. 2024-, APPROVING A REIMBURSEMENT
AGREEMENT REGARDING THE PROPOSED COMMUNITY
FACILITIES DISTRICT NO. 2024-1 (“THE DUNES WEST SIDE
SERVICES CFD”)**

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting Resolution No. 2024-, approving a Reimbursement Agreement regarding the Community Facilities District No. 2024-1 (“The Dunes West Side Services CFD”).

BACKGROUND:

The City Council had previously approved a Development and Disposition Agreement (“DDA”) with Marina Community Partners (“MCP”) back in 2005 for the transfer of property from the City to MCP for The Dunes Development. A key component of the DDA was a provision requiring The Dunes Development be “Fiscally Neutral” to the City. In 2015, the City formed Community Facilities District No. 2015-1 (“Dunes CFD”) to levy a special tax to fund all or a part of the public services (the “Services”) required to maintain infrastructure to be owned by the City at The Dunes Development. The City has been levying special taxes since 2015 to pay for services for The Dunes Development.

The City has received a petition from MCP requesting the City to create a new Community Facilities District to be designated City of Marina Community Facilities District No. 2024-1 (“The Dunes West Side Services CFD”) to levy a special tax to fund all or a part of the public services (the “Services”) required to maintain infrastructure at The Dunes West Side Development. A map of the Proposed West Side Services CFD is included as **Attachment A**. In addition, the petition requests the City to designate a Future Annexation Area, which is an area in which additional parcels can be annexed into the CFD in the future if the owners of the parcels execute a unanimous consent to annexation.

ANALYSIS:

The proposed annual amount of the special taxes to be levied to fund all or a part of the Services required for maintaining the infrastructure at The Dunes West Side Development is estimated to range from \$1,505 to \$1,770 per residential unit and will be escalated each year to adjust for inflation. Non-Residential Property will have a special tax payment of \$6,442 per acre. Engineering staff has prepared this estimate in conjunction with the City Manager and Shea Homes Limited Partnership, developer of The Dunes Development. The Services to be funded include maintenance of Streets, Sidewalks, Curbs & Gutters, Decorative Lighting, Storm Drains, Parks and Landscape and Public Restroom Facilities.

At tonight’s City Council meeting there will be a separate ordinance prepared by Stradling Yocca Carlson & Rauth LLP, the City’s Bond Counsel related to the adoption of an Ordinance

establishing the Marina Special Tax District Financing Code as Chapter 3.35 of the Marina Municipal Code for your consideration and approval.

Legal Documents

Reimbursement Agreement – The Reimbursement Agreement is a mechanism by which the Property Owner may advance certain costs related to the costs of formation of the District, and to provide that such District, if formed, will reimburse the Owner for the amounts advanced hereunder.

Future Actions

Based on the proposed CFD formation schedule, the following CFD formation legal actions are scheduled as follows:

Resolution of Intention – The Resolution of Intention will be considered at the August 7th City Council meeting and will do the following: a) accepts the petition filed by Shea with respect to the Dunes West Side Services CFD; b) declares the intention of the City to form the Dunes West Side Services CFD and the Future Annexation Area; (c) describes the territories within the boundaries of the Dunes West Side Services CFD, and the Future Annexation Area; d) describes the types of services that will be funded by special taxes; e) describes the rate and method of apportionment of the special taxes to be levied in the Dunes West Side Services CFD; f) calls a public hearing to be held on September 17, 2024; and g) describes the proposed voting procedures for the Dunes West Side Services CFD.

Resolution of Formation – The Resolution of Formation Public Hearing will be held on September 17th. The formation of the Dunes West Side Services CFD will occur after the public hearing. At that hearing, the City Council will be presented with information regarding the Dunes West Side Services CFD, the special taxes, and public services. The public will also have the opportunity to comment on the Dunes West Side Services CFD. After the conclusion of the September 17th public hearing the City Council may take the following actions:

1. Adopt a resolution establishing the Dunes West Side Services CFD
2. Call a special election
3. Conduct the election
4. Adopt a resolution declaring the results of the election.
5. Introduce for first reading an ordinance authorizing the levy of special taxes

Additionally, the City Council will consider a Services Funding Agreement outlining the terms whereby MCP agrees to make up any shortfall incurred during the project build-out period and outlines the arrangement between the City and the Dunes Promenade Commercial Association to maintain the Village Square infrastructure to be constructed at the Promenade.

The adoption of the Resolution approving the Reimbursement Agreement under consideration this evening will not commit the City Council to establish Dunes West Side Services CFD nor authorize the levy of special taxes. The City Council may establish Dunes West Side Services CFD only after conducting the September 17th public hearing, and may levy the special taxes only if the result of the special election show 2/3rds approval. Following the September 17th public hearing and landowner election, the proposed schedule to complete the formation of the Dunes West Side Services CFD is as follows:

October 1, 2024: Second Reading of ordinance authorizing special tax levy
November 1, 2024: Special Tax Ordinance becomes effective

The resolutions and related documents have been prepared and reviewed by the City's consultant team, which includes bond counsel (Stradling), municipal advisor (Fieldman, Rolapp and Associates) and special tax consultant (Goodwin Consulting).

FISCAL IMPACT:

There is no fiscal impact. The Reimbursement Agreement covers the city's cost in creating the district.

CONCLUSION:

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

James V. Fabian
Principal, Fieldman, Rolapp & Associates
Municipal Advisor
City of Marina

Tori Hannah
Finance Director
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina

Attachments:

- A. Proposed CFD Map for The Dunes West Side Services CFD
- B. Resolution Approving Reimbursement Agreement
- C. Reimbursement Agreement