

EAST BAY REGIONAL PARK DISTRICT
RESOLUTION NO: 2018 – 06 -
June 5, 2018

RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY REGIONAL PARK
DISTRICT, CALIFORNIA, DECLARING THE FORMATION OF A COMMUNITY FACILITIES
DISTRICT

EAST BAY REGIONAL PARK DISTRICT
COMMUNITY FACILITIES DISTRICT NO. A/C-3

WHEREAS, East Bay Regional Park District (District) includes all of Alameda County and all of Contra Costa County. The District operates 73 regional parks, recreation areas, shorelines, preserves, wilderness and land banked areas, on more than 121,390 acres of parkland and over 1250 miles of trails; and

WHEREAS, in 2004 more than two-thirds of the voters in the boundary of “Zone I” (which includes the cities and communities of Alameda, Oakland, Piedmont, Albany, Richmond, San Pablo, El Sobrante, Kensington, Berkeley, Emeryville and El Cerrito) approved Measure CC which levied a \$12 per year tax on single-family parcels and \$8.28 per year tax on multi-family units to improve park facilities, protect the environment and open-space, enhance public access and maintain public safety; and

WHEREAS, funding from Measure CC has:

- supported police protection at shoreline and urban regional parks and catastrophic fire prevention in the East Bay Hills, with more than 500 acres of hazardous vegetation thinned or removed.
- enhanced public access to parks by allowing upgrades to regional parks and trails, including visitor centers, staging areas, picnic tables, restrooms and water fountains.
- protected the natural environment by helping pay for the restoration and preservation of natural areas, including shorelines, marshes, wetlands, and urban creeks; and protecting sensitive habitat and promoting resiliency to climate change; and

WHEREAS, the Measure CC tax funding will expire on June 30, 2020; and

WHEREAS, the Board of Directors has determined that it is necessary to extend the \$12 per year tax on single-family parcels and \$8.28 per year tax on multi-family units to continue to provide for wildfire protection, safe parks and trails, public access and natural habit, among other things; and

WHEREAS, on May 1, 2018, the Board of Directors adopted Resolution No. 2018-05-097 entitled “A Resolution of the Board of Directors of the East Bay Regional Park District, California, Declaring its Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes” (the “Resolution of Intention”), stating its intention to form the East Bay Regional Park District Community Facilities District No. A/C-3 (the “CFD”) under the

Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following of the California Government Code (the “Act”); and

WHEREAS, the Resolution of Intention, incorporating a map of the proposed boundaries of the CFD and stating the services to be provided and the rate and method of apportionment of the special tax to be levied within the CFD to pay for the services, is on file with the Clerk of the Board and the provisions thereof are incorporated herein by this reference as if fully set forth herein; and

WHEREAS, the proposed boundary and territory of the CFD are the same boundary and territory as Zone I; and

WHEREAS, the territory of the CFD contains the oldest parks in the regional park system, some dating back to the 1930s, and the highest population density and park use in the District by the urban communities along the eastern shoreline of the San Francisco Bay; and

WHEREAS, the parks within the CFD to benefit from the levy of special taxes include: Alameda Point, Anthony Chabot, Crown Beach/Crab Cove, Gateway, Kennedy Grove, Lake Chabot, Leona Canyon, Martin Luther King, Jr., McLaughlin Eastshore, Miller-Knox, Point Isabel, Point Molate, Point Pinole, Redwood, Roberts, Sibley/Huckleberry/Claremont Canyon, Sobrante Ridge, Temescal, Tilden and Wildcat Canyon, and such new parks or properties that may be purchased and/or annexed to parks within the CFD; and

WHEREAS, one or more of the District’s parks and/or trails is within ten (10) miles of virtually all residents within the CFD; and

WHEREAS, the District’s parks and trails enhance the health, safety and welfare of all residents within the CFD; and

WHEREAS, under the Resolution of Intention, the General Manager of the District was directed to make, or cause to be made, and file with the Clerk of the Board a report (the “Report”) in writing, presenting the services to be provided and an estimate of the reasonable cost of providing the services, which was prepared and submitted to the Clerk of the Board prior to the public hearing described below; and

WHEREAS, the Resolution of Intention called for a public hearing pertaining to the formation of the CFD and the levy of said special tax to be held on June 5th, 2018, at 1:00 p.m. or as soon thereafter as the matter may be heard, in the meeting place of the Board of Directors at the East Bay Regional Park District Administration Building, 2950 Peralta Oaks Court, Oakland, California; and

WHEREAS, under the Resolution of Intention, the Clerk of the Board was directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the CFD, and the Clerk of the Board caused the publication of such notice at least 7 days before the date set for the public hearing; and

WHEREAS, on this date, this Board of Directors held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the CFD; and

WHEREAS, at the public hearing all interested persons desiring to be heard on all matters pertaining to the formation of the CFD, the services to be provided therein and the levy of such special tax were heard and a full and fair public hearing was held; and

WHEREAS, written protests with respect to the formation of the CFD, the furnishing of specified types of services and the Rate and Method of Apportionment of the special taxes have not been filed with the Clerk of the Board by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special taxes; and

WHEREAS, the special tax proposed to be levied in the CFD to pay for the proposed services has not been eliminated by protest by 50% or more of the registered voters residing within the territory of the CFD or the owners of one-half or more of the area of land within the CFD and not exempt from the special taxes.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby finds, determines, and resolves that all of the foregoing recitals are true and correct.

BE IT FURTHER RESOLVED, the formation of the CFD, and the proposed special tax to be levied within the CFD, have not been precluded by majority protest pursuant to Section 53324 of the Act.

BE IT FURTHER RESOLVED, all prior proceedings taken by the Board of Directors in connection with the establishment of the CFD and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the requirements of the Act. The Board of Directors has heretofore adopted Resolution No. 2015-06-171 the East Bay Regional Park District Statement of Local Goals and Policies Concerning the Use of the Mello-Roos Community Facilities Act of 1982, and the Board of Directors hereby finds and determines that the CFD is in conformity with said goals and policies.

BE IT FURTHER RESOLVED, the community facilities district designated as the "East Bay Regional Park District Community Facilities District No. A/C-3" of the District is hereby established pursuant to the Act.

BE IT FURTHER RESOLVED, the boundaries of the CFD, as set forth in the map entitled "Proposed Boundaries of Community Facilities District No. A/C-3, East Bay Regional Park District, Counties of Alameda and Contra Costa, State of California" heretofore recorded in the Alameda County Recorder's Office on May 2, 2018, in Book 18 at Page 98 as Document No. 2018-088327 of Maps of Assessment and Community Facilities Districts and in the Contra Costa County Recorder's Office on May, 2, 2018, in Book 86 at Page 43 as Document No.

2018-0068556 of Maps of Assessment and Community Facilities Districts, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD.

BE IT FURTHER RESOLVED, the type of public services proposed to be funded by the CFD and pursuant to the Act shall consist of those services (the "Services") shown in Exhibit A hereto and by this reference incorporated herein.

BE IT FURTHER RESOLVED, except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the CFD, will be levied annually within the CFD pursuant to the Rate and Method of Apportionment of the special tax, and collected in the same manner as ordinary ad valorem property taxes or in such other manner as the Board of Directors or its designee may determine, including direct billing of the affected landowners.

BE IT FURTHER RESOLVED, the rate and method of apportionment of the special tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the CFD to estimate the maximum amount such owner will have to pay, is shown in Exhibit B attached hereto and hereby incorporated herein.

BE IT FURTHER RESOLVED, the Chief Financial Officer of the District, 2950 Peralta Oaks Court, City of Oakland, California, 94605, telephone number (510) 544-2401, is the officer of the District who will be responsible for preparing annually a current roll of the levy of the special tax obligations by assessor's parcel number and who will be responsible for estimating future levies of the special tax.

BE IT FURTHER RESOLVED, upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the CFD and this lien shall continue in force and effect until the collection of the special tax by the District ceases.

BE IT FURTHER RESOLVED, in accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the CFD is hereby preliminarily established at an amount equal to \$3,300,000, and such appropriations limit shall be submitted to the voters of the CFD as hereafter provided. The proposition establishing such annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of the Act and the California Constitution.

BE IT FURTHER RESOLVED, pursuant to the Act, the proposition of the levy of the special tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the CFD at an election, the time, place and conditions of which shall be as specified by a separate resolution of this Board of Directors.

BE IT FURTHER RESOLVED that the General Manager and the Chief Financial Officer are hereby authorized and directed, on behalf of the District and in its name, to execute and

deliver such documents and to do such acts as may be deemed necessary and appropriate to accomplish the intentions of this resolution.

BE IT FURTHER RESOLVED, that this Resolution shall take effect upon its adoption.

Moved by Director _____, seconded by Director _____, and approved this 5th day of June, 2018, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:

EXHIBIT A
EAST BAY REGIONAL PARK DISTRICT
COMMUNITY FACILITIES DISTRICT NO. A/C-3
DESCRIPTION OF SERVICES TO BE FUNDED BY THE CFD

It is intended that the CFD will be eligible to fund within or in the vicinity of the CFD all or a portion of the direct and incidental costs of the maintenance, improvement, and servicing of parklands, trails, open space, and related parkland access improvements; public safety protection services; recreation and open-space program services; flood and storm protection services; maintenance and operation of District property, including open space; and the construction, expansion, improvement, or rehabilitation of District property, including park, recreation, open-space, and flood and storm protection facilities.

The CFD may fund any of the following related to the maintenance of the services described in the preceding paragraph: obtaining, constructing, reconstructing, furnishing, and operating and maintaining equipment, apparatuses or facilities related to providing the services; equipment, apparatuses, facilities, or fixtures in areas to be maintained; paying the salaries and benefits of personnel necessary or convenient to provide the services; payment of insurance costs and other related expenses; and the provision of reserves for repairs, replacements, and for the future provision of services. It is expected that the services will be provided by the District, either with its own employees or by contract with third parties, or any combination thereof. The CFD may also fund administrative fees of the District related to the CFD.

The foregoing description of the types of services eligible to be funded is general in nature and includes any appurtenant work and incidental expenses relating to the operation, maintenance and servicing of facilities. The final nature and location of the services will be determined upon the preparation of final plans and specifications for such services.

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EXHIBIT B
EAST BAY REGIONAL PARK DISTRICT
COMMUNITY FACILITIES DISTRICT NO. A/C-3
RATE AND METHOD OF APPORTIONMENT

**EAST BAY REGIONAL PARK DISTRICT
COMMUNITY FACILITIES DISTRICT NO. A/C-3
RATE AND METHOD OF APPORTIONMENT**

A Special Tax as hereinafter defined shall be levied and collected in the East Bay Regional Park District Community Facilities District No. A/C-3 (“CFD No. A/C-3”) each Fiscal Year, commencing in Fiscal Year 2020-2021, in an amount determined by the application of the procedures described below. All of the real property in CFD No. A/C-3, unless exempted by law or by the provisions hereof, shall be taxed for purposes of CFD No. A/C-3, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meaning:

“Act” means the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California, as amended to date and as may be amended from time to time.

“Administrative Expenses” means the actual or reasonably estimated costs directly related to the administration of CFD No. A/C-3 including, but not limited to, the following: the costs of computing the Special Tax and preparing the annual Special Tax collection schedules (whether by the District, the CFD Administrator, or both); the costs of collecting the Special Taxes (whether by the County, the District, or otherwise); the costs to the District, CFD No. A/C-3, or any designee thereof of complying with disclosure requirements; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; and the costs of the District, CFD No. A/C-3, or any designee thereof related to any appeal of the levy or application of the Special Tax. Administrative Expenses shall also include amounts estimated or advanced by the District or CFD No. A/C-3 for any other administrative purposes, including, but not limited to, attorney’s fees; costs associated with annexations to CFD No. A/C-3; and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

“Assessor’s Data” means Use Code, Homeowner Exemption, Secured Roll or other Assessor’s Parcel information contained in the records of the County Assessor.

“Assessor’s Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned assessor’s parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor of the County designating Assessor’s Parcels by an Assessor’s Parcel number.

“Authorized Services” means the public services authorized to be funded by CFD No. A/C-3 as set forth in the resolutions of formation adopted by the Board establishing CFD No. A/C-3.

“Board” means the Board of Directors of the East Bay Regional Park District, acting as the legislative body of CFD No. A/C-3.

“CFD Administrator” means an official of the District, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

“CFD No. A/C-3” means the East Bay Regional Park District Community Facilities District No. A/C-3.

“County” means either the County of Alameda, the County of Contra Costa, or both.

“District” means the East Bay Regional Park District.

“Dwelling Unit” means an individual residential living space. The number of Dwelling Units assigned to each Assessor’s Parcel may be determined by (i) referencing Use Code data, (ii) site surveys and physical unit counts, (iii) reviewing County building permit data, and/or (iv) determining the number of Homeowner Exemptions reflected for an Assessor’s Parcel in the Assessor’s Data on the County Secured Roll.

“Exempt Property” means all Assessors’ Parcels that are exempt from the Special Tax pursuant to Section E.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Floating Home Property” means all Assessor’s Parcels within CFD No. A/C-3 with an Alameda County Use Code of 0750.

“Homeowner Exemption” means a property tax exemption that is (i) permitted by the State to be taken against an individual’s primary residence and (ii) reflected in the Assessor’s Data on the County Secured Roll.

“Maximum Annual Special Tax” means the maximum annual Special Tax, determined in accordance with Section C, which may be levied in any Fiscal Year on any Assessor’s Parcel of Taxable Property.

“Mobile Home Property” means all Assessor’s Parcels within CFD No. A/C-3 (i) with an Alameda County Use Code of 0600 or 0700; or (ii) with a Contra Costa County Use Code of 88.

“Multi-Family Residential Property” means all Assessor’s Parcels of Taxable Property within CFD No. A/C-3 (i) with an Alameda County Use Code of 1200, 2100, 2200, 2300, 2400, 2440, 2500, 2600, 2700, 2800, 2900, 7100, 7200, 7430, 7500, 7600, 7700, 7701, 7800, or 7900, as those Use Codes may be amended in the future; or (ii) with a Contra Costa County Use Code of 13, 21, 22, 23, 24, 25, 26, 27, or 28, as those Use Codes may be amended in the future.

“Non-Residential Property” means all Assessor’s Parcels within CFD No. A/C-3 not classified as Floating Home Property, Mobile Home Property, Multi-Family Residential Property, Public Property, or Single-Family Residential Property.

“Property Use” means, in any Fiscal Year, the category of use assigned using the County Assessor’s Data Use Code, as indicated on the Secured Roll.

“Proportionately” means, in any Fiscal Year, that the ratio of the Special Tax levy on Taxable Property to the Maximum Annual Special Tax on Taxable Property is equal for all Assessors’ Parcels of Taxable Property authorized to be levied in that Fiscal Year.

“Public Property” means any property within the boundaries of CFD No. A/C-3 which (i) is owned by a public agency, (ii) has been irrevocably offered for dedication to a public agency, or (iii) is designated with specific boundaries and acreage on a final subdivision map as property which will be owned by a public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified in accordance with its use. For purposes of this definition, a “public agency” includes the federal government, the State, the County, the District, or any other public agency.

“Rate and Method” means this Rate and Method of Apportionment for CFD No. A/C-3.

“Secured Roll” means that Assessor’s Data indicating the current Fiscal Year property value for County tax assessment purposes.

“Single-Family Residential Property” means all Assessor’s Parcels of Taxable Property within CFD No. A/C-3 (i) with an Alameda County Use Code of 1100, 1101, 1120, 1130, 1140, 1150, 1160, 1300, 1400, 1440, 1500, 1505, 1520, 1525, 1540, 1545, 1600, 1620, 1640, 1700, 1800, 1820, 1840, 1900, 1901, 5100, 7300, 7301, 7302, 7320, 7321, 7340, 7341, 7342, or 7400, as those Use Codes may be amended in the future; (ii) with a Contra Costa County Use Code of 11, 12, 14, 16, 19, 29 or 61, as those Use Codes may be amended in the future; or (iii) that meet neither of the two criteria listed above, but have a Homeowner Exemption reflected on the County Secured Roll.

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

“Special Tax Requirement” means that amount of Special Tax revenue required in any Fiscal Year, as determined by the CFD Administrator, for the following purposes: (i) to pay the costs of Authorized Services; (ii) to pay Administrative Expenses; (iii) to pay any amounts required to establish or replenish any repair and contingency funds, capital improvement replacement funds, or reserve funds for CFD No. A/C-3; (iv) to pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year. The Special Tax Requirement shall be net of a credit for any funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator.

“State” means the State of California.

“Taxable Property” means all Assessor’s Parcels within the boundaries of CFD No. A/C-3 that are not classified as Exempt Property under the Act or Section E below which, in any Fiscal Year, have been assigned an Improvement Value greater than zero dollars (\$0.00) on the County Secured Roll for that Fiscal Year.

“Use Code” means (i) the four-digit use code assigned by the Alameda County Assessor’s Office to each Assessor’s Parcel within Alameda County; or (ii) the two-digit use code assigned by the Contra Costa County Assessor’s Office to each Assessor’s Parcel within Contra Costa County.

B. DETERMINATION OF TAXABLE PARCELS

On or about July 1 of each Fiscal Year, the CFD Administrator shall determine the valid Assessor’s Parcels for all Assessor’s Parcels within CFD No. A/C-3. If any Assessor’s Parcels are no longer valid from the previous Fiscal Year, the CFD Administrator shall determine the new Assessor’s Parcels that are in effect for the current Fiscal Year. To the extent Assessor’s Parcels are subdivided, consolidated or otherwise reconfigured, the Maximum Special Tax rates shall be assigned to the new Assessor’s Parcels pursuant to Section C. The CFD Administrator shall also determine whether Assessor’s Parcels within CFD No. A/C-3 are Taxable Property or Exempt Property and, for all Taxable Property, the Property Use and Dwelling Units.

C. MAXIMUM ANNUAL SPECIAL TAX

The Maximum Annual Special Tax for each Assessor’s Parcel of Taxable Property shall be assigned according to the table below:

Property Use	Maximum Annual Special Tax Rates
Single-Family Residential Property	\$12.00 per Dwelling Unit
Multi-Family Residential Property	\$8.28 per Dwelling Unit

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

The Special Tax shall be levied each Fiscal Year by the CFD Administrator. The Special Tax Requirement shall be apportioned to each Assessor’s Parcel of Taxable Property within CFD No. A/C-3 by the method shown below.

- First. Determine the Special Tax Requirement.
- Second. Levy the Special Tax on each Assessor’s Parcel of Taxable Property, Proportionately, up to the Maximum Special Tax Rates described in Section C to satisfy the Special Tax Requirement.

Notwithstanding the above, under no circumstances will the Special Tax levied in any Fiscal Year against any Assessor’s Parcel of Taxable Property be increased by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any delinquency or default by the owner(s) of any other Assessor’s Parcel within CFD No. A/C-3.

E. EXEMPTIONS

The CFD Administrator shall classify Assessor’s Parcels with the following Property Use as Exempt Property: Floating Home Property, Mobile Home Property, Non-Residential Property, Public Property, Assessor’s Parcels exempt from *ad valorem* taxation, and Assessor’s Parcels with public or utility easements making impractical their utilization for any use other than the purposes set forth in the easement shall also be classified as Exempt Property.

If, in any Fiscal Year, the Property Use of an Assessor's Parcel of Exempt Property changes so that such Assessor's Parcel is no longer classified as Exempt Property, such Assessor's Parcel shall cease to be classified as Exempt Property and shall be classified as Taxable Property.

F. APPEALS AND INTERPRETATION

Any property owner may file a written appeal of the Special Taxes with the CFD Administrator claiming that the amount or application of the Special Taxes is not correct. The appeal must be filed not later than one calendar year after having paid the Special Taxes that are disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Taxes are in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the Board whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the Board requires the Special Taxes to be modified or changed in favor of the property owner, no cash refund shall be made for prior years' Special Taxes, but an adjustment shall be made to credit future Special Taxes.

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

The District reserves the right to make minor administrative and technical changes to this Rate and Method that do not materially affect the rate and method of apportioning the Special Tax. In addition, the interpretation and application of any section of this Rate and Method shall be at the District's discretion. Interpretations may be made by the District by ordinance or resolution of the Board for purposes of clarifying any vagueness or ambiguity in this Rate and Method.

G. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes, provided that the District may directly bill the Special Tax, may collect the Special Tax at a different time or in a different manner if needed to meet the financial obligations of CFD No. A/C-3.

H. NO PREPAYMENT OF SPECIAL TAX

The Special Tax may not be prepaid.

I. TERM OF SPECIAL TAX

The Special Tax shall be levied for a 20-year period, commencing in Fiscal Year 2020-2021 through Fiscal Year 2039-40, as necessary to satisfy the Special Tax Requirement.