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OAKLAND

2013 JUN 12 PM 4:07

# AGENDA REPORT

**TO:** DEANNA J. SANTANA  
CITY ADMINISTRATOR

**FROM:** Teresa Deloach Reed  
FIRE CHIEF

**SUBJECT:** Under the Mello-Roos Community Facilities Act of 1982, as amended, Adopt:  
(1) A Resolution Approving Amended and Restated Local Goals and Policies and Appraisal Standards for Community Facilities Districts;  
(2) A Resolution of Intention to Establish City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District);  
(3) A Resolution Authorizing Amendment to the Agreement with Francisco & Associates, Inc. for Additional Services Related to the Establishment of the CFD.

**DATE:** June 27, 2013

City Administrator Deanna J. Santana Date 6/10/13  
Approval

**COUNCIL DISTRICT:** 1, 4, 6, & 7

## RECOMMENDATION

Staff recommends that the City Council approve the following:

- (1) Resolution adopting amended and restated Local Goals and Policies and Appraisal Standards for Community Facilities Districts.
- (2) Resolution of Intention to establish City of Oakland Community Facilities District 2013-1 (Wildfire Prevention District) which, if adopted, will levy a Special Tax<sup>1</sup> to finance certain public services, approve a Proposed **Boundary Map** for City of Oakland Community Facilities District 2013-1 (Wildfire Prevention District) [which mirrors those of the expiring Wildfire Prevention Assessment District (WPAD)], and schedule a public hearing on the Formation of City of Oakland Community Facilities District 2013-1 (Wildfire Prevention District) for Friday, August 2, 2013 at 9:00 a.m.; and

<sup>1</sup> The Maximum Special Tax will be established at \$78 per year per taxable parcel in fiscal year 2014-15, and will increase in each subsequent fiscal year by the lesser of i) an amount equal to the percentage increase during the preceding Calendar Year in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area (CPI-U), as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 2) 3.0%.

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(3) Resolution authorizing amendment to the Agreement with Francisco & Associates, Inc., in an amount not to exceed \$24,900, for a total contract amount of \$382,400 and waiving the advertising and competitive Request for Proposal/Qualification requirements.

### **EXECUTIVE SUMMARY**

Under the Mello-Roos Community Facilities Act of 1982, as amended (Government Code Section 53311-53317.5) (the "Act"), the City Council may initiate proceedings to establish a community facilities district only if it has first considered and adopted local goals and policies concerning the use of the Act. The Oakland City Council adopted said "goals and policies" on June 19, 2007, in Resolution No. 80641 C.M.S. (Legistar No. 07-0168). Staff, after consultation with the City's special counsel, Jones Hall, A Professional Law Corporation, is recommending that the City Council adopt a new resolution of amended and restated goals and policies to comply with the Act.

A community facilities district is proposed to be formed so as to continue providing wildfire prevention, suppression and preparedness services to those properties within the boundaries of the current Oakland Wildfire Prevention Assessment District (WPAD). The current WPAD is set to expire on January 20, 2014 and the creation of a community facilities district for financing the special requirements within the urban / wildland interface areas within the boundaries of the existing WPAD is permitted under the Act. The City proposes to establish "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" ("CFD" or "Wildfire District"). The CFD would be authorized to levy a special tax (the "Special Tax"), which would be in the amount of \$78 per year per taxable parcel in fiscal year 2014-15, and increase in each subsequent fiscal year by the lesser of 1) an amount equal to the percentage increase during the preceding Calendar Year in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area (CPI-U), as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 2) 3.0%.

A special election by mail ballot of the registered voters residing within the boundaries of the proposed CFD is being proposed for November 13, 2013. A 2/3 positive vote of the registered voters that vote would be required to approve the Special Tax. The language for the proposed ballot measure has not been established. The ballot measure language will be adopted after the conclusion of the public hearing on August 2, 2013 if the City Council adopts a Resolution of Formation at that meeting. The language will be consistent with the current goals and projects being performed under the WPAD, including a continuation of wildfire prevention services, which include goat grazing to clear excess brush and weeds; crews to remove dead trees and branches on public lands, maintenance of firebreaks to reduce spread of fires; and fire patrols on high fire danger days to ensure emergency escape routes are clear. The ballot measure language will also include the proposed amount of the Special Tax (\$78.00) and the duration of the new Wildfire Prevention District (15 years.)

Though entities of the state, federal and local governments would be exempt from Special Tax (Government Code Section 53340(c)), the City understands and accepts its obligations to properly maintain the City owned parks, medians, and open spaces residing within the proposed CFD. Therefore, per Government Code Section 53314.8, prior to the formation of the CFD, the City Council shall adopt an ordinance encumbering monies in the City's biennial General Purpose Fund budget to cover the City's share of the Special Tax for its properties lying within the CFD No. 2013-1.

### TIMELINE

Date	Comte/Council/ Comment	Mello-Roos Special Tax Election Action / Legislation
Thurs., 13 June		Agenda packet distribution for June 25 <sup>th</sup> Committee / June 27 <sup>th</sup> Rules Committee meetings
Thurs., 27 June	Rules & Legislation	Present a Report and (1) Resolution of Intention to Establish Community Facilities District (CFD) No. 2013-1 ( Wildfire District), approve services to be financed and proposed boundary map, schedule date/time for Public Hearing on the Formation of CFD No. 2013-1; (2) Resolution Amending Agreement with Francisco & Associates
Tues., 02 July	City Council	Accept the Report and adopt (1) Resolution of Intention to Establish Community Facilities District (CFD) No. 2013-1 ( Wildfire District), approve services to be financed and proposed boundary map, schedule date/time for Public Hearing on the Formation of CFD No. 2013-1; (2) Resolution Amending Agreement with Francisco & Associates
by Wed., 17 July	City Clerk	Publish Notice of Public Hearing
Fri., 02 Aug	Minimum 30 days after adoption of Intent Reso.	(1) Conduct a Public Hearing and at the conclusion adopt a Resolution of Formation of CFD No. 2013-1; (2) Adopt a Resolution calling for Special Mail Ballot Election ("ROE")
Fri., 16 Aug		Deadline for submission of Arguments For / Against
Thurs., 22 Aug		Last day for City Council to adopt changes/withdraw measure
Mon., 26 Aug		Deadline for Rebuttal Arguments For / Against
Tues., 27 Aug- Thur., 05 Sep		Public Inspection period
Fri., 04 Oct – Wed., 23 Oct	40-21 Days before	Sample Ballots mailed out

Date	Comte/Council/ Comment	Mello-Roos Special Tax Election Action / Legislation
Tues., 15 Oct – Sun., 03 Nov*	29-10 days before	ELECTION BALLOTS mailed out
*Next Bus Day Mon, 04, Nov		
Wed., Nov 13	Ballots due prior to 8:00 p.m.	ELECTION Day – Ballots Due
Wed., 11 Dec		Deadline to Receive Certification of Election Results
Dec 2013 / Jan 2014		Introduction of Ordinance Levying Special Taxes for CFD No. 2013-1 (1 <sup>st</sup> Reading)
Dec 2013 / Jan 2014		Adoption of an Ordinance Levying Special Taxes for CFD No. 2013-1 (2 <sup>nd</sup> Reading)

### OUTCOME

The proposed Resolution of Intention sets in motion the steps required by the Act to form a community facilities district that includes specified properties located in Oakland's Urban / Wildland Interface areas to support enhanced fire prevention and suppression activities.

### BACKGROUND/LEGISLATIVE HISTORY

After the October 1991 Oakland Hills Wildland/Urban Interface Fire, a Wildfire Prevention Assessment District was formed (Ordinance No. 11526 CMS, December 1, 1992, amended by Ord. No. 11561 CMS, March 9, 1993, and revised by Ordinance No. 12556 CMS, November 8, 1993). The monies collected were used to reduce the fuel load in the Oakland Hills and provided enhanced fire services during peak fire season. The assessment district was for five (5) years and lapsed in 1997. District voters did not move to re-establish it, and during the years 1997 through 2003, the City maintained basic brush removal and inspection services.

In 2003, with all available sources of funding exhausted, and with State-wide budgetary deficits promising to divert property taxes away from local governments, a City / Community steering committee drafted a proposal to create the Oakland Wildfire Prevention Assessment District (WPAD) for the purpose of supplementing fire prevention, suppression and preparedness programs and local area projects above what was generally provided by the Fire Department, including increased compliance inspections of public properties, public outreach and education, goat grazing, and brush removal.

The City Council approved the proposal (Ord. No. 12556 CMS, November 18, 2003) and mail-in ballots were sent out on November 6, 2003 to property owners in the proposed district; the

ballots were due back by January 6, 2004. Approximately 50% of the ballots were mailed back to the City, with voting solidly in favor of forming a new assessment district. On January 20, 2004, the City Council voted to establish the Wildfire Prevention Assessment District (Resolution No. 78305 CMS)

In each of the past 10 years, with an assessment of \$65 per single-family dwelling [owners of multiple-family dwellings were assessed based upon the number of units and large property owners (including the City and East Bay Regional Parks) paid assessments based on the development status of the parcel and lot size)], approximately \$1.8 million per year has been generated. The WPAD also created an oversight committee and called for an auditing firm to be retained annually to ensure the funds were handled responsibly. The most recent Wildfire Prevention Assessment District Final Annual Report, FY 2013-14, was presented to the City Council on June 4, 2013.

### ANALYSIS

Due to recent law suits and court findings concerning fire assessment districts in other California jurisdictions, and after consultations with the Office of the City Attorney and Councilmember interactions with local WPAD community groups in their districts, staff recommends replacing the expiring WPAD, with a Special Tax to be levied in the CFD pursuant to the Act. The Special Tax would apply only to those properties currently included in the WPAD. If approved by the registered voters (2/3 positive vote of those voting is required), the Special Tax would be annually levied within specified boundaries in accordance with to the rate and method of apportionment of special tax attached as Exhibit 2 to the Resolution of Intention to pay for fire protection and suppression services.

Consistent with Section 53318 of the Act, two council members have asked the City Council to establish the CFD pursuant to the *Petition to Form a District (Attachment A)*. Under the Act, the Resolution of Intention must include the following items:

- (1) a boundary map meeting the requirements of the Act;
- (2) a description of the services to be financed;
- (3) the rate and method of apportionment of the special tax;
- (4) the total amount of bonds to be authorized (if bonds are to be authorized at all).

Items 1 – 3 are included as *Exhibits 1, 2, and 3*, respectively, of the attached Resolution of Intention of the City of Oakland to Establish City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) in the Current Wildfire Prevention Assessment District

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Area, Schedule a Public Hearing, Levy a Special Tax to Finance Certain Public Services and Approving a Proposed Boundary Map for Community Services District No. 2013-1 Pursuant to the Melio-Roos Community Facilities Act of 1982. No bonds are being authorized; therefore item (4) is moot. **Attachment B** of this Agenda Report provides general cost estimates for the services noted in **Exhibit 2**.

Once the items above are determined to the Council's satisfaction, and if the City Council (i.e., "the legislative body of the local agency") wishes to proceed with formation of the CFD, the Council must adopt the Resolution of Intention, which calls for a public hearing to be held not less than 30 days or (with certain exceptions) or more than 60 days from the adoption date of the Resolution of Intention, to consider formation of the Special District. Notice of the Public Hearing must be published. The public hearing is scheduled for Friday, August 2, 2013 at 9:00 a.m., in City Council Chambers.

If at the close of the public hearing, should the City Council wish to proceed with formation of the City of Oakland Community Facilities District No. 2013-1, it must adopt a Resolution of Formation.

Thereafter, the Council will consider a Resolution Calling for the Special Election, and containing the ballot measure language to be submitted to the registered voters living within the boundaries of the CFD. The election will be conducted by the County of Alameda by mail ballot. To pass, the measure must receive the approval of two-thirds (2/3) of the registered voters that vote at the election. Election costs may be reimbursed out of the CFD financing if the election is successful and the Council so approves.

The City expects the ballot mail out to commence in October, the 22<sup>nd</sup> anniversary month of the devastating fires that killed 25 people, destroyed or damaged 3,469 living units, burned 1,520 acres and caused an estimated (in 1991 dollars) \$1,537,000,000 in fire losses.

Finally, the firm of Francisco & Associates, Inc. has been instrumental in the creation of and the annual administration audits of the expiring Wildfire Prevention Assessment District. Their expertise, records and database capabilities are needed to provide the parcel / property information and to create the boundary map of the new Community Facilities District No. 2013-1 in the format required by the Alameda County Registrar of Voters, and to provide database information to the Registrar of Voters for the mailing of ballots to the registered voters who live within the boundaries of the proposed CFD. This additional work requires amending the current contract with Francisco & Associates, Inc. in an amount not to exceed \$34,900.00, for a total contract amount of \$382,400. For the reasons noted above, it is also requested that City Council waive the advertising and competitive Request for Proposal/Qualification requirements.

**POLICY ALTERNATIVES**

<b>Alternative #1</b>	Re-establish the Wildfire Prevention Assessment District (WPAD) for an additional 10-year period.
<b>Pros</b>	<ul style="list-style-type: none"> <li>• Property owners within the current WPAD are familiar with the concept.</li> <li>• Government entities, including the City of Oakland, get a vote, and may be decisive to the outcome.</li> <li>• Government entities have to pay the assessment</li> <li>• Enacted if there is not a majority protest by the landowners in the proposed district (the ballots are weighted based on the amount of the assessment).</li> </ul>
<b>Cons</b>	<ul style="list-style-type: none"> <li>• Unlike the current assessment, which sets up a reasonably “fiat” fee, new Special Assessment District rules will require a multitude of assessment values.</li> <li>• The engineer will have to justify the special benefit for EACH property and also calculate the general benefit to the general public from the service as part of the assessment calculations.</li> <li>• The City will not only pay the special benefits assessment but must also cover the general benefit provided by the WPAD – amount unknown at this time, but could be upward of 20% of amount collected by the special benefit assessment.</li> <li>• A California court has expressed skepticism that fire services can be divided into a “special benefit” under Prop. 218 criteria.</li> <li>• Certain classes of properties cannot be exempted (e.g., low income, seniors, tax exempt parcels)</li> </ul>
<b>Reason for not recommending</b>	<ul style="list-style-type: none"> <li>• The complexity of the special benefit calculations that would be required to substantiate the special benefit being received.</li> <li>• Risk of litigation by individual property owners, which would require the City to prove that each and every property litigated is being assessed based upon and in proportion to the special benefits received.</li> <li>• Uncertainty of the verdict(s) from any judicial review and the costs to the City to defend.</li> </ul>
<b>Alternative #2</b>	Allow the WPAD to expire and do nothing to replace it.
<b>Pros</b>	<ul style="list-style-type: none"> <li>• There are none.</li> </ul>
<b>Cons</b>	<ul style="list-style-type: none"> <li>• The strain on City financial and personnel resources to maintain even minimal levels of vegetative clearing and property inspections.</li> <li>• An increase in the vegetative fuel load from un-cleared lands will grow each year; thereby creating conditions that would increase fire</li> </ul>

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**COORDINATION**

This report has been reviewed by the Office of the City Attorney, the Budget Office, the Fire Department and pertinent information was coordinated with the engineering firm of Francisco &

	behavior intensities and rates of spread should there be a fire within the Oakland hill area.
<b><i>Reason for not recommending</i></b>	Without a dedicated source of funds, the contract services that currently provide WPAD's preventive strategies, projects and programs would cease, as City staff levels and budget resources are not sufficient to meet these needs.

### **PUBLIC OUTREACH/INTEREST**

The local community organizations within the current WPAD have been actively working to ensure that the safety and security of their neighborhoods will continue to receive the heightened fire prevention, suppression and preparedness activities the WPAD has been providing since 2004. To that end, the Keep Oakland Fire Safe group conducted telephone polling to assess the level of interest and commitment to continue assessing themselves for these services. A list of endorsements is posted on their website:

<http://KeepOaklandFireSafe.org/endorsements.htm>

Additional information on wildfire prevention is available at:

<http://www.oaklandnet.com/wildfireprevention/>

Pursuant to Government Code, Section 53321, the City Council must hold a public hearing to provide an opportunity for any interested party to be heard. Staff proposes that the date of the public hearing be set for Friday, August 2, 2013 at 9:00 a.m., or as soon thereafter as the item may be heard, in the City Council Chambers.

### **COORDINATION**

This report has been reviewed by the Office of the City Attorney, the Budget Office, the Fire Department and pertinent information was coordinated with the engineering firm of Francisco & Associates, Inc.

### **COST SUMMARY/IMPLICATIONS/BUDGET**

1. **COST OF PROJECT:** The cost of establishing the Community Facilities District is approximately \$147,000 - \$338,000, excluding existing staff time. The cost items include, but not limited to, the following items:
  - i) Special Tax Engineering Services (\$15,000 - \$25,000)

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- 2) Election Costs (\$3 - \$7 per registered voter) (\$117,000 - \$273,000)
  - 3) Legal Counsel (\$15,000 - \$40,000)
2. **SOURCE OF FUNDING:** The \$24,900 is estimated from the Fire Department existing FY 2012-13 General Purpose Fund budget. Another \$100,000 is included in the proposed FY 2013-15 budget from the General Purpose Fund, the funding gap is \$213,100 for a total of \$338,000.
  3. **FISCAL IMPACT:** This project is funded by both existing budget and proposed FY 2013-15 Policy Budget, should the Council adopt the proposal(s).

### FISCAL/POLICY ALIGNMENT

The establishment of the CFD aligns with the City Council's priorities as a safe and livable city.

### PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

See *Attachment C*, City of Oakland Wildfire Prevention Assessment District Fiscal Year 2013-14 Final Annual Report, prepared by Francisco & Associates, Inc., dated June 4, 2013.

### SUSTAINABLE OPPORTUNITIES

**Economic:** Revenues generated from this Special Tax will replace those previously collected as part of the annual WPAD. The revenues are relied upon to fund essential City services in the areas residing within the new Wildfire District CFD.

**Environmental:** Activities under the Vegetation Management Program provide direct benefit through the reduction of the fuel load that can lead to catastrophic fires. A primary Fire Department objective continues to be reduction in fire behavior intensities and rates of spread that are controllable, and to avoid future losses to life and property. To the extent possible, the collected vegetation and wood chips are recycled for use as mulch and compost. Other than the production of a small amount of methane, the use of grazing goats for clearing steep hillsides of undergrowth is an environmentally "green" process.


**Social Equity:** There are no direct social impacts associated with the City Council action requested in this report.

CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact: Bill Uber, Special Projects Assistant, at (510) 238-6811.

Respectfully submitted,



Teresa DeLoach Reed  
Fire Chief

Prepared and Reviewed by:  
William Roy Uber, Special Projects Assistant (Temporary)  
Office of the City Administrator

- Attachments:
- A. Resolution No. 80641 CMS, June 19, 2007
  - B. Petition for the Institution of Proceedings for Mello-Roos CFD
  - C. Cost Estimates for the proposed services in the CFD
  - D. Oakland WPAD Final Annual Report for FY 2013-14

Legislative Documents:

- 1) A Resolution of the City Council of the City of Oakland Approving Amended and Restated Local Goals and Policies and Appraisal Standards for Community Facilities Districts.
- 2) A Resolution of Intention of the City of Oakland to Establish Community Facilities District No. 2013-1 in the Current Wildfire Prevention Assessment District Area, Schedule a Public Hearing, Levy a Special Tax to Finance Certain Public Services and Approving a Proposed Boundary Map for Community Facilities District No. 2013-1 Pursuant to the Mello-Roos Community Facilities Act of 1982.

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- 3) Resolution Authorizing the City Administrator to Amend the Contract with Francisco & Associates, Inc., in an Amount Not-to-Exceed Twenty-Four Thousand Nine Hundred Dollars (\$24,900), for Work Related to the Establishment of Community Facilities District (CFD) No. 2013-1 (Wildfire Prevention District), the Rate and Method to Levy a Special Tax, and the Establishment of Proposed Boundaries and Map of the CFD, for a Total Contract Amount of Three Hundred Eighty-Two Thousand Four Hundred Dollars (\$382,400).

**PETITION FOR THE INSTITUTION OF PROCEEDINGS  
FOR THE ESTABLISHMENT OF A MELLO-ROOS  
COMMUNITY FACILITIES DISTRICT**

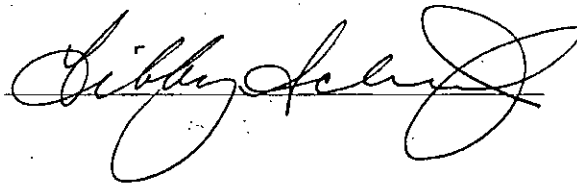
Council Members Libby Schaaf and Dan Kalb, respectively, request that their fellow members of the Council of the City of Oakland initiate proceedings for establishment of a Community Facilities District (CFD) in the areas of Oakland currently designated as the Wildfire Prevention and Assessment District, pursuant to Section 53318(a) of the California Government Code relative to the Mello-Roos Community Facilities Act of 1982.

The CFD contemplated shall comprise the total area currently comprising the Wildfire Prevention and Assessment District, created by Resolution No. 78305 C.M.S. on January 20, 2004, which is due to expire on January 20, 2014. See map and written description attached to the accompanying staff report / Resolution of Intention for additional details.

The CFD would be created to continue the financing of services and programs dedicated to fire prevention, suppression and preparedness. Details as to the elements of this proposed project are supplied in the attached staff report submitted to and reviewed by the Finance & Management Committee of the City Council.

Dated:

6/4/13



Dated:

6/4/13



**CITY OF OAKLAND**  
**Community Facilities District No. 2013-1**  
**(Wildfire Prevention District)**

**COST ESTIMATE**

The following is an estimate of costs in FY 2014-15 dollars for the authorized services to be financed by Community Facilities District No. 2013-1, not including the costs of forming Community Facilities District No. 2013-1.

City of Oakland Community Facilities District No. 2013-1 Estimate of Cost (FY 2014-15 Dollars)	
	Amount
<b>Expenditures</b>	
<u>Services</u>	
Goat Grazing Program	\$365,000
Property Owner Chipping Program	\$100,000
Vegetation Management Program	\$1,076,500
Roving Fire Patrol Program	\$12,000
Support Services for Inspection Programs	\$50,000
Pubhc Outreach	<u>\$40,000</u>
Services Subtotal:	\$1,643,500
<u>District Administration</u>	
Annual Audit	\$25,000
City Staff/Board Expenses	\$6,000
County Administrative Fee	\$33,000
Special Tax Administration	\$25,000
Contract & Finance Management Support	\$155,000
Performance Review	<u>\$12,500</u>
District Administration Subtotal:	\$256,500
Total Expenditures:	\$1,900,000

**ATTACHMENT B**

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CITY OF OAKLAND



# CITY OF OAKLAND WILDFIRE PREVENTION ASSESSMENT DISTRICT



Fiscal Year 2013-14  
Final Annual Report

Prepared by:

Francisco & Associates, Inc.

130 Market Place, Suite 160

San Ramon, CA 94583

(925) 867-3400



June 4, 2013

ATTACHMENT C

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APPENDIX

Appendix A – Assessment Rates for Various Land Uses

Appendix B – FY 2013-14 Assessment Roll

CITY OF OAKLAND  
CITY COUNCIL MEMBERS AND CITY STAFF

FISCAL YEAR 2013-14

MAYOR  
Jean Quan

CITY COUNCIL MEMBERS

Patricia Kernighan, District 2  
President of the Council

Dan Kalb, District 1  
Council Member

Lynette Gibson McElhaney, District 3  
Council Member

Libby Schaaf, District 4  
Council Member

Noel Gallo, District 5  
Council Member

Desley Brooks, District 6  
Council Member

Larry Reid, District 7  
Council Member

Rebecca Kaplan, At Large  
Council Member

CITY STAFF MEMBERS

Deanna Santana  
City Administrator

Barbara Parker  
City Attorney

LaTonda Simmons  
City Clerk

Teresa Deloach Reed  
Fire Chief

ASSESSMENT ENGINEER  
Francisco & Associates, Inc.




CERTIFICATES

FISCAL YEAR 2013-14

The undersigned respectfully submits the enclosed Annual Report as directed by the City of Oakland pursuant to the provisions of Section 50078 of the Government Code of the State of California and per the Oakland Fire Suppression, Prevention, and Preparedness District Ordinance (2003).

Dated: May 22, 2013

By   
Joseph A. Francisco, P.E.  
RCE NO. 40688

I HEREBY CERTIFY that the enclosed Annual Report, together with the Assessment Roll and the Assessment Diagram thereto attached, was filed with me on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

LaTonda Simmons, City Clerk  
City of Oakland  
Alameda County, California

By \_\_\_\_\_

I HEREBY CERTIFY that the enclosed Annual Report, together with the Assessment Roll and the Assessment Diagram thereto attached was approved and confirmed by the City Council of the City of Oakland, Alameda County, California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

LaTonda Simmons, City Clerk  
City of Oakland  
Alameda County, California

By \_\_\_\_\_

I HEREBY CERTIFY that the enclosed Annual Report, together with the Assessment Roll and the Assessment Diagram thereto attached was filed with the County Auditor of the County of Alameda, on the \_\_\_\_\_ day of \_\_\_\_\_ 2013.

Francisco & Associates, Inc.

By \_\_\_\_\_

## INTRODUCTION

Pursuant to the provisions of the Government Code of the State of California, commencing with Section 50078, Article 3.6, Fire Suppression Assessments (the "Act") and per the Oakland Fire Suppression, Prevention, and Preparedness District Ordinance (2003), this *Annual Report* is submitted to the City Clerk of the City of Oakland in connection with the proceedings of the City Council to consider the FY 2013-14 *annual* levy of assessments for the Oakland Wildfire Prevention Assessment District. I, Joseph A. Francisco, duly-authorized representative of Francisco and Associates, Inc., consultant to the City, submit this Annual Report consisting of the following parts and exhibits:

### SECTION I

A listing of the fire prevention services that will be financed from the proceeds of the fire prevention assessment.

### SECTION II

A description of the boundaries of the assessment district which includes properties that will benefit from the fire prevention services.

### SECTION III

An estimate of the annual costs to provide the fire prevention services to be financed from the proceeds of the fire prevention assessment.

### SECTION IV

A description of the methodology used to spread the costs of the fire prevention services to the benefiting properties within the boundaries of the assessment district and the duration of the assessment.

### SECTION V

A description of each lot or parcel of property proposed to be subject to the fire prevention assessment, including the amount of the assessment on each lot or parcel for FY 2013-14 and the maximum amount of the assessment which may be levied on each lot or parcel during any fiscal year.

SECTION I

DESCRIPTION OF SERVICES

The Oakland Wildfire Prevention Assessment District will provide the following services described below:

Goat Grazing - Utilizes herds of goats to clear the excess brush that allows fires to spread rapidly. The goats remove vegetation from the large public open space areas within the assessment district boundaries.

Property Owner Chipping Services - This program assists private property owners by providing a convenient way to dispose of tree branches, brush and other yard waste that can fuel fires. The District provides crews to process private property owners' yard waste into wood chips or mulch for the owners' use, or provide other means of disposal.

Vegetation Management - Private contractors and City crews provide the District's vegetation reduction and management programs where the goats are not able to graze. This includes open space and canyon hill parcels, firebreaks and roadside clearance along public streets and evacuation routes within the District. Additionally, fire companies and vegetation management inspectors annually inspect District properties to identify those that are in violation of the Oakland Fire Code. The inspectors will notify non-compliant property owners and after conducting re-inspections, non-compliant property owners will be charged the cost of having contractors bring the private property back into compliance.

Roving Fire Patrols - This program provides additional fire patrols to monitor properties within the boundaries of the assessment district during high fire hazard days to monitor, correct and report potential fire hazards to the Fire Department.

Support Services for Inspection Programs - This program provides seasonal support to the residents throughout the inspection season. They intake inquiries via phone or mail and respond to those inquiries. They also maintain the inspection database by inputting the up-to-date inspection information such as the compliance status. Volunteers may support the inspection program and receive reimbursement for incidental costs such as gasoline and parking.

Public Outreach - This includes printing, duplication, and postage for outreach mailings and the installation of an electronic fire condition sign.

SECTION II

DESCRIPTION OF ASSESSMENT DISTRICT BOUNDARIES

The Oakland Wildfire Prevention Assessment District boundaries were developed with assistance from the City of Oakland Fire Department and the California Department of Forestry and Fire. Properties located within the assessment district are generally within the Oakland Hills and the surrounding areas. These properties are unique because they are located within and among extreme dense vegetation which puts them at a high risk of loss or damage if a wildland fire were to start and spread.

For a more detailed description of the parcels, refer to the Assessment Diagram which is included on the following page of this report. The hues and dimensions of each lot or parcel within the District are those hues and dimensions shown on the maps of the Alameda County Assessor's Office for the year when this Report was prepared.



Not to Scale

SECTION III

ESTIMATE OF ANNUAL COSTS

The proposed budget to provide the fire prevention programs for Fiscal Year 2013-14 is summarized below. These cost estimates were prepared by the City of Oakland Fire Department and the Wildfire Prevention Assessment District Citizens Advisory Committee.

Oakland Wildfire Prevention Assessment District FY 2013-14 Proposed Budget	
	Amount
Estimated Beginning Fund Balance	\$714,567
<b>Revenues</b>	
Estimated FY 2013-14 Assessment Revenue	\$1,656,409
Transfer from City	\$151,193
Allowance for Delinquencies	(\$70,000)
Interest Earned (Revenue)	<u>\$3,800</u>
Total Revenue:	\$1,741,402
Total Estimated Available Resource:	\$2,455,969
<b>Expenditures (account code)</b>	
<u>Services</u>	
Goat Grazing Program (54919)	\$365,000
Property Owner Chipping Program (54911)	\$75,000
Vegetation Management Program (54911)	\$1,400,000
Roving Fire Patrol Program (51000)	\$12,000
Support Services for Inspection Programs (51000)	\$35,000
Public Outreach (53611 & 54711)	<u>\$190,000</u>
Services Subtotal:	\$2,077,000
<u>District Administration</u>	
Annual Audit (54111)	\$22,000
City Staff/Board Expenses (51000, 53313 & 55000)	\$6,000
County Administrative Fee (54924)	\$27,000
Assessment Engineering (54411)	\$22,761
Contract & Finance Management Support (Account TBD)	\$32,500
Performance Review (53719)	<u>\$12,500</u>
District Administration Subtotal:	\$122,761
<u>Designated Reserves for Special Projects</u>	
Grant Matching Program	\$100,000
Signage - Fire Danger/Others	<u>\$65,000</u>
Designated Reserves Subtotal:	\$165,000
Total Expenditures:	\$2,364,761
Estimated Ending Fund Balance	\$91,208
Estimated Contributions to/(from) Fund Balance	(\$623,359)

The Act requires that a special separate fund be established for the revenues and expenditures of the District. Any balance remaining on June 30 must be carried over to the next fiscal year unless the funds are being accumulated for future capital improvements (e.g. tiger mower or chipper) and operating reserves for this district. Assessment revenues can only be used for the fire prevention programs and services stated herein and cannot be diverted to other uses.

Each year City staff, with citizen input, will review the effectiveness of each fire prevention program to determine if there should be an increase or decrease in funding or whether the program should be eliminated. The proposed listing of fire prevention programs and their corresponding budgets are presented to City Council for their review and approval annually.

Each fiscal year the City will have an independent audit conducted to ensure that assessment revenues were only expended on the authorized services and programs stated herein. The results of each independent audit will be available for public review.

## SECTION IV

### DESCRIPTION OF THE BENEFIT SPREAD METHODOLOGY

The following benefit allocation methodology was developed to establish the basis for apportioning the cost of fire prevention programs to each lot or parcel within the assessment district, based upon the size and type of use of each property. The benefit allocation methodology was developed by Francisco & Associates, Inc. based upon information provided by the City of Oakland, discussions with City staff, Fire District personnel; the requirements of Article 3.6, of the Government Code 50078.2 entitled, 'Fire Suppression Assessments' and per the Oakland Fire Suppression, Prevention, and Preparedness District Ordinance (2003).

Properties located within the Oakland Hills and surrounding areas are at a disproportionately high risk of damage resulting from the spread of wildfires. The assessment district is made up of parcels which all share this greater than average vulnerability. In order to mitigate the wildfire threat to this area, the Oakland Wildfire Prevention Assessment District generates funding to supply additional fire prevention programs to these high risk properties. The fire prevention services focus on sharply reducing excess brush, grasses and other fuels that allow fires to start and spread rapidly, educating District property owners about fire prevention efforts and safe courses of action in the event of a fire, and provide roving fire patrols in the area on high fire hazard days.

Reducing wildfire fuel sources within the assessment district creates defensible spaces and firebreaks to impede a fire's ability to spread quickly. These defensible spaces and firebreaks enable firefighters to surround and contain the fire more easily. Each parcel in the District benefits from the fire prevention programs which enhance the ability to confine a fire before it can extend its reach across multiple properties. Parcels located within these well-cleared areas also have a reduced risk of damage or loss to their buildings and structures if a fire were to occur.

#### ASSESSABLE PARCELS

The land use classifications which are included within the boundaries of the assessment district are defined as follows:

**Single-Family** – Single-family parcels are defined as parcels that have a land use classification as single-family residential with the Alameda County Assessor's office and are located within the boundaries of the assessment district.

**Condominium/Townhome** – Condominium and townhome parcels are defined as parcels that have a land use classification as condominium, townhome, attached planned unit development or co-op with the Alameda County Assessor's office and are located within the boundaries of the assessment district.



**Multi-Family** – Multi-family parcels are defined as parcels that have a land use classification as multi-family, which includes duplexes, triplexes, apartments, etc., with the Alameda County Assessor's office and are located within the boundaries of the assessment district.

**Mobile Home** – Mobile home parcels are defined as parcels that have a land use classification as mobile home with the Alameda County Assessor's office and are located within the boundaries of the assessment district.

**Commercial/Industrial** – Commercial and industrial parcels are defined as parcels that have a land use classification as commercial or industrial with the Alameda County Assessor's office and are located within the boundaries of the assessment district.

**Recreational/institutional/Utility** – Recreational, institutional and utility parcels are defined as parcels that have a land use classification as recreational or institutional with the Alameda County Assessor's office and are located within the boundaries of the assessment district.

**Public Parcels** – Public parcels are defined as parcels that have a land use classification as public with the Alameda County Assessor's office and are located within the boundaries of the assessment district.

## **BENEFIT UNITS**

To establish the benefit assessment amount for each individual parcel a benefit unit system has been developed. Each parcel is assigned benefit units in proportion to the estimated benefit the parcel receives from the fire prevention programs. The benefit assessment amount for each parcel is then determined by multiplying the number of benefit units for each parcel by \$65.00. In order to calculate the benefit units for each parcel, two (2) components were considered. These components are the number of Equivalent Dwelling Units and the Benefit Factor as described below:

### Equivalent Dwelling Units

Since the properties within the assessment district vary in parcel size and in use of the property, the benefit unit system must make sure that the parcels are assessed in proportion to the benefit they receive from the fire prevention programs. One common Assessment Engineering method used to equate this deviation in parcel size and use is the Equivalent Dwelling Unit. This process takes the typical single-family parcel and assigns it one (1.00) Equivalent Dwelling Unit (EDU). All other land uses are compared to the single-family parcel and assigned a proportionate number of EDUs. For example, a developed condominium parcel is typically smaller in parcel size and has less improved square footage compared to a developed single-family parcel. Therefore, in order to make sure the developed condominium parcel is assessed less than the developed single family parcel the condominium parcel is assigned fewer EDUs. The number of Equivalent Dwelling Units assigned to each land use class within the assessment district is summarized on the following page:

Single Family Parcels – Since the single family parcel represents over 80 percent of the total parcels within the assessment district, it is used as the basic unit and is defined as one equivalent dwelling unit (1.0 EDU).

Condominium/Townhome Parcels – Condominium and townhome parcels are typically smaller in structure/building size relative to the typical single family residence. Therefore condominium and townhome parcels are defined as 0.75 EDUs.

Multi-family and Mobile Home Parcels – Multi-family units and mobile home parcels are also typically smaller in structure/building size relative to the typical single family residence. Therefore multi-family units and mobile home parcels are defined as 0.50 EDUs per unit.

Commercial, Industrial, Recreational, Institutional, Utility and Public Parcels – Commercial, industrial, recreational, institutional, utility and public parcels are converted to EDUs based on the lot size of each parcel of land. Within the District boundaries the approximate density of the single-family residential parcels per acre is 4.23 single-family parcels/acre. Therefore, Commercial, Industrial, Recreational, Institutional, Utility and Public Parcels are assessed 4.23 EDUs per acre.

#### Benefit Factor Allocation

Since the properties within the assessment district vary in their development status (e.g., developed, improved and undeveloped), the Benefit Unit System must make sure that the parcels are assessed in proportion to the special benefit they receive from the fire prevention programs. Therefore all of the parcels within the boundaries of the assessment district have been assigned to one of the following development categories:

Developed: The parcel has a significant building or structure. For example, a single family home, apartment building, commercial or industrial building, library, etc.

Improved: The parcel does not have a building or structure but has minimal improvements such as landscaping and irrigation. This classification could apply to parks, golf courses, cemeteries, etc. If a large parcel such as a golf course parcel has a structure (i.e. clubhouse), then only that portion of the parcel that contains the structure will be classified as developed and the remaining portion will be classified as improved.

Undeveloped: The parcel does not have any improvements.

The method used to calculate this deviation in the parcel's development status is the Benefit Factor. Because the developed property will receive the greatest amount of special benefit from the fire prevention programs, the developed category has been assigned a Benefit Factor of 1.00. All other development categories are compared to the developed category and assigned a Benefit Factor based upon the estimated special benefit they receive from the fire prevention programs relative to the developed category.

In order to determine the Benefit Factor that should be assigned to each development category we first determined the special benefits that developed parcels could receive from the fire prevention programs. These special benefits generally fall within the following categories:

- Protection of the house or building structure.
- Protection of minor structures such as garages, fences, decks, etc.
- Protection of the installed landscaping and irrigation.
- Protection of natural vegetation.
- Reduced risk of potential liability if a fire starts on a parcel.
- Protection against the risk of clean-up costs after a fire event (removal of destroyed structures, dead vegetation, etc.).

Each development category was compared to the developed category and then assigned a Benefit Factor in proportion to the estimated benefits the development category receives relative to the developed parcel. The tables shown below indicate which special benefits the developed, improved and undeveloped parcels receive from the proposed fire prevention programs.

Developed Parcels (Public and Private) – Special Benefits

Special Benefits Received	Benefit Received
Protection of the house or building structure	Yes
Protection of minor structures such as garages, decks, sheds, etc	Yes
Protection of installed landscaping and irrigation	Yes
Protection of natural vegetation	Yes
Reduced risk of potential liability if a fire starts on a parcel	Yes
Protection against the risk of clean-up costs after a fire event	Yes

Improved Parcels (Public and Private) – Special Benefits

Special Benefits Received	Benefit Received
Protection of the house or building structure	No
Protection of minor structures such as garages, decks, sheds, etc	No
Protection of installed landscaping and irrigation	Yes
Protection of natural vegetation	Yes
Reduced risk of potential liability if a fire starts on a parcel	Yes
Protection against the risk of clean-up costs after a fire event	Yes

Undeveloped Private Parcels – Special Benefits

Special Benefits Received	Benefit Received
Protection of the house or building structure	No
Protection of minor structures such as garages, decks, sheds, etc	No
Protection of installed landscaping and irrigation	No
Protection of natural vegetation	Yes
Reduced risk of potential liability if a fire starts on a parcel	Yes
Protection against the risk of clean-up costs after a fire event	Yes

Undeveloped Public Parcels – Special Benefits

Special Benefits Received	Benefit Received
Protection of the house or building structure	No
Protection of minor structures such as garages, decks, sheds, etc	No
Protection of installed landscaping and irrigation	No
Protection of natural vegetation	Yes
Reduced risk of potential liability if a fire starts on a parcel	No
Protection against the risk of clean-up costs after a fire event	Yes

Based upon discussions with City staff, the Fire Department and citizen input from the Wildfire Prevention District Steering Committee, the following Benefit Factors have been assigned to each development category as shown below:

Development Status	Benefit Factor
Developed Private and Public Properties	1.0000
Improved Private and Public Parcels	0.3000
Undeveloped Private Parcels	0.2500
Undeveloped Public Parcels	0.1250

Calculation of Benefit Units

To calculate each parcel's number of Benefit Units, the Equivalent Dwelling Units (EDUs) assigned to each parcel are multiplied by the Benefit Factor assigned to each parcel as shown below.

$$\text{Benefit Units} = \text{Number of Equivalent Dwelling Units (EDUs)} \times \text{Benefit Factor (BF)}$$

The Benefit Units assigned to each parcel classification within the assessment district is shown on the following page:

Oakland Wildfire Prevention Assessment District Benefit Unit Calculations			
<u>Developed Land Use</u>	Equivalent Dwelling Units (EDUs)	Benefit Factor (BF)	Benefit Units (BUs)
Single Family Residential	1.000 per Parcel	1.000 per Parcel	1.000 per Parcel
Condominium/Townhouse	0.750 per Unit	1.000 per Unit	0.750 per Unit
Multi-Family (Apartments) and Mobile Home	0.500 per Unit	1.000 per Unit	0.500 per Unit
Commercial, Industrial, Public Institutional, Recreational, Utility	4.230 per Acre	1.000 per Acre	4.230 per Acre
<u>Improved Land Use</u>	Equivalent Dwelling Units (EDUs)	Benefit Factor (BF)	Benefit Units (BUs)
Commercial, Industrial, Public Institutional, Recreational, Utility	4.230 per Acre	0.300 per Acre	1.269 per Acre
<u>Undeveloped Land Use</u>	Equivalent Dwelling Units (EDUs)	Benefit Factor (BF)	Benefit Units (BUs)
Single Family Residential	1.000 per Parcel	0.250 per Parcel	0.250 per Parcel
Commercial, Industrial, Institutional, Recreational, Utility Condominium/Townhouse, Multifamily, Mobile Home	4.230 per Acre	0.250 per Acre	1.058 per Acre
Public	4.230 per Acre	0.125 per Acre	0.529 per Acre

#### FINAL ASSESSMENT RATES AND BUDGET (FY2013-14)

The assessment rate has been set at \$65.00 per Benefit Unit. The total estimated number of Benefit Units within the assessment district is 27,818.53 Benefit Units. Therefore the total revenue expected to be generated for FY 2013-14 is \$1,808,204.74. ( $\$65.00/\text{BU} \times 27,818.53 \text{ BUs}$ ).

#### MAXIMUM ASSESSMENT

The maximum assessment amount that can be levied in any given year is \$65.00 per Benefit Unit. The assessment amount may not be increased above these levels in the future unless either a parcel changes development status (e.g. goes from undeveloped to developed) or a new balloting procedure is held and the increased assessment is approved by a majority of the property owners voting, weighted by assessment amount. The City Council does have the authority to levy the annual assessment at a rate less than \$65.00 per Benefit Unit.

#### DURATION OF ASSESSMENT

The proposed assessment may be levied annually by the City Council, beginning July 1, 2004 for a period of ten (10) years.

#### ACCURACY OF DATA

The data utilized in developing the assessment rate calculations has been taken directly from the Alameda County Assessors Roll. Should a property owner find a discrepancy regarding his/her parcel, the property owner or designee should notify the City Clerk of the City of Oakland in writing at One Frank H. Ogawa Plaza, Oakland, CA. If warranted, the City will process a correction to the property owner's annual assessment.

SECTION V

ASSESSMENT ROLL

A list of names and addresses of the owners of all parcels, and the description of each lot or parcel within the Oakland Wildfire Prevention Assessment District is shown on the last equalized Property Tax Roll of the Alameda County Assessor, which by reference is hereby made a part of this report.

This list is keyed to the Assessor's Parcel Numbers as shown on the Assessment Roll, which includes the proposed amount of assessments apportioned to each lot or parcel. The Assessment Roll is included in this report in Appendix "B".

APPENDIX A

SAMPLE ASSESSMENTS FOR VARIOUS LAND USES

Oakland Wildfire Prevention Assessment District Assessment Rates			
<u>Developed Land Use</u>	<u>Benefit Units (BUs)</u>	<u>Annual Assessment</u>	<u>Monthly Equivalent</u>
Single Family Residential	1.000 per Parcel	\$65.00 per Parcel	\$5.42 per Parcel
Condominium/Townhouse	0.750 per Unit	\$48.75 per Unit	\$4.06 per Unit
Multi-Family (Apartments) Mobile Home	0.500 per Unit	\$32.50 per Unit	\$2.71 per Unit
Commercial, Industrial, Public, Institutional, Recreational, Utility	4.230 per Acre	\$274.95 per Acre	\$22.91 per Acre
<u>Improved Land Use</u>	<u>Benefit Units (BUs)</u>	<u>Annual Assessment</u>	<u>Monthly Equivalent</u>
Commercial, Industrial, Public, Institutional, Recreational, Utility	1.269 per Acre	\$82.49 per Acre	\$6.87 per Acre
<u>Undeveloped Land Use</u>	<u>Benefit Units (BUs)</u>	<u>Annual Assessment</u>	<u>Monthly Equivalent</u>
Single Family Residential	0.250 per Parcel	\$16.25 per Parcel	\$1.35 per Parcel
Commercial, Industrial, Condominium/Townhouse, Institutional, Recreational, Utility, Multi-Family, Mobile Home	1.058 per Acre	\$68.74 per Acre	\$5.73 per Acre
Public	0.529 per Acre	\$34.37 per Acre	\$2.86 per Acre



APPENDIX B

FY 2013-14 Assessment Roll

(under separate cover and on file with the City Clerk)

2013 JUN 12 PM 4:09

Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

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### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLAND APPROVING AMENDED AND RESTATED LOCAL GOALS AND POLICIES AND APPRAISAL STANDARDS FOR COMMUNITY FACILITIES DISTRICTS

**WHEREAS**, the City of Oakland ("City") intends to consider the formation of a community facilities district pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*) ("Act"); and

**WHEREAS**, Section 53312.7 of the Act requires that prior to establishment of a community facilities district ("CFD") the City must adopt local goals and policies and appraisal standards ("Local Goals and Policies") for CFDs; and

**WHEREAS**, this Council previously approved "Local Goals and Policies and Appraisal Standards for Community Facilities Districts" by Resolution No. 80641 C.M.S., adopted on June 19, 2007 (the "Existing Local Goals and Policies"); and

**WHEREAS**, this Council wishes to amend and restate the Existing Local Goals and Policies for the purpose of complying with requirements of the Act; and

**WHEREAS**, City staff have caused to be prepared a proposed set of Amended and Restated Local Goals and Policies and Appraisal Standards for Community Facilities Districts (the "Amended Local Goals and Policies"), for consideration by the City Council; and

**WHEREAS**, this City Council desires to adopt the proposed Amended Local Goals and Policies; now, therefore be it

**RESOLVED**: That the Amended Local Goals and Policies in substantially the form attached to this Resolution as Exhibit A are hereby approved; and be it

**FURTHER RESOLVED**: That the City finds that the Amended Local Goals and Policies comply with Section 53312.7 of the Act and that adoption of the Amended Local Goals and Policies enables the City to initiate proceedings to establish a CFD pursuant to the Act; and be it

**FURTHER RESOLVED:** That this resolution shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

## Exhibit A

### AMENDED AND RESTATED LOCAL GOALS AND POLICIES AND APPRAISAL STANDARDS FOR COMMUNITY FACILITIES DISTRICTS CITY OF OAKLAND

The City of Oakland (“City”) hereby sets forth the following local goals and policies and appraisal standards (“Local Goals and Policies”) in compliance with Section 53312.7 of the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*) (“Act”).

#### General Policy

The Local Goals and Policies delineated below have been prepared to provide guidelines for the City Council for the use of Community Facilities Districts (“CFD”). Proceedings to establish a CFD may be initiated by a petition of one or more property owners or by the City through a resolution adopted by the City Council.

The City shall consider the use of CFDs for (1) acquiring constructing or providing financing for all or a prescribed portion of the cost and expense of public capital improvements (“Public Improvements”) to be owned by the City or by such other public agencies or regulated public utility companies that serve a public purpose for the City and its inhabitants, (2) financing all or a prescribed portion of the estimated administrative cost and expense of maintaining and operating such Public Improvements, and (3) providing services permitted by the Act.

#### Priorities

The City hereby establishes the following priority for the implementation of CFDs:

1. Public Improvements which provide a community wide benefit to all inhabitants of the City.
2. Public Improvements needed to serve a community plan or specific plan area that is currently deficient in the off-site infrastructure needed to develop the area as planned.
3. Other Public Improvements for which there is a clearly demonstrated public benefit but which benefit is likely to be greater to specific sub areas of the City rather than community wide.
4. The administrative cost and expense of maintaining and operating any of the foregoing Public Improvements.
5. Other improvements as permitted under the Act.

6. The cost of services permitted to be paid with special taxes under Section 53313 of the Act. Subject to the conditions set forth in the Act, priority for services to be financed shall be given to services that (a) are necessary for the public health, safety and welfare (including, but not limited to, public safety services) and (b) would otherwise be paid from the City's general fund. The City may finance services to be provided by another local agency if it determines the public convenience and necessity require it to do so.

### **Required Credit Quality**

The Council adopts the requirements of Section 53345.8 of the Act (a copy of which is set forth in Exhibit 1, attached hereto) as sufficient minimum standards for the credit quality of any bonds issued pursuant to the Act.

### **Disclosure to Property Purchasers**

In order to ensure that prospective property purchasers are fully informed about their taxpaying or assessment paying obligations imposed by the Act the City will require that the statutory requirements of disclosure to property purchasers contained in the Act including but not limited to Sections 53328.3 53328.5 (including the referenced sections of the California Streets and Highways Code), 53340.2 and 53341.5 be met.

### **Requirements for Special Tax Formulas**

The proposed amount and apportionment of the special tax for each community facilities district ("CFD") shall comply with the following criteria:

1. The special tax formula shall be structured to produce sufficient annual special tax revenue to pay:
  - (a) costs of **Public Improvements** designated for funding with the CFD special tax;
  - (b) annual debt service on special tax bonds which have been issued to finance the cost of **Public Improvements**, if any;
  - (c) amounts needed to replenish any reserve funds for bonds issued to finance the cost of **Public Improvements**, if any;
  - (d) reasonable and necessary annual administrative expenses of the CFD including but not limited to the issue and administration of special tax bonds, if any; and
  - (e) the cost of services designated for funding with the CFD special tax.
2. The CFD may levy sufficient special taxes to protect against unforeseen contingencies including but not limited to unusual levels of delinquency in the payment of the special

tax.

3. The rate and method of apportionment may provide for an annual increase in the maximum special tax for residential properties and shall provide for and discharge of that prepayment portion of the special tax obligation on any residential properties pertaining to debt service on special tax bonds, if any.
4. The total projected annual special tax revenues less estimated annual administrative expenses and services and pay as you go program costs shall be at minimum equal to the projected annual gross debt service on outstanding special tax bonds, if any.
5. All property within the CFD not otherwise statutorily exempted or owned (or to be owned) by a public entity and to be benefited shall bear its appropriate share of the special tax liability as determined in the rate and method of apportionment of special taxes for the CFD.
6. The special tax shall be allocated and apportioned on the basis of reasonableness to all categories and classes of property within the CFD as determined by the Council.
7. The total amount of projected *ad valorem* property tax and other direct and overlapping debt for the proposed CFD (including estimated CFD charges, projected benefit assessments, levies for authorized but unissued debt and any other anticipated municipal charges which may be included on a property owner's annual property tax bill), including the proposed maximum special tax shall not exceed two and one half percent 2.5% of the estimated market value for any single family home, condominium or town home. Any deviations from the foregoing must be specifically approved by the Council.

### Appraisal Standards

The Appraisal Standards for Land Secured Financings published by the California Debt and Investment Advisory Commission dated May 1994 as revised in July 2004 are adopted as the appraisal standards for the City with the following modifications:

1. The independent review appraiser is an option, and not a requirement.
2. The comparable sales method may be used whenever there is sufficient data available in the opinion of the appraiser.
3. The appraiser should assess value based on the assumption that the Public Improvements to be financed with the proposed special tax bonds are already completed.
4. The special tax lien need not be computed as the present value of the future tax payments if there is a pre-payment mechanism or other more appropriate measure.
5. Except where necessary to make a meaningful comparable sale comparison the appraiser should not discount the value of property for the amount of the special tax lien.

## **Minimum Standards Waivers and Amendments**

The policies set forth herein reflect the minimum standards under which the City will make use of CFDs to fund certain Public Improvements or public services. The City may, in its discretion and to the extent permitted by law, waive any of the policies set forth herein in particular cases.

The goals and policies set forth herein may be amended at any time and from time to time by the City.

## EXHIBIT 1

### TEXT OF SECTION 53345.8 OF THE ACT

Section **53345.8**. (a) The legislative body may sell bonds pursuant to this if it determines chapter only prior to the award of sale of bonds that the value of the real property that would be subject to the special tax to pay debt service on the bonds will be at least three times the principal amount of the sum of the following:

(1) The principal amount of the bonds to be sold.

(2) The principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to this chapter on property within the community facilities district or a special assessment levied on property within the community facilities district. The legislative body shall estimate the principal amount of these other bonds that are secured by property within the district by assuming that the maximum allowable tax or assessment applicable to each parcel of property within the district will be levied until the date of maximum maturity of the bonds. Any determination made pursuant to this subdivision shall be based upon the full cash value as shown on the ad valorem assessment roll or upon an appraisal of the subject property made in a manner consistent with the policies adopted pursuant to paragraph (5) of subdivision (a) of Section 53312.7 by a slate certified real estate appraiser, as defined in subdivision (c) of Section 11340 of the Business and Professions Code. The Treasurer may recommend definitions, standards and assumptions to be used for these appraisals. These definitions, standards and assumptions are advisory only and the definitions, standards and assumptions to be applied to appraisals will be those adopted by the local agency pursuant to paragraph (5) of subdivision (a) of Section 53312.7.

(b) Notwithstanding the provisions of subdivision (a), if the legislative body selling the bonds finds and determines that the proposed bonds do not present any unusual credit risk due to the availability of credit enhancements or because a sufficient portion of the principal amount of a bond issue has been deposited in a self-financing and self-liquidating escrow account under conditions such that it cannot be withdrawn until the value of real property subject to special taxes has increased sufficiently so that the requirements of subdivision a will be met or for other reasons specified by the legislative body, the provisions of subdivision (a) may be disregarded.

(c) Notwithstanding the provisions of subdivision (a), if the legislative body selling the bonds finds and determines by a vote of not less than four-fifths of all of its members that the proposed bond issue should proceed for specified public policy reasons the provisions of subdivision (a) may be disregarded.

A finding and determination by the legislative body pursuant to this subdivision shall be final and conclusive upon all persons in the absence of actual fraud and neither the legislative body nor the district shall have any liability of any kind whatsoever out of, or in connection with, any finding and determination.



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

*M. Moradpour*  
City Attorney

2013 JUN 12 PM 4:09

RESOLUTION No. \_\_\_\_\_ C.M.S.  
Introduced by Councilmember \_\_\_\_\_

**A RESOLUTION OF INTENTION OF THE CITY OF OAKLAND TO ESTABLISH CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WILDFIRE PREVENTION DISTRICT) IN THE CURRENT WILDFIRE PREVENTION ASSESSMENT DISTRICT AREA, SCHEDULE A PUBLIC HEARING, LEVY A SPECIAL TAX TO FINANCE CERTAIN PUBLIC SERVICES AND APPROVING A PROPOSED BOUNDARY MAP FOR COMMUNITY FACILITIES DISTRICT NO. 2013-1 PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982**

**WHEREAS**, City of Oakland Resolution No. 78305 C.M.S., adopted on January 20, 2004, establishing the Wildfire Prevention Assessment District (WPAD) will expire on January 20, 2014, thereby eliminating a specific funding source dedicated to providing services and programs for fire suppression, prevention and preparedness within the areas of the City most at risk from such fires; and

**WHEREAS**, the services provided by the Wildfire Prevention Assessment District are still necessary to prevent fires and protect the homes in the area, and replacing the expiring measure will create an annual source of dedicated funding, where all funds raised will be spent in Oakland neighborhoods at high risk for wildland fires and cannot be appropriated by the City of Oakland for other needs; and

**WHEREAS**, the City and those residing within the areas currently served by the WPAD have identified retaining the broad range of services provided by the expiring Wildfire Prevention Assessment District as a priority; and

**WHEREAS**, in order to finance the cost of the wildfire protection and suppression services (the "Services"), the City proposes to establish a community facilities district in accordance with the Mello-Roos Community Facilities Act of 1982, as amended (Government Code Section 53311 *et seq.*) ("Act"); and

**WHEREAS**, pursuant to the Act the City adopted local goals establishing policies and appraisal standards for the formation and use of community facilities districts ("Goals and Policies") by Resolution No. \_\_\_\_\_ C.M.S., on July 02, 2013; and

**WHEREAS**, the proposed community facilities district shall be known as "City of Oakland Community Facilities District No 2013-1 (Wildfire Protection District)" ("CFD No. 2013-1" or "Wildfire Prevention District"); and

**WHEREAS**, the Services and other incidental expenses that are proposed to be financed by the Wildfire District are set forth on Exhibit 1 attached hereto and incorporated herein by reference; and

**WHEREAS**, the proposed rate and method of apportionment of the special tax (the "Special Tax") to be levied among parcels of non-exempt real property within the Wildfire District, in sufficient detail to allow each parcel owner within the proposed Wildfire District to estimate the maximum amount each such owner will have to pay, is set forth in Exhibit 2 attached to this Resolution and incorporated herein by reference (the "Rate and Method"); and

**WHEREAS**, the City desires to proceed with the actions necessary to consider the establishment of the Wildfire Prevention District; and

**WHEREAS**, the proposed boundaries of the Wildfire Prevention District are inclusive of the lands currently designated as those lands within the boundaries of the WPAD and are shown on the boundary map entitled "Proposed Boundary Map Community Facilities District No. 2013-1" ("**Boundary Map**") included hereto as Exhibit 3 attached to this Resolution and incorporated herein by reference; and

**WHEREAS**, this Special Tax will be levied on the non-exempt properties within the boundaries of the Wildfire District, and will be subject to the approval of the registered voters in said Wildfire Prevention District at a mail ballot election; and

**WHEREAS**, the Special Tax will be subject to mandatory annual audits of all funds, and a Citizen Advisory Committee, similar to the WPAD Advisory Committee that has ensured efficient cost-saving budget practices for the past 10 years, will monitor how the monies are spent; and

**WHEREAS**, pursuant to section 53321 of the California Government Code, the City wishes to declare its intention to form a CFD based on the Agenda Report submitted to and reviewed by the Rules & Legislation Committee of the City Council on June 27, 2013 and to establish a date, time and place for a public hearing on the formation of the Wildfire Prevention District; now, therefore be it

**RESOLVED:** That the City hereby finds and determines that the foregoing recitals are true and correct; and be it

**FURTHER RESOLVED:** That the City Council hereby finds and determines that the proposed formation of CFD No. 2013-1 is in compliance with the Goals and Policies; and be it

**FURTHER RESOLVED:** That the City Council hereby finds and determines that the proposed Services will be of benefit to the City; and be it

**FURTHER RESOLVED:** That the City Council hereby finds and determines that as a result of the termination of the Wildfire Prevention Assessment District, the Services are in addition to those provided in the territory of the Wildfire Prevention District and will not supplant services already available within the territory of the Wildfire Prevention District; and be it

**FURTHER RESOLVED:** That the City Council hereby approves the Boundary Map (Exhibit 3) and adopts the boundaries shown thereon as describing the extent of the territory to be included in a proposed community facilities district to be known as "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)," and finds that the Boundary Map is in the form and contains the matters prescribed by applicable law; and be it

**FURTHER RESOLVED:** That the City Clerk is hereby directed to certify the adoption of this resolution on the face of the Boundary Map and to file a copy with the County Recorder in the book of maps of assessment and community facilities districts no later than fifteen (15) days after the adoption of this resolution; and be it

**FURTHER RESOLVED:** Except where funds are otherwise available the City shall levy the Special Tax secured by recordation of a continuing lien against all nonexempt real property within CFD No. 2013-1; and be it

**FURTHER RESOLVED:** That except as may otherwise be provided by law or the rate and method of apportionment of the special tax for CFD No. 2013-1, all lands owned by any public entity including the United States, the State of California, the City, and/or any departments or political subdivisions of any thereof, shall be omitted from the levy of the special tax to be made to cover the costs and expenses of the Services and any expenses of CFD No. 2013-1; and be it

**FURTHER RESOLVED:** That no bonds are authorized in these proceedings; and be it

**FURTHER RESOLVED:** That the City Administrator, as the officer who is or will be responsible for providing one or more of the proposed types of services to be financed by the Wildfire District, in conjunction with a qualified consultant, is hereby ordered to prepare the report required by Section 53321.5 of the Act, and it will be considered as part of the public hearing on the formation of CFD No. 2013-1; and be it

**FURTHER RESOLVED:** The City Council, as legislative body for CFD No. 2013-1, will conduct a public hearing on the establishment of CFD No. 2013-1 on the 2<sup>nd</sup> day of August, 2013, at the hour of 9:00 a.m.; said public hearing being held in City Council Chambers, One Frank H. Ogawa Plaza, Oakland, California, and shall consider and finally determine whether the public interest, convenience and necessity require the formation of CFD No. 2013-1 and the levy of the Special Tax; and be it

**FURTHER RESOLVED:** The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the Wildfire District. The publication shall be completed at least 7 days before the date of the public hearing specified above. The notice of the public hearing shall be substantially in the form specified in Section 53322 of the Act, with the form summarizing the provisions hereof hereby specifically approved; and be it

**FURTHER RESOLVED:** That this Resolution shall take effect upon its adoption

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

**CITY OF OAKLAND**  
**Community Facilities District No. 2013-1**  
**(Wildfire Prevention District)**

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**CONTENTS**

EXHIBIT 1 - List of Authorized Services

EXHIBIT 2 - Rate and Method of Apportionment of Special Taxes

EXHIBIT 3 - Proposed Boundaries of the Community Facilities District

## **EXHIBIT 1**

### **CITY OF OAKLAND Community Facilities District No. 2013-1 (Wildfire Prevention District)**

#### **DESCRIPTION OF SERVICES**

City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) is authorized to finance fire protection and suppression services (“services” shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982), which generally include, but are not limited to the following services:

**Goat Grazing Program** – Utilizes herds of goats to clear the excess brush that allows fires to spread rapidly. The goats remove vegetation from the large public open space areas within the district boundaries.

**Property Owner Chipping Program** – Assists private property owners by providing a convenient way to dispose of tree branches, brush and other yard waste that can fuel fires. Crews will be provided to process private property owners’ yard waste into wood chips or mulch for the owners use or provide other means of disposal. Disposal of vegetation from private property is intended to avoid the spread of fire from private property to public property.

**Vegetation Management Program** – Private contractors and city crews will provide the district’s vegetation reduction and management programs for areas inappropriate for the Goat Grazing Program. This includes open space and canyon hill parcels, firebreaks and roadside clearance along public streets, fire trails, evacuation routes within the district and other activities necessary to ensure fuel management and fire safety within the district.

**Contract and Finance Management Support** – Provide project and contract administration related to grant application, planning vegetation management projects as well as financial management.

**Roving Fire Patrols Program** – Provides additional fire patrols to monitor properties within the boundaries of the district during red flag days to monitor, correct and report potential fire hazards to the Fire Department.

**Support Services for the Vegetation Management Inspection Program** – Provides seasonal support to the residents throughout the inspection season. The City will respond to inquiries via phone or mail. They also maintain the inspection database by inputting the up-to-date inspection information such as the compliance status.

**Public Outreach** – Provides for designing, printing, duplication and postage for outreach mailing.

The Authorized Services include all related administrative costs, expenses and related operating reserves and capital reserves for replacement of vehicles, equipment and facilities and the costs incurred by the City of Oakland to form City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District).

## **EXHIBIT 2**

### **CITY OF OAKLAND Community Facilities District No. 2013-1 (Wildfire Prevention District)**

#### **RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES**

A Special Tax authorized under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") applicable to the land in the "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" (the "CFD") established by the City of Oakland (the "City") shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate, as described below.

#### **GENERAL**

A Special Tax shall be levied on all Taxable Parcels within the CFD and collected according to the Rate and Method of Apportionment of Special Taxes described herein.

The Special Tax shall be collected by the Alameda County Auditor's office by means of inclusion on the annual ad-valorem property tax billings or in such other manner (including by means of direct billing of the affected Property Owners) as the City Council or its designee may determine.

#### **DEFINITIONS**

**Act:** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, Part 1 of Title 5 of the Government Code of the State of California.

**Administrative Expenses:** means the actual or estimated costs incurred by the City to determine, levy and collect the Special Taxes, including the proportionate amount of the salaries and benefits of City employees whose duties are related to administration of the CFD; fees of Administrator, other consultants and legal counsel; the costs of collecting installments of the Special Taxes upon the County tax rolls; the costs associated with conducting a registered voter election to form the CFD; and any other incidental costs needed to administer the CFD as determined by the Administrator.

**Administrator:** means the City Administrator, or his or her designee.

**Annual Escalator Factor:** means the lesser of 1) an amount equal to the percentage increase during the preceding Calendar Year in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area (CPI-U), as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 2) 3.0%. In no event will the Maximum Special Tax decrease in any given Fiscal Year. If the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area (CPI-U) ceases to be published then an equivalent index will be used as determined by the Administrator.

**Annual Special Tax:** means the annual special tax per Taxable Parcel as determined in accordance with Annual Calculation of Special Taxes as described below.

**Annual Special Tax Requirement:** means the amount necessary in any Fiscal Year for the following purposes:

- (i) to pay the costs of Authorized Services.
- (ii) to compensate for any delinquencies that have occurred in prior Fiscal Years or are expected to occur in the Fiscal Year in which the Special Tax will be collected, and
- (iii) to pay Annual Administrative Expenses,

The Annual Special Tax Requirement may be reduced in any Fiscal Year by (i) proceeds from the collection of penalties and interest associated with delinquent Special Taxes, (ii) proceeds from interest earnings, and (iii) any other available funds as determined by the Administrator.

**Assessor Parcel:** means any legally created lot or parcel within the boundaries of the CFD referenced by an Assessor's parcel number assigned by the Alameda County Assessor's office, and shall include without limitation, parcels of land, condominium parcels and air parcels.

**Authorized Services:** mean the services that are authorized to be financed with Special Taxes pursuant to the Resolution of Formation.

**Calendar Year:** means January 1 through December 31.

**City Council:** means the City Council of the City, in its capacity, as legislative body of the CFD.

**CFD:** means the City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District).

**City:** means the City of Oakland.

**County:** means the County of Alameda.

**Exempt Parcels:** means all Assessor Parcels owned by the State, the federal government, the City or any other governmental entity (except as otherwise provided in the Act).

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



Maximum Annual Special Tax per Taxable Parcel means the maximum Special Tax shown below for each Taxable Parcel commencing in Fiscal Year 2014-15 and escalated each Fiscal Year thereafter based upon the Annual Escalator Factor.

Classification	Maximum Special Tax <sup>1</sup>
Taxable Parcel	\$78.00 per Parcel
<sup>1</sup> Maximum Special Tax will be increased each Fiscal Year commencing in FY 2015-16 per the Annual Escalator Factor	

Property Owner: means the property owner as shown on the records in the Alameda County Assessor's office for each Assessor Parcel, or if more accurate and updated information is known by the Administrator then that information would supersede the records in the Alameda County Assessor's office.

"Proportionately" means the ratio of the Annual Special Tax levied in any Fiscal Year to the Maximum Annual Special Tax per Taxable Parcel authorized to be levied in that Fiscal Year is equal for all Taxable Parcels.

Special Tax: means the tax each Taxable Parcel pays based upon the Rate and Method of Apportionment of Special Taxes.

State: means the State of California.

Taxable Parcel: means an Assessor Parcel that is not classified as an Exempt Parcel.

**ANNUAL CALCULATION OF SPECIAL TAXES**

Each Fiscal Year, on or about July 1, but in sufficient time to include the Special Tax levy for the Fiscal Year beginning on such July 1 on the County's secured property tax roll, the City shall calculate and levy the Annual Special Tax on all Taxable Parcels in the CFD for such Fiscal Year as follows:

- 1) Classify each Assessor Parcel within the boundaries of the CFD as either a Taxable Parcel or an Exempt Parcel.
- 2) Calculate the Maximum Annual Special Tax per Taxable Parcel that can be levied within the boundaries of the CFD.
- 3) Determine the Annual Special Tax Requirement.
- 4) If the total Annual Special Tax Requirement identified in Step No. 3 above is less than the total revenue that can be generated by levying the Maximum Annual Special Tax per Taxable Parcel on all Taxable Parcels, then Proportionately reduce the amount to be levied on each Taxable Parcel below the Maximum Annual Special

Tax per Taxable Parcel until the total revenue that would be generated equals the Annual Special Tax Requirement identified in Step No. 3 above, then levy such amount on each Taxable Parcel.

- 5) If the total Annual Special Tax Requirement identified in Step No. 3 above is equal to or greater than the revenue that can be generated by levying the Maximum Annual Special Tax per Taxable Parcel on all Taxable Parcels, then levy the Maximum Annual Special Tax per Taxable Parcel on all Taxable Parcels.

### COLLECTION OF THE ANNUAL SPECIAL TAX

Each year, the City will coordinate with the Alameda County Auditor's office to have the Annual Special Tax for each applicable Taxable Parcel placed on the property tax roll, or will effect a direct billing of the Annual Special Tax to the Property Owners of each Taxable Parcel.

### TERM OF SPECIAL TAX

Taxable Parcels in the CFD will remain subject to the Special Tax until June 30, 2029 (except that any parcels that have not paid Special Taxes that were levied prior to that date pursuant to this Rate and Method of Apportionment of Special Tax shall remain obligated to pay such Special Taxes). If City Council determines that the Special Tax shall cease to be levied, the City shall direct the County Recorder to record a Notice of Cessation of Special Tax. Such notice will state that the obligation to pay the Special Tax has ceased and that the lien imposed by the Notice of Special Tax Lien is extinguished. The Notice of Cessation of Special Tax shall additionally identify the book and page of the Book of Maps of Assessment and Community Facilities Districts where the map of the boundaries of the CFD is recorded.

### PROPERTY OWNER APPEALS OF SPECIAL TAX LEVIES

Any Property Owner claiming that the amount or application of the Special Tax is not correct and requesting a refund may file a written notice of appeal and refund to that effect with the Administrator not later than one calendar year after having paid the Special Tax that is disputed. The Administrator shall promptly review the appeal, and if necessary, meet with the Property Owner, consider written and oral evidence regarding the amount of the Special Tax, and decide the appeal. If the Administrator's decision requires that the Special Tax be modified or changed in favor of the Property Owner, a refund shall be made to the Property Owner. Any dispute over the decision of the Administrator shall be referred to the City Council and the decision of the City Council shall be final. This procedure shall be exclusive and its exhaustion by any Property Owner shall be a condition precedent to any legal action by such owner.

REPEAL OF THE SPECIAL TAX

If the levy of the Special Tax is repealed by initiative or any other action, the City shall cease to levy the Special Tax and shall cease to be obligated to provide the Authorized Services for which the Special Tax was levied.

**EXHIBIT 3**

**CITY OF OAKLAND  
Community Facilities District No. 2013-1  
(Wildfire Prevention District)**

**PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT**

Reference is hereby made to the recorded boundary map on file in the office of the City Clerk for a description of the boundaries of the CFD. A reduced copy of the boundary map is included on the following page.



**CITY CLERK'S STATEMENT**

THIS IS THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

\_\_\_\_\_  
CITY CLERK

**CITY CLERK'S STATEMENT**

HEREBY CERTIFY THAT THE WITHIN MAP, SHOWING PROPOSED BOUNDARIES OF THE CITY OF OAKLAND, COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WILDFIRE PREVENTION DISTRICT), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLAND AT A MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013, BY ITS RESOLUTION NO. \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK

**COUNTY RECORDER'S STATEMENT**

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013, AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M., IN BOOK \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE \_\_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

\_\_\_\_\_  
COUNTY RECORDER  
COUNTY OF ALAMEDA

PROPOSED BOUNDARIES OF THE CITY OF OAKLAND  
COMMUNITY FACILITIES  
DISTRICT NO. 2013-1  
(WILDFIRE PREVENTION DISTRICT)

CITY OF OAKLAND  
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2013 JUN 12 PM 4:09

Approved as to Form and Legality

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR**

**1) TO AMEND THE CONTRACT WITH FRANCISCO & ASSOCIATES, INC., IN AN AMOUNT NOT-TO-EXCEED TWENTY-FOUR THOUSAND NINE HUNDRED DOLLARS (\$24,900), FOR WORK RELATED TO THE ESTABLISHMENT OF COMMUNITY FACILITIES DISTRICT (CFD) NO. 2013-1 (WILDFIRE PREVENTION DISTRICT), THE RATE AND METHOD TO LEVY A SPECIAL TAX, AND THE ESTABLISHMENT OF PROPOSED BOUNDARIES AND MAP OF THE CFD, FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED THREE-HUNDRED EIGHTY-TWO THOUSAND FOUR HUNDRED DOLLARS (\$382,400) AND WAIVING THE ADVERTISING AND COMPETITIVE REQUEST FOR PROPOSAL / QUALIFICATION REQUIREMENTS**

**2) TO APPROPRIATE TWO HUNDRED THIRTEEN THOUSAND ONE HUNDRED DOLLARS (\$213,100) FOR THE COSTS OF ESTABLISHMENT OF THE COMMUNITY FACILITIES DISTRICT IN FY 2013-15**

**WHEREAS**, the City of Oakland and those residing in the areas currently served by the Wildfire Prevention Assessment District (WPAD) are pursuing the establishment of a local community facilities district in accordance with the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*); and

**WHEREAS**, a professional engineer must be retained for the production of specific documents to delineate the parcels included within the boundaries and to determine the land uses and special tax rates for each parcel, in order to develop the Special Tax Roll for the County Assessor, and assist with any informational requests required by the City relating to the District; and

**WHEREAS**, it is in the City's best interest to continue to utilize a consulting engineer who can provide a perspective based on impartial engineering judgment, who can represent an interest not associated with the City or the affected property owners, and who possesses expertise not currently resident within the existing City staff; and

**WHEREAS**, Francisco & Associates, Inc. has done a commendable job as the Engineer for the Wildfire Prevention Assessment District (WPAD) since 2004; and

**WHEREAS**, Francisco & Associates, Inc. can provide the requisite data in the shortest amount of time and at the least cost, given its familiarity with the City of Oakland and the data; and

**WHEREAS**, Francisco & Associates, Inc. is agreeable to amending the existing contract under the terms and conditions agreeable to the City; and

**WHEREAS**, Francisco & Associates, Inc will assist the City in implementing Community Facilities District (CFD) No. 2013-1 for and develop the report and prepare the data for the Alameda County Special Tax Roll; and

**WHEREAS**, Section 2.04.040 B5 and 2.04.051 A, respectively of the Oakland Municipal Code (OMC) require the City to conduct a formal advertising and competitive Request for Qualifications/Proposals (RFQ/RFP) selection process for professional services agreements over \$25,000; and

**WHEREAS**, Section 2.04.051 B of the OMC authorizes the City Council to waive the advertising and competitive RFP/RFP selection requirement if it finds that it is in the City's best interests to do so; and

**WHEREAS**, staff recommends that the City Council waive the advertising and competitive RFQ/RFP selection requirement in order to amend the Agreement with Francisco and Associates, Inc. for specialized and technical consulting engineering services which is necessary to avoid project disruption and delay, and to ensure a thorough and timely completion; and

**WHEREAS**, the City Council finds that the service is professional, scientific or technical, is temporary in nature, and shall not result in the loss of salary or employment by any person having permanent status in the competitive service;

**WHEREAS**, the estimated cost for the establishment of the Community Facility District is three-hundred thirty-eight thousand dollars (\$338,000), of which twenty-four thousand nine-hundred dollars (\$24,900) will be funded by the Fire Department existing budget, one-hundred thousand dollars (\$100,000) is proposed in the FY 2013-15 policy budget, and the funding gap is two-hundred thirteen-thousand and one-hundred dollars (\$213,100); now, therefore, be it

**RESOLVED:** That the City Council desires to continue with the preparation and acts necessary for the Community Facilities District and Special Tax Levies; and be it

**FURTHER RESOLVED:** that the City Council appropriate the amount of two-hundred thirteen-thousand and one-hundred dollars (\$213,100) to fund the costs for establishment of the Community Facilities District in FY 2013-15; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to amend the existing contract with Francisco & Associates, Inc. for Community Facilities District (SCS) No. 2013-1 (Wildfire Prevention) for services in an amount not-to-exceed Twenty-Four Thousand Nine Hundred Dollars (\$24,900); and be it

**FURTHER RESOLVED:** That the additional funding in the amount of Twenty-Four Thousand Nine Hundred Dollars (\$24,900) is available from the General Purpose Fund (1010), Org. (20110), Account (54919), Project (P467110), and Program (PS15); and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to increase the contract for Francisco and Associates, Inc. in an amount not-to-exceed Twenty-Four Thousand Nine-Hundred (\$24,900), for a total contract in an amount not-to-exceed Three-Hundred Eighty-Two Thousand Four-Hundred Dollars (\$382,400); and be it

**FURTHER RESOLVED:** That the City Administrator or her designee is authorized to take all actions and carry out any financial actions necessary to fulfill the intent of this Resolution and accompanying Report, including completing all required negotiations, certifications, assurances, and documentation required to accept modify, extend and/or amend this contract for services, except for any increase in the contract amount, without returning to the City Council; and be it

**FURTHER RESOLVED:** That the City Administrator or her designee shall ensure that copies of fully executed contracts and amendments are placed on file with the Office of the City Clerk; and be it



**FURTHER RESOLVED:** That the City Attorney will review and approve, for form and legality, any and all contract amendments and modifications.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALP, KAPLAN, REID, SCHAAF, and  
PRESIDENT KERNIGHAN

NOES –

ABSENT –

ABSTENTION –

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California