

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 DEC -3 PM 6:20

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Public Works Agency
DATE: December 8, 2009

RE: **Supplemental Report to Submit the Assessment Notices to property owners, on the Assessment District for Piedmont Pines Phase I**

SUMMARY

On December 1, 2009, the Public Works Agency presented to the Public Works Committee a report in conjunction with two resolutions: (1) Resolution Determining Unpaid Assessments; and (2) Resolution for the Issuance of Bonds for the Utility Underground Assessment District No. 2007-232 (Piedmont Pines Phase 1). The Committee approved the resolutions for Council consideration and requested that staff provide the Council with the Assessment Notices that went out to the property owners on two different occasions. The Committee also raised the question of City recourse when assessments are unpaid.

FISCAL IMPACT

The City is not obligated to pay debt service or associated costs on the bonds except for the payment of the City owned parcels in the amount of \$24,737.36. The revenue stream for bond payment is derived from the assessments collected from the property owners in the district. Property owners who elected for assessments have been notified of the process in two separate assessment notices.

KEY ISSUES AND IMPACT

1. Is the City liable for debt payment of the bonds when the property owners default?

The City is not liable to pay debt service on the bonds; however, the City covenants to pursue foreclosure once a delinquency threshold is reached. The process starts, much sooner than the process for regular property taxes as outlined below:

"Section 5.02. Foreclosure. The City hereby covenants with and for the benefit of the Owners of the Bonds that it will order, and cause to be commenced as hereinafter provided, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any Assessment or installment thereof which has been billed, but has not been paid, pursuant to and as provided in Sections 8830 and 8835, inclusive of the Bond Law and the conditions specified in this Section 5.02. The Treasury Manager shall notify the City Attorney of any such

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delinquency of which the Treasury Manager is aware, and the City Attorney shall commence, or cause to be commenced, such foreclosure proceedings, including collection actions preparatory to the filing of any complaint. The City Attorney is hereby authorized to employ counsel to conduct any such foreclosure proceedings.

On or about August 15 of each Fiscal Year, the Treasury Manager shall compare the amount of Assessments theretofore levied in the Assessment District to the amount of Assessments theretofore received by the City, and, if the amount then on deposit in the Reserve Fund is less than 95% of the then amount of the Reserve Requirement, the Treasury Manager shall notify the City Attorney of any parcel in the Assessment District with delinquent Assessments of \$2,000.00 or more, and the City Attorney shall commence, or cause to be commenced, foreclosure proceedings (beginning with sending the owner of the subject parcel a notice of delinquency and demand for payment) with respect to each such parcel with delinquent Assessments of \$2,000.00 or more.”

2. Were the property owners given proper notice regarding their assessments?

Staff previously submitted to Council the Engineer’s Report titled Final Engineer’s Report for Utility Underground Assessment District No. 2007-232 (Piedmont Pines Phase 1) on July 15, 2008. Based on the Engineer’s Report, the property owners in the Assessment District No. 2007-232 (Piedmont Pines Phase 1) cast their ballots and 75% voted in support of the creation of the Assessment District. On September 3, 2008, the first assessment notice was mailed to all property owners in the district.

In addition, a second assessment notice was mailed to the property owners on August 25, 2009. Attached are the two assessment notices sent to the property owners in the Utility Underground Assessment District No. 2007-232 (Piedmont Pines Phase 1). Specifically, these notices informed the property owners of two choices available: (1) make payment by October 28, 2009, or (2) elect assessment by the County Auditor.

RECOMMENDATION(S) AND RATIONALE

Staff recommends Council review of the two attached Assessment Notices for Utility Underground Assessment District No. 2007-232 (Piedmont Pines Phase 1) dated September 3, 2008 and August 25, 2009, and acceptance of this Supplemental Report.

ACTION REQUESTED OF THE CITY COUNCIL

Approval of all resolutions associated with the report submitted on December 1, 2009.

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ACTION REQUESTED OF THE CITY COUNCIL

Approval of all resolutions associated with the report submitted on December 1, 2009.

Respectfully submitted,



Vitaly B. Troyan
Public Works Agency Interim Director

Reviewed by:
Bruce Saunders, Assistant Director
Department of Infrastructure and Operations

Reviewed by:
Dan Clanton, Manager, Electrical Services Division
Katano Kasaine, Manager, Treasury Department

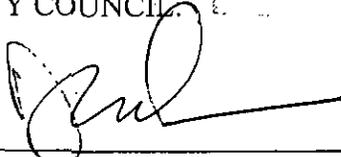
Prepared by:
Paul Chan, Project Manager, PWA Electrical

Attachments:

Attachment A: Assessment Notice for City of Oakland Utility Underground Assessment District no. 2007-232
(Piedmont Pines Phase 1), dated September 3, 2008

Attachment B: Assessment Notice for City of Oakland Utility Underground Assessment District no. 2007-232
(Piedmont Pines Phase 1), dated August 25, 2009

APPROVED AND FORWARDED TO THE
CITY COUNCIL



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ATTACHMENT A

Finance and Management Agency
City of Oakland
150 Frank H. Ogawa Plaza, Ste. 5330
Oakland, CA 94612-2093

ASSESSMENT NOTICE

City of Oakland
Utility Underground Assessment District No. 2007-232
(Piedmont Pines Phase 1)

Assessor's Parcel No.: 048D-7254-026

*New Address
Self
Attached*

Assessment No.: 193

KIRKLAND WA 98033-4906

Confirmed Assessment: \$14,720.96

Full Cash Payoff Amount: \$12,368.68

✕ Detach here and mail with Cash Payment ✕

NOTICE IS HEREBY GIVEN that:

1. Assessment Recorded. On July 22, 2008, an assessment to pay for the acquisitions and improvements, described in Resolution of Intention No. 81272 CMS, adopted by the City Council of the City of Oakland for the above assessment district, was recorded in the office of the Superintendent of Streets of the City. Your property's "Confirmed Assessment" is shown above.

2. Cash Payment Option. You may pay all or a part of the assessment to the City of Oakland, attention Katano Kasaine, Finance and Management Agency, 150 Frank H. Ogawa Plaza, Ste. 5330, Oakland, CA 94920; telephone: (510) 238-2989.

Please make checks payable to the City of Oakland and note your Assessor's Parcel No.

Cash payment is entirely optional. You do not have to pay now if you do not want to. You may finance all or part of the assessment using bonds – see Section 4 below.

3. Making Cash Payment. If you want to pay all your assessment now, pay the "Full Cash Payoff" amount shown above. If you pay some (not all) of the assessment now, you will receive a refund equal to the percentage of bond financing costs. (For example, if these amounts total 16% of the bond issue, your refund is 16% of your payment.) The refund will be sent to you after the bonds are issued. If you choose to pay, cut off the top of this Notice and send it with your payment.

To receive a cash discount, payment must be received before bonds are sold (bonds will probably be sold towards the end of 2009). A second notice will be mailed to you approximately 60-90 days before bonds will be sold, and will provide a due-date for receiving payment.

4. Bonds Option. If you do not pay by the time bonds are sold, bonds will be issued to represent the unpaid portions of assessments. The bonds will be issued under the Improvement Bond Act of 1915, will mature over a period of no more than 30 years and will bear interest at the estimated rate of 6.5% per year. The final interest rate and term of the bonds will not be known until the bonds are sold to the bond underwriter. Installments of principal and interest on the bonds will be collected with your property tax bill. Bonds are an obligation of the property and may be transferred with it. Assessment Law does not require you to pay off your assessment if the property is sold or mortgaged. After bonds are issued, the remaining assessment may be paid off at any time, but with about 6 months' interest, a pre-payment premium and administrative costs added to the principal balance.

For additional information, please call Katano Kasaine at (510) 238-2989 or e-mail her at KKasaine@oaklandnet.com

Dated as of September 3, 2008

Finance and Management Agency, City of Oakland

Finance and Management Agency
City of Oakland
150 Frank H. Ogawa Plaza, Ste. 5330
Oakland, CA 94612-2093

ASSESSMENT NOTICE

City of Oakland
Utility Underground Assessment District No. 2007-232
(Piedmont Pines Phase 1)

Assessor's Parcel No.: 048D-7230-013

\$ 5,000.

Assessment No.: 261

Confirmed Assessment: \$14,720.96

OAKLAND CA 94611-3018

Full Cash Payoff Amount: \$12,368.68

✕ Detach here and mail with Cash Payment ✕

Dear Property Owner:

in September 2008, you received a first Assessment Notice informing you that the Assessment District had been formed and letting you know the payment options available and that a second notice would be sent to you prior to the City selling bonds for the project. This is your second notice. Please see the below information related to your options for paying the assessment on your property.

NOTICE IS HEREBY GIVEN that:

1. **Assessment Recorded.** On July 22, 2008, an assessment to pay for the acquisitions and improvements, described in Resolution of Intention No. 81272 CMS, adopted by the City Council of the City of Oakland for the above assessment district, was recorded in the office of the Superintendent of Streets of the City. Your property's "Confirmed Assessment" is shown above.

2. **Cash Payment Option.** You may pay all or a part of the assessment to the City of Oakland, attention Katano Kasaine, Finance and Management Agency, 150 Frank H. Ogawa Plaza, Ste. 5330, Oakland, CA 94612; telephone: (510) 238-2989.

Please make checks payable to the City of Oakland and note your Assessor's Parcel No.

Cash payment is entirely optional. You do not have to pay now if you do not want to. You may finance all or part of the assessment using bonds – see Section 4 below.

3. **Making Cash Payment.** If you want to pay all your assessment now, pay the "Full Cash Payoff" amount shown above. If you pay some (not all) of the assessment now, you will receive a refund equal to the percentage of bond financing costs. (For example, if these amounts total 16% of the bond issue, your refund is 16% of your payment.) The refund will be sent to you after the bonds are issued. If you choose to pay, cut off the top of this Notice and send it with your payment. The confirmed assessment and full cash payoff amounts for your property are shown below for your records:

Assessment No.: 261

Confirmed Assessment: \$14,720.96

Assessor's Parcel No.: 048D-7230-013

Full Cash Payoff Amount: \$12,368.68

To receive a cash discount, payment must be received before October 28, 2009.

4. **Bonds Option.** If you do not pay by October 28, 2009, bonds will be issued to represent the unpaid portions of assessments. The bonds will be issued under the Improvement Bond Act of 1915, will mature over a period of no more than 30 years and will bear interest at the estimated rate of 6.5% per year. The final interest rate and term of the bonds will not be known until the bonds are sold to the bond underwriter. Installments of principal and interest on the bonds will be collected with your property tax bill, plus authorized annual administrative charges. Bonds are an obligation of the property and may be transferred with it. Assessment Law does not require you to pay off your assessment if the property is sold or mortgaged. After bonds are issued, assessment may be paid off at any time, but with about 6 months' interest, a pre-payment premium and administrative principal balance.

If you choose this option, you will see a line-item on your next year's property tax bill, for 2010-11 taxes.

For additional information, please call Katano Kasaine at (510) 238-2989 or e-mail her at KKasaine@oaklandnet.com

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