



CITY HALL - 1 FRANK H. OGAWA PLAZA - OAKLAND - CALIFORNIA 94612
13 SEP 26 PM 12:34

To: Members of the Finance and Management Committee

From: Councilmember Kalb
Councilmember Schaaf

Date: October 8, 2013

Subject: **REPORT REGARDING AN ORDINANCE AUTHORIZING PAYMENT FOR CITY OWNED PROPERTIES WITHIN CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WILDFIRE PREVENTION DISTRICT) IN FISCAL YEARS 2014/15 THROUGH 2023-24, IN AN AMOUNT NOT TO EXCEED \$150,000 PER FISCAL YEAR, SUBJECT TO ANNUAL APPROPRIATION**

Dear Members of the Finance and Management Committee:

SUMMARY

By state law, entities of the state, federal and local governments are exempt from the Special Tax [Government Code Section 53340(c)] that will be imposed in Community Facilities District No. 2013-1 (Wildfire Prevention District) ("CFD" or "Wildfire District") if the electors approve the levy of the special tax to fund wildfire prevention programs. However, as a responsible property owner, the City understands and accepts its obligations to contribute funds to enhance and maintain fire prevention measures and preparedness programs in City owned parks, medians, and open spaces located within the proposed Wildfire District. Per Government Code Section 53314.8, and prior to the November 13, 2013, special district election, staff has recommended the City Council adopt an ordinance continuing its past practice of encumbering \$150,000 per year in the City's biennial budget, subject to annual appropriation, as the City's annual contribution to the Wildfire Prevention District for City properties lying within the CFD.

The proposed Ordinance will only go into effect if the ballot measure receives the approval of two-thirds (2/3) of the registered voters that vote at the election. The City's contribution to the Wildfire Prevention District will be \$150,000 each fiscal year (FY 2014-15 through 2023-24), subject to annual appropriation.

BACKGROUND/LEGISLATIVE HISTORY

On January 20, 2004, the City Council voted to establish the Wildfire Prevention Assessment District (WPAD) (Resolution No. 78305 C.M.S.). 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 their parcel and lot size)], approximately \$1.9 million per year has been generated to provide programs that reduce the fuel load and provide enhanced fire services in

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Oakland's Urban / Wildland interface areas. 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 WPAD and the funds generated from the property assessments are set to expire in January 2014.

On July 2, 2013, the City Council adopted Resolution No. 84495 C.M.S., approving amended and restated "goals and policies", as required by the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"). The Council then adopted Resolution No. 84496 C.M.S., with amendments and modifications, advising of its intention to establish "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)".

On August 2, 2013, the City Council held a Public Hearing and, after closing the hearing, voted to adopt a resolution of formation to create the CFD (Resolution No. 84594 C.M.S.). Council then adopted Resolution No. 84595 C.M.S., calling for a special election of all qualified registered voters residing within the boundaries of the newly formed CFD. This special election – to be conducted by mail ballot only - will conclude on Wednesday, November 13, 2013, at 8:00 p.m. A 2/3 favorable vote of the registered voters who vote will be required in order to approve the Special Tax and set an appropriations limit for the CFD.

Forming a community facilities district will enable the City to levy a special tax ("Special Tax") to continue providing wildfire prevention and preparedness services to those properties within the boundaries of the expiring Oakland Wildfire Prevention Assessment District (WPAD). Creating a community facilities district for financing the special fire prevention requirements within the wildland / urban interface areas within the boundaries of the existing WPAD is permitted under the Mello-Roos Act.

ANALYSIS

By state law, entities of the state, federal and local governments are exempt from the Special Tax [Government Code Section 53340(c)] that will be imposed on properties within the Wildfire District. However, as a major property holder in the District, with land uses as diverse as median strips and retaining walls, parks [including Joaquin Miller, Diamond, Sequoia, Garber, Leona Heights, King Estates, Knowland, Shepherd Canyon, and Marj Saunders (née, Sulfur Springs)], open space (Grizzly Peak), fire stations, recreation centers and the Chabot Space & Science Center, plus golf courses, sports fields and tennis courts, it is incumbent on the City to invest in the District's fire safe efforts.

In accordance with CA Government Code Section 53314.8: "At any time either before or after the formation of the district, the legislative body may provide, by ordinance, that for a period specified in the ordinance, the local agency may contribute, from any source of revenue not otherwise prohibited by law, any specified amount, portion, or percentage of the revenues for the purposes set forth in the ordinance, limited to the following: . . . the provision of authorized services, and the payment of expenses incidental thereto. The contribution shall not constitute an indebtedness or liability of the local agency.

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In order to maintain City properties in the Oakland Wildland / Urban interface area, City administration recommends that the City Council set the City's annual contribution to the Wildfire District at \$150,000 per year for the 10 year life of the CFD, subject to annual appropriation, which is a funding level comparable to that which the City has been paying under the soon to expire Wildfire Prevention Assessment District (WPAD).

TIMELINE

Date	Council/ Comment	Mello-Roos Special Tax Election Action / Legislation
Fri, 04 Oct – Wed, 23 Oct	40-21 days before election	Sample Ballots mailed out
Tues, 08 Oct	Council	Presentation of agenda report and ordinance to the Finance & Management Committee
Tues, 15 Oct – Sun, 03 Nov*, *next business day, 04 Nov	29-10 days before election	ELECTION BALLOTS mailed out
Tues., 15 Oct	Council	Introduction of Ordinance
Tues., 05 Nov	Council	2 nd Reading and final passage of Ordinance
Wed., Nov 13		ELECTION Day – Ballots Due prior to 8:00 p.m.
Wed, 11 Dec	2/3 vote	Deadline to Receive Certification of Elections Results
Tues, 17 Dec (Tentative)		Resolution Determining the Results of the Special Election and Directing Recordation of Notice of Special Tax Lien
Dec 2013 / Jan 2014 (17 Dec tentative)		Introduction of Ordinance Levying Special Taxes for CFD No. 2013-1 (1 st Reading)
Dec 2013 / Jan 2014 (14 Jan tentative)		Adoption of an Ordinance Levying Special Taxes for CFD No. 2013-1 (2 nd Reading)
Thurs, 02 Jan 14 tentative	City Clerk	Record Notice of Special Tax Lien (Resolution Determining Results of Election + 15 days)

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BUDGET

1. **COST OF PROJECT:** The contribution cost for City owned properties in City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) is \$150,000 per tiscal year, for 10 years, for a total of \$1,500,000
2. **SOURCE OF FUNDING:** Monies would come from the General Fund (1010), Non-Departmental (90311), Operating Transfer Out (59312), Non-Project, IP51.
3. **FISCAL IMPACT:** This project would be funded in the same manner and approximately in the same amount as the City paid for its Wildtire Prevention Assessment District (WPAD) public parcel assessment from 2004 - 2013, should the Council adopt the proposal.

RECOMMENDATION

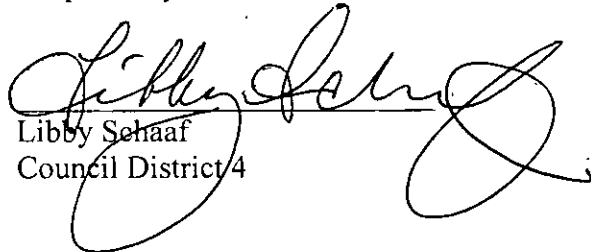
Adopt the following: Ordinance Authorizing Payment for City Owned Properties Within City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) in Fiscal Years 2014/15 Through 2023-24, in an Amount Not to Exceed \$150,000 per Fiscal Year, Subject to Annual Appropriation.

Respectfully submitted,



Dan Kalb
Council District 1

Respectfully submitted,



Libby Schaaf
Council District 4

INTRODUCED BY COUNCILMEMBER _____
 OFFICE OF THE CITY CLERK
 OAKLAND

Kathleen Sullivan-Boyd
 City Attorney

13 SEP 26 PM 12:33 **OAKLAND CITY COUNCIL**

ORDINANCE NO. _____ C.M.S.

ORDINANCE AUTHORIZING PAYMENT FOR CITY OWNED PROPERTIES WITHIN CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WILDFIRE PREVENTION DISTRICT) IN FISCAL YEARS 2014/15 THROUGH 2023-24, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) PER FISCAL YEAR, SUBJECT TO ANNUAL APPROPRIATION

WHEREAS, the City Council approved the formation of City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) (the “CFD” or “Wildfire District”)(Resolution No. 84594 C.M.S., August 2, 2013) for the purpose of providing financing for certain fire protection and suppression services within the City of Oakland; and

WHEREAS, the City Council approved a resolution calling and giving notice of a Special Election (Resolution No. 84595 C.M.S., August 2, 2013) for qualified electors within the boundaries of the Wildfire District, on the question of the levy of a special tax on property within the Wildfire District and the establishment of an appropriation limit for the Wildfire District; and

WHEREAS, entities of state, federal and local governments are exempt from Special Tax [Government Code Section 53340 (c)]; and

WHEREAS, the City of Oakland understands and accepts its civic obligations as an owner of property in the Wildfire District to contribute an amount to the fire prevention and preparedness efforts in the Wildfire District in an amount comparable to those the City paid under the expiring Wildfire Prevention Assessment District (WPAD), even though City owned parcels are exempt from the special tax; and

WHEREAS, California Government Code Section 53314.8 states: “At any time either before or after the formation of the district, the legislative body may provide, by ordinance, that for a period specified in the ordinance, the local agency may contribute, from any source of revenue not otherwise prohibited by law, any specified amount, portion, or percentage of the revenues for the purposes set forth in the ordinance, limited to the following: . . . the provision of authorized services, and the payment of expenses incidental thereto. The contribution shall not constitute an indebtedness or liability of the local agency;” and

WHEREAS, the Wildfire District includes approximately 433 city-owned properties; and.

WHEREAS, the City Council wishes to approve for the ten (10) year life of the Wildfire District an annual contribution to the services described in Resolution No. 89594 C.M.S. (the "Services") in the amount of \$150,000 per fiscal year, subject to annual appropriation by this Council; and

WHEREAS, the contribution for fiscal year 2014/15 for the City owned properties is \$150,000; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section L The City Administrator is hereby authorized to contribute \$150,000, from General Purpose Funds (Fund: 1.1010.90311.59312.0000000.2321) for fiscal year 2014-15, subject to appropriation.

Section 2. The City Administrator is authorized to include, as part of the City of Oakland's biennial budget, funds in the amount of \$150,000 in each subsequent year, for the ten year life of the CFD, subject to annual appropriation by the City Council.

Section 3. This Ordinance shall take effect only if the ballot measure authorizing the levy of special taxes in the CFD and approving an appropriations limit for the CFD is approved by two-thirds of the qualified electors voting on the measure at the November 13, 2013 election.

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

DATE OF ATTESTATION: _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND

13 SEP 26 PM 12:35

NOTICE & DIGEST

ORDINANCE AUTHORIZING PAYMENT FOR CITY OWNED PROPERTIES WITHIN CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WILDFIRE PREVENTION DISTRICT) IN FISCAL YEARS 2014/15 THROUGH 2023-24, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) PER FISCAL YEAR, SUBJECT TO ANNUAL APPROPRIATION

Adoption of this ordinance will authorize the City Administrator to annually contribute \$150,000 to City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) for fire prevention and preparedness services on City-owned properties location within the District for a ten (10) year period, subject to annual appropriation, commencing in fiscal year 2014/15 and ending in Fiscal Year 2023-24.