



FILED
OFFICE OF THE CITY CLERK
OAKLAND
2012 APR 17 PM 4:33

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Sabrina Landreth

SUBJECT: FY12-13 Landscaping and Lighting
Assessment District (LLAD)

DATE: 03/21/12

City Administrator
Approval

Date

4-17-12

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

In compliance with the California Streets and Highways Code, Section 22622, a resolution has been prepared initiating the annual assessment process of the Landscaping and Lighting Assessment District (LLAD) for the FY 2012-13 property tax roll. The resolution describes any proposed new improvements or substantial changes in existing improvements, and authorizes the City Administrator to order the District Engineer to prepare and file a Preliminary Engineer's Report for this district with the City Clerk.

Staff requests that Council authorize the City Administrator to order a preliminary LLAD Engineer's Report pursuant to the California Streets and Highways Code. This allows local government agencies to form assessment districts for the purpose of financing the costs and expenses of landscaping and lighting public areas, among other things.

OUTCOME

This report and resolution will initiate the FY 2012-13 assessment process of the LLAD for inclusion in the FY 2012-13 property tax roll. Detailed assessment data for all affected properties are due to the Alameda County Auditor-Controller Agency by August 10, 2012. The proposed resolution orders the preparation of a preliminary Engineer's Report, which will set forth the findings and engineering analyses for the LLAD.

BACKGROUND/LEGISLATIVE HISTORY

The California Landscaping and Lighting Act of 1972 (California Streets and Highways Code Sections 22500-22679) allows local government agencies to form assessment districts for the purpose of financing the costs and expenses of landscaping and lighting public areas, among

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Finance and Management Committee
April 24, 2012

other things as noted below. The City of Oakland formed the Landscaping and Lighting Assessment District on June 23, 1989. In July 1993, the City increased the assessment rates after preparation of an engineer's report, notice and hearing, and public opportunity to support or oppose. In November 1994, the Oakland electorate approved the District and the assessments. In January 2011, the Alameda County Superior Court ruled that the assessments, which were approved prior to the adoption of Proposition 218, are exempt from Proposition 218 (*Attachment A*)

The LLAD, utilizing a direct benefit assessment, provides a funding source for city parks, grounds and medians, open space, pools, and custodial services at 25 Park and Recreation centers and Field Restrooms. The LLAD also supports activities outside the Public Works Agency such as community gardens, ball field maintenance, and museum landscape maintenance.

In addition, the LLAD supports the ongoing maintenance of all Park and Recreation facilities including the structures and accessory uses such as the 76 tot lots, water fountains, bleachers, park furniture, and many other outdoor features. The LLAD funds the utility costs for the City's street lights and all park and field-related water use.

The California Streets and Highways Code, Sections 22620-22631, applies to all assessments that are to be levied and collected for a fiscal year, within an existing assessment district. The code describes the requirements for levying assessments as follows:

1. Request a preliminary engineer's report describing any proposed new improvements, or any substantial changes in existing improvements. (This step is the subject of this City Council report and resolution.)
2. Approve the Engineer's Report and adopt a resolution of intention. The resolution of intention declares the City Council's intention to levy and collect assessments within the LLAD for the fiscal year. It also states whether the assessment is proposed to change from the previous year and sets a date, hour, and place for a public hearing.
3. Conduct the public hearing affording all interested parties the opportunity to hear and be heard. The public hearing is scheduled to occur at 6:30 p.m. on June 5, 2012.
4. Adopt a resolution confirming the information in the Engineer's Report and the levy of the assessment within the LLAD for the fiscal year.

The City of Oakland collects the LLAD assessment through the County of Alameda property tax bill. Upon fulfillment of the requirements for the LLAD, the City of Oakland must submit the assessments to the Alameda County Auditor for inclusion in the FY 2012-13 property tax roll by August 10, 2012.

ANALYSIS

The purpose of this report and resolution is to initiate the FY 2012-13 assessment process of the LLAD. The detailed assessment data for all affected properties are due to the Alameda County Auditor-Controller Agency by August 10, 2012, for inclusion in the FY 2012-13 property tax roll. The proposed resolution orders the preparation of a preliminary Annual Report, which will set forth the findings and engineering analyses for the LLAD.

PUBLIC OUTREACH/INTEREST

A public hearing for the final report will be scheduled for June 5, 2012 at 6:30 p.m.

COORDINATION

The report was prepared in coordination with the City of Oakland Public Works Agency, the Attorney's Office and Francisco & Associates; the City's Contractor's who annually administer special financing districts.

COST SUMMARY/IMPLICATIONS

This report is for the purpose of initiating the annual assessment process for the LLAD. Per Resolution No. 81740 C.M.S., the contractual agreement with Francisco & Associates, Inc. was extended for two years through December 31, 2012. Funding for the contract is budgeted for and includes the service and cost of preparing the Annual Report. There is no impact on the General Fund and no additional funding is requested.

The LLAD Fund is projected to have a negative fund balance of \$2.7 million at the end of FY2011-12. On October 21, 2008, the City Council opted to address the negative fund balance through one-time revenues from land sales. However, on May 19, 2009, the City Council reallocated those revenues in balancing measures to address projected deficits in the General Purpose Fund. The LLAD negative fund balance was identified in the Financial Management Agency Report of March 23, 2010 as "negative funds requiring one-time revenues". No new plan to eliminate the negative fund balance has been proposed at this time. LLAD expenditures for FY2011-12 are projected to stay within budget by year end.

SUSTAINABLE OPPORTUNITIES

Economic:

Revenues generated from this assessment is relied upon to fund essential City services.

Environmental:

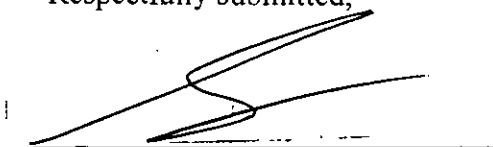
There are no direct environmental impacts associated with the City Council action requested in this report.

Social Equity:

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

For questions regarding this report, please contact Kirsten LaCasse, at 510-238-6776.

Respectfully submitted,



SABRINA LANDRETH
Budget Director, Budget Office

Reviewed by:
Osborn Solitei, Controller

Prepared by:
Kirsten LaCasse, Assistant Controller
Budget Operations & Analysis Unit

ENDORSED
FILED
ALAMEDA COUNTY

JAN 06 2012

CLERK OF THE SUPERIOR COURT
By LINDNELL WILLIAMS
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

ARNOLD FIELDS, et al.,

Plaintiffs,

vs.

COUNTY OF ALAMEDA,

Defendant.

No. RG11-556225

ORDER DENYING PLAINTIFF
LUCY LEQUIN FIELDS' MOTION
FOR SUMMARY ADJUDICATION

CITY OF OAKLAND, Intervener

The Motion of Plaintiff Lucy Lequin Fields for Summary Adjudication came on for hearing on December 23, 2011 in Department 520 of the above-entitled court, the Honorable David Hunter presiding. The Court has considered all of the papers filed in connection with the Motion, the separate statements of the parties, and the arguments of counsel, and, good cause appearing, HEREBY ORDERS that Plaintiff's Motion for Summary Adjudication is DENIED.

The Court rejects Intervener City of Oakland's argument that Summary Adjudication is improper because this Motion doesn't dispose of an entire cause of action. Plaintiffs may seek Summary Adjudication of a separate and distinct

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wrongful act (like the allegedly improper OLLAD assessments at issue in this Motion) within a single cause of action. (See, e.g., Edward Fineman Co. v. Superior Court (1998) 66 Cal.App.4th 1110, 1118.)

The Court also rejects the City's argument that this claim is barred by Plaintiff's failure to present a claim to the City. Government Code § 905(a) provides that claims under the Revenue and Taxation Code are not subject to claims requirements. Although Government Code § 935 provides that claims against local public entities that are excepted by § 905 and that "are not governed by any other statutes or regulations expressly relating thereto" shall be governed by the procedure set forth in any ordinance adopted by the local public entity, Plaintiff's claims here are governed by other statutes expressly relating thereto, specifically Revenue and Taxation Code § 5097 and § 5099.

The Court also rejects the City's argument that this action is timebarred. To the contrary, the claims that are the subject of this Motion are timely under Revenue and Taxation Code § 5097(a)(2). (See Plaintiff's Facts Nos. 20-30 and the evidence cited in support.)

However, the Motion is DENIED because OLLAD is exempt from Proposition 218. Proposition 218 doesn't apply to an assessment existing on or before July 1, 1997 if that assessment "previously received majority voter approval from the voters voting in an election on the issue of the assessment" and did not "subsequent[ly] increase". (See California Constitution, Article XIII D § 5(d).)

That is the case with OLLAD. (See the City's Additional Facts Nos. 33-35, and the evidence cited in support.) Plaintiff's contention that Article XIII D § 5(d) does not apply because the voters did not vote to approve OLLAD, but rather voted not to dissolve OLLAD, is not well taken. The majority vote that decided not to dissolve OLLAD led to exactly the same result as a majority vote to approve OLLAD; it is a distinction with no legal significance or effect.

The City's Request for Judicial Notice is GRANTED.

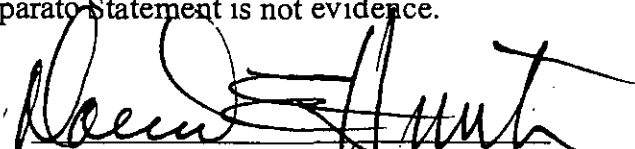
The Court rules as follows on the City's Objections to Evidence:

Objection Nos. 1-2 are SUSTAINED as irrelevant.

Objections Nos. 3-4 are OVERRULED on the grounds asserted.

Objections Nos. 5-8 are OVERRULED, on the basis that these Objections appear to be directed not at any evidence submitted in support of this Motion, but rather at Facts set forth in Plaintiffs' Separate Statement of Facts. Plaintiffs' characterization of evidence in their Separate Statement is not evidence.

1-6-2012
Date


David Hunter
Judge of the Superior Court

2012 APR 17 PM 4:48

Approved as to Form and Legality


Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION INITIATING THE FY 2012-13 ASSESSMENT PROCESS FOR THE CITY OF OAKLAND LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT AND AUTHORIZING THE CITY ADMINISTRATOR TO ORDER A PRELIMINARY ENGINEERS'S REPORT PURSUANT TO THE CALIFORNIA STREETS AND HIGHWAYS CODE

WHEREAS, the City of Oakland Landscaping and Lighting Assessment District (LLAD) was established on June 23, 1989 under the authority of the California Streets and Highways Code Section 22500, et seq., known as the Landscaping and Lighting Act of 1972; and

WHEREAS, the City desires to initiate the FY 2012-13 LLAD assessment for properties within the district boundaries; and

WHEREAS, the California Streets and Highways Code Section 22622 requires that the City Council adopt a resolution describing any proposed new improvements, or any substantial changes in existing improvements, and order the District Engineer to prepare and file a report with the City Clerk for further submission to the City Council; now, therefore be it

RESOLVED: That the existing boundaries of the LLAD remain the same as those described in the FY 2011-12 Engineer's Report approved by the City Council, Resolution No. 83391 C.M.S., on June 07, 2011; and be it

FURTHER RESOLVED: That regular capital improvements to existing facilities and amenities within the LLAD are necessary to maintain and enhance these assets and are performed as funding is available to support these improvements; and be it

FURTHER RESOLVED: That the City Council initiates the annual assessment process for the City of Oakland Landscaping and Lighting Assessment District for FY 2012-13; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator to order a Preliminary Engineer's Report for FY 2012-13 for the City of Oakland Landscaping and Lighting Assessment District; and be it

FURTHER RESOLVED: That the Preliminary Engineer's Report shall be filed with the City Clerk for submission to the City Council for further action.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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