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OAKLAND CITY COUNCIL

M. Woodson
City Attorney

RESOLUTION No. 84594 C.M.S.

REVISED

Introduced by Councilmember _____

**RESOLUTION OF FORMATION OF CITY OF OAKLAND
COMMUNITY FACILITIES DISTRICT No. 2013-1
(WILDFIRE PREVENTION DISTRICT)**

WHEREAS, on July 2, 2013 the City Council of the City of Oakland adopted Resolution No. 84496 C.M.S., entitled "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" (the "Resolution of Intention"), stating its intention to form "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" (the "CFD") pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"); and

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

WHEREAS, formation of the CFD is not a project pursuant to CEQA Guidelines section 15378(b)(4), and is categorically exempt from the environmental analysis requirements of CEQA under CEQA Guidelines sections 15301 (existing facilities); 15304 (minor alterations to land); and 15333 (small habitat restoration projects), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance; and

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

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

WHEREAS, at the hearing evidence was presented to the City Council on such matters before it, including a report (the “Report”) as to the services to be provided through the CFD and the costs thereof, a copy of which is on file with the City Clerk, and this Council at the conclusion of said hearing is fully advised in the premises; and

WHEREAS, written protests with respect to the formation of the CFD, the furnishing of specified types of services and the rate and method of apportionment of the special taxes have not been filed with the City Clerk by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special taxes; now, therefore, be it

RESOLVED:

1. **Recitals Correct.** The foregoing recitals are true and correct.
2. **No Majority Protest.** The proposed special tax to be levied within the CFD has not been precluded by majority protest pursuant to section 53324 of the Act.
3. **Prior Proceedings Valid.** All prior proceedings taken by this City Council in connection with the establishment of the CFD and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.
4. **Name of CFD.** The community facilities district designated “City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)” of the City of Oakland is hereby established pursuant to the Act.
5. **Boundaries of CFD.** The boundaries of the CFD, as set forth in the map of the CFD heretofore recorded in the Alameda County Recorder’s Office on July 16, 2013, at 12:26 p.m., in Book 18 of Maps of Assessment and Community Facilities Districts, as pages 3 – 44, Instrument No. 2013243755, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD.
6. **Description of Services.** The type of public services proposed to be financed by the CFD and pursuant to the Act shall consist of those items shown in *Exhibit 1* hereto and by this reference incorporated herein (the “Services”).
7. **Special Tax.**
 - a. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax (the “Special Tax”) sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the CFD, is intended to

be levied annually within the CFD, and collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as may be prescribed by this Council.

b. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are shown in ***Exhibit 2*** attached hereto and hereby incorporated herein.

8. Need for Services. It is hereby found and determined that the Services are necessary to meet increased demands placed upon local agencies, including the City, as the result of the wildland / urban interface which occurs in the CFD. As a result of the termination of the Wildfire Prevention Assessment District referenced in the Resolution of Intention, the Services are in addition to those provided in the territory of the CFD and will not supplant services already available within the territory of the CFD.

9. Responsible Official. The City Administrator of the City of Oakland, City Hall, One Frank H. Ogawa Plaza, Room 301, Oakland, CA 94612, telephone: (510) 238-3301, or her designee, is the officer of the City who will be responsible for preparing annually a current roll of the levy of the Special Tax obligations by assessor's parcel and will be responsible for estimating future Special Tax levies.

10. Tax Lien. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the CFD and this lien shall continue in force and effect until collection of the Special Tax by the City ceases in ten (10) years, after fiscal year 2023-24.

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

12. Election. Pursuant to the provisions of the Act, the proposition of the levy of the Special Tax specified above and the proposition of the establishment of an appropriations limit shall be submitted to the qualified electors of the CFD at an election the time, place and conditions of which election shall be as specified by a separate resolution of this Council.

13. **Effective Date.** This resolution shall take effect upon its adoption.

AUG 2 2013

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

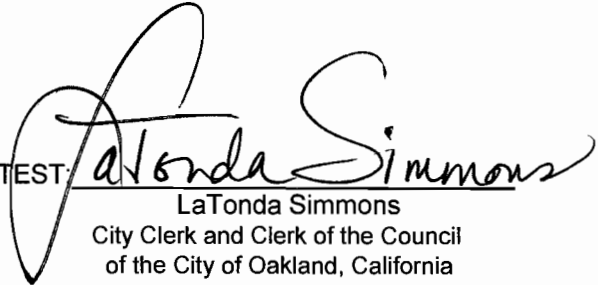
AYES - ~~BROOKS~~, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, ~~REID~~, SCHAAF and PRESIDENT KERNIGHAN - 6

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Brooks, Reid - 2

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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EXHIBIT 1 - List of Authorized Services

EXHIBIT 2 - Rate and Method of Apportionment of Special Taxes

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 wildfire prevention 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 Incentives and Chipping Program – Plan and establish incentives, education programs, and other opportunities to assist public and private property owners in reducing fuel and clearing properties. Assist 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 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. For vegetation reduction and management on city parcels, the City will issue an annual plan, including specific plans for major open spaces and fire corridors for. The plan will address both the schedule and methodology for each year and will be informed by input from a qualified biologist and district residents. The goal of the plans will be to achieve long term and cost effective vegetation management to achieve fire safety. The City will provide an annual evaluation to Council on the previous year's efforts, including a report on the timeliness of clearance efforts. The evaluation will outline any reasons for variances or obstacles that prevented the Oakland Fire Department from meeting its planned goals. In performing authorized services under the Vegetation Management Program, the City and the Wildfire Prevention District shall conduct any required environmental analyses in accordance with State of California environmental regulations and laws.

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 – Plan education and outreach to increase public awareness of the Wildfire Prevention District and the need for fuel reduction. 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 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, not to exceed 5% of Special Taxes levied each fiscal year.

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: means the Alameda County Assessor.

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.

Condominium Parcel: means a Developed Parcel that is classified as a residential: condominium, townhome, or mobile home by the Assessor.

County: means the County of Alameda.

Developed Parcel: means all Taxable Parcels for which a final building permit inspection was conducted or a certificate of occupancy was issued by the City on or prior to June 30 of the preceding Fiscal Year. In the absence of a final building permit inspection or certificate of occupancy, any Taxable Parcel shall be classified as Developed Property if it has been occupied by a residential or non-residential user on or prior to June 30 of the preceding Fiscal Year.

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) and Assessor Parcels designated as common area parcels by the Assessor.

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.

Classification	Maximum Special Tax
Other Parcel	\$78.00 per Parcel
Condominium Parcel	\$58.50 per Parcel
Multi-Family Parcel	\$58.50 per Unit
Undeveloped Parcel	\$39.00 per Parcel

Multi-Family Parcel: means a Developed Parcel that is classified as a residential multi-family parcel by the Assessor.

Other Parcel: means a Developed Parcel which is not classified as a Condominium Parcel or a Multi-Family Parcel.

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.

Undeveloped Parcel: means a Taxable Parcel which not classified as a Developed Parcel.

Unit: means an individual residential unit within a duplex, triplex or fourplex, or an individual residential apartment unit within a residential apartment building.

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) Classify each Taxable Parcel within the boundaries of the CFD as either a Developed Parcel or Undeveloped Parcel.
- 3) Classify each Developed Parcel within the boundaries of the CFD as either a Condominium Parcel, Multi-Family Parcel or Other Parcel.
- 4) Calculate the Maximum Annual Special Tax per Taxable Parcel (Condominium Parcel, Multi-Family Parcel, Other Parcel or Undeveloped Parcel) that can be levied within the boundaries of the CFD.
- 5) Determine the Annual Special Tax Requirement.

- 6) If the total Annual Special Tax Requirement identified in Step No. 5 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. 5 above, then levy such amount on each Taxable Parcel.
- 7) If the total Annual Special Tax Requirement identified in Step No. 5 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 be subject to the Special Tax each Fiscal Year commencing in Fiscal Year 2014-15 and continuing through Fiscal Year 2023-24 (except that any parcels that have not paid Special Taxes that were levied prior to June 30, 2024 pursuant to this Rate and Method of Apportionment of Special Tax shall remain obligated to pay such Special Taxes). If the 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.