

Deanna J. Santana, City Administrator

Subject: Reso of Amended /Restated Local Goals & Policies & Appraisal Standards for CFDs; Reso of Intention to Create CFD No. 2013-1 (Wildfire Prevention District) and Reso Amending Agreement with Francisco & Associates

Date: June 27, 2013

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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 / wildlife 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 11, 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, ± 10 years.

Item: \_\_\_\_\_

Rules & Legislation Committee

June 27, 2013


**REVISED**  
27 JUN 2013

**REVISED**  
**27 JUN 2013**

**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.

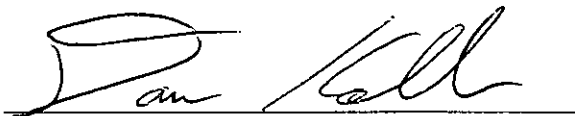
The CFD contemplated shall comprise the total area currently comprising the Wildfire Prevention and Assessment District, created by Resolution No. 78305 C.M.S. on January 20, 2004, which is due to expire on January 20, 2014. See map and written description attached to the accompanying staff report /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



**REVISED**  
27 JUN 2013

**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 (Wildfire Prevention District), 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)	
Expenditures	Amount
<u>Services</u>	
Goat Grazing Program	\$365,000
Property Owner <u>incentives</u> and Chipping Program	\$100,000
Vegetation Management Program	\$1,076,500
Roving Fire Patrol Program	\$12,000
Support Services for Inspection Programs	\$50,000
Public 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**

Item: \_\_\_\_\_  
Rules & Legislation Committee  
June 27, 2013

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

*M. M. M. M.*  
City Attorney

REVISOR  
27 JUN 2013

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**, Oakland's devastating fires of 1991 killed 25 people and destroyed 3,000 homes in the Oakland hills, with fire spreading rapidly, even jumping Highway 24, due to trees, grass and brush that had grown out of control; and

**WHEREAS**, in the 1991 firestorm roads and streets were blocked by dense vegetation, making it difficult for fire trucks to maneuver; and

**WHEREAS**, in the aftermath of the fire's destruction, Oakland's Wildfire Prevention Assessment District (WPAD) established a special assessment to provide a consistent and stable source of funding for fire prevention in the Oakland hills; and

**WHEREAS**, since its establishment, the WPAD's good works, stewardship, and their oversight of the Oakland Fire Department's fire prevention efforts in the Oakland hills; the City has not had a significant hill area fire, while other communities that do not have a dedicated service district have experienced large fires; and

**WHEREAS**, there is a need to continue funding in order to prevent major fires and protect homes including, but not limited to, funding for one of Oakland's most effective, environmentally friendly, four-legged, weed control and fire protection / prevention crews – grazing goats – to reduce fire fuel on grasslands; and

**WHEREAS**, it is also important that there be a secure source of funding to remove brush to provide roadside clearance, and perform other fuel reduction measures, to ensure access to firefighters; 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;~~ and

**WHEREAS**, 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 prevention 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 Prevention 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 Prevention 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 Prevention District, in sufficient detail to allow each parcel owner within the proposed Wildfire Prevention 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 Prevention 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 Prevention 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 Prevention 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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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 wildfire protection-and-suppression 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. 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 – 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).

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~~ 2024 (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**

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

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

**CITY CLERK'S STATEMENT**

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF THE CITY OF OAKLAND, COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WILDEIRE 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**

I 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  
(WILDEIRE PREVENTION DISTRICT)

CITY OF OAKLAND  
COUNTY OF ALAMEDA STATE OF CALIFORNIA