

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

M. Mowbray
City Attorney

2013 JUL 15 PM 3:41

RESOLUTION No. 84496 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 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; and

WHEREAS, funds raised 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 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. 84495 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 2nd 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.

JUL 2 2013

IN COUNCIL, OAKLAND, CALIFORNIA, _____

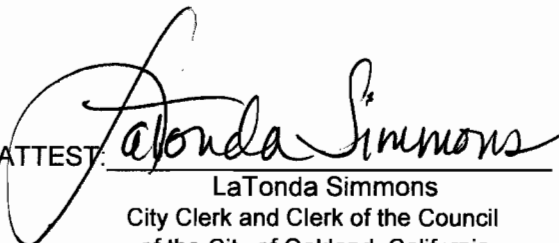
PASSED BY THE FOLLOWING VOTE:

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

NOES - 0

ABSENT - Gibson McElhane - 1

ABSTENTION - Brooks - 1

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

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.

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,

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.

**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 REPRESENTING PROPOSED BOUNDARIES OF THE CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WILDFIRE 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 THE RESOLUTION NO. _____.

CITY CLERK

COUNTY RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2013, AT THE HOUR OF _____ O'CLOCK, P.M., IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AS 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
(WILDFIRE PREVENTION DISTRICT)

CITY OF OAKLAND
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

