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OAKLAND

2013 JUL 18 PM 1:04

# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Teresa Deloach Reed, Fire Chief

SUBJECT: Formation of Wildfire Prevention District and Call for Special District Election  
DATE: August 2, 2013

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City Administrator Approval *Deanna Santana* Date *7/17/13*

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COUNCIL DISTRICT: 1, 4, 6, & 7

## RECOMMENDATION

Staff recommends that the City Council, after holding a public hearing, approve the following legislation:

(1) Resolution of Formation of City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District); and

(2) Resolution of the City Council of the City of Oakland, California Calling and Giving Notice for the Holding of a Special District Mail-Ballot Election for City of Oakland Community Facilities District No. 2013-1 on Wednesday, November 13, 2013.

## EXECUTIVE SUMMARY

On July 2, 2013 the City Council, first adopted a resolution approving an amended and restated "goals and policies", (Resolution No. 84495 CMS), as required by the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), and then adopted, with amendments and modifications, staff's report and resolution advising of its intention to establish "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" ("CFD" or "Wildfire District") (Resolution No. 84496 CMS).

Forming a community facilities district will enable the City to levy a special tax ("Special Tax") to provide wildfire prevention and preparedness services to those properties within the boundaries of the current Oakland Wildfire Prevention Assessment District (WPAD), which is set to expire on January 20, 2014. 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 Act.

If, at the conclusion of this Public Hearing, the Council votes to move forward, it will need to adopt a resolution of formation to create the CFD and then adopt a resolution calling for a special

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election of all qualified registered voters residing within the boundaries of the newly formed CFD. This special election - which will be a mail ballot election - would be scheduled for Wednesday, November 13, 2013. A 2/3 favorable vote of the registered voters that vote would be required to approve the Special Tax and an appropriations limit for the CFD.

Though entities of the state, federal and local governments would be exempt from Special Tax [Government Code Section 53340(c)], the City understands and accepts its obligations to properly maintain the City owned parks, medians, and open spaces residing within the proposed CFD. Therefore, per Government Code Section 53314.8, prior to the November 13, 2013 special district election, the City Council will adopt an ordinance encumbering monies in the City's biennial General Purpose Fund budget to cover the City's share of the Special Tax for its properties lying within the CFD No. 2013-1.

**TIMELINE**

Date	Council/ Comment	Mello-Roos Special Tax Election Action / Legislation
Fri, 02 Aug	City Council	(1) Public Hearing and adoption of Resolution of Formation of CFD 2013-1; (2) Adopt Resolution calling for Special Mail Ballot Election (ROE)
Men, 05 Aug	City Clerk	Publish Notice of Argument Deadlines
Fri, 16 Aug		Deadline for submission of arguments(ROE w/in 14 days)
Sat, 17 Aug* * next business day, Men, 19 Aug		Election waiting period begins: 88 days generally (10/29/13) and 90 days under Act (10/31/13) – Maximum 180 day period under Act
Fri, 16 Aug	City Clerk	Deadline for submission of direct arguments (No later than 14 days after Resolution Calling Election)
Wed, 21 Aug		Deadline for City Attorney to submit impartial analysis Deadline for City Auditor to submit impartial analysis
Thurs, 22 Aug		Last day for City Council to adopt changes / withdraw measure (83 <sup>rd</sup> day prior to election)
Men, 26 Aug	City Clerk	Deadline for submission of rebuttal arguments (Argument deadline + 10 days)
27 Aug – 5 Sept	City Clerk	Public inspection period (10 days immediately following argument/rebuttal deadlines)
Fri, 04 Oct – Wed, 23 Oct	40-21 days before election	Sample Ballots mailed out
Tues, 15 Oct –	29-10 days	ELECTION BALLOTS mailed out

Date	Council/ Comment	Mello-Roos Special Tax Election Action / Legislation
Sun, 03 Nov*, *next business day, 04 Nov	before election	
<b>Wed., Nov 13</b>		<b>ELECTION Day</b> – Ballots Due prior to 8:00 p.m.
Wed, 11 Dec		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 <sup>st</sup> Reading)
Dec 2013 / Jan 2014 (14 Jan tentative)		Adoption of an Ordinance Levying Special Taxes for CFD No. 2013-1 (2 <sup>nd</sup> Reading)
Thurs, 02 Jan 14 tentative	City Clerk	Record Notice of Special Tax Lien (Resolution Determining Results of Election + 15 days )

## OUTCOME

The proposed Resolution of Formation and Resolution Calling for Special District Election are the next two steps required by the Act to form a community facilities district that includes specified properties located in Oakland's Wildland / Urban Interface areas to support enhanced fire prevention activities.

## BACKGROUND/LEGISLATIVE HISTORY

After the October 1991 Oakland Hills Wildland/Urban Interface Fire, a Wildfire Prevention Assessment District was formed in late-1992. The monies collected were used to reduce the fuel load in the Oakland Hills and provided enhanced fire services during peak fire season. The assessment district was for five (5) years and lapsed in 1997. District voters did not move to re-establish it and from 1997 through 2003 the City maintained basic brush removal and inspection services.

In 2003, with all available sources of funding exhausted, and with State-wide budgetary deficits promising to divert property taxes away from local governments, a City / Community steering committee drafted a proposal to create the Oakland Wildfire Prevention Assessment District (WPAD) for the purpose of supplementing fire prevention programs and local area projects above what was generally provided by the Fire Department, including increased compliance inspections of public properties, public outreach and education, goat grazing, and brush removal.

The City Council approved the proposal and a mail-in ballot election of property owners within the proposed WPAD was conducted. Approximately 50% of the ballots were mailed back to the

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City, with voting solidly in favor of forming a new assessment district. On January 20, 2004, the City Council voted to establish the Wildfire Prevention Assessment District (Resolution No. 78305 CMS)

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 the parcel and lot size)], approximately \$1.9 million per year has been generated. The WPAD also created an oversight committee and called for an auditing firm to be retained annually to ensure the funds were handled responsibly.

**ANALYSIS**

Due to recent law suits and court findings concerning fire assessment districts in other California jurisdictions, and after consultations with the Office of the City Attorney and Councilmember interactions with local WPAD community groups in their districts, staff recommended replacing the expiring WPAD, with a Special Tax to be levied in the CFD pursuant to the Act. The Special Tax would apply only to those properties currently included within the boundaries of the current WPAD. If approved by the registered voters (2/3 favorable vote of those voting is required), the Special Tax would be annually levied within the specified boundaries.

At the City Council meeting on July 2, 2013, the Council voted to remove a staff proposed CPI indexing for the duration of the new District and approved changing a flat \$78.00 per parcel to a tax rate that reflects an assessment methodology similar to that currently used by the Wildfire Prevention Assessment District (WPAD). The Special Tax will be levied on all Taxable Parcels as follows:

Classification	Maximum Special Tax
Other Parcel	\$78.00 per Parcel
Condominium Parcel (includes Townhome and Mobile Home Parcel)	\$58.50 per Parcel
Multi-Family Parcel	\$58.50 per Unit
Undeveloped Parcel	\$39.00 per Parcel

The special tax to be levied in the CFD is a special tax and not a special assessment, and there is no requirement that the special tax be apportioned on the basis of benefit to any property. The special tax may be based on the benefit received by parcels of real property, the cost of making authorized services available to each parcel, or some other reasonable basis as determined by the City Council. The City Council, at its July 2, 2013 City Council, declared its intent to levy a special tax on the taxable parcels within the boundaries of the CFD as follows:

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- 1) Other Parcel includes developed single-family, commercial, industrial, and institutional parcels, and will be taxed at \$78.00 per parcel. The amount of the tax for these types of land use represents an approximate per parcel cost of providing the proposed wildfire prevention services.
- 2) Condominium Parcels (includes townhomes and mobile homes) typically have smaller structure sizes compared to the land uses listed in paragraph (1), and, therefore, are likely to demand less fire prevention services, will be taxed at \$58.50 per parcel [75% of the special tax on the land uses listed in paragraph (1)].
- 3) Multi-Family Parcels have individual residential units that typically have smaller structure sizes compared to the land uses listed in paragraph (1), and, therefore, are likely to demand less fire prevention services and will be taxed at \$58.50 per Unit.
- 4) Undeveloped land will be taxed at \$39.00 per parcel. Undeveloped land benefits from the wildfire prevention services because the services help preserve the surrounding area, thus allowing property owners to develop their property in an aesthetically pleasing environment, although a lower special tax is appropriate because undeveloped property is not yet improved with structures.

Article XIII B of the California Constitution requires that the City, as part of the CFD's formation and special election, establish an appropriations limit for annual expenditures within the CFD. With estimated revenues of approximately \$1.9M annually, and expected additional revenue from federal and state grants, which will augment the revenue collected from the tax and increase the spending capacity of the CFD, staff recommends setting the initial appropriations limit at \$3,000,000 per year, to account for the accrual of additional or carry-forward monies for potential special projects / programs in the future.

Also at its meeting of July 2, 2013, the City Council voted to reduce the lifetime of the proposed Wildfire Prevention District from 15 to 10 years.

If at the close of this public hearing, the City Council still wishes to form the CFD, it must adopt the Resolution of Formation.

After adopting the Resolution of Formation, the Council will then need to adopt the Resolution Calling for the Special Election, which contains the ballot measure language to be submitted to the registered voters within the boundaries of the CFD.

The election will be conducted by a 3<sup>rd</sup> party firm qualified to conduct such elections, under the auspices of the City Clerk. The voting will be accomplished by mail ballot ONLY. To pass, the measure must receive the approval of two-thirds (2/3) of the registered voters that vote at the election. Election costs may be reimbursed out of the CFD financing if the election is successful and the Council so approves.

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Under the current schedule, the mailing of the voter information and election ballots mail out will occur in October, the 22<sup>nd</sup> anniversary month of the devastating fires that killed 25 people, destroyed or damaged 3,469 living units, burned 1,520 acres and caused an estimated (in 1991 dollars) \$1,537,000,000 in fire losses. All ballots will be due no later than 8:00 p.m. on Wednesday, November 13, 2013. Ballots will be mailed / returned to the Office of the City Clerk, One Frank H. Ogawa Plaza, Room 101.

### POLICY ALTERNATIVES

The following policy alternatives were considered, and rejected, by the City Council at its meeting of July 2, 2013: (1) Re-establish the Wildfire Prevention Assessment District (WPAD) for an additional 10-year period; and (2) allow the WPAD to expire and do nothing to replace it.

### PUBLIC OUTREACH / INTEREST

The local community organizations within the current WPAD have been actively working to ensure that the safety and security of their neighborhoods will continue to receive the heightened fire prevention and preparedness activities the WPAD has been providing since 2004. To that end, the Keep Oakland Fire Safe group has worked to collect community and citizen feedback to assess the level of interest and commitment to continue assessing themselves for these services. A list of endorsements is posted on their website:

<http://KeepOaklandFireSafe.org/endorsements.htm>

Additional information on wildfire prevention is available at:

<http://www.oaklandnet.com/wildfireprevention/>

### COORDINATION

This report has been reviewed by the Office of the City Attorney, the Budget Office, the Fire Department and pertinent information was coordinated with the engineering firm of Francisco & Associates, Inc., and the City's special counsel, Jones Hall, A Professional Law Corporation.

### COST SUMMARY/IMPLICATIONS/BUDGET

1. **COST OF PROJECT:** The cost of establishing the Community Facilities District is approximately \$147,000 - \$338,000, excluding existing staff time. The cost items include, but not limited to, the following items:

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- 1) Special Tax Engineering Services (\$15,000 - \$25,000)
  - 2) Election Costs (\$5 - \$7 per registered voter) (\$195,000 - \$273,000)
  - 3) Legal Counsel (\$15,000 - \$40,000)
2. **SOURCE OF FUNDING:** An estimated \$24,900 is coming from the Fire Department's existing FY 2012-13 General Purpose Fund budget. Another \$163,100 is included in the proposed FY 2013-15 budget from the General Purpose Fund, for a total of \$188,000.
3. **FISCAL IMPACT:** This project is funded by both existing budget and proposed FY 2013-15 Policy Budget, should the Council adopt the proposal(s).

### FISCAL/POLICY ALIGNMENT

The establishment of the CFD aligns with the City Council's priorities as a safe, clean and livable city.

### PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

The most current report, the City of Oakland Wildfire Prevention Assessment District Fiscal Year 2013-14 Final Annual Report, prepared by Francisco & Associates, Inc., and dated June 4, 2013, was included as an attachment to the previous report on the Wildfire Prevention District, presented at the Rules & Legislation Committee on June 27, 2013, and City Council on July 2, 2013 (Legistar No. 12-0611).

### SUSTAINABLE OPPORTUNITIES

**Economic:** Revenues generated from this Special Tax will replace those previously collected as part of the annual WPAD. The revenues are relied upon to fund essential wildfire prevention services in the areas within the CFD.

**Environmental:** Activities under the Vegetation Management Program provide direct benefit through the reduction of the fuel load that can lead to catastrophic fires. A primary Fire Department objective continues to be reduction in fire behavior intensities and rates of spread that are controllable, and to avoid future losses to life and property. To the extent possible, the collected vegetation and wood chips are recycled for use as mulch and compost. Other than the production of a small amount of methane, the use of grazing goats for clearing steep hillsides of undergrowth is an environmentally "green" process.


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

CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact: Bill Uber, Special Projects Assistant, at (510) 238-6811.

Respectfully submitted,



TERESA DELOACH REED  
Chief, Oakland Fire Department

Prepared and Reviewed by:  
William Roy Uber, Special Projects Assistant (Temporary PT)  
Office of the City Administrator

Legislative Documents:

- (1) Resolution of Formation of City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District); and
- (2) Resolution of the City Council of the City of Oakland, California Calling and Giving Notice for the Holding of a Special District Mail-Ballot Election for City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) on Wednesday, November 13, 2013



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# OAKLAND CITY COUNCIL

*M. Whorson*  
City Attorney

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**, 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.

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 I

### 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.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

*M. Moran*  
City Attorney

2013 JUL 18 PM 1:54 OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLAND CALLING AND GIVING NOTICE FOR THE HOLDING OF A SPECIAL DISTRICT MAIL-BALLOT ELECTION FOR CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WILDFIRE PREVENTION DISTRICT) ON WEDNESDAY, NOVEMBER 13, 2013**

**WHEREAS**, the City Council of the City of Oakland has adopted a resolution entitled "Resolution of Formation of City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" (the "Resolution of Formation"), ordering the formation of the "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" (the "CFD"), defining the public services (the "Services") to be provided by the CFD and authorizing the levy of a special tax on property within the CFD and preliminarily establishing an appropriations limit for the CFD, all 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**, pursuant to the provisions of the Resolution of Formation, the propositions of the levy of the special tax and the establishment of the appropriations limit shall be submitted to the qualified electors residing within the boundaries of the CFD as required by the provisions of the Act; now, therefore be it

**RESOLVED:**

1. **Issues Submitted.** Pursuant to the Act, the issues of the levy of the special tax and the establishment of the appropriations limit shall be submitted to the qualified electors (as defined below) of the CFD at an election called therefore as provided below.
2. **Qualified Electors.** This Council hereby finds that more than 12 persons have been registered to vote within the territory of the CFD for each of the ninety (90) days preceding the close of the public hearing heretofore conducted and concluded by this Council for the purposes of these proceedings. Accordingly, and pursuant to Section 53326 of the Act, this Council finds that, for these proceedings, the qualified electors are the registered voters within the CFD and that the votes shall be by such registered voters.
3. **Conduct of Election.** The City Council hereby calls a special election to consider the

issues described in section 2, above, which election shall be held on Wednesday, November 13, 2013, which date is at least 90 days, but not more than 180 days, following adoption of this Resolution. The City Clerk is hereby designated as the official to oversee the conduct of the election and to receive all ballots until 8:00 p.m. on the election date. It is hereby acknowledged that the Clerk has on file the Resolution of Formation, a map of the boundaries of the CFD, and a sufficient description to allow the determination of the electors of the CFD. Pursuant to Section 53327 of the Act, the election shall be conducted by mail-delivered ballot pursuant to Section 4000 of the California Elections Code, provided, however, that for purposes of setting the date for the election, Sections 53326 and 53327 of the Act shall govern. The Council also hereby directs the City Clerk to do all things necessary and proper for the conduct of this special election including, but not limited to, the hiring of a third party election firm experienced in the conduct of registered voter elections under the Act to perform duties including, but not limited to, the publication of all required notices; receipt and printing of ballot arguments; solicitation of an impartial analysis from the City Auditor and the City Attorney; distribution of sample ballots, and printed arguments for and against the measure; the conduct of the mail-ballot election; the counting of ballots; and the canvassing and certification of the election results. This Council hereby finds and determines that the City Clerk has concurred in the holding of the election less than 125 days following adoption of this Resolution.

4. **Ballot.** As authorized by Section 53353.5 of the Act, the issues described in section 1 above shall be combined into a single ballot measure, the form of which as attached hereto as ***Exhibit 1*** is hereby approved. The City Clerk is hereby authorized and directed to cause a ballot, in substantially the form of ***Exhibit 1***, to be delivered to each of the qualified electors of the CFD. Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot.

5. **Impartial Analysis.** The City Council hereby directs each of the City Attorney and City Auditor to prepare an impartial analysis of the ballot measures (the "Impartial Analysis"), not to exceed 500 words, in accordance with Elections Code Section 9280 and the Oakland Municipal Code, and establishes August 21, 2013, as the deadline for submitting the Impartial Analyses.

6. **Arguments in Favor.** The Mayor, or her designee, is hereby authorized to prepare a written Argument in favor of the proposed measures, not to exceed 300 words in length, on behalf of the City Council, in accordance with Elections Code Sections 9282-9287. At the Mayor's discretion, the argument may also be signed by bona fide associations or by individual voters who are eligible to vote.

7. **Argument For and Against; Rebuttal Measures.** The City Council hereby authorizes arguments for and against the ballot measures and rebuttal arguments to be filed in accordance with Sections 9282-9287, and establishes August 16, 2013, as the deadline to file arguments for and against the ballot measures, and August 26, 2013, as the deadline to file rebuttal arguments.

8. **Public Examination Periods.** The City Council hereby establishes August 27, 2013, through September 5, 2013, as the 10-calendar day examination period required by the Elections

Code with respect to the arguments for and against the ballot measures and any rebuttal arguments. Voters may examine the ballot measures, the Impartial Analysis, the argument for the ballot measures, the argument against the ballot measures and any rebuttal arguments in the office of the City Clerk at One Frank H. Ogawa Plaza, Oakland, CA, between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday during such period.

9. **Accountability.** Under Section 50075.1 of the Government Code, the following accountability provisions shall apply to the special taxes: (a) the provision and/or acquisition of the Services and the incidental costs thereof, all as defined in the Resolution of Formation, shall constitute the specific single purpose; (b) the proceeds shall be applied only to the specific purposes identified in (a) above; (c) there shall be created special account(s) or funds(s) into which the proceeds shall be deposited; (d) there shall be a citizens' oversight committee of the CFD, and (e) there shall be caused to be prepared an annual audit of the CFD.

10. **Effective Date.** 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

**EXHIBIT 1**

**CITY OF OAKLAND**  
**Community Facilities District No. 2013-1**  
**(Wildfire Prevention District)**

**BALLOT EXEMPLAR**  
**SPECIAL TAX ELECTION**

This ballot is for a special district tax levy election. You must return this ballot in the enclosed postage paid envelope to the office of the City Clerk of the City of Oakland no later than the hour of 8:00 p.m. on Wednesday, November 13, 2013, either by mail or in person. The City Clerk's office is located at City Hall, One Frank H. Ogawa Plaza, Room 201; Oakland, California, 94612.

To vote, mark a cross (X) on the voting line after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Oakland and obtain another.

To continue services preventing wildfires and the spread of fire, including: goat grazing to clear brush / weeds; maintaining firebreaks; fire patrols on high fire danger days; roadside mowing; dead tree removal; and brush cutting, including along streets and emergency escape routes, shall the City replace the expiring assessment with an annual parcel tax for 10 years (undeveloped \$39; condominium/multifamily \$58.50; others \$78), with citizens' oversight, annual spending limits and audits?

YES \_\_\_\_\_ NO \_\_\_\_\_