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# OAKLAND CITY COUNCIL

*M. Mooradian*  
City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

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

**REVISED**

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

**WHEREAS**, on July 2, 2013 the City Council of the City of Oakland adopted Resolution No. 84496 C.M.S., entitled "A Resolution of Intention of the City of Oakland to Establish City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District) in the Current Wildfire Prevention Assessment District Area, Schedule a Public Hearing, Levy a Special Tax to Finance Certain Public Services and Approving a Proposed Boundary Map for Community Facilities District No. 2013-1 Pursuant to the Mello-Roos Community Facilities Act of 1982" (the "Resolution of Intention"), stating its intention to form "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" (the "CFD") pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"); and

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

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

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

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

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

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

**RESOLVED:**

1. **Recitals Correct.** The foregoing recitals are true and correct.
2. **No Majority Protest.** The proposed special tax to be levied within the CFD has not been precluded by majority protest pursuant to section 53324 of the Act.
3. **Prior Proceedings Valid.** All prior proceedings taken by this City Council in connection with the establishment of the CFD and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.
4. **Name of CFD.** The community facilities district designated "City of Oakland Community Facilities District No. 2013-1 (Wildfire Prevention District)" of the City of Oakland is hereby established pursuant to the Act.
5. **Boundaries of CFD.** The boundaries of the CFD, as set forth in the map of the CFD heretofore recorded in the Alameda County Recorder's Office on July 16, 2013, at 12:26 p.m., in Book 18 of Maps of Assessment and Community Facilities Districts, as pages 3 – 44, Instrument No. 2013243755, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD.
6. **Description of Services.** The type of public services proposed to be financed by the CFD and pursuant to the Act shall consist of those items shown in *Exhibit I* 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