



REPORT TO COUNCIL City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Consent
April 14, 2009

Honorable Mayor and
Members of the City Council

Title: Special Tax Refund for Westlake Community Facilities District

Location/Council District: Council District 1

Recommendation: Adopt a Resolution authorizing refunds to property owners within Westlake Community Facilities District of tax overpayments for 2008-2009.

Contact: Janelle Gray, Public Finance Manager, 808-8296; Petra Laptalo, Treasury Analyst, 808-8292

Department: City Treasurer's Office

Division: Public Finance

Organization No: 05000

Description/Analysis

Issue: The special tax levied on property within the Westlake Community Facilities District (the "CFD") for 2008-2009 was calculated incorrectly and is too high. State law requires that (1) the City notify the taxpayers of any erroneously collected levies and (2) the taxpayers file claims for their refunds. In lieu of this notice-and-claim procedure, staff recommends that the City fully refund the overpayment to property owners who, as of March 20, 2009, had paid the first property-tax installment (the assumption is that these same property owners will also pay the second installment). As to property owners who did not paid the first installment by March 20, 2009, the Treasurer's Office will ask the Sacramento County Auditor/Control to cancel their existing tax bills and send them revised tax bills on April 17, 2009.

Policy Considerations: The City Attorney's Office has reviewed the attached resolution and has concluded that the City Council has the legal obligation to refund erroneously collected levies. Although the law provides for a notice-and-claim procedure, staff recommends (as a benefit to our residents) that a refund be paid directly to taxpayers who paid their first installment. The City Attorney's Office has confirmed that direct refunds are permissible with City Council approval.

Environmental Considerations: This recommendation does not constitute a "project" and therefore is exempt from the California Environmental Quality Act (CEQA) according to Section 15061 (b)(1) and 15378(b)(3) of the CEQA guidelines.

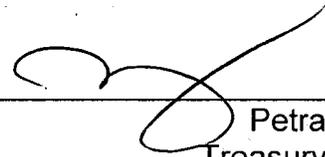
Rationale for Recommendation: Staff's recommendation to refund the special-tax overpayment by property owners within the CFD will correct the erroneous levy and provide immediate financial benefit to the property owners while avoiding the extra cost and delay of the notice-and-claim process.

Financial Considerations: An amount totaling \$90,643.13 would be reimbursed from the \$516,000 in levies collected through the first installment for the CFD. The amount refunded for residential units ranges from \$15.99 to \$119.81 a parcel. There are four commercial parcels in the CFD, with refunded amounts ranging from \$409.13 to \$2,741.23 a parcel.

The City's special-tax administrator, Willdan Financial Services, will pay all expenses relating to the correction of the 2008/09 levy for the CFD.

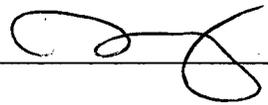
Emerging Small Business Development (ESBD): No goods or services are being purchased as a result of these actions.

Respectfully Submitted by: _____



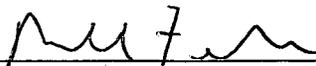
Petra Laptalo
Treasury Analyst

Approved by: _____



Janelle Gray
Public Finance Manager

Recommendation Approved:



Russell T. Fehr
City Treasurer

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Background:

In 2000, the City formed the North Natomas Westlake Community Facilities District 2000-01 (the "CFD") to finance specific drainage and park improvements. In 2001, bonds were issued to finance these improvements; the bonds are secured by a special tax on all properties within the CFD. At the time of formation, a "maximum special tax" was fixed with an annual 2% escalator. Since 2001, the property owners within the CFD have been levied, on average, at about 82% of the maximum special tax.

Covenants in the bond documents require an accelerated foreclosure process if the delinquency rate for the CFD exceeds 5%. In fiscal years 2007 and 2008, the CFD delinquency rates exceeded the 5% threshold, and over 100 parcels were stripped from the tax roll each year and foreclosures were initiated. Because the stripped parcels are no longer covered by Sacramento County's Teeter plan, these actions resulted in less special-tax revenue to pay debt service on the bonds.

When preparing the 2008/09 levy, the Treasurer's Office determined that the continuing high delinquency rate necessitated an increase in the special tax above the standard 2% escalator to ensure that the City could comply with the bondholder covenants and have sufficient proceeds to meet the debt-service obligation on the CFD's bonds. Accordingly, the Treasurer's Office instructed Willdan Financial Services, the City's special-tax administrator, to calculate the CFD levy for 2008-09 using the maximum special tax, and a levy fixed at the maximum was placed on the tax rolls. At that time, Willdan did not recognize and bring to the City's attention that fixing the levy in the amount of the maximum special tax resulted in a percentage increase of 24.1%, which exceeds the 10% limit for increases imposed on single-family residential properties specifically to cover delinquencies.

Once the error was identified, Willdan and City staff reviewed and confirmed that the 2008-2009 special taxes on residential land within the CFD were calculated incorrectly, and they agreed that the best way to correct the error is as follows:

- The City will fully refund the overpayment to the 1,392 property owners who, as of March 20, 2009, had paid the first property-tax installment, with the assumption that these same property owners will also pay the second installment. The amount refunded for residential units ranges from \$15.99 to \$119.81 a parcel.
- For the 108 property owners who had not paid their first installment as of March 20, 2009, Sacramento County will send out a revised tax bill on April 17, 2009.

RESOLUTION NO 2009 –

Adopted by the Sacramento City Council

Authorizing Refunds to Property Owners within Westlake Community Facilities District No. 2000-01 of Tax Overpayments for 2008-2009

BACKGROUND:

- A.** In April 2001, the City of Sacramento issued \$11,890,000 of bonds under the Mello-Roos Community Facilities Act of 1982 (the "Act"). Under the Act, the City annually collects a special tax used to pay debt-service on the bonds. The special tax shows up on the annual county tax bill as a separate line item.
- B.** The "maximum special tax," which is a cap on the tax actually levied, is subject to a 2% escalator set forth in the Rate and Method of Apportionment of Special Tax. The tax actually levied may be less than or equal to the maximum special tax but may not exceed it. Since 2001, of the special tax on property within Westlake Community Facilities District (the "CFD") has been levied, on average, at about 82% of the allowable maximum special tax.
- C.** If, in any year, special-tax revenues have decreased because of delinquencies, the Act authorizes the City to increase the special tax levied for that year by up to 10% over the prior year's levy so long as the increase does cause the tax to exceed the current year's maximum special tax.
- D.** To administer the tax, the City has contracted with Willdan Financial Services. Because Willdan erroneously calculated the special tax for the 2008/09 tax year, the special tax in the county tax bill sent to each owner of residential property in the district was too high.
- E.** Upon review of the law and consultation with the City Attorney's Office, it is the recommendation of the Treasurer's Office that the City issue refund checks to each property owner who has paid at least the first installment of special taxes for the 2008/2009 tax year.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

The City Council hereby authorizes the City Treasurer (1) to issue to each taxpayer within the CFD who paid the first installment of the 2008-2009 taxes by March 20, 2009, a refund check in an amount equal to the taxpayer's overpayment, with the total amount refunded equal to \$90,643.13; and (2) to request that the Sacramento County Auditor-Controller send a revised tax bill to each taxpayer within the CFD who did not pay the first installment of the 2008-2009 taxes by March 20, 2009.

