REPORT TO COUNCIL
City of Sacramento

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www.CityofSacramento.org

STAFF REPORT
December 7, 2010

Honorable Mayor and
Members of the City Council

Title: Report Back: Citywide Parks and Recreation Maintenance Assessment District

Location/Council District: Citywide.

Recommendation: Receive information relative to the establishment of a new Citywide Parks and Recreation Maintenance Assessment District and adopt a **Resolution** authorizing the transfer of $83,000 from Administrative Contingency for the development of a formal Engineer's Report for the potential district.

Contact: Mark Griffin, Fiscal Manager, Finance (916) 808-8788; Jim Combs, Director of Parks and Recreation (916) 808-8526

Presenters: Jim Combs; Mark Griffin

Department: Finance

Division: Public Improvement Financing

Organization No: 06001321

Description/Analysis

Issue: On June 10, 2010, during discussions on the Parks and Recreation FY2010/11 proposed budget, at the request of the Parks and Recreation Commission, Council requested additional information on the feasibility and timing of a new or increased assessment for the purpose of providing for park and recreation facility maintenance at an acceptable level.

To adequately address the feasibility and timing related to the issue, staff has undertaken a preliminary analysis and has obtained estimates for a detailed Engineer's Report. With input from staff, the Parks and Recreation Commission and other interested persons, this report will serve as the basis to create a complete district proposal for Council consideration. Staff believes that it is possible to substantially finish the Engineer's Report in time for a wider Council discussion next spring on all possible district funding options, all of which will require voter or property owner approval.

Policy Considerations: The effort is consistent with the Council's adopted budget development strategy and principle to enhance revenue opportunities and develop a sustainable budget plan, respectively.

Environmental Considerations:

California Environmental Quality Act (CEQA): Under CEQA guidelines, initiation of an assessment district does not constitute a project and is therefore exempt from review.

Sustainability Considerations: There are no sustainability considerations applicable to the formation or renewal process and administration of an assessment district.

Committee/Commission: At their June 3, 2010, meeting, the Parks and Recreation Commission (Commission) voted to recommend that the City Council direct the City Manager to prepare a proposal for Council review to increase the Landscaping and Lighting assessment, with the additional revenue set aside for park maintenance. The Commission was updated at their November 4 meeting on the plan to have an engineering study prepared and remains supportive.

Rationale for Recommendation: Council approval is requested for staff to hire a Registered Professional Engineer to perform an analysis that staff would bring back to City Council to assist with making a determination about the feasibility and timing of a new assessment district for park and recreation facility maintenance.

Financial Considerations: While funds for this effort were not included in the FY2010/11 operating budget, Council may choose to authorize $83,000 in funding for the Engineer's Report from the City's General Fund administrative contingency, as an investment in citywide efforts to develop funding for priority programs and services.

Emerging Small Business Development (ESBD): The consultant will be hired from an existing list of financial and special tax consultants under a Master Services Agreement approved by City Council in 2007. Five consultants qualified through the competitive bidding process, one of which is a certified ESBD firm.

Respectfully Submitted by:_____
Mark Griffin
Fiscal Manager, Finance Department

Respectfully Submitted by:_____
Leyne Milstein
Director, Finance Department

Respectfully Submitted by:_____
Jim Combs
Director, Department of Parks and Recreation

Recommendation Approved:

for Patti Bishart
Gus Vina
Interim City Manager

APPROVED AS TO FORM:

CITY ATTORNEY

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Attachment 1

BACKGROUND

At the request of the Parks and Recreation Commission during the Parks and Recreation Department budget hearing in June 2010, City Council (Council) requested a report back on the feasibility and timing of a new or increased assessment for the purpose of funding park maintenance. City staff has since conducted a preliminary feasibility analysis of an addition to, or an "overlay" to, the existing Citywide Landscaping and Lighting (L&L) Assessment District.

First, a district should be created as a new district, in effect an overlay to the existing Citywide L&L Assessment District but only in the area of park and recreation facility maintenance. This approach will be far simpler and less expensive than reforming the entire existing district, which has many services beyond parks and recreation facility maintenance. This new district could also utilize all of the permissible park and recreation facility maintenance expenses as specified in Sections 22531 through 22540 of the California Streets and Highways Code (known as the Landscaping and Lighting Act of 1972). Attachment 2 cites these permissible expenses.

Permissible expenses in the Streets and Highways Code include acquisition, construction, and installation of new facilities as well as existing facility maintenance and incidental expenses. The proposed district is intended only for existing facility maintenance and incidental expense.

Staff's initial feasibility analysis also shows that the new district could probably generate up to $6 million or more annually depending on the results of the design of the district, outreach efforts, and Council policy.

At this stage, the next step would be to initiate the detailed design phase in order to complete a district proposal for consideration by Council in the context of a wider discussion next spring on all possible funding options that will require voter or property owner approval.

Two findings, in particular, have convinced staff that such a district is feasible only if there is a very thorough design process as well as an extensive outreach process.

The proper design of an assessment district is exceedingly complex and risk-prone because of the evolution of case law under Proposition 218 and of a generally wider scrutiny of the difference between "general" and "special" benefits that property receives. Assessment districts must be able to show a special benefit to the property assessed. When a special benefit to a particular property can be shown, the vote is by the simple majority of property owners. If a special benefit cannot be demonstrated convincingly on a reasonable basis, the assessment would be considered a tax subject to a two-thirds approval vote of registered voters.

The criteria for a reasonable basis continue to become more demanding. In a case decided in the 4th District Court of Appeal and denied for review by the Supreme Court in September of this year, the assessment levied by the Wildomar Landscape Maintenance District in Riverside County was invalidated because the County failed to demonstrate that residents benefitted equally regardless of their distance from the four parks in the district. As a result, assessments must at least take distance and access into account. How to do this and be defensible in court is a complex design issue with no guarantees.

At the very least, all assessment district formation processes must now demonstrate that the proportionality of benefit has been taken explicitly into account by identifying all special benefits as well as all general benefits, and to a level that reflects the state of the art. How that process concludes will indicate how much can be generated through an assessment district. The amount to assess up to the "design limit" is then a function of outreach and Council policy.

The process of developing a complete structure is also the process of developing an "Engineers's Report" for the district as specified under state and case law. The development of this report requires the involvement of Registered Professional Engineers (as required by the State Constitution) who are expert in the current state of affairs. If that work were to start immediately it is expected that it would be substantially complete in time for a wider Council discussion next spring on all possible district funding options, all of which will require voter or property owner approval.

If Council were to decide to proceed, the vote would be an assessment ballot, untied to the regular election cycle, but which must be concluded before the assessment roll closes in August of each year. Logistically, it would be very difficult to complete the process by August of 2011. Moreover, extensive, lengthy and effective outreach would be needed.

In researching this issue, staff has learned that voters in a comparable city recently approved the passage of a parks-related levy. In May 2010, after five years of significant community involvement and outreach, voters within the Metro Parks District Tacoma (Tacoma, Washington) approved a $58 average levy in an effort to address a growing funding shortfall for basic maintenance and operations of neighborhood parks and recreation programs.

The levy passed 68% to 32%. Tacoma has similar fiscal circumstances and relatively similar demographics to the City of Sacramento in terms of median household income, home ownership, housing values, proportion of population below the poverty line and, roughly equivalent Parks and Recreation resources. Tacoma is, however, responsible for managing and maintaining a zoo and an aquarium. Specific details are provided on Attachment 3. Tacoma is about half the size of Sacramento. The Tacoma levy generates $5.5 million annually.

The amount that could be assessed in Sacramento will depend on the result of the Engineer's Report effort, but will probably be up to $6 million or more annually. The Tacoma effort suggests that a significant assessment district for parks can be successful in these tough times. Should Council decide to proceed, the active involvement of the Parks and Recreation Commission and all interested parties is obviously critical.

An estimated schedule is provided as Attachment 4. Up to thirteen months could be available for outreach efforts if the Council were to decide to move forward by May of next year. Property owner approval will be necessary by late May of 2012 to allow time for placement on the 2012-2013 property tax roll.

The cost of an assessment vote is estimated at $200,000 including postage. This cost, as well as that for the initial Engineers's Report, would be reimbursable as an incidental expense if the district is approved.

With approval to proceed with the Engineer's Report now, staff will return to Council in the spring of 2011 with the information needed for a Council decision whether to proceed.

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Attachment 2

Permissible Park Maintenance Expenses

Permissible uses include all activities allowed under Sections 22525, 22526, 22531, and 22538 of the California Streets and Highways Code for the maintenance of existing park and recreation facilities and for incidental expenses only. Construction, acquisition, and installation are not permissible expenses unless they relate to the maintenance of existing parks and recreation facilities.

Streets and Highways Code:

22525. "Improvement" means one or any combination of the following:

(a) The installation or planting of landscaping.

(b) The installation or construction of statuary, fountains, and other ornamental structures and facilities.

(c) The installation or construction of public lighting facilities, including, but not limited to, traffic signals.

(d) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

(e) The installation of park or recreational improvements, including, but not limited to, all of the following:

(1) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.

(2) Lights, playground equipment, play courts, and public restrooms.

(f) The maintenance or servicing, or both, of any of the foregoing.

(g) The acquisition of land for park, recreational, or open-space purposes.

(h) The acquisition of any existing improvement otherwise authorized pursuant to this section.

(i) The acquisition or construction of any community center, municipal auditorium or hall, or similar public facility for the indoor presentation of performances, shows, stage productions, fairs, conventions, exhibitions, pageants, meetings, parties, or

other group events, activities, or functions, whether those events, activities, or functions are public or private.

22526. "Incidental expenses" include all of the following:

(a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment.

(b) The costs of printing, advertising, and the giving of published, posted, and mailed notices.

(c) Compensation payable to the county for collection of assessments.

(d) Compensation of any engineer or attorney employed to render services in proceedings pursuant to this part.

(e) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements.

(f) Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.

(g) Costs associated with any elections held for the approval of a new or increased assessment.

22531. "Maintain" or "maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including:

(a) Repair, removal, or replacement of all or any part of any improvement.

(b) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.

(c) The removal of trimmings, rubbish, debris, and other solid waste.

(d) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

22538. "Service" or "servicing" means the furnishing of:

(a) Electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements.

(b) Water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.

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Attachment 3

Demographic Comparison between the Cities of Sacramento and Tacoma

	Sacramento, CA	Tacoma, WA
Population (2009 estimate)	466,687	199,637
Median Household Income (2008 estimate)	$50,958	$47,088
Per Capita Income (2008 estimate)	$25,313	$25,197
Poverty Rate (2000 estimate)		
Of Population	20.0%	15.9%
Proportion of Families	15.3%	11.4%
City Area (2010)	99.2 sq. miles	62.6 sq. miles
Land Area (2010)	97.2 sq. miles	50.1 sq. miles
Water Area (2010)	2 sq. miles	12.5 sq. miles
Park Land (2008)		
Total All Types*	3,624 acres	2,722 acres
Total (excluding golf courses)	2,991 acres	2,577 acres
Neighborhood/Community Parks	1,506 acres	261 acres
Median Value of Housing Units (2008 estimate)	$291,400	$260,900
Home Ownership Rate (2000 estimate)	50.1%	54.7%

** includes golf courses, trails, and specialty facilities in both cities.*

Source for Population Data:
http://www.census.gov/popest/cities/tables/SUB-EST2009-01.csv

Source for Income Data:
www.city-data.com/city/sacramento/california.html
www.city-data.com/city/tacoma/washington.html

Source for Poverty Rate and Land Area:
http://en.wikipedia.org/wiki/Sacramento,_California
http://en.wikipedia.org/wiki/Tacoma,_Washington

Source for Park Land:
http://www.cityofsacramento.org/parksandrecreation/masterplan/index.htm
http://www.metroparkstacoma.org/page.php?id=719

Source for Median Value:
www.city-data.com/city/sacramento/california.html
www.city-data.com/city/tacoma/washington.html

Source for Home Ownership Rate:
http://quickfacts.census.gov/qfd/states/06/0664000.html
http://quickfacts.census.gov/qfd/states/53/5370000.html

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Citywide Park Maintenance District - Proposed Overlay District
Estimate Timeline of Events

2010-11

DESCRIPTION OF ITEM	Duration	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11
Develop Engineer's Report	6 months													
Education and Outreach	13 months													

2012

DESCRIPTION OF ITEM	Duration	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12
Education and Outreach	13 months								
Resolution of Intention	1 day				10th				
Balloting	49 days								
Public Hearing	1 day					29th			
Validation & Tabulation	8 weeks								
Ballot Results	1 day							7th	
If successful:									
Place on the FY2012/2013 Roll	1 day								10th

Attachment 5

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RESOLUTION NO.

Adopted by the Sacramento City Council

TRANSFER OF $83,000 FROM ADMINISTRATIVE CONTINGENCY FOR THE DEVELOPMENT OF AN ENGINEER'S REPORT FOR A POTENTIAL CITYWIDE PARKS AND RECREATION MAINTENANCE ASSESSMENT DISTRICT

BACKGROUND

A. On June 10, 2010, during discussions on the Parks and Recreation FY2010/11 proposed budget, at the request of the Parks and Recreation Commission, Council requested additional information on the feasibility and timing of an "overlay" district to the City's existing Citywide Landscaping and Lighting Assessment District for the purpose of funding an increased level of park and recreation facility maintenance.

B. To adequately address the feasibility and timing related to this issue, staff has undertaken a preliminary analysis and has obtained estimates for the detailed Engineer's Report. With input from staff, the Parks and Recreation Commission and other interested persons, this report will serve as the basis to create a complete district proposal for Council consideration.

C. Staff has secured a bid of $83,000 from a professional engineering firm qualified to produce an Engineer's Report of the type needed.

D. The qualified bidder was selected by staff from a list of professional engineering, financial, and tax consultants available through a master services agreement for such services, bid and awarded by City Council on June 26, 2007 (Agreement No. 2007-0660).

E. Funds for this effort were not included in the FY2010/11 operating budget.

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

Section 1. The City Manager's designee is authorized to transfer $83,000 from Administrative Contingency to the Consultant Services budget of Public Improvement Financing for the purpose of the development of an Engineer's Report for a potential Citywide Parks and Recreation Maintenance Assessment District.