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**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

SUBMITTAL DATE:
March 8, 2012

FROM: Economic Development Agency / Treasurer-Tax Collector /
County Auditor-Controller / County Counsel

SUBJECT: Wildomar Landscape Maintenance District 2006-1 Special Assessment Refunds

RECOMMENDED MOTION: That the Board of Supervisors:

1. Conduct a public hearing and take official notice of the Court of Appeal decision in *Beutz v. County of Riverside*, 184 Cal.App.4th 1516 (2010) judicially invalidating the special assessments levied on behalf of the Wildomar Landscape Maintenance District (Wildomar LMD);

(Continued)



 Don Kent
 Treasurer-Tax Collector



 Robert Field
 Assistant County Executive Officer/EDA



 Paul Angulo
 County Auditor-Controller




 Pamela J. Walls
 County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$5,709.18	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: EDA Departmental Funds	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: 

County Executive Office Signature Jennifer J. Sargent

FISCAL PROCEDURES APPROVED
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 BY: Samuel Wong 3/1/12
 SAMUEL WONG
 Departmental Concurrence
 DATE: 3/15/12
 FORM APPROVED COUNTY COUNSEL
 BY: Dale A. ...
 Dept't Recomm.: Consent
 Per Exec. Ofc.: Consent

RECOMMENDED MOTION: (Continued)

2. Approve each of the requests for refund of the Wildomar LMD assessment filed with the Clerk of the Board and summarized as Exhibit A based on the fact that said assessment was judicially invalidated and determined to be illegally assessed and levied;
3. Order that monies in the amounts claimed in respect of FY 2006-2007 in each verified claim and totaling \$1,437.78 be refunded and paid by warrants drawn upon the appropriate County fund by the County Auditor-Controller;
4. Order that monies in the amounts claimed in respect of FY 2007-2008 in each verified claim and totaling \$1,440.60 be refunded and paid by warrants drawn upon the appropriate County fund by the County Auditor-Controller;
5. Order that monies in the amounts claimed in respect of FY 2008-2009 in each verified claim and totaling \$1,436.40 be refunded and paid by warrants drawn by the County Auditor-Controller, upon such available funds, if any, as the City of Wildomar may have on deposit in the County Treasury, or in the event such funds are insufficient, then out of funds subsequently accruing to the City of Wildomar and on deposit in the County Treasury; and
6. Order that monies in the amounts claimed in respect of FY 2009-2010 in each verified claim and totaling \$1,394.40 be refunded and paid by warrants drawn by the County Auditor, upon such available funds, if any, as the City of Wildomar may have on deposit in the County Treasury, or in the event such funds are insufficient, then out of funds subsequently accruing to the City of Wildomar and on deposit in the County Treasury.

BACKGROUND:

In 2006, the County established the Wildomar LMD consisting of all residential properties in the community of Wildomar in order to pay the annual ongoing costs of refurbishing and maintaining landscaping in four public parks in the community. In FY 2006-2007 and FY 2007-2008, the County levied special assessments on the real property within the LMD. In 2008, the unincorporated community of Wildomar incorporated and the Wildomar LMD was transferred to the City of Wildomar. In FY 2008-2009 and FY 2009-2010 the City of Wildomar levied special assessments on the real property within the LMD.

In 2010, the Court of Appeal in *Beutz v. County of Riverside* judicially invalidated the special assessments levied in the Wildomar LMD and held that those special assessments had been illegally assessed and levied. The trial court found in favor of the County and upheld the assessments. However, while the case was pending on appeal the California Supreme Court reversed the Court of Appeals decision in *Silicon Valley Taxpayers Association v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431. The Court of Appeal then relied on *Silicon Valley* to reverse the trial court's judgment and invalidated the assessments.

(Continued)

BACKGROUND: (Continued)

The County has since received verified claims for refund of the Wildomar LMD special assessments pursuant to California Revenue and Taxation Code (Code) Section 5096 et seq. A true and correct copy of each of the verified claims is filed with the Clerk of the Board. A spreadsheet summary of the claims is attached as Exhibit A.

Section 5096 of the Code provides that any taxes and assessments paid shall be refunded if they were illegally assessed or levied. In *Beutz*, the Court concluded that the Wildomar LMD special assessments levied in each fiscal year were illegally assessed and levied.

The Code further provides that the County Board of Supervisors receive and hear claims for refunds of taxes and special assessments and, when appropriate, to order refunds of illegally assessed and levied taxes and special assessments. Pursuant to Section 5099 of the Code, the refund ordered by the Board of Supervisors is to include county taxes and assessments as well as taxes and assessments collected by county officers for a city.

In accordance with Section 5101 of the Code, refunds ordered by the Board in respect of county taxes shall be paid by warrant drawn upon the appropriate fund by the County Auditor. Refunds ordered in respect of cities may be paid by a warrant drawn by the County Auditor, upon such available funds, if any, as the city may have on deposit in the county treasury, or in the event such funds are insufficient, then out of funds subsequently accruing to the city and on deposit in the county treasury.

The refunds for the levies from FY 2006-2007 and FY 2007-2008 are to be made by warrants drawn on the appropriate County fund, because the County levied those annual assessments. The refunds for levies from FY 2008-2009 and FY 2009-2010 are to be made by warrants drawn on the funds of the City of Wildomar, because the city levied those special assessments.

Section 5101 of the Code expressly prohibits the county from using its own funds to refund taxes and assessments levied by cities. Accordingly, the county may not use its own funds to pay refunds on behalf of the City of Wildomar.

Therefore, the Board should take official notice of the Court of Appeals decision; approve the requests for refund; order that the refunds for FY 2006-2007 and FY 2007-2008 be drawn upon the appropriate county funds; and order that the refunds for FY 2008-2009 and FY 2009-2010 be drawn upon such available funds, if any, as the City of Wildomar may have on deposit in the county treasury, or in the event such funds are insufficient, then out of funds subsequently accruing to the city and on deposit in the county treasury.

EXHIBIT A

APN	Name	Address	City, State & Zip	2006	2007	2008	2009	Total Refund
362240034-8	Tseng An Ping & Hsueh Li H	PO BOX 8486	Rowland Heights, CA 91748	28.00	29.40	28.00	28.00	\$ 113.40
362610004-4	Julie Fry	31915 Rancho California Rd. Box 200-105	Temecula, CA 92591	28.00	28.00	28.00	28.00	\$ 112.00
380341036-4	Julie Fry	31915 Rancho California Rd. Box 200-105	Temecula, CA 92591	28.00	29.40	28.00	14.00	\$ 99.40
370492002-7	Suzanne Unger & Robert Hicks	20113 Albert St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
370250036-0	Jane E. Lacrosse	33541 Orchard St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
367431022-2	Julie Arellanes	34147 Walnut Creek Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366480029-4	Paul B. Woolley & Robin O. Woolley	22808 Sheffield Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
367080045-9	William B. Jones	PO BOX 652	Wildomar, CA 92595	28.40	28.00	28.00	28.00	\$ 112.40
365132035-6	Michael G. Foss	23905 Clinton Keith # 114	Wildomar, CA 92595	28.00	15.40	0.00	0.00	\$ 43.40
366503012-8	Paul Betts & Graciela Betts	22146 Country Hills Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366461001-9	Ruth Dahl	PO BOX 1535	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
365052004-1	James R. Swenson & Sarah M. Swenson	32330 Wildomar Rd	Lake Elsinore, CA 92530	28.00	28.00	28.00	28.00	\$ 112.00
380351019-0	Eric Vanvliet	36003 Lipizzan Ln	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
365112020-0	Bruce A. Parrish	32781 Wildomar Rd	Lake Elsinore, CA 92530	0.00	14.00	29.40	14.00	\$ 57.40
366041001-1	Elaine Brooks	249 E. Graham Ave # 3	Wildomar, CA 92595	28.00	29.40	28.00	28.00	\$ 113.40
367393010-4	Alfred Contreras Jr.	34567 Almond St	Wildomar, CA 92595	28.40	28.00	28.00	28.00	\$ 112.40
376211020-6	Bradley T. Wilhelm	2461 Urrard St	Henderson, NV 89044	28.00	28.00	28.00	28.00	\$ 112.00
367412003-6	Andres Pedroza Rivera	34815 Jennifer Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
367472019-7	Patricia A. Stevens	22805 Windwood Ln	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376242016-9	Clyde French & Maevean French	35266 Gatu Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376070008-1	Lyle W. Parker	22414 Black Beauty Tr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
380191017-4	Donald Lopez	32086 White Spruce Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376113013-7	George Cambero	21584 Grand Ave	Wildomar, CA 92595	30.80	30.80	30.80	29.40	\$ 121.80
376121016-5	Kathleen Bingham	21590 Dunn St	Wildomar, CA 92595	28.40	28.00	28.00	29.40	\$ 113.80
370250002-9	Julia Arbaugh	20433 Guffy Ln	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376032015-9	Peter W. Freeman	21480 Dunn St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376022003-7	Peter W. Freeman	21480 Dunn St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
367450010-0	Scott Turner	6875 Birchwood St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376252030-2	Miguel Huerto & Rogelia Huerto	22876 Temet St	San Diego, CA 92120	28.00	28.00	28.00	28.00	\$ 112.00
376241002-3	Martineau Belgarde Jr.	35279 Pashal Pl	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376401023-6	Michael Anderson	23176 Cannery Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366182041-3	Paula M. Ribauda	322 S. Crest Rd	Orange, CA 92668	28.00	28.00	28.00	28.00	\$ 112.00
367231019-2	Sherry D. Byrne	22166 Amado Ln	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
370491009-1	Randall Giles	32545 Buckhorn Rd	Wildomar, CA 92595	29.38	30.80	30.80	30.80	\$ 121.78
366240077-5	John Wilby Yates & Pamela Diane Yates	33393 Gafford Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366240078-6	John Wilby Yates & Pamela Diane Yates	33393 Gafford Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376232006-9	Nicholas Guerrero Jr. & Erlinda Guerrero	PO BOX 1357	San Marcos, CA 92079	28.00	28.00	28.00	28.00	\$ 112.00
366380010-7	Larry Vanderpool	21677 Wagon Rim Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
380322029-9	Thomas E. Irvine	21817 Poinsettia Ln	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366170032-8	Raymond Huddleston	33595 Valencia St	Wildomar, CA 92595	28.40	28.00	28.00	28.00	\$ 112.40
376121002-2	Ernesto Solis	32772 Central Ave	Wildomar, CA 92595	28.40	28.00	28.00	28.00	\$ 112.40
376420015-8	Dana Prochnow	35341 Chloe Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
362590013-1	Arnold X. Schleuniger	35356 Meadow Park Cir	Wildomar, CA 92595	28.40	28.00	28.00	28.00	\$ 112.40
362512037-1	Frank R. Vallejo Jr. & Jerry Vallejo	24111 Rosita Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366401011-2	Christine Wolter	33691 Cherry St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00

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380021001-3	Jeffery C. Morabito	13278 Via Santillana	San Diego, Ca 92129	28.00	28.00	28.00	28.00	28.00	28.00	112.00
362511005-9	Tonya Ziegler	35181 El Diamante Dr	Wildomar, CA 92595	30.80	29.40	29.40	29.40	29.40	29.40	119.00
376282008-6	Colette M. Hernandez & William B. Hernandez	PO BOX 1611	Wildomar, CA 92595	28.00	28.00	28.00	28.00	28.00	28.00	112.00
370340019-3	Ronnie Boulton	32175 Beecher St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	28.00	28.00	112.00
362522027-3	George R. Deal & Judith G. Deal	24136 Safiro Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	28.00	28.00	112.00
376211019-6	Robert Green Jr	35077 Pashal Pl	Wildomar, CA 92595	28.00	28.00	28.00	28.00	29.40	29.40	113.40
376114024-0	Douglas Loyd & Wendy Sanford Loyd	21752 Grand Ave	Wildomar, CA 92595	28.40	28.00	28.00	28.00	14.00	14.00	98.40
				1,437.78	1,440.60	1,436.40	1,394.40	\$ 5,709.18		