

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

302 A



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

SUBMITTAL DATE:
April 22, 2014

SUBJECT: Wildomar Landscape Maintenance District 2006-1 Special Assessment Refunds, District 1, [\$1,453], EDA Departmental Funds

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 assessment 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 Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 1,453	\$ 0	\$ 1,453	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: EDA Departmental Funds

Budget Adjustment: No
For Fiscal Year: 2013/14

C.E.O. RECOMMENDATION:

APPROVE

BY:
Rohini Dasika

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

FORM APPROVED COUNTY COUNSEL
BY: DALE A. GARDNER
DATE: 4/22/14
Departmental Concurrence

- Positions Added
- Change Order
- A-30
- 4/5 Vote

Prev. Agn. Ref.: 99 of 11/22/11, 97 of 4/10/12, 93 of 6/26/12, 911 of 10/2/12, 9-2 of 9/10/13, 91 of 11/5/13, 9-1 of 1/15/14

District: 1/1

Agenda Number:

9-1

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 \$225.38 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 \$452.20 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 \$366.80 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 \$408.80 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.

BACKGROUND:

Summary

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)

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

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

FORM 11: Wildomar Landscape Maintenance District 2006-1 Special Assessment Refunds, District 1, [\$1,453], EDA Departmental Funds

DATE: April 22, 2014

Page 3 of 3

BACKGROUND:

Summary (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.

Impact on Residents and Businesses

If approved residents will be receiving a refund based on the Court of Appeal decision in *Beutz v. County of Riverside*, 184 Cal.App.4th 1516 (2010) judicially invalidating the special assessment levied on behalf of the Wildomar Landscape Maintenance District (Wildomar LMD).

APN	Name	Address	City, State & Zip	2006-1st	2006-2nd	2007-1st	2007-2nd	2008-1st	2008-2nd	2009-1st	2009-2nd	Total
380322028-8	Chase	PO Box 961227	Fl. Worth, TX 76161									\$ 28.00
380322028-8	Chase	PO Box 961227	Fl. Worth, TX 76161				28.00					\$ 28.00
367460015-6	Chase	PO Box 961227	Fl. Worth, TX 76161				28.00					\$ 28.00
376294001-6	Chase	PO Box 961227	Fl. Worth, TX 76161				30.80					\$ 30.80
366210020-0	Chase Home Finance LLC	PO Box 961227	Fl. Worth, TX 76161				28.00					\$ 28.00
366190018-8	Chase Home Finance LLC	PO Box 961227	Fl. Worth, TX 76161				28.00					\$ 28.00
380322028-8	Chase	PO Box 961227	Fl. Worth, TX 76161				28.00					\$ 28.00
366041049-5	Flagstar Bank	PO Box 961232	Fl. Worth, TX 76161				28.00					\$ 28.00
368220039-3	Flagstar Bank	PO Box 961232	Fl. Worth, TX 76161				14.00					\$ 14.00
368170034-4	Martha A. Rodriguez	29021 Thornhill Dr	Sun City, CA 92586		28.00		28.00		28.00			\$ 112.00
376340023-8	Ronald P. Grummett	23585 Baxter Rd	Wildomar, CA 92595		28.00		28.00		28.00			\$ 84.00
376340024-9	Ronald P. Grummett	23585 Baxter Rd	Wildomar, CA 92595		28.00		28.00		28.00			\$ 84.00
376340024-9	Ronald P. Grummett	23585 Baxter Rd	Wildomar, CA 92595		28.00		28.00		28.00			\$ 84.00
376330013-8	Phyllis Werner	35676 Aster Dr	Wildomar, CA 92595						30.80			\$ 30.80
368070020-2	Progressive Title Company INC	425 W. Broadway #300	Glendale, CA 91204			14.00				14.00		\$ 14.00
366402001-6	Equity Title Company	425 W. Broadway #300	Glendale, CA 91204									\$ 14.00
376330013-8	Phyllis Werner	35676 Aster Dr	Wildomar, CA 92595		29.38							\$ 29.38
376330013-8	Phyllis Werner	35676 Aster Dr	Wildomar, CA 92595				29.40		30.80			\$ 30.80
376330013-8	Phyllis Werner	35676 Aster Dr	Wildomar, CA 92595				29.40					\$ 29.40
367050053-3	Jerome Reynolds & Marie Reynolds	34361 Sunrise Dr	Wildomar, CA 92595				28.00		28.00			\$ 84.00
366423014-3	Jose Raut Guillén	33556 Breckenridge Tr	Wildomar, CA 92595				28.00		28.00			\$ 84.00
370230004-9	Adelita Flores	18211 Grand Ave	Lake Elsinore, CA 92530							14.00		\$ 14.00
370230004-9	Adelita Flores	20251 Grand Ave	Wildomar, CA 92595									\$ 14.00
368100026-0	William J. Fermoile	20890 Grand Ave	Wildomar, CA 92595		28.00		28.00		28.00			\$ 112.00
376302016-4	Sharon R. Pendleton	22903 Naki Cir	Wildomar, CA 92595				28.00		28.00			\$ 28.00
366032008-0	David R. Telles & Danella Telles	21202 Lewis St	Wildomar, CA 92595				28.00		28.00			\$ 112.00
376131004-5	Arlene Pearl Hanna	6337 Carl Ave	Las Vegas, NV 89107				28.00		28.00			\$ 112.00
362180007-9	Anthony Van Loon	25343 Loring Rd	Wildomar, CA 92595				28.00		28.00			\$ 112.00
366501017-7	Diego Hernandez	22001 Blondon Ct	Wildomar, CA 92595				28.00		28.00			\$ 28.00
368210010-5	Sharon R. Gober	32820 Bryant St	Wildomar, CA 92595				28.00		28.00			\$ 112.00
				\$0.00	\$225.38	\$14.00	\$438.20	\$0.00	\$366.80	\$28.00	\$380.80	\$ 1,453.18
				\$225.38			\$452.20		\$366.80		\$408.80	<u>\$ 1,453.18</u>