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



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

SUBMITTAL DATE:
June 14, 2012

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:	\$1,573.60	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 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 L. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone and Ashley
Nays: None
Absent: Tavaglione and Benoit
Date: June 26, 2012
xc: EDA, Treasurer, Auditor, Co.Co.

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

FISCAL PROCEDURES APPROVED
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 BY: DATE: 6/17/12
 SAMUEL WONG
 Departmental Concurrence

FORM APPROVED COUNTY COUNSEL
 BY: DATE: 6/17/12
 DALE A. GARDNER

Policy
 Consent
 Policy
 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 \$394.80 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 \$393.40 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 \$393.40 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 \$392.00 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
367432013-7	Benita B. Valle	34041 Parkside Ct	Wildomar, CA 92595	30.80	29.40	28.00	28.00	\$ 116.20
376053019-8	Forrest B. Bellamy	32627 Central St	Wildomar, CA 92595	28.00	28.00	29.40	28.00	\$ 113.40
366390010-8	Christine Taylor	21853 Silver Run Cir	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
362522003-1	David J. Dunncliffe	35267 Portola Pl	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
362582023-5	Christopher S. Andrews & Cynthia J. Andrews & Sang Hi Warner	24839 River Oak Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366463022-4	Juan T. Juan & Felicitas E. Juan	22396 Shoreview Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
365102007-8	Fernando Perez De La Pena & Emma Perez De La Pena	32579 Wildomar Rd	Lake Elsinore, CA 92530	28.00	28.00	28.00	28.00	\$ 112.00
368240017-5	Paul Stillie	Po Box 1339	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366091029-2	Donald J. House	PO Box 849	Lake Elsinore, CA 92531	28.00	28.00	28.00	28.00	\$ 112.00
365123002-8	John Burkett	32721 Mesa Dr	Lake Elsinore, CA 92530	28.00	28.00	28.00	28.00	\$ 112.00
366130021-4	William P. Ferree & Vivian L. Ferree	21179 Lemon St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
362570039-3	Steven Beutz	32877 Bonita Mesa St	Temecula, CA 92592	28.00	28.00	28.00	28.00	\$ 112.00
376272013-9	Martha L. Bridges	35465 Woshka Ln	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376202012-1	Barbara Duran	22638 Cervera Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
				\$ 394.80	\$ 393.40	\$ 393.40	\$ 392.00	\$ <u>1,573.60</u>