



Agenda Item OK

# AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING  
Meeting Date: July 7, 2015

**Approvals:**

City Manager [Signature]  
Dept. Head [Signature]  
Attorney [Signature]  
Finance [Signature]

**Department:** Finance & Administrative Services  
**Prepared By:** Thomas Rendina, Business Services Officer

**Subject:** ***PROPOSED TAX LIENS – 2014 WEED ABATEMENT AND 2013 AND 2014 STORM DRAIN/CLEAN OCEAN CHARGES.***

**Fiscal Impact:** Yes. The City should receive the remaining \$10,421 as prior year weed abatement revenue from fiscal year 2014 and \$20,524 of Storm Drain and Clean Ocean fees from fiscal year 2013, 2014 and 2015.

**Summary:** Each July the Finance Division prepares a list of unpaid Weed Abatement and Storm Drain/Clean Ocean invoices. Those lists are presented to City Council for approval to add as assessments to the Orange County Tax rolls. Since these charges are eligible to add as special assessments to the tax roll, staff believes this process represents an efficient method of collection of the outstanding amounts due.

**Background:** The City's Code Enforcement Division oversees the annual Weed Abatement Program to mitigate the fire hazard of weeds and debris on vacant and unoccupied structured parcels in San Clemente. Once cleared, property owners are billed for the abatement costs. Finance processes invoice payments for the Weed Abatement Program and, once per year, converts any remaining unpaid invoices to tax liens and submits to the Orange County Tax Assessor for collection.

Unpaid Storm Drain and Clean Ocean Fees, which are overseen by Utility Billing, are also included in this tax lien process on an annual basis.

**Discussion:** **2014 Weed Abatement**  
On October 21, 2014, City Council held a public hearing and approved a motion to confirm the Weed Abatement report for 2014 and directing Stewart & Associates, the weed abatement contractor, to bill all parcel owners of lots that were cleared for the 2014 weed abatement process. \$10,421 currently remains unpaid for the 2014 abatement billings. The prior year (2013) unpaid weed abatement billings totaled \$19,984 and the five year average equals \$13,160. Staff is requesting City Council authorization to attach the amount of each unpaid bill as a special assessment (lien) against the corresponding property through the Orange County Auditor-Controller. A listing of the 2014 unpaid weed abatement charges, by parcel number, is attached to this report (Exhibit "A").

### **Storm Drain/Clean Ocean Charges**

Storm Drain and Clean Ocean Fees are billed to property owners within the City of San Clemente to develop and maintain the City's Storm Drain system and Clean Ocean initiatives. Property owners with Water and Sewer accounts are billed on a monthly basis while property owners who do not utilize the City's Water and Sewer system are billed semi-annually in January and July of each year for the previous six-month period. 4,630 accounts are billed on a semi-annual basis. 98 of those accounts have delinquent balances totaling \$20,524.18. Collection calls and reminder notices have proved to be ineffective methods of collection. Collection agencies charge 40% of the balance as a collection fee, making this form of collection, if successful, significantly more expensive than property tax liens.

California Health & Safety Code 5473 grants power to City Council to have these delinquent charges collected on the tax roll by a resolution approved by 2/3 of the Council members. Staff is requesting City Council authorization to attach the amount of each unpaid bill as a special assessment (lien) against the corresponding property through the Orange County Auditor-Controller. A listing of the unpaid Storm Drain and Clean Ocean invoices, by parcel number, is attached to this report, (Exhibit "A").

The County of Orange requires assessment submissions for the 2015-16 tax rolls be submitted on or before August 10, 2014. Staff typically presents the request for Council approval as close to the County's cutoff date as possible to allow property owners the maximum amount of time to pay the outstanding invoices prior to filing tax liens. Additionally, the County modified its submittal process this year and now requires the execution of an Agreement between the City and the County for the placement of direct charges (special assessments) on the County's property tax roll. That Agreement (Attachment #5) has been added to this report to comply with the County's filing requirements.

### **Recommended**

**Action:** STAFF RECOMMENDS THAT the City Council:

1. Adopt the attached Resolution No \_\_\_\_\_ entitled, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REQUESTING THE ORANGE COUNTY AUDITOR-CONTROLLER TO ADD UNPAID 2014 WEED ABATEMENT ASSESSMENTS TO THE FY 2015-16 TAX ROLLS, and
2. Adopt the attached Resolution No \_\_\_\_\_ entitled, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REQUESTING THE ORANGE COUNTY AUDITOR-CONTROLLER TO ADD DELINQUENT STORM DRAIN AND CLEAN OCEAN FEES TO THE FY 2015-16 TAX ROLLS, and
3. Approve and authorize the Mayor to execute the AGREEMENT FOR COLLECTION OF SPECIAL TAXES, FEES, CHARGES AND ASSESSMENTS by and between the City of San Clemente and the County of Orange, and
4. Direct the City Clerk to file the Agreement and resolutions with the Orange County Auditor-Controller, thereby placing a lien on the affected properties in order to collect revenue owed to the City.

- Attachments:**
1. Attachment 1: Resolution No\_\_\_\_\_ authorizing property tax liens for unpaid 2014 weed abatement
  2. Attachment 2: Exhibit "A": Listing of all parcel numbers and amounts outstanding for 2014 weed abatement.
  3. Attachment 3: Resolution No\_\_\_\_\_ authorizing property tax liens for unpaid 2013, 2014, and 2015 Storm Drain and Clean Ocean fees
  4. Attachment 4: Exhibit "A": Listing of all parcel numbers and amounts outstanding for delinquent Storm Drain and Clean Ocean fees.
  5. Attachment 5: AGREEMENT FOR COLLECTION OF SPECIAL TAXES, FEES, CHARGES AND ASSESSMENTS

**Notification:** None.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REQUESTING THE ORANGE COUNTY AUDITOR-CONTROLLER TO ADD UNPAID 2014 WEED ABATEMENT ASSESSMENTS TO THE FY 2015-16 TAX ROLLS.

WHEREAS, pursuant to Government Code Section 39500, et seq., the City of San Clemente has performed work in abating weeds, trash and debris on private property within the City; and

WHEREAS, the owners of those properties listed on Exhibit "A", (attached hereto) have been billed for the costs of performing these services but have not remitted payment to the City; and

WHEREAS, the City desires the County Auditor-Controller to levy the outstanding amounts against the parcels listed as described in Exhibit "A", pursuant to the authority provided in Government Code Section 39577.

NOW, THEREFORE, The City Council of the City of San Clemente does hereby resolve as follows:

Section 1. The City Council hereby requests the Orange County Auditor-Controller to add the amount of the assessments indicated in Exhibit "A", to the tax rolls levied against the corresponding properties.

Section 2. The City Clerk of the City of San Clemente is hereby directed to file this resolution with the Orange County Auditor-Controller.

Section 3. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of  
San Clemente, California

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) §  
CITY OF SAN CLEMENTE )

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. \_\_\_\_\_ was adopted at a regular meeting of the City Council of the City of San Clemente held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

\_\_\_\_\_  
City Attorney

**Exhibit "A"**  
**2014 Unpaid Weed Abatement Invoices**

057-033-01	315.00
057-033-46	410.00
057-162-15	480.00
057-162-17	480.00
058-073-40	430.00
058-073-14	430.00
058-083-44	405.00
058-104-03	500.00
058-113-64	530.00
680-301-09	1100.00
680-531-01	800.00
690-081-05	470.00
691-041-20	1130.00
691-425-01	86.23
691-425-02	86.23
692-425-03	86.23
692-425-04	86.23
692-425-05	86.23
692-425-06	86.23
692-425-07	86.23
692-425-08	86.23
692-425-09	86.23
692-121-29	405.00
692-131-06	480.00
692-242-21	430.00
692-252-01	850.00

**10,421.07**

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REQUESTING THE ORANGE COUNTY AUDITOR-CONTROLLER TO ADD DELINQUENT STORM DRAIN AND CLEAN OCEAN FEES TO THE FY 2015-16 TAX ROLLS

WHEREAS, pursuant to California Health & Safety Code Section 5471, *et seq.*, the City of San Clemente (“City”) has adopted ordinances adopting a Storm Drainage Fee (Ordinance No. 1120; Municipal Code Chapter 13.32) and a Clean Ocean Fee (Ordinance No. 1273; Municipal Code Chapter 13.34); and

WHEREAS, the owners of those properties listed on Exhibit “A” (attached hereto) have been billed for one or both such fees during the 2013, 2014 and 2015 fiscal years but, as stated on Exhibit “A,” have not remitted payment to the City and such amount is now delinquent; and

WHEREAS, pursuant to California Health & Safety Code Sections 5473 and 5473.1, the City has caused a written report (the “Report”) to be prepared for fiscal years 2013, 2014, and 2015 that contains a description of each parcel of real property receiving services that is delinquent in paying the Storm Drainage Fee and/or the Clean Ocean Fee and the amount of each said delinquency, and a copy of said report has been filed with the City Clerk; and

WHEREAS, pursuant to California Health & Safety Code Section 5473.1, the City Clerk has caused notice of the filing of said Report and of the time and place of a hearing to be published in a newspaper of general circulation; and

WHEREAS, the City Council held a duly noticed public meeting to confirm the Report and direct the Orange County Auditor-Controller to add the delinquent fees to the 2015-2016 Property Tax Bills for those properties to which the delinquent fees apply on July 7, 2015, at which time the City Council considered the aforementioned Report, the evidence and information presented by City staff and members of the public, and all objections and protests of persons delinquent in paying the Storm Drainage Fee and/or the Clean Ocean Fee, as reflected in the Report; and

WHEREAS, the City Council has determined that protests have not been filed to the Report by the owners of a majority of separate parcels of property as described in the Report.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby resolve as follows:

Section 1. The City Council overrules any and all objections to the Report and approves and adopts the Report.

Section 2. On or before August 10, 2015, the City Clerk is hereby directed to file the Report with the Orange County Auditor-Controller, together with a statement endorsed by the City Clerk on the report over her signature that the Report has been finally adopted by the City Council and requesting that the Auditor-Controller enter the amounts of the charges shown on Exhibit "A" against the respective lots or parcels of land as they appear on the current assessment roll.

Section 3. The City Clerk is hereby directed to file this resolution with the Orange County Auditor-Controller and hereby requests the Orange County Auditor-Controller to add the amount of the assessments indicated in Exhibit "A", to the tax rolls levied against the corresponding properties.

Section 4. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of  
San Clemente, California



STATE OF CALIFORNIA     )  
COUNTY OF ORANGE     ) §  
CITY OF SAN CLEMENTE    )

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. \_\_\_\_\_ was adopted at a regular meeting of the City Council of the City of San Clemente held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

\_\_\_\_\_  
City Attorney

**Attachment "A"**  
**2013, 2014 and 2015 Delinquent**  
**Storm Drain/Clean Ocean Fees**

057-162-54	235.02
058-051-35	240.94
060-092-15	214.62
690-422-03	111.68
690-422-04	111.68
691-092-23	235.02
691-092-55	235.02
691-092-59	199.74
691-097-04	118.59
691-097-60	235.02
691-098-04	235.02
691-131-15	258.93
691-132-06	220.65
691-132-23	132.60
691-132-31	132.60
691-133-33	174.71
691-134-36	140.26
691-134-54	178.54
691-135-89	240.94
692-071-05	115.67
692-363-08	245.34
701-054-03	148.21
701-054-09	148.21
701-055-38	148.21
701-055-47	293.74
701-055-69	196.72
701-056-01	130.54
701-056-11	245.23
701-061-15	293.74
701-061-37	148.21
701-071-02	123.96
701-071-18	293.74
701-071-40	196.72
701-081-02	196.72
701-091-12	148.21
701-091-45	293.74
701-091-47	196.72
701-101-51	293.74

701-111-34	245.23
701-121-30	245.23
701-151-19	293.74
701-192-07	196.72
701-192-35	254.05
701-193-03	235.02
701-201-01	293.74
701-201-12	196.72
701-211-43	293.74
701-223-33	293.74
701-231-01	166.16
701-243-07	293.74
701-244-07	293.74
701-244-42	293.74
701-244-82	201.13
701-352-36	271.87
701-353-12	252.66
701-362-19	196.72
701-363-29	293.74
701-382-43	196.72
701-383-37	249.64
701-392-28	196.72
701-401-37	245.23
701-401-38	148.21
701-411-23	196.72
708-011-04	196.72
708-033-26	293.74
708-035-05	196.72
708-063-45	196.72
708-072-56	192.31
708-082-15	293.74
708-093-11	293.74
708-124-26	196.72
930-024-21	138.75
930-024-52	118.59
930-024-88	160.93
930-025-06	122.12
930-026-03	118.59
930-026-50	273.83
930-026-91	196.21
930-027-11	153.55
930-027-26	114.71
933-041-52	235.02
933-731-87	118.59
933-732-29	277.36
933-733-69	273.83
934-150-42	132.60

934-150-57	178.54
934-150-82	132.60
708-034-11	138.45
708-034-20	148.21
708-034-55	201.13
708-035-23	245.23
708-052-47	293.74
708-063-53	293.74
708-072-45	148.67
708-073-17	245.23
708-111-03	209.59
933-041-48	205.32
933-041-63	235.02

20,524.18

**AGREEMENT FOR COLLECTION OF SPECIAL  
TAXES, FEES, CHARGES AND ASSESSMENTS**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "County" and the City of San Clemente, hereinafter referred to as "District".

**RECITALS**

The following recitals are a substantive part of this Agreement:

WHEREAS, the parties desire to enter into an agreement whereby taxes and special assessments for the District will be collected by the County at the same time and in the same manner as County taxes are collected and the District will pay to the County the fees for collection hereinafter set forth; and

WHEREAS, Section 29142 of the Government Code provides that when taxes or assessments are collected by a county for any special district, or zone, or improvement district thereof, excluding a school district, the board of supervisors may provide for a collection fee for such services; and

WHEREAS, Section 29304 of the Government Code provides that whenever any special assessment or special assessment taxes are levied upon land or real property by any city, county, district or other public corporation, and the same are to be collected by a County, there shall be added to the amount of the special assessment or special assessment tax an amount fixed by agreement between the county and city, district, public corporation, officer, or body for each special assessment or special assessment tax to be collected; and

WHEREAS, Section 51800 of the Government Code provides for the County to collect special assessments on County property tax rolls for cities and districts located in the County, and to enter into an agreement regarding the amount of compensation to be paid to the County for the collection of such assessments; and

WHEREAS, when requested by District, it is in the public interest that the County collect on the County tax rolls the special taxes, fees, and assessments for District.

NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

**AGREEMENT**

1. Collection Services. County agrees, when requested by District as hereinafter provided, or as required by law, to collect on the County tax rolls the special taxes, fees, and assessments of District, and of each zone or improvement District thereof.

2. Transmission of Information. When County is to collect District's special taxes and assessments, District agrees to notify the Orange County Auditor-Controller of the Assessor's parcel

numbers and the amount of each special tax, fee, or assessment to County, and including, but not limited to, any act of omission or assessment to be so collected.

3. Certification by the District. The District shall certify to the Orange County Auditor-Controller the fixed charge special assessments in a dollar amount to be applied on each parcel of real property which parcel shall be designated by the assessment (i.e., parcel) number shown on the County Secured Assessment Roll for the year in which the assessment is to be collected..

4. Verification by District. It shall be the obligation of the District prior to the time of delivery to the Orange County Auditor-Controller of the fixed charge special assessment roll to check the County Secured Assessment Roll after it is filed by the Orange County Assessor with the Orange County Auditor-Controller to verify that the parcel numbers on the assessment roll for fixed charge special assessments certified by the District correspond with the assessment (i.e., parcel) numbers shown on the County Secured Assessment Roll. Any changes in special assessment data previously certified to the Orange County Auditor-Controller by the District, which changes occur as a result of such verification, shall be certified by the District to the Orange County Auditor-Controller .

5. Collection Fee. County will charge the sum of 0.30 percent (0.30%) of the original value for each special tax, fee, or assessment that is to be collected on the County tax rolls by the County for the District.

6. Charge for Revision of Assessment. After the roll has been delivered by the Orange County Auditor-Controller to the Orange County Tax Collector the County will charge the District for each fixed charge special assessment changed or deleted. Said charge shall be \$15.00 for each assessment or parcel number placed on the County Secured Assessment Roll. Payment shall be submitted to the Orange County Auditor-Controller with the request for the change or deletion.

7. Modification of Collection Fees and Charges. The County reserves the right to increase or decrease any charges herein provided in proportion to any changes in costs incurred by the County in providing the services described herein, provided that written notice of any increase or decrease in charges shall be given by the County to the District on or before May 15 of any year during the term of the Agreement.

8. Authority for Levy and Compliance with Law. District warrants that the taxes, fees, or assessments imposed by District and collected pursuant to this Agreement comply with all requirements of state law, including but not limited to Article XIIC and XIID of the California Constitution (Proposition 218).

9. Release. District hereby releases and forever discharges County and its officers, agents and employees from any and all claims, demands, liabilities, costs and expenses, damages, causes of action, and judgments, in any manner arising out of District's responsibility under this agreement, or other action taken by District in establishing a special tax, fee, or assessment and implementing collection of special taxes or assessments as contemplated in this agreement, including but not limited, any required remedial action in the case of delinquencies in such assessment payments or the issuance, sale, or administration of any bonds issued in connection with the District's program.

10. Indemnification. District agrees to and shall defend, indemnify and save harmless County and its officers, agents and employees (“indemnified parties”) from any and all claims, demands, liabilities, costs and expenses, damages, causes of action, and judgments, in any manner arising out of any of District’s responsibility under this agreement, or other action taken by District in establishing a special tax, fee, or assessment and implementing collection of special taxes, fees, or assessment as contemplated in this agreement, including but not limited, any required remedial action in the case of delinquencies in such assessment payments or the issuance, sale, or administration of any bonds issued in connection with the District’s program.

11. Cooperation. District agrees that its officers, agents and employees will cooperate with County by answering inquiries made to District by any person concerning District’s special tax, fee, or assessment, and District agrees that its officers, agents and employees will not refer such individuals making inquiries to County officers or employees for response.

12. Assignment. District shall not assign or transfer this agreement or any interest herein and any such assignment or transfer or attempted assignment or transfer of this agreement or any interest herein by District shall be void and shall immediately and automatically terminate this agreement.

13. Term of Agreement. All existing agreements between the County and District pertaining to collection of taxes and special assessments by the County for the District shall be terminated upon the execution of this Agreement. This Agreement shall continue from year to year and shall be subject to cancellation by either party by giving written notice to the other party of cancellation prior to July 1st of the preceding fiscal year.

14. Waiver. County or District’s waiver of breach of any one term, covenant, or other provision of this agreement, is not a waiver of breach of any other term, nor subsequent breach of the term or provision waived.

**IN WITNESS WHEREOF**, the Parties hereto have signed this Agreement as of the day and year first above written.

**City of San Clemente, DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**COUNTY OF ORANGE**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
\_\_\_\_\_, Counsel to District

By: \_\_\_\_\_  
\_\_\_\_\_, Deputy County Counsel