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To: Susan Stanton, City of Greenfield  
From: Kristin Harvey, NBS

## **RE: Feasibility Analysis**

The City of Greenfield (the “City”) requested a feasibility analysis and guidance to determine the most appropriate funding option to provide long-term, sustainable funding of fire protection and emergency medical services. These services are currently provided by the Greenfield Fire Protection District (the “District”) and the City is considering all possible funding options in order to take over the responsibility of providing these services from the District. The purpose of this feasibility analysis is to determine the most appropriate revenue option and assist the City with its goal of providing uninterrupted fire protection and emergency medical services to all residents and businesses within the City.

### **Funding Mechanisms**

NBS considered two types of revenue sources for the City: a special assessment and a special tax. A summary of the special assessment and the three special tax options are presented in Attachment A of this analysis.

#### **Special Assessment:**

A special assessment is a charge levied on property for the benefit received from the service or capital improvement and is subject to a majority protest ballot process. Special assessments are created pursuant to Article XIID of the California Constitution and require a finding of special benefit. Article XIID of the California Constitution defines special benefit as “...a particular and distinct benefit over and above general benefits conferred on real property...” Any general benefit to the public at large must be separated, quantified, and funded by a separate source.

Recent court cases have led to the finding that fire protection services provide a significant general benefit to the community as a whole. The City would have to assume the burden of justifying that a special assessment for fire protection services satisfies the special benefit and proportionality requirements of Article XIID of the California Constitution. This means that the establishment of a special assessment for fire protection services is susceptible to legal challenge. Even though the separation of special and general benefit could be made, the quantified general benefit resulting from fire protection services cannot be assessed to property owners. Therefore, the annual amount attributable to general benefit must be funded from other revenue sources.

In addition, emergency medical services are not “property-based” and not assessable under this option. Therefore, a special assessment is not a recommended revenue option for the City to fund the annual fire protection services, and it cannot be used for emergency medical services.

The City's other revenue option contemplated by NBS is a special tax. A special tax is a charge levied on parcels for a specific purpose, which is calculated via a special tax formula and requires a 2/3 approval of the voters voting in the election. A special tax can be created pursuant to Article XIII C of the California Constitution and there are various types of special taxes authorized in the California Government Code.

For a general review and discussion of these revenue sources, as well as several other sources, please refer to the primer titled "Special Financing Districts, An introduction to Special Assessment and Special Taxes" by Tim Seufert of NBS.

The remainder of this analysis will focus on three different categories of special taxes; a community facilities district, a parcel tax, and a fire tax.

**Community Facilities District:**

A Community Facilities District ("CFD") is formed pursuant to the Mello-Roos Community Facilities Act of 1982 ("CFD Act"), commencing with Section 53311 of the California Government Code. A detailed explanation of a CFD can be found in Attachment B.

The following is a summary of the points considered to determine if a CFD is a viable option if the City.

A CFD special tax may fund fire protection and suppression services, as well as ambulance and paramedic services. However, it should be noted that the CFD special tax may only fund additional services which do not replace services already available, and funded, within the CFD boundaries. If the City assumes the responsibility of providing the services which are currently provided by the District, then it is recommended that the City consult with legal counsel to confirm a finding that the services provided by the City are not supplanting the services provided by the District.

The requirements to form a CFD include the recordation of a notice of special tax lien and a boundary map, which identifies all parcels of land subject to the special tax. The recordation and requirement of both items is pursuant to California Streets & Highways code commencing with Section 3100.

The boundaries of a CFD are not required to be contiguous, therefore, there is flexibility in defining the geographic area to be included within the boundaries of a CFD. In addition, a local agency can levy a special tax outside of their jurisdiction if there is a joint agreement with the other local agency(ies).

The successful establishment of a CFD requires approval of 2/3 of the registered voters voting in the election. Each voter has one vote regardless of their weighted share of the proposed CFD special tax levy. The election may take place at least 90 days, but not more than 180 days, following the adoption of the resolution of formation and may take place at any general or special election scheduled by the Monterey County Elections Department or via special mailed ballot election.

**Parcel Tax:**

A special tax created pursuant to California Government Code Section 50075 is also referred to as a "Parcel Tax." The City may create a special tax which does not exceed the reasonable cost of providing the service to be levied against all taxable property within the City.

A special tax may be levied to pay for any legitimate government purpose therefore this is a viable option for funding fire protection and emergency medical services.

There is flexibility in the formula used to levy a special tax and property owned by a public entity is generally exempt.

The successful creation of a special tax requires the approval of 2/3 of the registered voters voting in the election. Each registered voter has one vote regardless of their weighted share of the proposed special tax levy. The election date is set by the ordinance or resolution approved by the legislative body to adopt the special tax and may take place at any general or special election scheduled by the Monterey County Elections Department or via special mailed ballot election.

For more details of a special tax, please refer to Attachment C.

### **Fire Tax:**

Another special tax, to fund specific services related to fire, which is commonly referred to as a “Fire Tax,” may be created pursuant to California Government Code commencing with Section 53970, with Section 53978 setting forth specific formation guidelines. This special tax may only be adopted by the City for fire protection and prevention services and does not include emergency medical services, unless within San Bernardino County. The use of a Fire Tax by the City would require an additional financing mechanism to fund emergency medical services, therefore, a Fire Tax is not a viable or efficient option for the City to provide funding for both fire protection and emergency medical services.

Additional information on a fire tax may be found in Attachment D.

### **Recommendation**

Based on the fire protection and emergency medical services to be funded, the implementation procedures, and the requirements of benefit determination for each funding mechanisms, a Special Tax (pursuant to California Government Code Section 50075) provides the best funding solution for the City.

As previously described, a special tax may be levied to pay for any legitimate government purposes which permits the funding of fire protection and emergency medical services, as desired by the City. Creating a special tax eliminates the requirement to determine and quantify special benefit under the special assessment model. This is important to the City as fire protection services provide a significant general benefit to the community as a whole.

The implementation procedures for a special tax are not as cumbersome as a CFD, while providing similar flexibility in setting the tax rate. While the formation of a CFD is a viable option, it requires more time, cost, and consulting services than the creation of a special tax. In addition, a CFD will likely require a consultant to assist with the annual administration procedures. Therefore, the most efficient and viable option for the City is to create a Special Tax (pursuant to California Government Code Section 50075).

### **Relevant Issues**

The District’s jurisdiction includes not only the land within the City, but land in the unincorporated area surrounding the City. As such, constituents of the City, as well as the unincorporated area, contribute to the District’s revenue sources. Some of the District’s revenue sources include a fire facilities impact fee for new development and a benefit assessment for fire protection.

There are three issues relevant to this feasibility analysis that the City should consider and include in future discussions with the Local Agency Formation Commission of Monterey County.

- 1) What will happen to the District’s existing revenue funding sources if the District is dissolved and the City assumes the responsibility of funding the fire protection and emergency medical services within the City?
- 2) Will Monterey County serve as an active partner in the establishment in a special tax for the property in the unincorporated area?
- 3) If the District is dissolved, how will the existing equipment and facilities of the District, which were previously funded by revenues from constituents of the City and the unincorporated area, be allocated between the City and County?

The manner in which these issues are presented to the public may impact the support of a special tax measure. In addition, community outreach, education of the public, and discussions with local leaders will be necessary to gain community support for the approval of a special tax. Collaboration between the District and the City provides the unique opportunity for extensive community outreach to discuss the impact of the situation and education of this funding solution.

## **Next Steps**

The next steps for the City to proceed with the implementation of the special tax requires the development and analysis of the tax rate. This means consideration of the necessary budget in relation to the taxable parcels. To determine the tax rate that will be acceptable to voters while meeting the financing needs of the City, a detailed review of the parcel characteristics is required.

Once this initial research and rate development is complete, the community outreach may begin. It is important to educate voters on the need for funding and to explain the impact of inadequate funding.

The process to implement a special tax includes holding a public hearing, approval of an ordinance or resolution of the legislative body to adopt the special tax, and an election of voters to approve the levy of the special tax. The ordinance or resolution sets the date of the election.

The following timeline provides the schedule for implementing a special tax via special election held by the Monterey County Elections Department on May 2, 2017. This schedule provides sufficient time to prepare the calculation of the first special tax levy to be submitted to the Monterey County Auditor's office and placed on property tax bills in 2017.

## **Estimated Formation Timeline:**

<u>Action Item</u>	<u>Estimated Timeframe</u>
Develop the special tax rate formula	September 2016
Test the special tax rate & community outreach	October - January 2017
Finalize the special tax rate	January 2017
Implementation proceedings	February - March 2017
Special tax election	May 2017
Special tax levy calculations	June 2017
Submit special tax to Monterey County	July 2017
Property Owners receive property tax bill	October 2017
City receives first apportionment of funds from Monterey County	December 2017

## ATTACHMENT A

### Summary of Funding Mechanisms

Funding Mechanism	What can be Funded	Approval Threshold	Implementation / Formation Procedure	Benefit Determination	Exemptions
Special Assessment	Fire suppression services only	Majority protest ballot proceeding	<ul style="list-style-type: none"> <li>• Engineer's report detailing quantification of benefit assignment, separation of general benefit &amp; the formula distributing costs;</li> <li>• Notice, hearing, &amp; protest procedures</li> </ul>	Must be proportional to the special benefits received. General benefits must be funded through other means.	Only those specifically shown to receive no special benefit
Community Facilities District	Property related "additional services"; Fire protection & suppression services; Ambulance & paramedic services	2/3 voter approval	<ul style="list-style-type: none"> <li>• Initiated by petition or written request;</li> <li>• Approval of resolution of intention &amp; boundary map;</li> <li>• Public hearing, approval of resolution of formation, &amp; ordinance to levy;</li> <li>• Election to approve levy of tax</li> </ul>	No benefit determination. May fund 100% of costs.	All government entities & any other entities specified in the special tax formula
Special Tax: "Parcel Tax"	Any legitimate government purpose	2/3 voter approval	<ul style="list-style-type: none"> <li>• Ordinance or resolution to adopt special tax;</li> <li>• Public Hearing;</li> <li>• Election to approve levy of tax</li> </ul>	No benefit determination. May fund 100% of costs.	All government entities & any other entities specified in the special tax formula
Special Tax: "Fire Tax"	Fire protection, prevention, & suppression services	2/3 voter approval	<ul style="list-style-type: none"> <li>• Ordinance or resolution to adopt special tax;</li> <li>• Election to approve levy of tax</li> </ul>	No benefit determination. May fund 100% of costs.	All government entities & any other entities specified in the special tax formula

## ATTACHMENT B

### Details of a Community Facilities District Special Tax

#### **Authority:**

A Community Facilities District (“CFD”) can be formed pursuant to the Mello-Roos Community Facilities Act of 1982 (“CFD Act”), commencing with California Government Code Section 53311.

#### **Authorized Facilities and Services:**

A CFD can pay for capital improvements with a useful life of at least five years as well as ongoing services.

Authorized facilities that may be funded with a CFD include: park, recreation, and open space facilities, school facilities, libraries and infrastructure needs.

Services that may be funded by a CFD include: police protection services, fire protection and suppression services, ambulance and paramedic services, recreation program services, library services, maintenance, flood and storm protection services.

A CFD may only fund additional services. A CFD cannot replace the funding for services already available, and funded, within the boundaries of the CFD.

Bonds may only be issued to pay for capital costs and cannot be used to fund ongoing services.

#### **Establishment Process:**

The formation of a CFD requires the City to first adopt local goals and policies concerning the ongoing use of CFDs. The local goals and policies are not adopted each time a CFD is formed, but prior to the formation proceedings for the first CFD. However, local goals and policies can be amended in the future.

Pursuant to the CFD Act, the formation of a CFD is initiated by either:

- a) a written request signed by two members of the legislative body,
- b) a petition signed by at least 10% of registered voters proposed to be within the boundaries of the CFD, or
- c) a petition signed by the landowners representing at least 10% of the area of land proposed to be within the boundaries of the CFD.

Within 90 days after the written request or petition is received by the City, the legislative body will adopt a resolution of intention. Government Code Section 53321 outlines the requirements of the resolution of intention. A brief summary of the contents (which is not all inclusive) is as follows:

- a) Description of the boundaries of the CFD.
- b) The name of the proposed CFD.
- c) Description of the public facilities and services proposed to be financed by the CFD.
- d) Statement that the special tax is sufficient to pay for the facilities and services, secured by recordation of a continuing lien, and will be annually levied. Specify the rate and method of apportionment and the manner of collection of the special tax as well as the conditions under which the special tax may be prepaid and permanently satisfied.
- e) Fix a time and place for a Public Hearing on the establishment of the CFD which shall be not less than 30 or more than 60 days after the adoption of the resolution.
- f) Describe any adjustment in property taxation to pay prior indebtedness.
- g) Describe the proposed voting procedure.

A boundary map of the proposed CFD boundaries must be recorded, pursuant to Sections 3111 of the Streets and Highways Code, within 15 days after the adoption of the resolution of intention, but no later than 15 days prior to the Public Hearing.

After properly noticing the Public Hearing in accordance with Government Code Section 53322 and 6061, the legislative body will hold a Public Hearing to hear any protests against the establishment of the CFD. If

there is a written protest of 50% or more of the registered voters or land owners proposed to be included in the CFD there may be no further proceedings to create the CFD or to authorize the special tax for one year.

If the special tax has not been eliminated by majority protest, the legislative body will make a finding that all proceedings were valid and in conformity with the requirements of the CFD Act and adopt a resolution of formation establishing the CFD. The resolution of formation will include all of the required information included in the resolution of intention as well as the following:

- a) State that the majority protest did not occur.
- b) Provide the name, address, and telephone number of the office or department responsible for preparing the annual special tax levy and estimating the future special tax levies.
- c) Explain the notice of special tax lien.
- d) Provide the recordation information for the boundary map

At least 90 days, but not more than 180 days, following the adoption of the resolution of formation the legislative body will then submit the levy of special tax to the qualified electors in the next general or special election held by the County Elections Office. The election may be consolidated with other general or primary elections or a mailed ballot election may be conducted, i.e., the ballots are mailed to registered voters within the district separately from the general/primary election ballot. The cast ballots still need to be verified through the County Elections Office but this option allows the City slightly more flexibility in terms of having to meet County election deadlines.

The special (mailed ballot) election dates are specified in Section 1500 of the Elections Code as the following:

- a) The first Tuesday after the first Monday in May of each year.
- b) The first Tuesday after the first Monday in March of each even-numbered year.
- c) The last Tuesday in August of each year.

The successful creation of a CFD requires approval of 2/3 of the registered voters voting in the election (or approval of the landowners if less than 12 persons are registered to vote within the CFD boundary). With a registered voter election, each registered voter has one vote regardless of their weighted share of the proposed special tax levy. In a landowner election, the vote is one vote per acre or portion thereof.

After the determination, pursuant to Section 53328 of the Government Code, that the requisite number of votes is in favor of the levy of a special tax, the clerk of the legislative body will execute and record a notice of special tax lien in the office of the County Recorder within 90 days, in the case of a registered voter election. The CFD special tax is then secured by this continuing lien against property, pursuant to Section 3115.5 of the California Streets and Highways code.

The lien will continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

The final action required to establish a CFD is the legislative body will adopt an ordinance providing for the ongoing levy of the special taxes within the CFD.

**Special Tax Rate Structure / Methodology:**

The special tax rate structure, or method of levying the special tax, will be outlined in the rate and method of apportionment (RMA) which is included as an attachment in the resolution of intention. The RMA will define the special tax rates, as well as how the special tax will be levied to each parcel of land within the CFD.

There is great flexibility in the formula provided in the RMA. The RMA may be as complex as needed in order to provide for a method of levy that captures all the unique property characteristics within the boundaries of the CFD. Special tax rates can be based upon any number of parcel characteristics such as building square footage, parcel size, or parcel classification. The RMA sets forth definitions specific to the CFD which provide the conditions for which each parcel will be classified. Typical classifications include:

single family residential, commercial, and exempt. There is freedom to define classifications however they are needed in order to meet the needs of the CFD. For example, some RMAs provide definitions that include: taxable homeowner's association property, timeshare parcels, and mixed use property. The RMA may also set different tax rates or levy steps based on the development status of a property. It is common for an RMA to call for the levy on developed property, then if necessary, the levy on undeveloped property.

CFD special tax rates may be set for different components, such as facilities component and services component. If the RMA needs to separate the rates for various costs or different methods of calculating the levy, there is flexibility to craft the methodology.

Proposition 13 (Article XIII A of the California Constitution, Section 4) prohibits special taxes from being based on the value of the property. Additionally, there is no requirement that the special tax be apportioned on the basis of benefit to any property. However, it would be in the City's best interest to make the special tax formula "reasonable" to allow the best chance for voter approval.

The development of an RMA is a time consuming process that takes into consideration many variables. Similar to formulas developed for other types of special taxes, NBS works with the City to evaluate the details of the facilities and services proposed to be funded, the anticipated costs, and all property within the proposed boundaries of the CFD in order to develop an RMA that appropriately outlines the methodology of how to classify parcels, allocate costs, levy the special tax, and effectively administer the special tax on an annual basis.

**Annual Rate Increases:**

The special tax rates outlined in the RMA can be programmed to adjust for inflation, to allow for changes in rates for new development, or place contingent rates based upon events that occur in the CFD.

**Term and Collection:**

The term of the special tax levy will also be specified in the RMA.

A special tax levy to pay for services can be levied in perpetuity.

The legislative body of the City provides for the collection of the special tax in the same manner and subject to the same penalty as the other charges and taxes collected by the City. Special taxes may be billed directly by the City or, if the City has an agreement with the County, may be included as a line item on the property tax bill.

**Exemption / Discount Option:**

Property owned by a public entity is generally exempt from the CFD special tax.

Special circumstances can be defined in the RMA such as permitting a reduced rate to low-income housing or allowing for a senior exemption.

Procedures may be implemented to provide for certain exemptions or discounts based on eligibility. As part of the procedures, property owners may be required to apply annually by submitting forms and providing proof of eligibility. The City may grant automatic approvals for subsequent years or require an annual application. When considering the option of allowing for exemptions or discounts, the City should consider the financial impact that may result from the reduction in the special tax collections from property owners who are granted the exemption or discount.

At the City's discretion, there may be special circumstances for which a special tax is levied against an entity that is typically exempt from property taxes, such as a church, school, or City owned property. If the property will receive the service funded, then the City may find it necessary to levy the special tax despite the tax-exempt status of the property. The City may be required to bill the tax-exempt property separately for the special tax if the County will not enroll the CFD special tax line item on the secured property tax bill.

**Annual Procedure:**

A CFD will likely require a consultant to annually calculate and submit the special tax roll to the County Auditor-Controller, prepare required reports, and handle property owner inquiries. If more information is desired, NBS is available to answer any questions or provide additional information on the administration of a CFD.

The annual requirements for a special tax are outlined in Government Code Section 50075.3 as an annual report to be filed with the legislative body by January of each year which includes the following:

- a) The amount of funds collected and expended, and
- b) The status of the any project which was authorized to be funded by the special tax.

In addition, Assembly Bill 2109 was approved in 2014 and established requirements for the annual reporting to the State Controller's Office via the Financial Transaction Report. The report is due to the State Controller's Office seven months from the end of the fiscal year and includes the following:

- a) Type and rate of tax,
- b) Number of parcels subject to the tax,
- c) Number of parcels exempt from the tax,
- d) Sunset date,
- e) Amount of revenue received, and
- f) Manner in which the revenue received is being used.

**Bond Option:**

Bonds can be issued to pay for the capital costs which are secured by special tax levy. Issuance of CFD bonds will necessitate compliance with arbitrage regulations and annual continuing disclosure reporting. If the City chooses to work with a consultant to handle the administration of a bonded CFD, the services typically includes assistance with these compliance matters.

**Payoff Option:**

The special tax lien created by the recordation of a notice of special tax lien will continue on the property until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law.

The resolution of intention is required to provide the conditions under which the special tax may be prepaid and permanently satisfied. The RMA includes the prepayment methodology which is described as a formula that takes into account various factors such as the maximum special tax, the total special tax of all parcels in the CFD, an interest component, remaining facilities costs, and any associated fees. The calculation is typically handled by a consultant in conjunction with the administration of the CFD.

## ATTACHMENT C

### Details of a Special Tax: Parcel Tax

#### **Authority:**

A special tax, commonly referred to as a "Parcel Tax", may be created pursuant to California Government Code commencing with Section 50075.

#### **Authorized Facilities and Services:**

A Parcel Tax may be levied against taxable property within the City's jurisdiction and may only be applied toward a specific purpose. The Parcel Tax can pay for any legitimate government purpose and the only specified requirements are that the tax cannot exceed the reasonable cost of providing the service and may not be levied for general revenue purposes.

Agencies currently use special taxes to fund a wide variety of services such as public safety, library services, infrastructure, health care, emergency medical services, education, public transit, and park maintenance.

A special tax established pursuant to California Government Code Section 50075 cannot fund facilities.

#### **Establishment Process:**

The process to implement a Parcel Tax requires a public hearing, with appropriate noticing by the City, and the approval of an Ordinance or Resolution to adopt the Parcel Tax and set the date of the election. The Ordinance or Resolution must include the type of special tax, the rate of the special tax to be levied, the method of collection, and the date upon which an election shall be held to approve the levy of the special tax. The City may hold a general election or a special (mailed ballot) election.

The election may be consolidated with other general or primary elections. As an alternative, a mailed ballot election may be conducted, i.e., the ballots are mailed to registered voters separately from the general/primary election ballot. The cast ballots still need to be verified through the County Elections Office but this option allows the City slightly more flexibility in terms of having to meet County election deadlines.

The special (mailed ballot) election dates are specified in Section 1500 of the Elections Code as the following:

- a) The first Tuesday after the first Monday in May of each year.
- b) The first Tuesday after the first Monday in March of each even-numbered year.
- c) The last Tuesday in August of each year.

The special tax proposition (which may also be referred to as a Measure) is then submitted to the voters. Each registered voter who is subject to the proposed Parcel Tax has one vote regardless of their weighted share of the proposed special tax levy. The successful creation of a Parcel Tax requires the approval of 2/3 of the registered voters voting in the election.

The requirements to establish a Parcel Tax do not provide the City much opportunity to interact with the public, therefore, NBS recommends the City provide sufficient outreach and voter education. In order to gain community support for the approval of a special tax, it will be necessary to educate the public on the facts and circumstances of the need for funding as well as the details of this funding solution.

Unlike the CFD special tax, a special tax created pursuant to Government Code Section 50075 does not require the recordation of continuing lien against the property.

### **Special Tax Rate Structure / Methodology:**

There is great flexibility in the formula used to set the rate for a Parcel Tax primarily because Government Code commencing with Section 50075 is silent on methodology requirements. The only limitations to the special tax formula are:

- a) The special tax cannot exceed the reasonable cost of providing the service, and
- b) Proposition 13 (Article XIII A of the California Constitution, Section 4) prohibits special taxes from being based on the value of the property.

The formula may be as complex as needed in order to provide for a method of levy that captures all the unique property characteristics of the parcels subject to the special tax. Special tax rates can be based upon any number of parcel characteristics such as building square footage, parcel size, or parcel classification.

The most common methodology is a flat per-parcel rate. Variations of this type of rate include a flat rate based on square footage of land or improvement, as well as a per-acre tax. There are also special tax rates based on a benefit unit or single-family residential equivalent which assign values to the benefit received by different types and/or sizes of property.

The development of a formula is a process that involves consideration of many variables. Similar to formulas developed for other types of special taxes, NBS works with the City to evaluate the details of the services proposed to be funded, the anticipated costs, and all property subject to the special tax in order to develop a formula that appropriately outlines the methodology of how to classify parcels, allocate costs, levy the special tax, and effectively administer the special tax on an annual basis.

### **Annual Rate Increases:**

The special tax rates outlined in the formula can be programmed to adjust for inflation, to allow for changes in rates for new development, or place contingent rates based upon events that occur.

### **Term and Collection:**

The term of the special tax levy will also be specified in the formula.

A special tax levy to pay for services can be levied in perpetuity.

The legislative body of the City provides for the collection of the special tax in the same manner and subject to the same penalty as the other charges and taxes collected by the City. Special taxes may be billed directly by the City or, if the City has an agreement with the County, may be included as a line item on the property tax bill.

### **Exemption / Discount Option:**

The City may levy a special tax against taxable property within the City's jurisdiction. Generally, property owned by a public entity is exempt from a special tax.

Special circumstances can be defined in the special tax formula permitting exemptions or discounts. Some examples of common exemptions are: Senior Exemption, Disability Exemption, and Contiguous Parcel Exemption (i.e., there are multiple parcels that are contiguous and owned by a single owner but the parcels should be considered one parcel for tax purposes).

Procedures may be implemented to provide for certain exemptions or discounts based on eligibility. As part of the procedures, property owners may be required to apply annually by submitting forms and providing proof of eligibility. The City may grant automatic approvals for subsequent years or require annual application. When considering the option of allowing for exemptions or discounts, the City should consider the financial impact that may result from the reduction in the special tax collections from property owners who are granted the exemption or discount.

At the City's discretion, there may be special circumstances for which a special tax is levied against a public entity, such as a church, school, or City owned property. If the property will receive the service funded, then

the City may find it necessary to levy the special tax despite the ownership of a public entity. If the City has an agreement with the County and collects its charges and taxes as a line item on the property tax bill, then it is likely that the public entity will be exempt from general property taxes and the City will be required to bill the public entity separately for the special tax.

**Annual Procedure:**

The annual requirements for a special tax are outlined in Government Code Section 50075.3 as an annual report to be filed with the legislative body by January of each year which includes the following:

- a) The amount of funds collected and expended, and
- b) The status of the any project which was authorized to be funded by the special tax.

In addition, Assembly Bill 2109 was approved in 2014 and established requirements for the annual reporting to the State Controller's Office via the Financial Transaction Report. The report is due to the State Controller's Office seven months from the end of the fiscal year and includes the following:

- a) Type and rate of tax,
- b) Number of parcels subject to the tax,
- c) Number of parcels exempt from the tax,
- d) Sunset date,
- e) Amount of revenue received, and
- f) Manner in which the revenue received is being used.

**Bond Option:**

The issuance of bonds is not authorized for a Parcel Tax created pursuant to Government Code Section 50075.

**Payoff Option:**

There is no option to payoff a Parcel Tax created pursuant to Government Code Section 50075.

## ATTACHMENT D

### Details of a Special Tax: Fire Tax

#### **Authority:**

A special tax, commonly referred to as a "Fire Tax", may be created pursuant to the California Government Code commencing with Section 53970.

#### **Authorized Facilities and Services:**

A Fire Tax may be levied against taxable property within the City's jurisdiction and may only be applied toward specific costs related to fire protection, prevention, or suppression services. The Fire Tax can pay for obtaining, furnishing, operating, and maintaining fire suppression equipment, apparatus and service; salaries and benefits to firefighting personnel; and any necessary fire protection and prevention expenses.

A Fire Tax may only include emergency medical services if within San Bernardino County.

A Fire Tax established pursuant to California Government Code Section 53970 may not pay for facilities.

#### **Establishment Process:**

The process to implement a Fire Tax requires the approval of an Ordinance or Resolution to adopt the special tax and set the date of the election. The Ordinance or Resolution must include the annual method of determining the special tax amount to be levied, as well as the maximum special tax to be levied per parcel, class of improvement, property use, or combination thereof. The Ordinance or Resolution also sets the date upon which an election shall be held to approve the levy of the special tax. The City may hold a general election or a special (mailed ballot) election.

The election may be consolidated with other general or primary elections. As an alternative, a mailed ballot election may be conducted, i.e., the ballots are mailed to registered voters separately from the general/primary election ballot. The cast ballots still need to be verified through the County Elections Office but this option allows the City slightly more flexibility in terms of having to meet County election deadlines.

The special (mailed ballot) election dates are specified in Section 1500 of the Elections Code as the following:

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- b) The first Tuesday after the first Monday in March of each even-numbered year.
- c) The last Tuesday in August of each year.

The special tax proposition (which may also be referred to as a Measure) is then submitted to the voters. Each registered voter who is subject to the proposed Fire Tax has one vote regardless of their weighted share of the proposed special tax levy. The successful creation of a Fire Tax requires the approval of 2/3 of the registered voters voting in the election.

The requirements to establish a Fire Tax do not provide the City much opportunity to interact with the public, therefore, NBS recommends the City provide sufficient outreach and voter education. In order to gain community support for the approval of a special tax, it will be necessary to educate the public on the facts and circumstances of the need for funding as well as the details of this funding solution. NBS can partner with the City to provide this service, or the outreach can be handled by City staff or a third-party.

Unlike the CFD special tax, a Fire Tax created pursuant to Government Code Section 53970 does not require the recordation of continuing lien against the property.

#### **Special Tax Rate Structure / Methodology:**

The Fire Tax is subject to the limitations of a special tax, which are:

- a) The special tax cannot exceed the reasonable cost of providing the service, and
- b) Proposition 13 (Article XIII A of the California Constitution, Section 4) prohibits special taxes from being based on the value of the property.

The formula used to set the special tax rate for a Fire Tax may be as complex as needed in order to provide for a method of levy that captures all the unique property characteristics of the parcels subject to the special tax. The amount of special tax levied can be varied by parcel, improvement, or use of the property but must be based on the availability of fire protection and prevention services.

The City may establish zones of areas and restrict the levy of the special tax to these zones.

The development of a formula takes into consideration many variables. Similar to formulas developed for other types of special taxes, NBS works with the City to evaluate the details of the services proposed to be funded, the anticipated costs, and all property subject to the special tax in order to develop a formula that appropriately outlines the methodology of how to classify parcels, allocate costs, levy the special tax, and effectively administer the special tax on an annual basis.

**Annual Rate Increases:**

The special tax rates outlined in the formula can be programmed to adjust for inflation, to allow for changes in rates for new development, or place contingent rates based upon events that occur.

**Term and Collection:**

The term of the special tax levy will also be specified in the formula.

A special tax levy to pay for services can be levied in perpetuity.

The legislative body of the City provides for the collection of the special tax in the same manner and subject to the same penalty as the other charges and taxes collected by the City. Special taxes may be billed directly by the City or, if the City has an agreement with the County, may be included as a line item on the property tax bill.

**Exemption / Discount Option:**

The City may not impose a Fire Tax upon a federal or state governmental agency or another local agency.

Special circumstances can be defined in the special tax formula permitting exemptions or discounts. Some examples of common exemptions are: Senior Exemption, Disability Exemption, and Contiguous Parcel Exemption (i.e., there are multiple parcels that are contiguous and owned by a single owner but the parcels should be considered one parcel for tax purposes).

Procedures may be implemented to provide for certain exemptions or discounts based on eligibility. As part of the procedures, property owners may be required to apply annually by submitting forms and providing proof of eligibility. The City may grant automatic approvals for subsequent years or require annual application. When considering the option of allowing for exemptions or discounts, the City should consider the financial impact that may result from the reduction in the special tax collections from property owners who are granted the exemption or discount.

At the City's discretion, there may be special circumstances for which a special tax is levied against a public entity, such as a church or school. If the property will receive the service funded, then the City may find it necessary to levy the special tax despite the ownership of a public entity. If the City has an agreement with the County and collects its charges and taxes as a line item on the property tax bill, then it is likely that the public entity will be exempt from general property taxes and the City will be required to bill the public entity separately for the special tax.

**Annual Procedure:**

The annual requirements for a special tax are outlined in Government Code Section 50075.3 as an annual report to be filed with the legislative body by January of each year which includes the following:

- a) The amount of funds collected and expended, and
- b) The status of the any project which was authorized to be funded by the special tax.

In addition, Assembly Bill 2109 was approved in 2014 and established requirements for the annual reporting to the State Controller's Office via the Financial Transaction Report. The report is due to the State Controller's Office seven months from the end of the fiscal year and includes the following:

- a) Type and rate of tax,
- b) Number of parcels subject to the tax,
- c) Number of parcels exempt from the tax,
- d) Sunset date,
- e) Amount of revenue received, and
- f) Manner in which the revenue received is being used.

**Bond Option:**

The issuance of bonds is not authorized for a Fire Tax created pursuant to Government Code Section 53970.

**Payoff Option:**

There is no option to payoff a Fire Tax created pursuant to Government Code Section 53970.