

**A Resolution of the Board of Supervisors for the County of Fresno Describing Proposed Changes Increasing and Extending the Assessment in Assessment District No. 284 (\$5,403,750) to Secure Repayment of a Loan from the Clean Water State Revolving Fund to Finance Upgrades to the Wastewater Treatment Facility Serving Zone D of County Service Area No. 44, Preliminarily Approving an Engineer's Report Supplement, and Setting the Dates, Times, and Places of a Public Meeting and Public Protest Hearing on the Proposed Changes**

WHEREAS, the residential wastewater treatment facility (WWTF) serving Zone D of County Service Area No. 44 (CSA 44D) requires upgrades to bring it into compliance with waste discharge requirements prescribed by the Regional Water Quality Control Board (RWQCB), which upgrades will, in general, involve the installation of a membrane bioreactor, appurtenant equipment, and construction of a 20-foot by 31-foot addition to the south side of the WWTF building to house a grinder, magnetic flow meter, blowers and influent mechanical screening equipment (collectively, Proposed Improvements);

WHEREAS, the Proposed Improvements defined in Resolution No. 13-184, approved by the Board of Supervisors (Board) on May 21, 2013, had a clerical error in the dimensions of the building addition and the correct dimensions are 20-feet by 31-feet, as has always been depicted in the Design plans;

WHEREAS, the construction cost of the Proposed Improvements was originally estimated by the project consultant, Carollo Engineers, to be \$1,853,500;

WHEREAS, as previously authorized by this Board on August 10, 2010, by Resolution No. 10-298, the County of Fresno (County), on behalf of CSA 44D, has submitted an application for financial assistance to the State Water Resources Control Board (SWRCB), Division of Financial Assistance, and on December 17, 2015, the SWRCB after credit review approved total funding of \$2,506,018, comprised of a 20-year Clean Water State Revolving Fund (CWSRF) loan in the amount of \$1,773,937 and a Water Recycling Fund Program (WRFP) grant in the amount of \$732,081, for the purpose of financing all of the costs and expenses of the Proposed Improvements, including planning, engineering, and construction;

WHEREAS, on August 2, 2013, the Board of Supervisors (Board) of the County of Fresno (County) adopted Resolution No. 13-248 forming Assessment District No. 284 (AD 284), with boundaries coextensive with CSA 44D, and confirming an assessment in that district under the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code) (1913 Act) in the maximum total amount of \$2,833,627.50 for the purpose of securing repayment of the CWSRF loan (including an additional amount calculated as 10 percent of the annual debt service payment on the loan, as required by the applicable SWRCB policy) (Assessment);

WHEREAS, a certified copy of the diagram, notice, and list of property owners of assessed properties for the Assessment was recorded at the Office of the Fresno County Recorder on August 14, 2013, in Book 43 of Assessment and Community Facilities Districts at Pages 99-101 and as document number 2013-0115567, and a

Notice of Assessment was recorded in that Office on August 22, 2013, as document number 2013-0120910, as required by Section 3114 of the California Streets and Highways Code;

WHEREAS, on January 26, 2016, the County Department of Public Works and Planning (Department) advertised the necessary documents (Plans and Specifications) for Contractors to submit bids for the construction of the WWTF Capital Improvements and on March 24, 2016, the Department received and opened seven bids for the construction of the Proposed Improvements, of which the apparent lowest responsible bid was in the amount of \$3,196,000.00, substantially exceeding the original cost estimate for the construction of the Proposed Improvements, the amount of the CWSRF loan and WRF grant, and the maximum total amount of the Assessment;

WHEREAS, the Board rejected all bids for the Proposed Improvements on May 24, 2016, and the Department then consulted with the SWRCB to develop a solution to the funding shortfall;

WHEREAS, the County has not yet taken any disbursement of the CWSRF loan and the Assessment, as provided by Resolution No. 13-248, is not yet due and payable because the total amount of the CWSRF loan is not yet fully determined;

WHEREAS, the SWRCB represents to the County that additional funding, in the form of a larger loan in the amount of \$4,144,919 with a 30-year term at 1% interest rate, coupled with a grant in the amount of \$732,081, is available to fully fund the project if the total amount of the Assessment is increased, and its term extended, to satisfy the revenue requirements under the applicable SWRCB policy;

WHEREAS, Chapter 4.5 of the 1913 Act (beginning with Section 10350 of the California Streets and Highways Code), establishes a procedure by which the Board may make changes to an assessment, such as increasing its maximum total amount and extending its term, provided the Board also complies with the requirements of Article XIII D, Section 4, of the California Constitution (Proposition 218) for increased or extended assessments;

WHEREAS, the Board by Resolution No. 13-184, adopted on May 21, 2013, appointed Wilson & Associates, a professional engineer registered pursuant to the Professional Engineers Act (California Business and Professions Code, Division 3, Chapter 7, beginning with Section 6700), as the assessment engineer for the Assessment, and the Board by Resolution No. 13-201, adopted on June 4, 2013, determined that the assessment engineer's report complied with the requirements of the 1913 Act and Proposition 218, and approved the report as filed (collectively, Engineer's Report);

WHEREAS, to account for a larger CWSRF loan in the amount of \$4,144,919 with a 30-year term at 1% interest rate, the Department has prepared an Engineer's Report Supplement which, together with the Engineer's Report, is intended to satisfy the requirements of the 1913 Act and Proposition 218 for the Assessment with changes as proposed in this resolution;

WHEREAS, the Engineer's Report Supplement is on file with the Clerk to the Board;  
and

WHEREAS, the Board desires to undertake the procedure necessary to change the  
Assessment so that it will secure adequate funding for the Proposed Improvements;

**NOW, THEREFORE, THE BOARD HEREBY FINDS, RESOLVES, AND ORDERS AS  
FOLLOWS:**

1. **Recitals.** All of the recitals above are true and correct.
2. **Authority.** The Board adopts this resolution under Section 10353 of the California Streets and Highways Code to initiate a proceeding to change the Assessment as described in this resolution. The Board also adopts this resolution under Proposition 218 to initiate an assessment ballot proceeding.
3. **Proposed Increase.** The Board proposes increasing maximum total amount of the Assessment from \$2,833,627.50 to \$5,403,750. That amount is estimated to be sufficient to cover (a) the principal amount necessary to repay a CWSRF loan in the estimated amount of \$4,144,919 to finance the Proposed Improvements (including planning, engineering, and construction costs), (b) interest on the loan, and (c) the additional amount calculated as 10 percent of the annual debt service payment on the loan, as required by the applicable SWRCB policy.
4. **Proposed Extension.** The Board proposes extending the term of the Assessment from 20 years to 30 years. The proposed 30-year term would run from the date when the Assessment becomes due and payable as provided in Resolution No. 13-248.
5. **No Physical Changes Proposed.** The proposed changes do not affect the design of the Proposed Improvements or any other physical attribute of the project.
6. **Annual Administrative Assessment.** The proposed changes do not affect the annual administrative assessment under Section 10204, subdivision (f), of the California Streets and Highways Code, as provided in Resolution No. 13-248, except to extend its term from 20 years to 30 years.
7. **Engineer's Report Supplement.** The Engineer's Report Supplement, together with the Engineer's Report, is preliminarily approved as filed, and shall stand as the engineer's report for purpose of all subsequent proceedings with respect to AD 284 under the 1913 Act and Article XIII D of the California Constitution, except that the Engineer's Report may be confirmed, modified, or corrected, as provided in the 1913 Act.
8. **Public Meeting.** A public meeting is hereby set for **January 26, 2017, at 6:00 p.m.** or as soon after as practicable, at the Woodward Park Regional Library, 944 East Perrin Avenue, Fresno, California 93720, for the public to give testimony concerning the proposed assessment. The County official conducting the public meeting may decide during the meeting to continue it to a later date without further notice by the

Board, but in any event the meeting may not be continued to a date later than eight days before the date set for the public hearing described in section 8 below.

9. **Public Hearing.** A public hearing of the Board is hereby set for **February 28, 2017**, at **9:00 a.m.**, or as soon after as practicable, in the meeting chambers of the Board, Hall of Records, 2281 Tulare Street, Third Floor, Fresno, California 93721, for hearing all objections and protests to the proposed increase and extension of the Assessment as set forth in the Engineer's Report and the Engineer's Report Supplement, and during which any interested person having any objection to the proposed changes to the Assessment may appear before the Board and show cause why the changes should not be ordered. The hearing shall be held under Section 53753 of the California Government Code and Section 10353 of the California Streets and Highways Code. During the public hearing, the Board may continue the hearing to a later date without giving further notice.
10. **Assessment Ballots.** The Board authorizes and directs the Director of Public Works and Planning (Director) or his designees, to prepare the assessment ballots, assessment ballot instructions, materials for the change, withdrawal, or substitution of assessment ballots, including substitute assessment ballots and substitute assessment ballot instructions, any materials for co-owner assessment ballots and co-owner assessment ballots, and any other forms and materials, as the Director or his designees deem necessary or appropriate, with respect to the submission of assessment ballots by record property owners of the property within AD 284, under Section 53753 of the California Government Code.
11. **Notices.** The Board authorizes the Director or his designee to prepare a joint notice of the public hearing and the public meeting (Notice). The Notice shall include the following: (a) the total amount of the proposed increased and extended assessment chargeable to the entire territory to be assessed, together with the proposed assessment formula or range; (b) the amount chargeable to the record owner's parcel; (c) the duration, method and frequency of the proposed increased and extended assessment; (d) the reason for the assessment, including the reasons for the proposed increase and extension, and basis upon which the amount of the proposed increased and extended assessment was calculated; (e) the date, time, and place of the public meeting; (f) the date, time, and place of the public hearing; (g) the contact information of an individual, office, or organization that interested persons may contact to receive additional information; (h) the address to which property owners may mail or deliver assessment ballots; (i) an assessment ballot; (j) a summary of the procedures for the completion, return, and tabulation of the assessment ballot; and (k) a statement that a finding of majority protest will cause the proposed increased and extended assessment to be abandoned. Envelopes containing the Notice must be labeled, in no smaller than 16-point bold type, "OFFICIAL BALLOT ENCLOSED." The Director or his designee shall deliver copies of the Notice to the Clerk to the Board no later than Wednesday, January 11, 2017.
12. **Mailing.** The Board authorizes and directs the Clerk to the Board to sign and mail, no later than Friday, January 13, 2017, a copy of the Notice, together with an

assessment ballot and assessment ballot instructions as described in section 9 of this resolution, as well as a copy of this resolution (as required by Chapter 4.5 of the 1913 Act), to each record owner of the property in AD 284 as shown on the last equalized assessment roll.

13. **Publication.** The Clerk to the Board is directed to publish this resolution pursuant to Section 6061 of the California Government Code, once, in a newspaper of general circulation published in Fresno County, at least 10 days before the public hearing, which is no later than Friday, February 17, 2017, as required by Chapter 4.5 of the 1913 Act.
14. **Affidavit of Notice.** Upon completion of mailing and publication as provided in sections 11 and 12 of this resolution, the Clerk to the Board is directed to file with the Board an affidavit setting forth the time and manner of compliance with the requirements of those sections of this resolution.
15. **Assessment Ballot Delivery.** In order for an assessment ballot to be counted, it must be properly executed and must be delivered as follows: (i) by U.S. Mail so that it is received by the Clerk to the Board no later than the date and time set for the public hearing; or (ii) otherwise delivered to the Clerk to the Board no later than the date and time set for the public hearing; or (iii) delivered at the public hearing, before the close of public testimony. If mailing or otherwise delivering before the Public Hearing, the address for receipt shall be **Clerk to the Board of Supervisors, 2281 Tulare Street, Room 301, Fresno, CA 93721**. Assessment ballots are to remain unopened and in the charge of the Clerk to the Board until they are opened and tabulated by the Board's designated officials, after the conclusion of public testimony at the public hearing. Assessment ballots may be withdrawn or changed at any time prior to the conclusion of the public hearing.
16. **Ballot Tabulation Officials.** The Director and his designees, who may be any employees of the Department which he appoints, are designated and authorized to tabulate the assessment ballots (including substitute assessment ballots and co-owner assessment ballots) submitted, and not withdrawn, in support of or opposition to the assessment referred to in this resolution. Each of those persons may, in their discretion appoint assistants, including, but not limited to, any employees of the County Administrative Office, including further any employees of the Office of the Clerk to the Board, to help tabulate the assessment ballots (including substitute assessment ballots and co-owner assessment ballots). The Board hereby finds and determines that each of the persons described in this section 15 is an impartial person who does not have a vested interest in the outcome of the assessment.
17. **Legal Compliance.** The Board hereby finds and determines that it took all of the foregoing actions and made all of the foregoing findings in full compliance with the law, including, without limitation, the 1913 Act, the Proposition 218 Omnibus Implementation Act, and Article XIII D of the California Constitution and any other law referred to in this resolution.

18. **Contact Information.** Sebastian Artal, Senior Engineer, County of Fresno Department of Public Works and Planning, Design Division, 2220 Tulare Street, 7th Floor, Fresno, California 93721, is designated to be available by phone at (559) 600-4512 and email at [sartal@co.fresno.ca.us](mailto:sartal@co.fresno.ca.us) to answer inquiries regarding this change proceeding.
19. **Prior Resolutions.** All prior resolutions of this Board with respect to AD 284 and the Assessment, including but not limited to Resolution No. 13-184 (adopted May 21, 2013), 13-201 (adopted June 4, 2013), and Resolution No. 13-248 (adopted August 2, 2013), remain in full force and effect except as provided in this resolution.
20. **Effective Date.** This resolution is effective immediately upon its adoption.

The foregoing resolution was adopted by the Board of Supervisors of the County of Fresno on January 10, 2017, by the following vote:

AYES: Supervisors Borgeas, Magsig, Mendes, Pacheco, Quintero

NOES: None

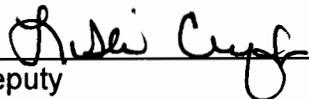
ABSENT: None



\_\_\_\_\_  
Brian Pacheco  
Chairman, Board of Supervisors

Attest:

Bernice E. Seidel  
CLERK TO THE BOARD OF SUPERVISORS

  
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Deputy