



Board Agenda Item 61

DATE: October 17, 2017

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Adopt a Resolution Initiating Local Utility Assessment Proceedings for
County Service Area 34 Zone D (Renaissance at Bella Vista)

RECOMMENDED ACTION(S):

- 1. Adopt and authorize the Chairman to execute a resolution initiating benefit assessment proceedings under the Uniform Standby Charge Procedures Act for local water and sewer utility system ready-to-serve operations and maintenance, under Chapter 2 of the Landscaping and Lighting Act of 1972 for street lighting, open space and public landscape maintenance, and under the Benefit Assessment Act of 1982 for storm drainage and road maintenance, all for County Service Area 34 proposed Zone D (Renaissance at Bella Vista), appointing and designating an assessment engineer, and directing the preparation and filing of an Engineer's Report**
- 2. Adopt and authorize the Chairman to execute a resolution declaring the Board's intention to levy an assessment under the Uniform Standby Charge Procedures Act for local water and sewer utility system ready-to-serve operations and maintenance, under Chapter 2 of the Landscaping and Lighting Act of 1972 for street lighting, open space and public right-of-way landscape maintenance, and under the Benefit Assessment Act of 1982 for storm drainage and road maintenance, all for County Service Area No. 34, proposed Zone D (Renaissance at Bella Vista) and setting a public hearing on the proposed assessments.**

Approval of the first recommended action enables the Board to adopt and authorize the Chairman to execute the resolutions necessary to initiate proceedings for assessments for the cost of local utility service water operations, local utility service sewer operations and maintaining ready-to-serve status, the cost of street lighting, public right-of-way landscape maintenance, open space maintenance, and the cost of road maintenance and storm drainage maintenance. The resolution proposed under the second recommended action also sets a public hearing on December 5, 2017, at 9:00 a.m., or as soon after as practicable, to conduct a protest hearing and assessment ballot proceedings, wherein property owners within County Service Area 34 proposed Zone D (CSA 34D) may indicate their support for, or opposition to, the proposed assessment.

A detailed Engineer's Report supporting the proposed benefit assessment is on file with the Clerk of the Board. Exhibit A is a map of TT 4968 (CSA 34D), showing the parcels that would be affected by the proposed benefit assessment.

ALTERNATIVE ACTION(S):

Staff has not identified any alternative actions.

FISCAL IMPACT:

There is no Net County Cost for the proposed assessment or for the operation of CSA 34D. On June 1, 2017, the County entered into Subdivider Agreement with J.P.J., Inc., to pay for all costs of establishing the joint use utility assessments. Those costs include the preparation of an Engineer's Report for the local utility assessments, as a supplement to the Master Consolidated Engineer's Report (CER) that was approved and adopted by the Board on January 26, 2016. Those costs also include the cost of majority protest proceedings under Proposition 218 to establish the fees and assessments required to provide the services for CSA 34D. All operation, maintenance and County staff costs for CSA 34D will be paid by CSA 34D property owners through various fees and assessments. The proposed assessment would cover a portion of the cost to operate CSA 34D, specifically the cost to pay for the local utility water and sewer services, storm drainage maintenance, road maintenance, landscape maintenance, street lighting and open space maintenance within CSA 34D. Additional proposed fees and assessments are interdependent and before the Board in separate items today, to cover other portions of the cost to operate CSA 34D.

DISCUSSION:

Background

The resolution to initiate formation proceedings for CSA 34D is interdependent and before the Board in a separate item today. CSA 34D is proposed to be formed to provide community services for the development of Renaissance at Bella Vista. The proposed zone consists of approximately 59.42 acres, which is located within the CSA 34 and the Millerton New Town Specific Plan Area on the south side of Millerton Road, and is proposed to be formed to provide water and sewer services, road maintenance, street lighting, public right-of-way landscape maintenance and open space maintenance services to the residents of the community.

Due to the wide variety of services that the County provides in various parts of CSA 34, the Engineer's Report is proposing a variety of fees and assessments to fund each of those services. The situation is further complicated by the fact that some facilities for providing water and sewer services are local to CSA 34A, CSA 34C and CSA 34D, while other facilities and administrative work necessary to provide those services are shared in all of those areas and in other zones of CSA 34.

The CER established the service costs to each parcel within CSA 34A, CSA 34C, and certain other parts of CSA 34. The purpose of the addendum to the Engineer's Report is to determine all of the fees and assessments that would be necessary to ensure that CSA 34D is fully funded, and to provide the documentation necessary under Proposition 218 to support the imposition of those fees and assessments. Staff received the final Engineer's Report on September 1, 2017.

The Engineer's Report supports the proposed benefit assessment in the CSA 34D Local Utility Assessment Area. The Engineer's Report also supports increases to assessments in certain other parts of CSA 34. Finally, the Engineer's Report supports water and sewer fees for CSA 34D. The assessments and water and sewer fees are before your Board in consecutive items today.

The Engineer's Report is available to CSA 34D property owners at the following link:
<http://www2.co.fresno.ca.us/VisionLive/PWP/Documents/74170.pdf>.

The Proposed Assessments

The proposed benefit assessment for CSA 34D local utility water and sewer facilities is designed to recover the following costs:

- Maintaining CSA 34D water distribution system facilities in ready-to-serve status for all user classes, regardless of whether they have an active water service, available to provide a new water service and meters as currently vacant lots of record are developed; and

- Maintaining CSA 34D sewer facilities in a ready-to-serve status for all user classes, regardless of whether they have an active sewer service, available to support new sewer service connections from currently vacant lots of record.

Included in the assessment for water and sewer facilities are capital facilities replacement reserve funds designed to build a reserve for the water system. The water system reserve accumulates in an annual assessment amount of \$11,362 and the sewer system in the amount of \$6,936, for a total of \$18,298 annually. The purpose of the proposed reserve funds is to provide for replacement of components of the local water and sewer systems, as follows:

- The purpose of the water system capital facilities replacement reserve is to pay the CSA 34D allocated share for the following: (1) replacing the principal components of the surface water treatment plant serving all of the zones at the end of those components' useful lives; (2) replacing the backup well at the end of its useful life and (3) replacing fire hydrants at the ends of their useful lives.
- The purpose of the wastewater (sewer) system capital facilities replacement reserve is to pay the CSA 34D allocated share to replace the principal components of the wastewater treatment facility serving all of the zones at the end of those components' useful lives, and the lift station serving CSA 34D.

The proposed benefit assessment for CSA 34D Storm Drainage and Road maintenance services is designed to recover the following costs:

- Maintaining storm drainage and street in a ready-to-serve status for all user classes, regardless of whether they are developed or undeveloped.

Included in the assessment for road maintenance are capital facilities replacement reserve funds total of \$118,400 designed to build a reserve for collector streets over 17-years, capital facilities replacement reserve funds total of \$42,000 for an interior street overlay designed to build a reserve over 15-years, and capital facilities replacement reserve funds total of \$600,000 for bridge replacement designed to build a reserve over 100-years. The purpose of the proposed reserve funds is to provide for replacement of road infrastructure as follows:

- The purpose of the capital facilities replacement reserve is to build funds to pay to replace the on-site and off-site street signage and the inspection and reconditioning of all street striping, including building funds for the street paving and reconditioning reserves, together with the payment of all insurance costs and administrative costs needed to support these on-going services and to plan and implement recurring street surface reconditioning work needed to maintain the ready-to-serve status.

The proposed benefit assessment for CSA 34D street lighting, landscape and open space maintenance services is designed to recover the following costs:

- Managing PG&E owned and operated street lighting system operations and maintenance. Services include the payment of PG&E usage charges and payment of all administrative costs associated therewith, to provide year round street safety lighting along all of the CSA 34D streets and to maintain the visual presentation of those streets in a ready to-serve status for the benefit of all the CSA 34D lots.
- Managing vendors and all work and expenses associated with the maintenance of the public right-of-way landscaping and open space maintenance within CSA 34D, and maintaining a ready-to-serve status to maintain the visual presentation of the community for the benefit of all the CSA 34D lots.

There are no capital reserves proposed for the street lighting, public right-of-way landscape and open space maintenance assessment.

The calculation of all of the proposed assessments in the Engineer's Report begins with the total annual cost of the services, including building the reserves, described above. That total cost is then allocated to each parcel in proportion to an "Equivalent Benefit Unit," or "EBU." That method is used because the level of special benefit provided by each of the services is equal per "dwelling unit." Each of the 106 parcels in CSA 34D is assigned 1 EBU.

The total of the proposed annual assessments per EBU (that is, per parcel) for the first year, FY 2017-18, is \$385.11, for which \$179.81 is attributable to the water system, \$105.16 to the wastewater system, \$21.79 to road maintenance, \$15.57 to landscape maintenance, \$15.57 to maintain storm drainage, \$16.08 for open space maintenance and \$31.13 to street lighting.

If your Board chooses to levy the proposed assessment, the proposed assessment may be increased, beginning in FY 2018-19, through FY 2023-24, by no more than 5% over the previous year, to account for inflation for water and sewer stand-by service. After the end of the seventh year, the annual assessment per parcel, if levied by your Board, will remain at the same amount unless the property owners approve an increased assessment through the Proposition 218 ballot process. It is anticipated that the 106 parcels receiving local utility water and sewer services, road maintenance, landscape maintenance, open space maintenance, storm drainage maintenance and street lighting service will pay 100% of the forecasted costs associated with the service.

The maximum total annual amount of all of the proposed assessments for all assessed properties in the CSA 34D assessment area for FY 2017-18 is \$40,821.66. In the second year of the proposed assessment, the Assessment Engineer projected costs based on build out of the development and has increased the assessment accordingly. For FY 2018-19 the proposed assessment is \$65,312.96, for FY 2019-20 the proposed assessment is \$66,043.30, in FY 2020-21 the proposed assessment is \$73,926.52, for FY 2021-22 the proposed assessment is \$87,214.68, in FY 2022-23 the proposed assessment is \$97,107.66 and in FY 2023-24 the proposed assessment is \$94,997.20, and each year after that unless the Board reduces or terminates the assessment, or there is new proceeding to increase the assessment.

Summary of the Proposition 218 Procedures

The process of levying an assessment on real property within the CSA 34D Local Utility Assessment Area must conform to the requirements of Proposition 218 as passed by the voters of the State in November 1996 and placed in the California Constitution as Articles XIII C and XIII D. The particular requirements applicable to assessments are in Article XIII D, section 4. This proceeding must also comply with the Uniform Standby Procedures Act, found in the California Government Code beginning at section 54984, Chapter 2 of the Landscaping and Lighting Act of 1972, and the Benefit Assessment Act of 1982, found in the Government Code beginning with section 54703.

Under Proposition 218, a notice, including an assessment ballot, will be mailed to all of the property owners within the District no later than 45 days before the public protest hearing scheduled for December 5, 2017.

Engineer's Report

The Engineer's Report is on file with the Clerk to the Board and available for public inspection in its entirety.

Assessment Ballot Measure

Owners of property within the CSA 34D will be given the opportunity, in assessment ballot proceedings (also called a "majority protest proceeding"), to indicate their support of or opposition to (in a single assessment ballot measure) the proposed assessment to provide for the cost of local utility water and sewer services, road maintenance, landscape maintenance, and street lighting services

Assessment Ballot Process

A single assessment ballot per parcel within CSA 34D, along with a detailed notice and related assessment ballot instructions, will be mailed by the Clerk to the Board to the record owners of properties identified in the Engineer's Report as receiving a special benefit from local utility water and sewer services, road maintenance, landscape maintenance and street lighting. In order for an assessment ballot to be counted, it must be properly executed and must be delivered before or on the Board public hearing date of 9:00 P.M. on December 5, 2017 as follows:

- (a) By U.S. mail so that it is received by the Clerk to the Board no later than 9:00 A.M. on December 5, 2017; or
- (b) otherwise delivered to the Clerk to the Board no later than 9:00 A.M. on December 5, 2017; or
- (c) delivered at the Board's public hearing itself on December 5, 2017 before the close of public testimony during the hearing.

Assessment ballots will remain unopened and in the charge of the Clerk to the Board until they are opened and tabulated by the Board's designated officials (e.g., Director of Public Works and Planning and/or his designees), after the conclusion of public testimony at the recommended December 5, 2017 Board public hearing (assuming that the Board concludes the public hearing on that day).

Substitute assessment ballots will also be made available for owners who previously returned their assessment ballot (or substitute assessment ballot) and then wish to change or withdraw their assessment ballot (or substitute assessment ballot). Substitute assessment ballots will also be made available for owners who state that they did not receive or lost their assessment ballot, or that their assessment ballot (or substitute assessment ballot) is unusable.

If more than one of the record owners of an identified parcel wishes to submit an assessment ballot, they may do so prior to the conclusion of public testimony at the Board's public hearing, but only by using the County-provided co-owner assessment ballot for such purpose. Co-owner assessment ballots will indicate the amount of the proposed increased assessment to be imposed upon the identified parcel, but there shall be allocated to each properly completed and timely submitted co-owner assessment ballot the assessment in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the Board by documentation provided by the record owner(s).

In either case, such co-owner assessment ballots, and substitute assessment ballots, will be provided once the property owner executes an appropriate County request form, also to be made available upon request to the Clerk to the Board, to ensure orderly assessment ballot proceedings. Assessment ballots, substitute assessment ballots and co-owner assessment ballots will have the same assessment ballot measure.

All properly completed and timely returned assessment ballots will be tabulated at the conclusion of the Board's public hearing. The assessment shall not be imposed if the assessment ballots submitted in opposition to the proposed increased assessment exceed 50% of the validated ballots submitted. As well, the assessment shall not be imposed if there is a majority protest to the formation of CSA 34D.

Proposed Resolution to Initiate and Resolution of Intention

Approval of the recommended action to adopt the Resolution as described initiates the process necessary to fund the cost of local utility water and sewer services, road maintenance, landscape maintenance, street lighting and open space monitoring and maintenance services. In general, by approving the Resolution, the Board makes key findings, determinations, and authorizations as follows:

- (a) Describes the reason for the assessment and the area to be assessed.

- (b) States that an Engineer's Report under Article XIID Section 4 of the California Constitution and Government Code Section 54984.3 and 54717 is on file with the Clerk to the Board.
- (c) Declares the proposal to levy and collect assessments in CSA 34D for the cost of local utility water and sewer services, road maintenance, landscape maintenance and street lighting services.
- (d) Sets a Public Hearing for December 5, 2017 at 9:00 A.M., or as soon after as practicable, but in any case only after completion of the public hearing on the proposed formation of CSA 34D, and only if there is no majority protest in that formation proceeding. in the Board Room of the Fresno County Board of Supervisors, Room 301, Hall of Records, 2281 Tulare Street, Fresno, California, 93721, for hearing all objections and protests to the proposed assessment. The Public Hearing shall be held pursuant to Section 53753 of the California Government Code and may be continued from time to time by the Board without further notice by the Board.
- (e) Authorizes and directs the Director of Public Works and Planning (Director) or his designees to prepare, for each of the proposed assessments, the assessment ballots and assessment ballot instructions, any 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, including 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 parcels to be assessed, under Section 53753 of the California Government Code.
- (f) Authorizes and directs the Director or his designee to prepare a notice of the Public Hearing, and specifies that the notice shall also contain information required by Proposition 218, as well as an assessment ballot and assessment ballot instructions for each of the proposed assessments.
- (g) Authorizes and directs the Clerk to the Board to sign and mail, postage prepaid, in the United States mail, no later than October 20, 2017 the notices to the record property owners of the parcels to be assessed. On the face of the envelope in which each notice is sent, there shall appear, in no smaller than 16-point bold type, the words "OFFICIAL BALLOT ENCLOSED." Upon the Clerk to the Board's completion of the mailing of the notices, the Clerk is directed to file with the Board an affidavit setting forth the time and manner of the compliance with the requirements of this resolution for mailing the notices.
- (h) Authorizes and directs the Clerk to the Board to publish a notice of the filing of the Engineer's Report and of the date, time, and place of the Public Hearing under Government Code section 6066, which is once a week for two successive weeks, with at least five days between each publication, and to post copies of that notice in three places within CSA 34D, to comply with the Benefit Assessment Act of 1982.
- (i) Designates and authorizes the Director and his designees, who may be any employees of Department of Public Works and Planning that he appoints, to tabulate the assessment ballots submitted, and not withdrawn, in support of or in opposition to the proposed assessments. 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 perform such tabulation of assessment ballots. The Board also finds and determines that each of such persons is an impartial person who does not have a vested interest in the outcome of imposing the proposed assessments.
- (j) Provides that if the Board imposes the proposed assessments, the resolutions imposing the assessments shall provide that the assessments will continue in successive years through the fifth year in the amounts specified in the Engineer's Report. For years after the fifth year, the assessments remain at the same amounts, without increase until the assessments are reduced or terminated, or there is a new proceeding to increase any or all of the assessments. If new or increased assessments are proposed, the Board will comply with the notice, protest, and hearing procedures in Government Code section 53753.

- (k) Provides that if the Board imposes the proposed assessments, the resolutions imposing the assessments shall provide that the assessments will be collected annually at the same time, and in the same manner, and subject to the same penalties, as the general taxes of the County.

- (l) Provides that the Resolution shall take effect immediately upon its adoption.

REFERENCE MATERIAL:

BAI # 19, March 15, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A and A-1
Exhibit B-1 thru B-3
Attachment A
On file with Clerk - Resolution of Intention
On file with Clerk - Resolution of Initiation
On file with Clerk - Subdivider Agreement
Ob file with Clerk - Engineer's Report

CAO ANALYST:

John Hays