

Item #5  
7-7-2020

7 July 2020

Fresno County Board of Supervisors

File 20-0616 Agenda item 5

Re: Project Substantial Completion and Acceptance  
CSA44-D Wastewater Treatment Plant Rebuild/Remodel

At a public meeting held at the Woodward Park Library, property owners within the District were told by Sebastian Artel of Fresno County Special Districts that repayment of the loan would not begin until the next fiscal year following completion of the project.

Currently, Sebastian Artel is using the term "Substantial Completion" for the assessments to be placed on the 2020-2021 tax bills.

"Substantial Completion" does not mean that the project is 100% complete, especially in this case.

"Substantial Completion" is a legal term used in construction to describe when the owner of the project can take over the project and start using it for its intended purpose.

The California Civil Code addresses this in Article 3, Section 8180 (a)

1. Actual completion of the work.
2. Occupation or use by the owner accompanied by a cessation of labor.
3. Cessation of labor for a continuous period of 60 days.
4. Recordation of a notice of cessation after cessation of labor for a continuous period of 30 days.

Recordation would not take place until at least 90 days have passed without extra/corrective work.

In this case, there are 7 steps to 100% completion of this project.

1. Substantial completion
2. Physical completion
3. Final acceptance-Board of Supervisors
4. Notice of Completion And Acceptance of a Public Works Project-California Civil Code Section 9200, which would include the Notice of Completion being recorded at the Fresno County Recorder's office.
5. Retainage release.
6. Document retention.

The 7<sup>th</sup> step, in this case would be that the SWRCB certify that the plant can produce Title 22 water on a continuous basis.

This step has not yet been accomplished.

I have attached a letter dated June 2, 2020, written to Integrated Water Services (contractor) from Steve Deis, Construction Engineer, County of Fresno.

The letter indicates "The remaining corrective work must be completed in order to release the full retention amount."

The letter also describes what work needs to be completed, which translates to "cessation of labor" has not been reached.

Retention Release is the 5<sup>th</sup> of 6 steps to 100% completion, plus "extra work must be completed."

Once all these steps have been accomplished and the State certifies that the plant can produce Title 22 water continually, then that date can be used as the reference point of payback the next fiscal year after that date.

Jim Torosian



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

June 2, 2020

CSA 44D- Monte Verdi Wastewater Treatment Facility Improvements  
Clean Water State Revolving Fund Project Number: C-06-5541-110  
Water Recycling Funding Program Project Number: WRF-3527-030  
Contract No. 17-16-C

Mr. Todd Brunetti  
Integrated Water Services, Inc.  
1169 Hilltop Parkway, Unit 103B  
Steamboat Springs, CO 80477

Dear Mr. Brunetti:

Subject: Project Substantial Completion and Acceptance

The work on Contract 17-16-C was substantially completed on December 12, 2019 in accordance with the plans, specifications, and approved contract change orders, with exception of pending corrective/extra work, including repairing of permeate pump #1, a turbidimeter, and the upgrade of two impellers. The contract was accepted by the County on May 18, 2020.

The remaining corrective/extra work must be completed in order to release the full retention amount.

Sincerely,

Steve Deis (Jun 2, 2020 13:38 PDT)

Steve Deis, GE  
Construction Engineer

c: Steven E. White, Director  
Business Office  
Auditor-Controller  
John Thompson, Assistant Director  
Amina Flores-Becker, Resources Division Manager  
Wade Leshner, Resident Engineer  
Jennifer Parks, Labor Compliance Officer  
Mohammad Alimi, Design Division Manager

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Reimbursement of \$365,000.00 (\$260,000 to the Fresno Monte Verdi Homeowners Association and \$95,000.00 to the 125 individual property owners according to the terms and conditions of the Assessment Engineer's Report Establishing Fresno County Assessment District 284.

This reimbursement was to take place when the first draw was received by the State on or about May 16, 2018. (see attached EXHIBIT A)

Section II.6.1 of the Assessment Engineers Report which established Assessment District 284, County of Fresno, State of California.

"The first payment request will be for the reimbursement of the \$365,000.00 in funds advanced by the Community of Monte Verdi Homeowners Association and the County to pay the costs of Table B-1 item 2."

(Full text enclosed)

The Engineers Report creating Fresno County Assessment District 284 is a binding contract between the County of Fresno and the 125 property owners within the District.

The \$365,000.00 is built into the total loan package. If we are not reimbursed the \$365,000.00, it then becomes \$730,000.00 to be paid back with interest.

Attached:

1. Cover page-Engineer's Report Assessment District 284-County of Fresno, State of California.
2. Certificate of Filing Engineer's Report And Confirmation of Assessment-Assessment District 284.
3. Section II-8 Of The Assessment Engineer's Report II.6.1 Item7.
4. Exhibit A-Clean Water State Revolving Fund Payment Schedule
5. A Petition for Improvements including language regarding the reimbursement of \$365,000.00
6. E mail from John Thompson that included Special Districts Staff as well as Director Alan Weaver.

Jim Torosian  
Property Owner  
CSA44-D

**ENGINEER'S REPORT**

**ASSESSMENT DISTRICT 284  
COUNTY OF FRESNO, STATE OF CALIFORNIA  
(Wastewater Treatment Facility Improvements and Repayment  
Of Clean Water State Revolving Fund Loan, Community of Monte Verdi)**

**AS FILED FOR APPROVAL IN ACCORDANCE WITH THE  
MUNICIPAL IMPROVEMENT ACT OF 1913**

**PREPARED FOR:  
BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO  
AND  
DEPARTMENT OF PUBLIC WORKS AND PLANNING  
ALAN WEAVER, DIRECTOR**

**By:**

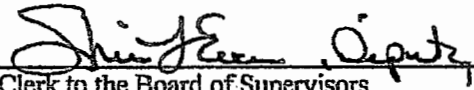
**Edward J. Wilson, C 23269  
Assessment Engineering Consultant**

**Assessment Engineer:  
Wilson & Associates  
7600 N. Ingram Ave., Suite 202  
Fresno, CA 93711  
(559) 436-6644**

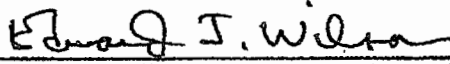
**May 28, 2013**

**CERTIFICATE OF FILING ENGINEER'S REPORT  
AND CONFIRMATION OF ASSESSMENT  
ASSESSMENT DISTRICT 284**

I, Bernice E. Siedel, Clerk to the Board of Supervisors, do hereby certify that the following "ENGINEER'S REPORT ASSESSMENT DISTRICT 284 (Wastewater Treatment Facility Improvements and Repayment Of Clean Water State Revolving Fund Loan, Community of Monte Verdi)" ("Engineer's Report"), including the Assessment and the Assessment Roll in the amounts set forth therein as the "ESTIMATED TOTAL COST AND ASSESSMENT," with the Assessment Diagram attached thereto, was filed with me on the 14<sup>th</sup> day of June, 2013.

  
Clerk to the Board of Supervisors  
County of Fresno, California

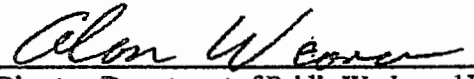
I have prepared this Engineer's Report and do hereby certify that the amount set forth herein as the "ESTIMATED TOTAL COST AND ASSESSMENT" and the individual assessments as shown under the column entitled "ESTIMATED TOTAL COST AND ASSESSMENT" on Exhibit A, attached hereto, have been computed by me in accordance with the order of the Board of Supervisors of the County of Fresno contained in a Resolution of Intention adopted as Resolution No. 13-201 on the 4<sup>th</sup> day of JUNE, 2013.

  
Edward J. Wilson, C. 23269 (Expires 12/31/13)  
Assessment Engineering Consultant  
Assessment District 284

I, Bernice E. Seidel, Clerk to the Board of Supervisors, do hereby certify that the following Engineer's Report and the Assessment contained therein was approved by the Board of Supervisors of the County of Fresno on the 19<sup>th</sup> day of AUGUST, 2013, by the Board's adoption of Resolution No. 13-248.

  
Clerk to the Board of Supervisors  
County of Fresno, California

I, Alan Weaver, Superintendent of Streets, and Director, Department of Public Works & Planning of the County of Fresno, do hereby certify that a certified copy of the following Engineer's Report, together with the Assessment Diagram attached thereto, was recorded in the office of the Director, Department of Public Works and Planning on the 19 day of AUGUST, 2013.

  
Director, Department of Public Works and Planning  
County of Fresno, California

On the 14<sup>th</sup> day of August, 2013, the Assessment Diagram, Assessment District 284 was filed in Book 43 of Maps of Assessment and Community Facilities Districts at Pages 99 through 101, and a Notice of Assessment was recorded as Document No. 2013-0120910, of Official Records in the Office of the County Recorder of the County of Fresno, California.

  
Paul Dietos, Assessor - Recorder  
County of Fresno, California

of the foregoing improvements, reimbursements, acquisitions, incidental work, and expense shall be made and done pursuant to the provisions of the 1913 Act.

## **II.6 Project Costs Associated with SRF Loan**

Two items of Project capital costs are shown on Table B-I that will be incurred pursuant to the provisions of the SRF Loan that will finance the estimated total cost to construct the proposed WWTF Capital Improvements. Those Table B-I items are “7. Estimated Total Interest Accrued on SRF Loan [2] Draws for Planning Cost Reimbursement and Payments for Construction Work in Progress to Project Completion” and “9. Estimated Total Cost of 10% Annual Debt Service Coverage on the Repayment of SRF Loan, Including Accrued Interest (10% of Table B-I Item 8)” as described in the following subsections II.6.1 and II.6.2.

### **II.6.1 Item 7. Estimated Total Interest Accrued on SRF Loan [2] Draws for Planning Cost Reimbursement and Payments for Construction Work in Progress to Project Completion**

If the AD 284 Assessment is approved by the AD 284 property owners as the security for repayment of the SRF Loan, the County on behalf of CSA 44D will have satisfied a condition required for approval for the SRF Loan. The WWTF Capital Improvements costs will be paid as a series of cash draws on the SRF Loan, as requested by the County, up to one year after the construction contract is complete. The first cash draw may occur as soon as the loan agreement is approved and the County receives notice from the SRF that the loan funds are available for release upon their receipt of properly executed payment requests.

The first payment request will be for the reimbursement of the \$365,000.00 in funds advanced by the Community of Monte Verdi Homeowners Association and the County to pay the costs of Table B-I item 2. Facilities Planning (\$70,000.00) and item 3. Facilities Design (\$295,000.00). PW&P staff will, at that point, proceed with the advertisement of AD 284 Improvement Plans to qualified contractors for submittal of bids to construct the WWTF Capital Improvements. Construction will start on the WWTF Capital Improvements after the Board has approved a construction contract with the lowest responsive, responsible bidder for construction of the WWTF Capital Improvements. The second loan draw, and all future SRF Loan draws, will be submitted by the County to pay monthly payment requests filed by the contractor for work in progress on construction of the WWTF Capital Improvements.

Beginning with the first SRF Loan draw, interest will begin to accrue on all funds drawn from the total SRF Loan commitment. The loan draws will continue to accrue interest until all claims against the WWTF Capital Improvements have been paid by the County and the SRF Loan is finalized to set its final total amount and to also set the final interest rate that will apply during the 20-year term for repayment of the loan. The final SRF Loan amount will include the sum of all loan draws paid to the County and the total amount of interest accrued on all of those loan draws to the date of final SRF Loan agreement approval. In addition, final SRF Loan approval documents will also include the SRF Loan repayment debt service schedule that will fix the amount of principal and interest

# EXHIBIT A

## State of California - State Water Resources Control Board Clean Water State Revolving Fund Payment Schedule

Recipient: Fresno, County of  
Project No.: C-06-5541-110  
Agreement No.: D1501013-550-0

Date: 6/2/2020  
Amount: 4,144,919  
Interest rate: 1.000%  
Term: 30 Years

Date	Disbursement/ Payment	No.	Beginning Balance	Draw Amount	Construction Period Interest (CPD)		Annual Interest Accrued	Principal Paid/Due	Interest Paid/Due	Total Payment	Ending Balance
					Amount Accrued	Amt. Trans. to Principal					
16-May-2018	Disbursement	1	0.00	688,251.00	0.00					0.00	688,251.00
30-Jun-2018	End FY		688,251.00		841.20					0.00	688,251.00
9-Jan-2019	Disbursement	2	688,251.00	28,712.00	3,613.32					0.00	716,963.00
30-May-2019	Disbursement	3	716,963.00	534,506.00	2,808.11					0.00	1,251,469.00
30-Jun-2019	End FY		1,251,469.00		1,042.89					0.00	1,251,469.00
19-Nov-2019	Const. Compl.		1,251,469.00		4,832.06	13,137.20				0.00	1,264,606.20
24-Jan-2020	Disbursement	4	1,264,606.20	2,589,995.00			2,283.32			0.00	3,854,601.20
30-Jun-2020	End FY		3,854,601.20				16,703.27			0.00	3,854,601.20
1-Sep-2020	Disbursement	5	3,854,601.20	303,455.00			6,531.41			0.00	4,158,056.20
19-Nov-2020	Payment	1	4,158,056.20				9,009.12	126,319.11	34,527.12	160,846.23	4,031,737.09
19-Nov-2021	Payment	2	4,031,737.09				40,317.37	120,528.86	40,317.37	160,846.23	3,911,208.23
19-Nov-2022	Payment	3	3,911,208.23				39,112.08	121,734.15	39,112.08	160,846.23	3,789,474.08
19-Nov-2023	Payment	4	3,789,474.08				37,894.74	122,951.49	37,894.74	160,846.23	3,666,522.59
19-Nov-2024	Payment	5	3,666,522.59				36,665.23	124,181.00	36,665.23	160,846.23	3,542,341.59
19-Nov-2025	Payment	6	3,542,341.59				35,423.42	125,422.81	35,423.42	160,846.23	3,416,918.78
19-Nov-2026	Payment	7	3,416,918.78				34,169.19	126,677.04	34,169.19	160,846.23	3,290,241.74
19-Nov-2027	Payment	8	3,290,241.74				32,902.42	127,943.81	32,902.42	160,846.23	3,162,297.93
19-Nov-2028	Payment	9	3,162,297.93				31,622.98	129,223.25	31,622.98	160,846.23	3,033,074.68
19-Nov-2029	Payment	10	3,033,074.68				30,330.75	130,515.48	30,330.75	160,846.23	2,902,559.20
19-Nov-2030	Payment	11	2,902,559.20				29,025.59	131,820.64	29,025.59	160,846.23	2,770,738.56
19-Nov-2031	Payment	12	2,770,738.56				27,707.39	133,138.84	27,707.39	160,846.23	2,637,599.72
19-Nov-2032	Payment	13	2,637,599.72				26,376.00	134,470.23	26,376.00	160,846.23	2,503,129.49
19-Nov-2033	Payment	14	2,503,129.49				25,031.29	135,814.94	25,031.29	160,846.23	2,367,314.55
19-Nov-2034	Payment	15	2,367,314.55				23,673.15	137,173.08	23,673.15	160,846.23	2,230,141.47
19-Nov-2035	Payment	16	2,230,141.47				22,301.41	138,544.82	22,301.41	160,846.23	2,091,596.65
19-Nov-2036	Payment	17	2,091,596.65				20,915.97	139,930.26	20,915.97	160,846.23	1,951,666.39
19-Nov-2037	Payment	18	1,951,666.39				19,516.66	141,329.57	19,516.66	160,846.23	1,810,336.82
19-Nov-2038	Payment	19	1,810,336.82				18,103.37	142,742.86	18,103.37	160,846.23	1,667,593.96
19-Nov-2039	Payment	20	1,667,593.96				16,675.94	144,170.29	16,675.94	160,846.23	1,523,423.67
19-Nov-2040	Payment	21	1,523,423.67				15,234.24	145,611.99	15,234.24	160,846.23	1,377,811.68
19-Nov-2041	Payment	22	1,377,811.68				13,778.12	147,068.11	13,778.12	160,846.23	1,230,743.57
19-Nov-2042	Payment	23	1,230,743.57				12,307.44	148,538.79	12,307.44	160,846.23	1,082,204.78



*To the Board of Supervisors for the County of Fresno:*  
**A Petition for Improvements**

We, the undersigned, the property owners of more than sixty percent (60%) of the area within existing Zone of Benefit D to County Service Area No. 44 ("Zone D"), hereby petition the Board of Supervisors for the County of Fresno, under Section 2804(a)(3) of the California Streets and Highways Code, to initiate the proceedings necessary to do the following:

1. Establish a special assessment district ("Assessment District") under the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code), with boundaries approximately coextensive with Zone D, for the purpose of repaying a 20-year loan from the Clean Water State Revolving Fund (CWSRF), proceeds of which would pay for retrofitting or replacing the existing wastewater treatment facility currently serving Zone D ("Improvements"); and
2. Levy a special assessment ("Assessment"), if approved by property owners, for the purpose of repaying the CWSRF loan in an amount including (a) approximately two million five hundred thousand dollars (\$2.5 million) estimated for the Improvements and (b) related financing costs.

*Additional information:*

**WAIVER OF CERTAIN RIGHTS:** The signatories of this petition, by submitting it to the Board of Supervisors for the County of Fresno, expressly and irrevocably waive their rights to any reports or proceedings under the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 of the California Streets and Highway Code).

**DESCRIPTION OF THE PROPOSED PROJECT:** The proposed project is for the retrofitting or replacement of the existing wastewater treatment facility currently serving the approximately 125 residential properties within Zone D.

**ESTIMATE OF TOTAL COST:** The total cost of the Improvements will be approximately two million five hundred thousand dollars (\$2.5 million). That amount does not include related financing costs, which will be in addition to the cost of the Improvements. Including financing costs, the assessment is estimated to be \$3,000,000.

OTHER: The Monte Verdi Home Owners Association ("HOA") has already provided two hundred and sixty thousand dollars (\$260,000) for the design engineering work necessary to provide plans, specifications and cost estimates for the Improvements. That amount is part of the cost of the Improvements and is reimbursable to the HOA from loan proceeds once the CWSRF loan is established. Zone D has also provided approximately \$95,000, which is also part of the cost of the Improvements and reimbursable from loan proceeds once the CWSRF loan is established. If this petition is successful, additional actions will be required before the completion of plans and construction work can begin on the Improvements. These actions will include: (a) a Proposition 218 public protest hearing, conducted by the Board of Supervisors for the County of Fresno on the question of whether the Assessment shall be levied; (b) the levy of the Assessment in compliance with the Municipal Improvement Act of 1913, if there is no "majority protest" at the Proposition 218 public protest hearing, in amounts that are proportionate to the benefit received by each parcel, as specified in the Certified Engineer's Report, prepared in accordance with Article XIID of the California Constitution; and (c) the awarding of the construction contract.

In order for the Improvements to be constructed: (1) this petition must be signed by the property owners of more than sixty percent (60%) of Zone D, or the requirements of Division 4 of the California Streets and Highways Code must be satisfied; (2) the Assessment must be successfully levied in accordance with the Municipal Improvement Act of 1913 and Article XIID of the California Constitution; and (3) the construction contract must be awarded.

Signature	Print Name	Address/Parcel Number	Date
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1. \_\_\_\_\_

2. \_\_\_\_\_

**From:** "Thompson, John R." <jthompson@co.fresno.ca.us>  
**To:** 'Jim Torosian' <torosianfamily@yahoo.com>; "cindymatoian@sbcglobal.net" <cindymatoian@sbcglobal.net>; "Polfer, James" <JPolfer@co.fresno.ca.us>; "Weaver, Alan" <aweaver@co.fresno.ca.us>; "Yeatts, Robert" <ryeatts@co.fresno.ca.us>; "Nixon, Carolyn" <CNixon@co.fresno.ca.us>  
**Cc:** "Brown, Betty" <bbrown2@co.fresno.ca.us>; "Granados, Jorge" <jgranados@co.fresno.ca.us>  
**Sent:** Tuesday, August 13, 2013 11:29 AM  
**Subject:** RE: CSA44-D

Jim,

Please see the responses in "red" below.

You are still viewing the accounting of this incorrectly. As we discussed on Monday, any charges over the \$95K will be a part of the payback, just like the \$260K and the \$95K. The \$260K goes back to the HOA reserves (you will pay interest on it through the loan), the \$95K goes back to the homeowners via the HOA as their legal representative (you will pay interest on it through the loan), and the \$40K (it is not \$70K at this time) goes back to the district reserves (you will pay interest on it through the loan). There is no double payment on any of those amounts. All of these funds were spent on the project and are included in financing the project. Initially when this project began, the district reserves were envisioned to be used to acquire the SRF loan and get us to the point we are now. Unfortunately the District did not have the reserves to make this happen and that is why the homeowners submitted the \$95K.