



# Board Agenda Item 62

DATE: October 17, 2017

TO: Board of Supervisors

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

SUBJECT: Adopt a Resolution Initiating Assessment Proceedings for County Service Area 34 (Millerton New Town) for Water Contract Administration and Millerton Lake Pump Ready-To-Serve Maintenance

RECOMMENDED ACTION(S):

**Adopt and authorize the Chairman to execute a Resolution initiating proceedings to re-apportion and re-levy part of the benefit assessment previously levied under the Uniform Standby Charge Procedures Act for water contract administration and Millerton Lake Pump ready-to-serve maintenance for County Service Area No. 34 (Millerton New Town).**

Approval of the recommended action enables the Board to adopt and authorize the Chairman to execute a resolution initiating proceedings to levy a benefit assessment for the cost of water contract administration and maintaining the Millerton Lake water pumps in ready-to-serve status. The resolution also sets a public meeting on November 1, 2017 at 3:00 P.M., and a public hearing on December 5, 2017 at 9:00 A.M., to conduct a protest hearing and assessment ballot proceedings wherein affected property owners within County Service Area (CSA) 34 and its proposed Zone D (Renaissance at Bella Vista) may indicate their support for, or opposition to, the proposed assessment. Because the affected properties include only portions of CSA 34, the affected area is referred to in this agenda item as the "CSA 34 Water Contract and Pump Assessment Area."

A detailed Engineer's Report supporting the proposed benefit assessment is on file with the Clerk to the Board. Exhibit C shows CSA 34 and its zones. The shaded area in exhibit C-1 defines the re-apportioned and re-levied assessment in the CSA 34 Millerton New Town (MNT) portion of the CSA 34 Water Contract and Pump Assessment Area, and shows the area that is proposed to be removed from the CSA 34MNT Area known as proposed CSA 34 Zone D (CSA 34D). The shaded area in exhibit C-2 describes the proposed CSA 34D portion of the CSA 34 Water Contract and Pump Assessment Area. Exhibit C-3 defines the proposed CSA 34D division of 106 parcels proposed to be assessed beginning in FY 2018-19 in the CSA 34D portion of the CSA 34 Water Contract and Pump Assessment Area.

ALTERNATIVE ACTION(S):

Staff has not identified any alternative action.

FISCAL IMPACT:

There is no Net County Cost for the proposed assessment or for the operation of CSA 34. On June 1, 2017

the County entered into a Subdivider Agreement with J.P.J., Inc., to pay for all costs of establishing the joint use utility assessments and include the preparation of an Engineer's Report for the local utility assessments, to supplement the Master Consolidated Engineer's Report (CER) approved and adopted by the Board on January 26, 2016. Costs to conduct the protest proceedings under Proposition 218 to establish the assessments required to provide the services for CSA 34 and its zones will also be recaptured by the Subdivider Agreement. All operation, maintenance and County staff costs to administer CSA 34 are paid by CSA 34 property owners through benefit assessments. The proposed assessment will reapportion and re-levy the costs to operate CSA 34, specifically the costs of water contract administration and maintenance of the Millerton Lake water pumps in ready-to-serve status.

## DISCUSSION:

### **Background**

The Board formed CSA 34 in 1986 to provide various community services for the development of "Millerton New Town," which consists of 1,420 acres north and south of Millerton Road, south of Millerton Lake. Exhibit A through A-7 are maps showing the boundary of CSA 34 and its zones. CSA 34D is proposed to provide community water and wastewater, road maintenance, street lighting, common area landscaping, storm drainage and open space maintenance services for the development of "Renaissance at Bella Vista," which consists of approximately 59 acres south of Millerton Road.

CSA 34 Water Contract and Pump Assessment Area provides the following services:

- (1) administer three surface water supply contracts that permit the County to pump raw water from Millerton Lake for treatment and delivery as finished water to CSA 34 and its zones; and
- (2) administrative services to ensure that the Millerton Lake raw water pumping facilities retain their standby, ready-to-serve status for the benefit of all CSA 34 properties; and

Due to the variety of services that the County provides in different parts of CSA 34, a variety of fees and benefit assessments are necessary to fund all 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 proposed CSA 34D, while other facilities and administrative work necessary to provide those services are shared in both those areas and more broadly within CSA 34.

On January 26, 2016, the Board approved a Master Consolidated Engineer's Report (CER) to determine all of the fees and benefit assessments that would be necessary to ensure that CSA 34 is fully funded, and to provide the documentation necessary under Proposition 218 to support the imposition of those fees and assessments. A new Engineer's Report, which supplements the CER (Engineer's Report) has been prepared to determine all of the fees and benefit 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. Because the engineer has determined that reapportionment of the previously levied assessment for water contract administration and Millerton Lake Pump ready-to-serve maintenance will cause a slight increase to the assessments in County Service Area 34 Millerton New Town (CSA 34MNT) Water Contract and Pump Assessment Area. The reapportionment does not affect the assessments in CSA 34A and CSA 34C. Staff received the completed Engineer's Report on September 1, 2017.

The Engineer's Report supports the proposed benefit assessment in the CSA 34 Water Contract and Pump Assessment Area, as well as benefit assessments for services and facilities local to CSA 34D, and water and sewer fees for CSA 34D. Those other fees and assessments are before the Board today in separate agenda items.

The Engineer's Report is available to CSA 34 property owners at the following link:

<http://www2.co.fresno.ca.us/VisionLive/PWP/Documents/74169.pdf>.

### **The Proposed Assessment**

The proposed reapportionment of the benefit assessment in the CSA 34 Water Contract and Pump Assessment Area is designed to ensure that the entire area covered by the previously levied assessment is sufficient to recover the costs of items (1) and (2) in Background Section above, which include the accumulation of two reserve funds. One of those is a capital facilities replacement reserve fund for the purpose of replacing various components of the Millerton Lake pumping facilities as they reach the end of their expected useful lives. Those components include:

Pumps (4) - 100 horsepower, lifespan 20 years, total current replacement cost \$400,400, annual funding \$20,020; Pump Platform, lifespan 20 years, total current replacement cost \$200,000, annual funding \$10,000; Motor Control Center, Lifespan 10 years, total current replacement cost \$185,000, annual funding \$18,500; and, Distribution Valves and Controls, lifespan 10 years, total current replacement cost \$20,000, annual funding \$2,000; For a total annual funding amount in each fiscal year's enterprise budget of \$50,520.

An additional reserve was created for the purpose of building reserves for repair of the pumps in Millerton Lake if there is a failure like the one that occurred in May of 2012 and December of 2015. This reserve will satisfy Board Resolution 12-449 executed on December 4, 2012, to establish a new reserve fund dedicated to funding repairs of the Millerton Lake pumps if a similar failure occurs in the future. The lake pumps repair reserve is designed to accumulate a total amount of \$362,000 over a period of ten years at the rate of \$36,200 per year.

The calculation of the proposed assessment begins with the total annual cost of the services and reserves described above. Then, within each of the areas, the costs are allocated to individual parcels by methods that account for the unique circumstances in that area. Only a portion of the total number of affected areas is included in the CSA 34 Water Contract and Pump Assessment Area that is affected by this reapportionment and re-levy proceeding (CSA 34MNT and CSA 34D). Other areas where the assessment was previously levied are not affected by this proceeding (CSA 34A and CSA 34C). Exhibits C through C-3 define the areas affected by the re-apportioned and re-levied assessment, and Exhibit B describes the cost breakdown per affected parcel.

### **Two Cost Categories**

The first cost category (called "Fixed Costs" in section 3.4 of the Engineer's Report) includes the costs of maintaining the permits and licenses to operate the lake pumps, the cost of oversight to ensure the pumps remain in ready-to-serve status, the costs of the reserves, an operations expenditures contingency that is calculated at the rate of 10% of the total annual operating expenditures and the cost of this Proposition 218 proceeding.

The second cost category (called "Variable Costs" in section 3.4 of the Engineer's Report) includes the costs of administering two of the water supply contracts (with Arvin-Edison Water Storage District, referred to below as "Arvin-Edison," and with Lower Tule River Irrigation District, referred to below as "Lower Tule"), the annual fees under those contracts, the cost of ongoing negotiations with the United States Bureau of Reclamation regarding the long-term renewal of the contract allowing the County to use water from Millerton Lake to serve CSA 34, the cost of contracts with certain State of California (State) agencies as needed to maintain continuous availability of a sufficient volume of water, and an operations expenditures contingency that is calculated at the rate of 10% of the total annual operating expenditures.

### **Four Assessment Areas**

Next, the two cost categories are allocated to four different areas of CSA 34: CSA 34A, CSA 34C, CSA 34D, and a portion of CSA 34 outside of those areas (CSA 34-MNT, a portion of which is the CSA 34 Water

Contract and Pump Assessment Area). The Fixed Costs are allocated in proportion to the total amount of water that the Board has allocated to each of those areas from all three of the water supply contracts. The Variable Costs are allocated in proportion to Board allocations from only two of the water supply contracts. The allocations are different for the two cost categories because the Variable Costs do not include administrative costs from the third water supply contract, with Deer Creek and Tule River Authority, referred to below as "Deer Creek." Assessments in CSA 34A and CSA 34C are not affected by this reapportionment proceeding.

### ***Allocation to Individual Parcels***

Costs attributed to each of the four areas are then allocated to the individual parcels within those areas by methods that account for unique circumstances in each area.

For CSA 34MNT, costs are allocated to parcels based on the number of units designated to be developed per acre. The parcels with no water contract reservation are classified as not receiving benefit and not included in the CSA 34 Water Contract and Pump Assessment Area. The Fixed Costs are allocated to parcels in proportion to the total amount of water available under Board allocations from all three of the water supply contracts. The Variable Costs are allocated to parcels in proportion to Board allocations from the Arvin-Edison and Lower Tule contracts. The allocations are different for the two cost categories because Variable Costs do not include administrative costs for the Deer Creek contract.

At the last assessment proceeding on March 15, 2016, the following two parcels were not previously assessed and were excluded in error, are added to the CSA 34 Water Contract and Pump Assessment Area during this proceeding: Fresno County Library Parcel, (1.95 acres) APN # 300-340-27ST and J.P.J., Inc. (0.23 acres) APN # 300-542-40S.

The two parcels that are removed from CSA 34MNT (20.35 acre parcel, APN # 300-340-11S and 39.07 acre parcel, APN # 300-340-41S) are the two parcels now designated as TT # 4968, CSA 34 Zone D (Renaissance at Bella Vista).

For CSA 34A (Brighton Crest), the assessments levied on March 15, 2016 remain unchanged by this proceeding, and both Fixed Costs and Variable Costs are allocated to parcels in proportion to an "Equivalent Water Unit," or "EWU." That method is used because CSA 34A includes several different kinds of parcels, including developed parcels, undeveloped parcels, parcels owned by a homeowners association, and a golf course. One EWU is equal to 1 acre foot and CSA 34A has 1.0475 acre feet of water supply from the water supply contracts with Arvin-Edison and Lower Tule. Each parcel in CSA 34A is assigned a number of EWUs based on current and planned development, projected usage patterns, and the total availability of surface water from the Arvin-Edison and Lower Tule water supply contracts.

For CSA 34C (Bella Vista), the assessments levied on March 15, 2016 remain unchanged by this proceeding, and both the Fixed Costs and the Variable Costs are allocated to all parcels in equal proportion by EWU. That method is used because they are all residential parcels. One EWU is equal to 0.5 acre feet and CSA 34C has 0.5 acre feet of water supply from the water supply contracts with Arvin-Edison and Lower Tule.

For CSA 34D (Renaissance at Bella Vista), both the Fixed Costs and the Variable Costs are allocated to all parcels in equal proportion by EWU. That method is used because they are all residential parcels. One EWU is equal to 0.55 acre feet and CSA 34D has 0.55 acre feet of water supply from the water supply contracts with Arvin-Edison and Lower Tule.

The maximum total annual amount of the proposed assessment for all assessed properties in the CSA 34 Water Contract and Pump Assessment Area for FY 2017-18 is unchanged from the previously adopted assessment on March 15, 2016 of \$153,095.14, (as shown on Exhibit B Tax Roll). The first year of the proposed new or increased assessment, FY 2018-19 is \$154,535.36, in FY 2019-20 the proposed

assessment is \$156,007.76, in FY 2020-21 the proposed assessment is \$157,526.51, in FY 2021-22 the proposed assessment is \$158,314.43 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 34 Water Contract and Pump 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.

Under Proposition 218, a notice (Attachment A), including an assessment ballot, will be mailed to all of the property owners within the CSA 34 Water Contract and Pump Assessment Area 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 34 Water Contract and Pump Assessment Area 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 water contract administration and maintaining the Millerton Lake water pumps in ready-to-serve status.

### Assessment Ballot Process

A single assessment ballot per parcel within the CSA 34 Water Contract and Pump Assessment Area, 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 water contract administration and maintaining the Millerton Lake water pumps in ready-to-serve status. 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 A.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 of Intention

Approval of the recommended action to adopt the Resolution as described initiates the process necessary to fund the cost of water contract administration and maintaining the Millerton Lake water pumps in ready-to-serve status. 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 is on file with the Clerk to the Board.
- (c) Declares the proposal to levy and collect assessments in the CSA 34 Water Contract and Pump Assessment Area for the cost of water contract administration and maintaining the Millerton Lake water pumps in ready-to-serve status.
- (d) **Sets a Public Meeting for November 1, 2017 at 3:00 P.M. or as soon after as practicable, at Fresno County Plaza Building, 2220 Tulare Street 8th Floor Conference Room A, Fresno, California for public testimony concerning the increase in the existing assessment.** The Public Meeting shall be held under Section 54954.6 of the California Government Code and may be continued from time to time by the County official conducting the Public Meeting without further notice by the Board, but in any event not later than seven days before the date set by the Board for the public hearing described below.
- (e) **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 County of Fresno Hall of Records, Room 301, 2281 Tulare Street, Fresno, California, 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.

- (f) Authorizes and directs the Director of the Department of Public Works and Planning (Director) or his designees to prepare 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.
- (g) Authorizes and directs the Director or his designee to prepare a joint notice of the Public Meeting and the Public Hearing, and specifies that the joint notice shall also contain information required by Proposition 218, as well as an assessment ballot and assessment ballot instructions.
- (h) 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 joint notices to the record property owners of the parcels to be assessed. On the face of the envelope in which each Joint 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 Joint 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 Joint Notices.
- (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 increase in the existing assessment. 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 an increase of the existing assessment.
- (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 benefit assessment, the resolution imposing the assessment shall provide that the assessment 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 #12, May 21, 1991  
BAI #17, September 14, 2004  
BAI #14, March 4, 2008  
BAI # 19, March 15, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibits A thru A-7

Exhibit B

Exhibit C thru C-3

Attachment A

On file with Clerk - Resolution of Initiation

On file with Clerk - Engineer's Report

CAO ANALYST:

John Hays