



Board Agenda Item 12

DATE: July 8, 2025

TO: Board of Supervisors

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

SUBJECT: Public Protest Hearing and First Reading of Proposed Ordinance Granting a Franchise to RT Diversified, Inc.

RECOMMENDED ACTION(S):

1. **Conduct public protest hearing, as required by Public Utilities Code section 6234, for the Board of Supervisors (“Board”) to receive, hear, and pass upon any timely written protests, including any timely written objections, made by any interested person against the Board granting a franchise, up to 25 years, on a non-exclusive basis (the “non-exclusive franchise”), by Ordinance, to RT Diversified, Inc. (“RTD”), upon annual payment of a franchise fee to the County, to construct, maintain and use pipes and appurtenances for transmitting water and wastewater to service Clovis Unified School District’s (“CUSD”) Terry Bradley Education Center (“Bradley Center”), in, along, across, upon, and under approximately 4.8 miles of the following public streets and highways within the unincorporated area of Fresno County: from the existing City of Fresno water main at McKinley Avenue, east of Temperance Avenue, eastward on E. McKinley Avenue, and then Northward on N. Leonard Avenue, to Shields Avenue, westward on Shields Avenue to a Shields and Locan terminus where the City is in the process of installing water and sewer mains, and along the streets surrounding the Bradley Center of Leonard, Weldon, Highland, and Princeton Avenues.**
2. **After conducting and closing the public protest hearing, do the following, as determined by the Board:**
 - a. **Determine that no timely written protests, including timely written objections, have been made against the Board granting of the non-exclusive franchise to RTD, and the Board may proceed to act on recommended action 3; or**
 - b. **Determine that one or more timely written protests, including timely written objections, have been made against the Board granting of the non-exclusive franchise, and have been heard by the Board, and pass upon such protest(s), including such objection(s), as applicable:**
 - i. **The protest(s), including objection(s), are insufficient;**
 - ii. **The protest(s), including objection(s), are overruled or denied; or**
 - iii. **The protest(s), including objection(s), are sufficient.**
 - c. **If the Board determines that all such protests, including all such objections, are insufficient or overruled or denied, the Board may proceed to recommended action 3.**
 - d. **If the Board determines that only some of such protests, including some of such objections, are insufficient or overruled or denied, the Board will determine, under recommended action 2.e., if the remaining protests, including remaining objections, are sufficient.**

- e. **If the Board determines that any such protests, including objections, are sufficient, then the Board may grant such protests, sustain such objections, and abandon these proceedings.**
3. **Conduct first hearing, including first reading of an Ordinance granting the non-exclusive franchise, as described above, to RTD. Waive reading of the Ordinance in its entirety and set the second hearing of the Ordinance for August 5, 2025.**
4. **Designate County Counsel to prepare a fair and adequate summary of the proposed Ordinance.**
5. **Direct the Clerk of the Board to post and publish the required summary in accordance with Government Code section 25124(b)(1).**

These proceedings are a result of your Board's adoption of a resolution of intention, on June 10, 2025, to set the public protest hearing today to initiate the process discussed in this item.

The recommended actions will enable your Board to proceed with considering granting a non-exclusive franchise, up to 25 years, to RTD that would allow RTD, upon annual payment of a franchise fee of two percent (2%) of its gross annual receipts to the County, to construct, maintain and use pipes and appurtenances for transmitting water and wastewater to service the Bradley Center, in, along, across, upon, and under the foregoing public streets and highways, under Division 3, Chapter 2 of the California Public Utilities Code. A location map is attached hereto as Attachment 1.

The recommended actions comprise a component of a larger project, namely CUSD's Bradley Center project. The proposed pipeline system is approximately 4.8 miles in length.

The first recommended action will enable your Board to conduct public protest hearing to receive, hear, and pass upon any timely written protests, including any timely written objections, made by any interested person against your Board granting the non-exclusive franchise, by Ordinance, to RTD. Protests must be in writing and signed by the person making the protest. Persons submitting protests need not be affected property owners.

After your Board conducts and closes the public protest hearing, the second recommended action will enable your Board to make determinations concerning written protests, if any, against your Board granting of the non-exclusive franchise. There is no minimum number of (or area affected by) timely written protests, including timely written objections, that must be received by the Clerk of the Board in order for your Board to decide to grant the protests and abandon the proceedings.

Depending on the public protest hearing, your Board might:

1. Determine that no timely written protests, including timely written objections, have been made; or
2. Determine that one or more timely written protests, including timely written objections, have been made, and have been heard by your Board, and pass upon such protest(s), including such objection(s), as applicable.

Depending on your Board's determinations of any written protests, including any written objections, presented to the Clerk of the Board, this item may or may not proceed to the third recommended action.

If your Board determines that no timely written protests, including timely written objections, have been made against the Board granting of the non-exclusive franchise to RTD, or that all timely written protests, including all timely written objections, are insufficient or overruled, or denied, then your Board may proceed to the third recommended action. The third recommended action will enable your Board to conduct the first hearing,

including first reading, of the proposed ordinance, as recommended by the Department of Public Works and Planning (“Department”), for granting the non-exclusive franchise as described above, waive reading of the proposed ordinance in its entirety, and set the second hearing of the proposed ordinance for August 5, 2025.

The fourth and fifth recommended actions direct the Clerk of the Board and County Counsel to take actions necessary to facilitate your Board’s further consideration, and possible adoption, of the proposed ordinance.

This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

Your Board may proceed with the public protest hearing, and decline to proceed with the first reading of the proposed ordinance, or decline to take all the recommended actions; in either such case, that would result in your Board abandoning the proceedings. This would result in operable facilities that cannot be lawfully maintained, unless other direction has been given. Construction of the facilities was approved under the auspices that the City of Fresno would accept and incorporate the facilities into their operation’s network, which would have eliminated the need for a franchise, however they have subsequently indicated that they will not take ownership of, operate, or maintain the facilities.

If the recommended actions do not result in your Board conducting the first hearing, including first reading, of the proposed ordinance granting the non-exclusive franchise to RTD, and setting the second hearing of the proposed ordinance for August 5, 2025, as discussed above, CUSD would be unable to repair the facilities, and the Bradley Center may face obstacles that impede continual operation. RTD has been employed as CUSD’s licensed operator and will assume responsibility for maintaining the facilities.

FISCAL IMPACT:

There will be no Net County Cost associated with the recommended actions. CUSD is reimbursing the County for all staff time and any other costs associated with the Bradley Center.

The recommended non-exclusive franchise requires that RTD shall annually, commencing upon final adoption of the ordinance, pay a franchise fee of two percent (2%) of its gross annual receipts (defined below in this “Fiscal Impact” section) to the County, arising from the use, operation or possession of the franchise, under the Public Utilities Code, sec. 6231, or other legislation applicable to franchisee, water or wastewater enacted by the State of California. In the event such payment is not made, the non-exclusive franchise will be forfeited. The non-exclusive franchise will be for a term not to exceed twenty-five (25) years, as discussed further below.

“Gross annual receipts” means all income received by RTD from operation of the franchise, and separate from other payments, reimbursements, or franchise fees payable or paid to the County.

The County currently deposits funds from grants of franchises into the General fund as allowed by Government Code, section 26001.5, and the funds from the recommended non-exclusive franchise, if granted, will be deposited into the General Fund, unless otherwise directed by your Board.

DISCUSSION:

The recommended actions in this item comprise a component of a larger project, namely CUSD’s Bradley Center project.

1. RTD’s application for the non-exclusive franchise.

RTD submitted a written application requesting a franchise to construct, maintain and use pipes and appurtenances for transmitting water and wastewater to service the Bradley Center, in, along, across, upon,

and under public streets and highways within the unincorporated area of Fresno County.

However, the recommended actions limit the franchise, on a non-exclusive basis, to transmitting water and wastewater in, along, across, upon, and under approximately 4.8 miles of the following public streets and highways within the unincorporated area of Fresno County: from the existing City of Fresno water main at McKinley Avenue, east of Temperance Avenue, eastward on E. McKinley Avenue, and then Northward on N. Leonard Avenue, to Shields Avenue, westward on Shields Avenue to a Shields and Locan terminus where the City is in the process of installing water and sewer mains, and along the streets surrounding the Bradley Center of Leonard, Weldon, Highland, and Princeton Avenues.

As noted above, the term of the recommended franchise is from and after the date that the Franchise is adopted. The franchise, if granted, would be on a non-exclusive basis.

2. Prior Board actions implementing the process in this item.

To enable your Board to consider granting the non-exclusive franchise to RTD, the Board, on June 10, 2025, passed a Resolution of Intention ("ROI") to grant the non-exclusive franchise, by ordinance, to RTD, setting a date, time, and place where all persons objecting to the granting of the non-exclusive franchise may appear and be heard by your Board.

Today's public protest hearing was set, and notice of it was timely published, in the Business Journal on Friday, June 13, 2025, in compliance with Public Utilities Code section 6232.

At the public protest hearing, your Board is to proceed, under Public Utilities Code section 6234, to hear and pass upon all timely written protest, including written objections, so made and its decision shall be final and conclusive, subject to the right of referendum of the people. Such timely written protests, including any timely written objections, may be made by any interested person against your Board granting the non-exclusive franchise, by ordinance, to RTD. Protests must be in writing and signed by the person making the protest. Persons submitting protests need not be affected property owners.

If no protests, including objections, in writing are delivered to the Clerk of the Board up to the hour set for hearing, or if such protests, including objections, as are timely filed have been heard and determined by your Board to be insufficient, or have been overruled or denied, your Board may proceed to grant the non-exclusive franchise by ordinance adopted in the manner prescribed by law for the enactment of ordinances by the Board. The Ordinance process involves your Board conducting the first and second ordinance readings and passage, and waiving further reading of the proposed ordinance at the time of its introduction and passage, as allowed under Government Code, sections 25120 - 25131.

But if your Board determines that any such timely filed written protests, including objections, are sufficient, then your Board may grant such protests, and sustain such objections, and abandon these proceedings. There is no minimum number of (or area affected by) timely written protests, including timely written objections, that must be received by the Clerk of the Board in order for your Board to decide to grant the protests and abandon the proceedings.

3. The proposed ordinance.

The Department recommends the proposed ordinance, discussed below.

If your Board approves the third, fourth and fifth recommended items, and if your Board thereafter desires to proceed with the ordinance adoption process, your Board may hold the first reading of the proposed ordinance immediately following the conclusion of the protest hearing; the second reading of the ordinance would, with your Board's approval, be scheduled for August 5, 2025.

As stated above, the recommended non-exclusive franchise requires that RTD shall annually pay a

franchise fee of two percent (2%) of its gross annual receipts to the County, arising from the use, operation or possession of the franchise, under the Public Utilities Code, sec. 6231, or other legislation applicable to franchisee, water or wastewater enacted by the State of California. In the event such payment is not made, the non-exclusive franchise will be forfeited. The non-exclusive franchise will be for a term not to exceed twenty-five (25) years, as discussed further below.

Under the proposed ordinance, RTD shall, if granted the non-exclusive franchise, be required to file a bond running to the County of Fresno in the penal sum of \$100,000.

The proposed ordinance provides that if RTD does not comply with any of the conditions of the franchise for more than thirty (30) days after written demand by County for compliance, then County, by your Board, in addition to all rights and remedies allowed by law, may terminate the franchise. Under the proposed ordinance, if RTD breaches any condition of the franchise, the bond is recoverable by the County.

If adopted, the ordinance will become effective thirty (30) days after its final passage, pending written acceptance of the non-exclusive franchise by RTD. The franchise, if granted, does not become effective until RTD files written acceptance of it with the Clerk of the Board and a copy thereof is filed with the Director of Public Works and Planning.

A copy of the proposed ordinance is on file with the Clerk of the Board and has been provided to RTD.

California Environmental Quality Act:

The recommended actions comprise a component of a larger project, namely CUSD's Bradley Center project. Clovis Unified conducted an Initial Study, prepared an Environmental Impact Report, and adopted the resultant Mitigated Negative Declaration (MND) (SCH No. 2005101054) on February 2, 2024. The water and sewer facilities were contemplated within the scope of the project description and are consistent with any mitigation measures imposed on this project by the MND. Accordingly, the recommended actions comply with the California Environmental Quality Act because they are part of a project which has already undergone environmental review.

REFERENCE MATERIAL:

BAI# 60, June 10, 2025

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment 1 - Location Map
Ordinance
On file with Clerk - Ordinance Summary

CAO ANALYST:

Maria Valencia