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RESOLUTION NO. 19-325

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO 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)

WHEREAS, the Board of Supervisors (Board) formed County Service Area No. 34 (CSA 34) in 1986 to provide a wide variety of governmental services for the community of Millerton New Town; and

WHEREAS, Tentative Tract Map No. 6189 (TTM 6189) lies wholly within the boundaries of CSA 34; and

WHEREAS, to comply with a condition of approval of TTM 6189, a developer/landowner has requested the formation of CSA 34, proposed zone G (CSA 34G), also known as Granville; and

WHEREAS, for the reasons stated above, the formation of CSA 34G is proposed under Article 8 of the County Service Area Law and to that end the Board is also, by separate resolution today, declaring its intention to form CSA 34G; and

WHEREAS, the facilities and services provided by the County in CSA 34 include, among other things: (1) administering three contracts between the County and three other agencies (Arvin-Edison Water Storage District, Lower Tule River Irrigation District, and the Deer Creek and Tule River Authority) to provide a firm, long-term surface water supply for delivery to all of the parcels in CSA 34, zone A (also known as Brighton Crest), all of the parcels in CSA 34, zone C (also known as Bella Vista), all of the parcels in CSA 34, zone D (also known as Renaissance at Bella Vista), and all of the parcels in CSA 34, proposed zone G (also known as Granville), and a portion of the parcels in CSA 34 that are not within zones A, C, D or proposed zone G (but which previously included the area comprising most of proposed zone G) (collectively, Contract Administration); and (2) maintaining in ready-to-serve status the water pumping facilities located on a submerged platform in Millerton Lake that pump untreated surface water from Millerton Lake (a) to storage and treatment facilities that currently process raw water to produce potable water for domestic uses for delivery to Brighton Crest, Bella Vista, Renaissance at Bella Vista, and Granville, and (b) and for use on the golf course in Brighton Crest for fairway turf irrigation (collectively, Lake Pumps); and

WHEREAS, under Government Code, section 25217.1, subdivision (d), before the formation of CSA 34G may be approved by the Board, user fees and benefit assessments to pay for the services described above must be approved by owners of benefitted and specially benefitted properties as required by Proposition 218 (California Constitution, Article XIII D, sections 4 and 6); and

WHEREAS, Government Code, section 25215.6, authorizes the County to impose a benefit assessment within CSA 34 under the Uniform Standby Charge Procedures Act (Government Code, sections 54984 through 54984.9) for the costs of the Contract Administration and the Lake Pumps; and

WHEREAS, the map attached to this resolution as exhibit A, identifies, by which parcels are shaded, the territory within CSA 34 where a benefit assessment for the costs of the Contract Administration and the Lake Pumps was previously levied, which territory includes most of CSA 34 zone A (also known as Brighton Crest), most of CSA 34 Zone C (also known as Bella Vista), most of CSA 34 zone D (also known as Renaissance at Bella Vista), most of proposed CSA 34 zone G (also known as Granville), and portions of CSA 34 outside of zones A, C and zone D; and

WHEREAS, the proposed development and formation of CSA 34 proposed zone G (CSA 34G) within a portion of the area where the Board previously levied a benefit assessment (Board Resolution 16-141, adopted March 15, 2016) and also re-apportioned and re-levied that benefit assessment (Board Resolution 17-541, adopted December 5, 2017) to pay for the costs of Contract Administration and the Lake Pumps necessitates further re-apportionment and re-levy of a portion of that prior assessment, without in any way affecting the balance of that prior assessment, including the assessment as levied in Brighton Crest, Bella Vista, and Renaissance at Bella Vista; and

WHEREAS, for purposes of this proceeding, the area where the previously levied assessment is to be reapportioned and re-levied due to further development, is identified in exhibit A, and includes all of CSA 34G; and

WHEREAS, the "Engineer's Report for Tract 6189 and Tract 4934 on Proposed Water and Wastewater Service Fees and Proposed Infrastructure Operations and Maintenance Benefit Assessments for Fresno County Service Area 34 and its Zone G (Granville) and Zone F (The Vistas)" (Engineer's Report), prepared by Kheng Vang, a registered professional engineer, and dated July 25, 2019 is on file with the Clerk of the Board; and

WHEREAS, the proposed benefit assessment for the costs of the Contract Administration and the Lake Pumps is based upon the Engineer's Report, which includes (1) a description of the assessment and the method by which it will be imposed, (2) a compilation of the amount of the assessment proposed for each parcel subject to the assessment, (3) a statement of the methodology and rationale followed in determining the degree of benefit conferred by the service for which the assessment is made, and (4) other factors required by Government Code, section 54984.2; and

WHEREAS, Exhibit C to this resolution identifies all of the parcels that receive a special benefit from the Contract Administration and the Lake Pumps, upon which the benefit assessment is to be reapportioned and re-levied, and the amount of the re-apportioned assessment for each parcel;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

- **Section 1.** The above recitals are all true and correct.
- **Section 2.** The Board hereby proposes to proceed under the Uniform Standby Charge Procedures Act to re-apportion and re-levy a portion of the prior assessment under Resolution 16-141 and Resolution 17-541, and to levy and collect that new and re-apportioned benefit assessment in CSA 34G and CSA 34F. The parcels to be assessed are identified in Exhibit C-1.
- Section 3. Although it is not required by law, a public meeting of the County is set for September 18, 2019, at 3:00 p.m., there will be a public meeting at 2220 Tulare Street 8th Floor Conference Room A, Fresno, CA. 93721, for public testimony concerning the proposed assessment (collectively, Public Meeting). The Public Meeting shall be held under Government Code, section 54984.6 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.
- Section 4. A public hearing of the Board on the proposed assessment is hereby set for October 8, 2019, 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 34G, 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

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protests to the proposed assessment as set forth in the Engineer's Report (collectively, Public Hearing). The Public Hearing shall be held under Government Code, section 53753. The Public Hearing may be continued from time to time by the Board without further notice by the Board.

Section 5. The Board hereby authorizes and directs the Director of the Department of Public Works and Planning (Director), or 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 and co-owner assessment ballot instructions, and any other forms and materials, as the Director, or designees, deem necessary or appropriate, with respect to the submission of assessment ballots by record property owners of the parcels to be assessed, under Government Code, section 53753.

Section 6. The Board hereby authorizes and directs the Director, or designee, to prepare a joint notice of the Public Meeting and the Public Hearing (Joint Notice). The Joint Notice shall contain:

- A. The dates, times, and locations of the Public Meeting and Public Hearing;
- B. The total amount of the proposed benefit assessment chargeable to all of the affected parcels;
- C. The amount of the proposed benefit assessment for each affected parcel;
- D. The basis upon which the amount of the proposed benefit assessment was calculated;
- E. A statement that the assessment will change in successive years through Fiscal Year 2020-21 as stated in Exhibit C and the Engineer's Report, and then remain at the same amounts in the following years until the assessment is reduced or terminated, or there is a new proceeding to increase the assessment, or to re-apportion and re-levy the assessment;
- F. The reason for the assessment, namely the costs of the Contract Administration and the Lake Pumps;
- G. The address to which property owners may mail a protest against the proposed benefit assessment;
- H. The telephone number and address of an individual or office that interested persons may contact to receive additional information about the proposed benefit assessment;

- An assessment ballot that includes the address for receipt of the ballot and a place where the
 person returning the ballot may indicate his or her name, a reasonable identification of the
 parcel, and his or her support or opposition to the proposed benefit assessment;
- J. Assessment ballot instructions as described in Section 4 of this resolution; and
- K. A statement that the proposed benefit assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property.

The Director, or designee, shall deliver the Joint Notices to the Clerk of the Board no later than August 22, 2019.

Section 7. The Board hereby authorizes and directs the Clerk of the Board (Clerk) to sign and mail, postage prepaid, in the United States mail, no later than August 23, 2019, the Joint Notices (which shall include assessment ballots and assessment ballot instructions as described above in Section 6 of this resolution), 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's completion of the mailing of the Joint Notices, the Clerk is hereby 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.

Section 8. The Director of the Department of Public Works and Planning, or designees, who may be any employees of the County Department of Public Works and Planning that he appoints, are hereby 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 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 8 is an impartial person who does not have a vested interest in the outcome of the assessment.

If the Board imposes the proposed re-apportioned benefit assessment, the Section 9. resolution imposing the assessment shall provide that the assessment will continue in successive years through Fiscal Year 2020-21 in the amounts stated in Exhibit C and the Engineer's Report. For years after Fiscal Year 2020-21, the Board may, by resolution, continue the assessment at the same amount, without increase. If new, increased, or extended assessments are proposed, the Board will comply with the notice, protest, and hearing procedures in Government Code, section 53753.

Section 10. If the Board imposes the proposed re-apportioned 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.

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 Uniform Standby Charge Procedures Act, Article XIII D of the California Constitution, Government Code, section 53753, and any other law referred to in this resolution.

This resolution shall take effect immediately upon its adoption. Section 12.

THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 20th day of August, 2019, to-wit:

AYES:

Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero

NOES:

None

ABSENT:

None

ABSTAINED: None

Nathan Magsig, Chairman of the Board of Supervisors of the County of Fresno

ATTEST:

Bernice E. Seidel

Clerk of the Board of Supervisors

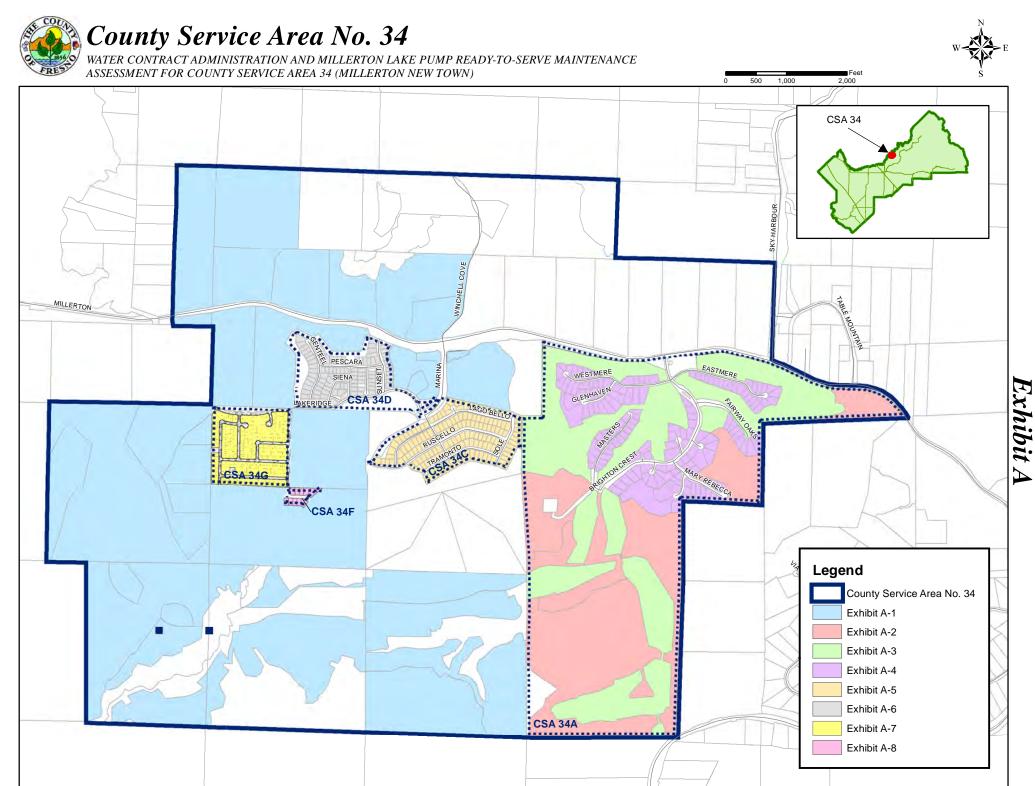
County of Fresno, State of California

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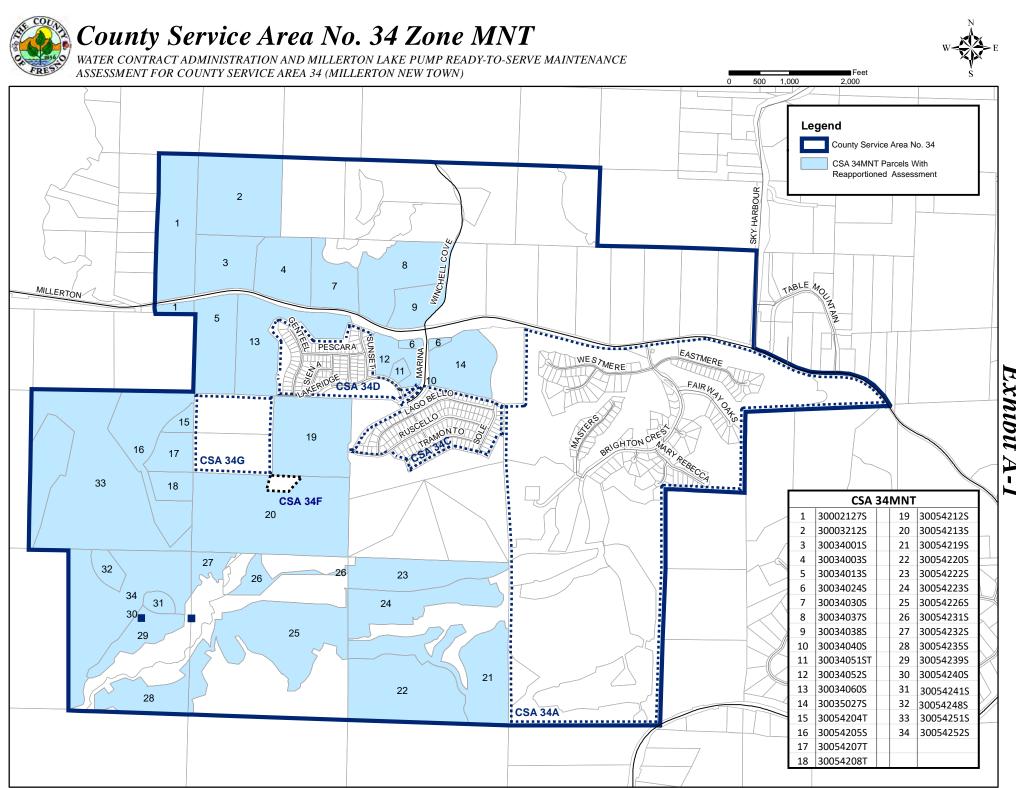
Deputy

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6/27/2019



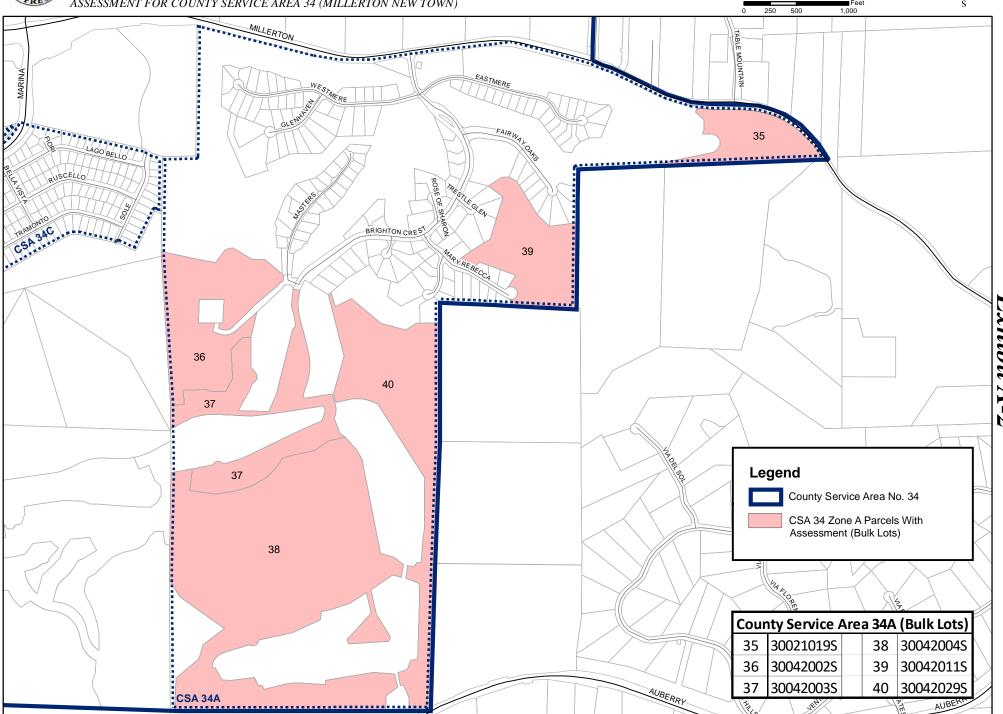
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County Service Area No. 34 Zone A - Bulk Lots

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WATER CONTRACT ADMINISTRATION AND MILLERTON LAKE PUMP READY-TO-SERVE MAINTENANCE ASSESSMENT FOR COUNTY SERVICE AREA 34 (MILLERTON NEW TOWN)

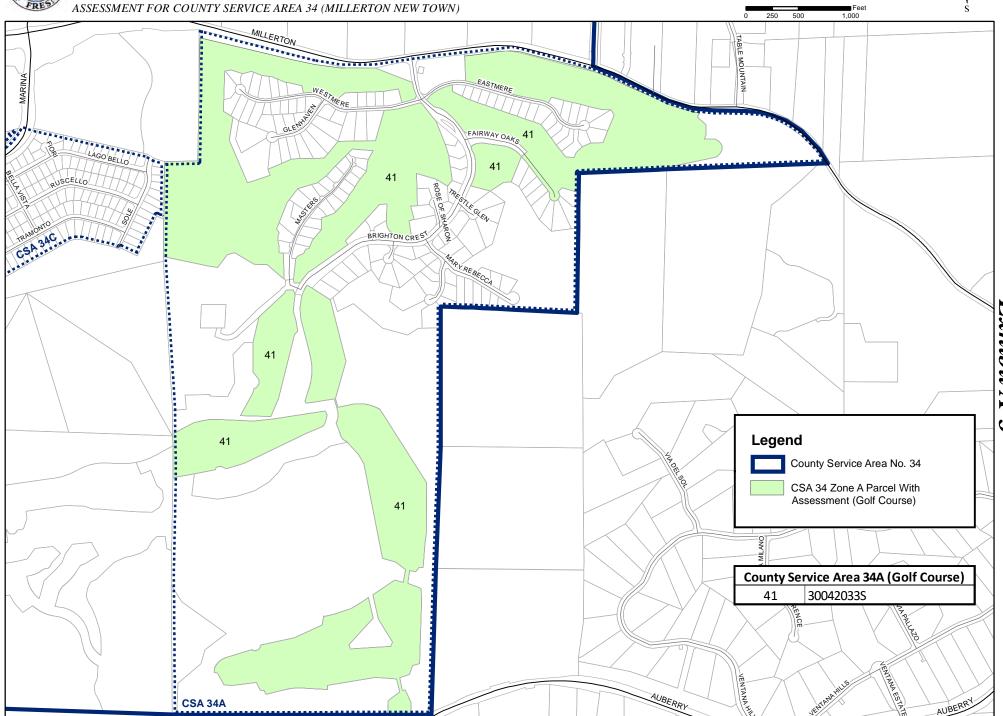




County Service Area No. 34 Zone A - Golf Course

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WATER CONTRACT ADMINISTRATION AND MILLERTON LAKE PUMP READY-TO-SERVE MAINTENANCE ASSESSMENT FOR COUNTY SERVICE AREA 34 (MILLERTON NEW TOWN)

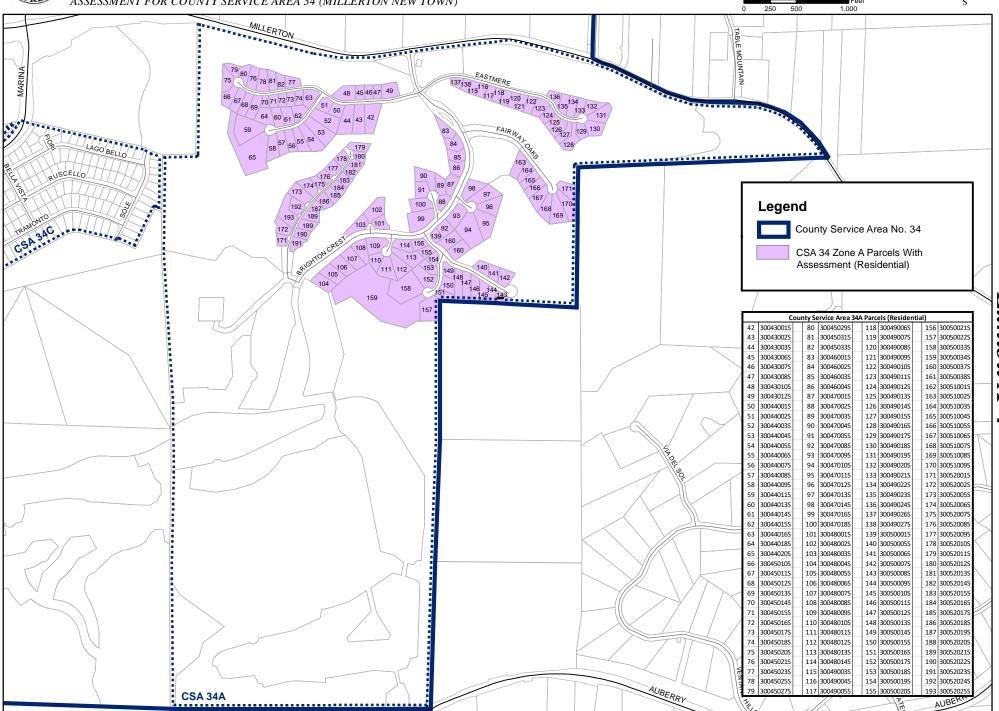




County Service Area No. 34 Zone A - Residential



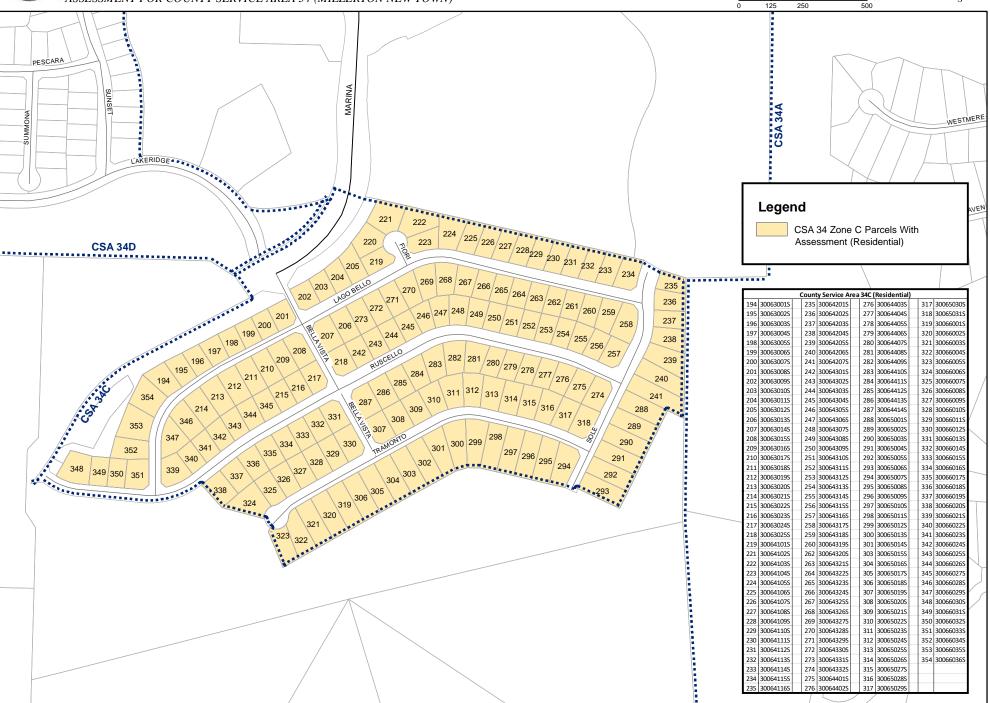
WATER CONTRACT ADMINISTRATION AND MILLERTON LAKE PUMP READY-TO-SERVE MAINTENANCE ASSESSMENT FOR COUNTY SERVICE AREA 34 (MILLERTON NEW TOWN)



County Service Area No. 34 Zone C - Residential

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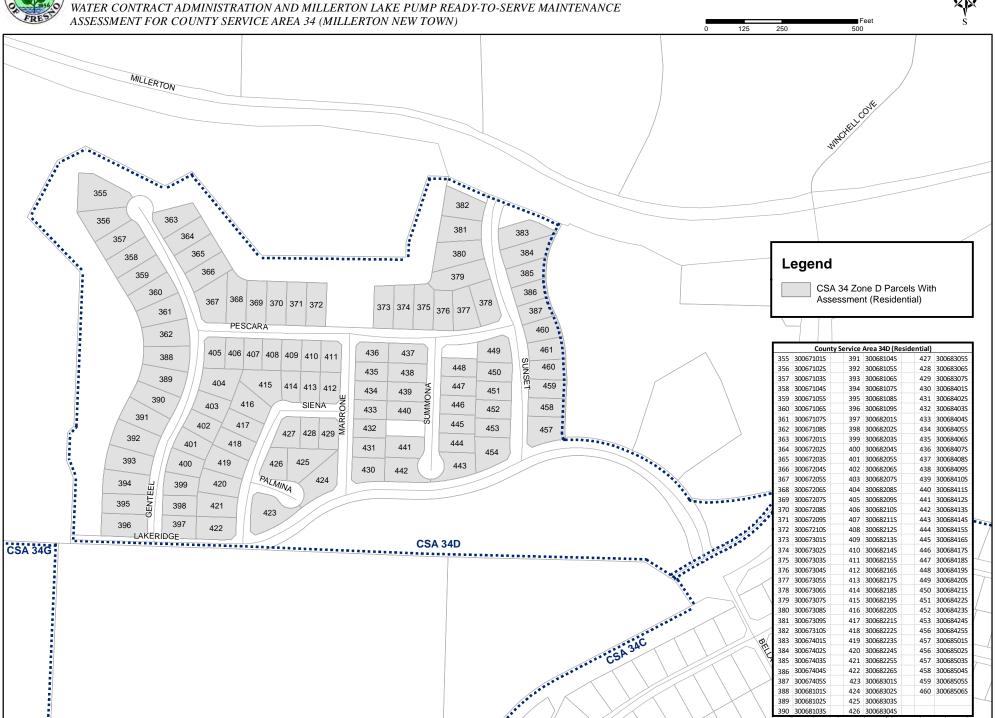
WATER CONTRACT ADMINISTRATION AND MILLERTON LAKE PUMP READY-TO-SERVE MAINTENANCE ASSESSMENT FOR COUNTY SERVICE AREA 34 (MILLERTON NEW TOWN)

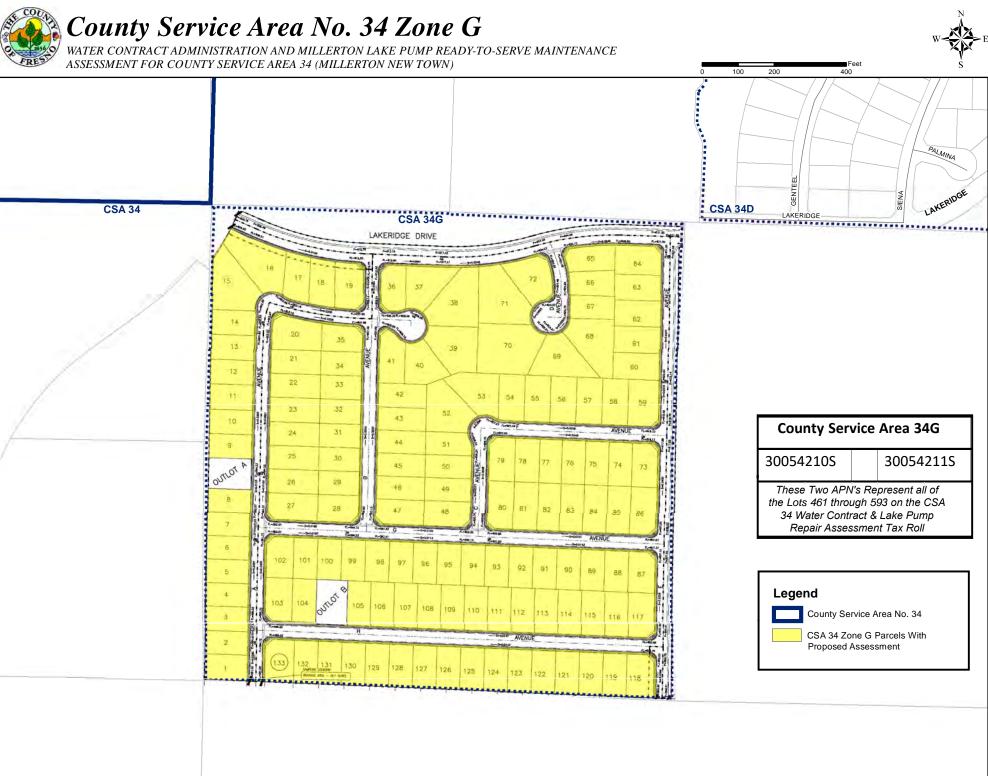




County Service Area No. 34 Zone D - Residential







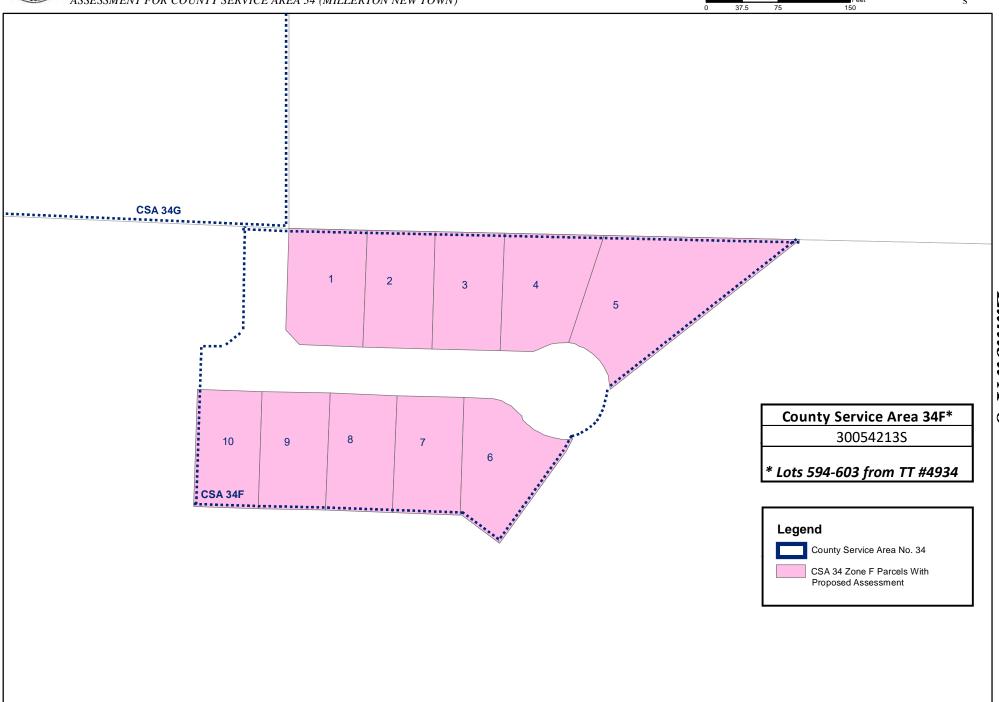
Public Works and Planning

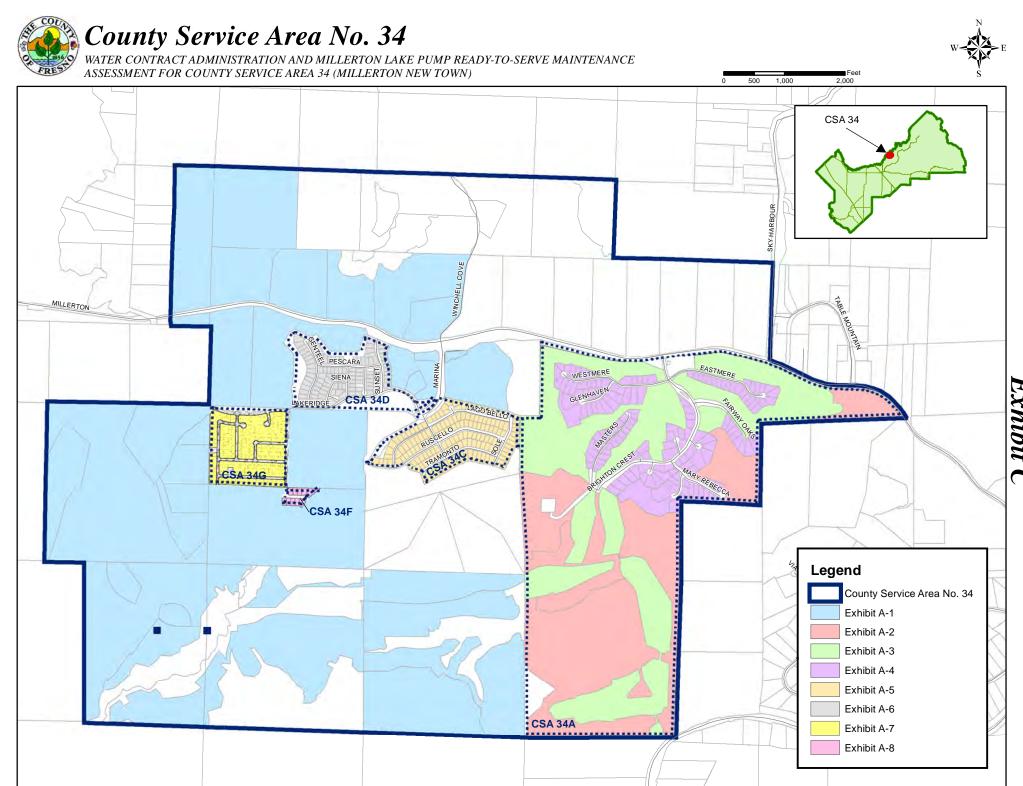
Computer Data Systems



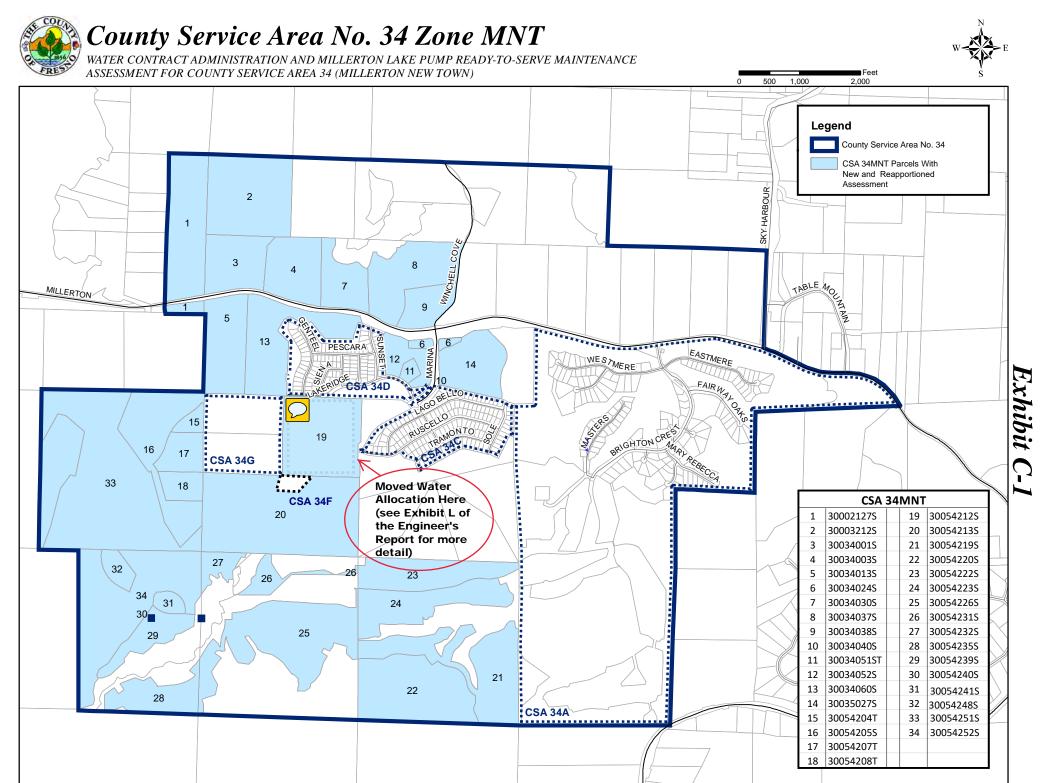
WATER CONTRACT ADMINISTRATION AND MILLERTON LAKE PUMP READY-TO-SERVE MAINTENANCE ASSESSMENT FOR COUNTY SERVICE AREA 34 (MILLERTON NEW TOWN)



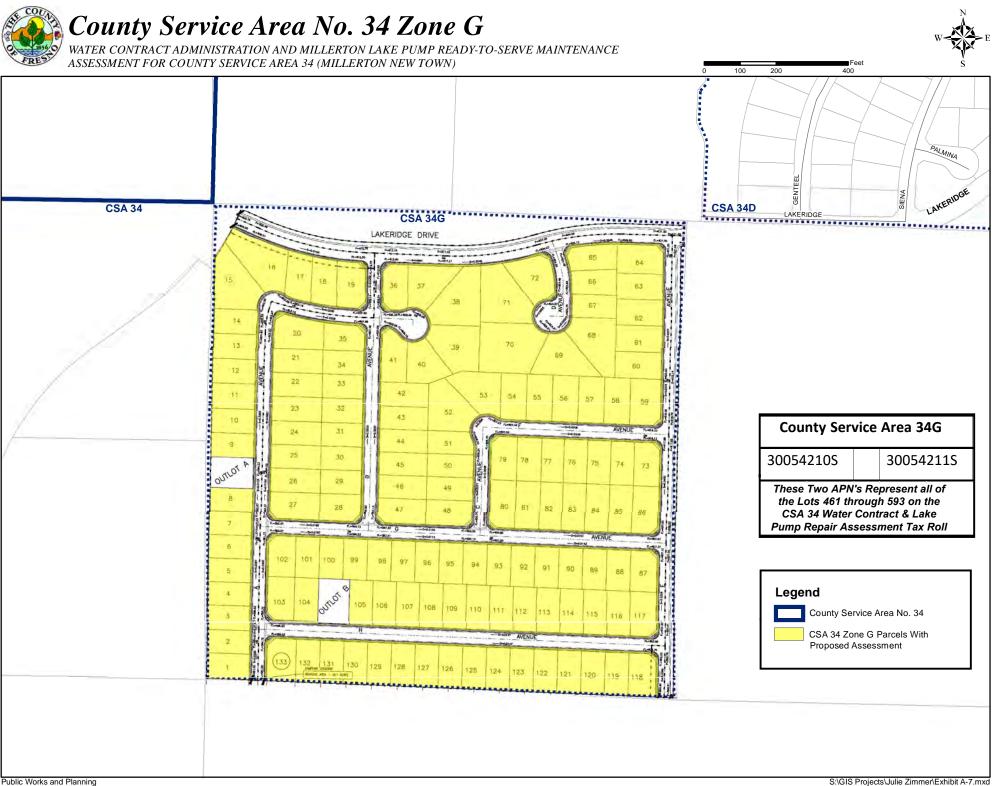




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County Service Area No. 34 Zone F

WATER CONTRACT ADMINISTRATION AND MILLERTON LAKE PUMP READY-TO-SERVE MAINTENANCE ASSESSMENT FOR COUNTY SERVICE AREA 34 (MILLERTON NEW TOWN)



