



County of Fresno

Hall of Records, Rm. 301
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Legislation Text

File #: 19-0407, Version: 1

DATE: August 20, 2019

TO: Board of Supervisors

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

SUBJECT: Resolution Initiating Local Utility Assessment Proceedings for
County Service Area 34 Zone F "The Vistas" and Resolution of Intention to Levy an
Assessment

RECOMMENDED ACTION(S):

- 1. Adopt and authorize the Chairman to execute Resolution initiating 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, and public 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 F, which will be known as "The Vistas," appointing and designating an assessment engineer, and directing the preparation and filing of an Engineer's Report; and**
- 2. Adopt and authorize the Chairman to execute Resolution declaring 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, 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 F, which will be known as "The Vistas," and setting a public hearing on October 8, 2019 at 9:00 a.m., or as soon after as practicable, to consider the proposed assessments.**

Approval of the recommended actions will initiate proceedings for local utility service water operations, local utility service sewer operations and maintaining ready-to-serve status, street lighting, right-of-way landscape maintenance, and road maintenance and storm drainage maintenance assessments. The public meeting will be held on September 18, 2019 at 3:00 P.M., and public hearing on October 8, 2019, 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 No. 34 proposed Zone F (CSA 34F) may indicate their support for, or opposition to, the proposed assessment.

A detailed Engineer's Report supporting the proposed assessments is on file with the Clerk of the Board. Exhibit A contains a legal description and Exhibit A-1 is a map of Tentative Tract Map (TTM) 4934 (CSA 34F), showing the parcels that would be affected by the proposed assessments. This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

There is no viable alternative action. The County is obligated under the April 9, 2019 Subdivider Reimbursement Agreement No. S340010, see Attachment A, to undertake the proceeding, but makes no

guarantee regarding the result of those proceedings. Establishing rates for CSA 34F is a condition of approval for TTM 4934.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. On April 11, 2019, the County entered into Subdivider Agreement No. S340010 with Wathen Castanos Homes (WCH), to pay costs of establishing the local utility use fees and assessments. The costs include preparation of an Engineer's Report for the local utility assessments, based on the Master Consolidated Engineer's Report (CER) approved and adopted by the Board on January 26, 2016. The costs include the majority protest proceedings under Proposition 218, California Constitution, Article XIII D, sections 4 and 6, to establish the fees and assessments required to provide the services for CSA 34F. All operation, maintenance and Department of Public Works and Planning staff costs for CSA 34F will be paid by the benefitted property owners through various fees and assessments. The proposed assessment would cover a portion of the cost to operate CSA 34F, specifically the cost to pay for the local utility water and sewer services, storm drainage maintenance, road maintenance, landscape maintenance, and street lighting within CSA 34F. Additional proposed fees and assessments are interdependent and before the Board in separate board reports today, to cover other portions of the cost to operate CSA 34F.

DISCUSSION:

Background

The proposed Resolution to initiate formation proceedings for CSA 34F is interdependent and before the Board in a separate board report today. CSA 34F is proposed to be formed to provide community services for the development of The Vistas and consists of approximately five 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, and public right-of-way landscape maintenance services to the property owners of the community.

Due to the variety of services the County provides in various parts of CSA 34, the Engineer's Report is proposing fees and assessments to fund each of the services. Some facilities for providing water and sewer services are local to CSA 34A, CSA 34C, CSA 34D, proposed CSA 34G, and proposed CSA 34F, 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 service costs to each parcel within CSA 34A, CSA 34C, CSA 34D and certain other parts of CSA 34. The addendum to the Engineer's Report will determine all fees and assessments that would be necessary to ensure that CSA 34F is fully funded, and to provide documentation necessary under Proposition 218 to support imposition of the fees and assessments. Department staff received the final Engineer's Report on July 25, 2019.

The Engineer's Report supports the proposed assessments in the CSA 34F Local Utility Assessment Area, increases assessments in certain other parts of CSA 34, and water and sewer fees for CSA 34F. The assessments and water and sewer fees are before your Board in consecutive board reports today.

Proposed Assessments

Water and Sewer Facilities

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

- Maintaining CSA 34F 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 34F 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 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 \$262.80 and the sewer system in the amount of \$152.70, for a combined total of \$415.50 annually. The proposed reserve funds will provide for replacement of components of the local water and sewer systems, as follows:

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

Storm Drainage and Road Maintenance

The proposed assessment for CSA 34F 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 designed to build a reserve for collector streets over six-years, for a total of \$342.96 annually. Capital facilities replacement for an interior street overlay designed to build a reserve over six-years for a total of \$342.96 annually, and capital facilities replacement reserve funds for bridge replacement designed to build a reserve over six-years, for a total of \$171.48 annually, for a combined total of \$857.40 annually. The proposed reserve funds is to provide for replacement of road infrastructure as follows:
- The capital facilities replacement reserve is to build funds to pay to replace the on-site and off-site, as described in the Engineer's Report, Section 8.1.D, street signage inspection and reconditioning of all street striping, including building funds for the street paving and reconditioning reserves, together with the payment of all insurance and administrative costs needed to support on-going services and to plan and implement recurring street surface reconditioning work to maintain ready-to-serve status.

Street Lighting and Landscape Maintenance

The proposed assessment for CSA 34F street lighting and landscape maintenance services is designed to recover the following costs:

- Managing Pacific Gas & Electric (PG&E) owned and operated street lighting system operations and maintenance. Services include the payment of PG&E usage charges and payment of administrative costs associated therewith, to provide year round street safety lighting along of the streets and to maintain the visual presentation of streets in a ready to-serve status for the benefit of all the CSA 34F lots.

- Managing vendors, work, and expenses associated with the maintenance of the right-of-way landscape maintenance, and maintaining a ready-to-serve status to maintain the visual presentation of the community for the benefit of all the CSA 34F lots.

Included in the assessment for public right-of-way landscape maintenance are capital facility replacement reserve funds total of \$23.92 designed to build a reserve over six-years for the replacement of irrigation systems, plants, trees and foliage. There are no capital reserves proposed for street lighting.

The calculation of the proposed assessments in the Engineer's Report begin with the total annual cost of services, including building the reserves, described above. The total cost is then allocated to each parcel in proportion to an "Equivalent Benefit Unit," "Equivalent Water Unit," or "Equivalent Sewer Unit," referred to as an "EBU," "EWU," or "ESU," respectively. The method is used because the level of special benefit provided by each of the services is equal per "dwelling unit." Each of the 10 parcels in CSA 34F is assigned one EBU, one EWU, or one ESU.

The proposed total annual assessments per EBU, ESU and EWU, that is, per parcel, for the first year, FY 2019-20, is \$606.27 of which \$183.96 is attributable to the water system, \$106.89 to the wastewater system, \$171.48 to road maintenance, \$31.10 to landscape maintenance, \$42.87 to maintain storm drainage, and \$69.97 to street lighting.

The maximum total amount to be collected from all assessed properties in the first year (FY 2019-20) is \$6,062.70 and each of the proposed CSA 34F assessments include:

1. The water system assessment is \$1,839.60.
2. The sewer system assessment is \$1,068.90.
3. The storm drainage assessment is \$428.70.
4. The road maintenance assessment is \$1,714.80.
5. The street lighting services assessment is \$699.70.
6. The public right-of-way landscape assessment is \$311.00.

The maximum total annual amount for all assessed properties in the CSA 34F for the following five years will be:

- | | |
|---------------|------------|
| 1. FY 2020-21 | \$6,193.65 |
| 2. FY 2021-22 | \$6,327.44 |
| 3. FY 2022-23 | \$6,464.11 |
| 4. FY 2023-24 | \$6,603.73 |
| 5. FY 2024-25 | \$6,746.38 |

Each year after would be the same as FY 2024-25 unless the Board reduces or terminates the assessment, or there is new proceeding to increase the assessment.

If your Board chooses to levy the proposed assessments, they may be increased without a Proposition 218 proceeding, beginning in FYs 2019-20 through 2024-25, by no more than 5% over the previous year, to account for inflation. After the end of the sixth 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. The Department anticipates that the 10 parcels receiving local utility water and sewer services, road maintenance, landscape maintenance, storm drainage maintenance and street lighting service will pay 100% of the estimated costs associated with the service.

Summary of the Proposition 218 Procedures

The process of levying each assessment on real property within the CSA 34F Local Utility Assessment Area must conform to the requirements of Proposition 218, which added Articles XIII C and XIII D to the California Constitution. The particular requirements applicable to assessments are in Article XIII D, section 4. The 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 October 8, 2019.

Engineer's Report

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

Assessment Ballot Measure

Owners of property within the CSA 34F 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 each (a) local utility water and sewer services, (b) storm drainage and road maintenance, and (c) landscape maintenance and street lighting services.

Assessment Ballot Process

For each assessment a single assessment ballot per parcel within CSA 34F, along with a detailed notice and related assessment ballot instructions, will be mailed by the Clerk of the Board to the record property owners identified in the Engineer's Report as receiving a special benefit from local utility water and sewer services, storm drainage and road maintenance, and landscape maintenance and street lighting. For an assessment ballot to be counted, it must be properly executed and delivered before or on the Board public hearing date of 9:00 A.M. on October 8, 2019 as follows:

- (a) By U.S. Mail so that it is received by the Clerk of the Board no later than 9:00 A.M. on October 8, 2019;
or
- (b) otherwise delivered to the Clerk of the Board no later than 9:00 A.M. on October 8, 2019 or
- (c) delivered at the Board's public hearing itself on October 8, 2019 before the close of public testimony during the hearing.

Assessment ballots will remain unopened and in the charge of the Clerk of the Board until they are opened and tabulated by the Board's designated officials (e.g., Director of the Department of Public Works and Planning, or designees), after the conclusion of public testimony at the recommended October 8, 2019 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 of 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 34F.

Proposed Resolution to Initiate and Resolution of Intention

Approval of the recommended actions will initiate the process to fund the cost of local utility water and sewer services, storm drainage and road maintenance, and landscape maintenance, and street lighting services. In general, by approving the resolutions, 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 of the Board.
- (c) Declares the proposal to levy and collect assessments in CSA 34F for the cost of local utility water and sewer services, storm drainage and road maintenance, and street lighting services and public right-of-way landscape maintenance .
- (d) Sets a public hearing 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 34F, 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 the Department of Public Works and Planning (Director), or 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 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 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 of the Board to sign and mail, postage prepaid, in the United States Mail, no later than August 23, 2019, 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 of 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 of 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 34F, 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 of 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
BAI #13, March 1, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibits A - A1
Attachment A
On file with Clerk - Resolution of Initiation
On file with Clerk - Resolution of Intention
On file with Clerk - Engineer's Report

CAO ANALYST:

Sonia M. De La Rosa