RESOLUTION - ACTION REQUESTED 2014-26

MEETING: January 14, 2014

TO: The Board of Supervisors

FROM: Rick Benson, County Administrative Officer

RE: CSA #3 Affirmation

RECOMMENDATION AND JUSTIFICATION: Approve implementation of the process to affirm the County Service Area (CSA) #3 assessment and approve the agreement with Harris & Associates for assessment services, and authorize the Board of Supervisors Chair to sign the Agreement.

In July 2008, over 62% of property owners with developed parcels in Mariposa County approved an assessment of $80 per year for 15 years in order to fund the purchase of new fire engines and provide capital improvements to fire stations. Based on that approval the County entered into a leasing agreement for 14 fire engines and two water tenders.

The process used to establish the assessment was in accordance with the requirements outlined in Proposition 218. Property owners were fully informed in regards to the amount of the assessment and its purpose. This assessment has been collected for the past five years. Hundreds of thousands of dollars have been spent on lease payments for fire engines and for improvements to fire stations. The establishment of CSA #3 has been a tremendous benefit to owners of developed parcels who rely on the Mariposa County Fire Department for structure fire protection.

Recently, William Davis, the County Auditor, filed suit challenging the CSA #3 assessment. In the suit, Mr. Davis alleges that proper procedures were not followed, therefore, the assessment should be found to be null and void and all funds collected should be returned.

As your Board is aware, Mr. Davis has two main areas of concern. The first is that property owners did not receive a full description of the benefits they would be receiving especially in light of the general benefit which may occur with the purchase of this equipment and the improvements to fire stations. The second concern is that a uniform assessment is not appropriate.

As a result of the Auditor’s concerns, in early 2013 your Board reviewed CSA #3. At that time an allegation was made by Mr. Davis that an assessment of this nature was
categorically unconstitutional. Your Board engaged outside counsel with expertise in this matter as well as an outside engineering firm specializing in assessments of this nature. As was reported to your Board, an assessment of this nature is constitutional. However, the engineer’s report had some deficiencies. None of these deficiencies should have had a material effect on the outcome of the property owner vote. Property owners clearly understood what was to occur and clearly approved of the assessment. For that reason your Board chose not to make an unwarranted expenditure of taxpayer dollars to redo the process since, ultimately, property owners would be voting on the very same issue that they approved in 2008. They would be asked to re-approve an assessment of $80 per parcel in order to fund fire equipment and fire station improvements.

Obviously, since he has filed suit, the Auditor is of a different opinion. Apparently he believes that a major expenditure is warranted in order to “clean up” these technical deficiencies. Since fire protection equipment is extremely critical and since there were technical deficiencies in the earlier engineer’s report it is recommended that your Board now authorize resubmitting the assessment to property owners for their approval. If the court’s ruling is unfavorable to the County, the loss of this revenue is simply unacceptable. By having the assessment affirmed there will be no further cloud on this funding source.

Before your Board today is an agreement which will allow the affirmation process to begin. The agreement is with Harris & Associates, a professional engineering firm, in the not to exceed amount of $40,000 for the production of a new engineer’s report, property owners ballots and notices.

Your Board should note that the cost of producing the engineer’s report is approximately $26,500. There will be additional charges associated with the direct cost of producing and mailing ballots and notices. These additional charges are estimated to be approximately $13,500. The County will pay the actual cost of producing and mailing notices and ballots.

The timetable for resubmitting the CSA #3 assessment to property owners is as follows:

January 14, 2014 (today)
Approve contract with engineering firm.

January 15 through April 8
Series of public meetings to provide information regarding affirmation proposal.

February 11, 2014
Approval of Engineer’s Report
Schedule hearing
Authorize mailing of ballots
March 18, 2014
Public meeting regarding assessment

April 1 or 8, 2014
Public hearing and ballot tally.

April 22, 2014
Ordinance to place charge on tax rolls (assuming affirmative vote)

These dates are subject to some change.

If affirmed, at the end of the process the charges to property owners will be exactly the same and the term of the assessment will remain as originally established.

It is therefore recommended that your Board approve implementation of the process to affirm the CSA #3 assessment, approve the agreement with Harris & Associates and authorize the chairman to sign.

BACKGROUND AND HISTORY OF BOARD ACTIONS: CSA #3 was approved on July 25, 2008. Your Board heard a report regarding CSA #3 on April 2, 2013 and took no action at that time.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: Taking no action may jeopardize the funding of fire engines and fire stations.

ATTACHMENTS:
Harris Agreement scope of services (DOC)
Harris Agreement with changes(DOC)

CAO RECOMMENDATION
Requested Action Recommended

RESULT: ADOPTED [UNANIMOUS]
MOVER: Lee Stetson, District I Supervisor
SECONDER: John Carrier, District V Supervisor
AYES: Stetson, Jones, Bibby, Cann, Carrier