DEPARTMENT: Public Works
BY: Jim Petropulos
PHONE: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION:

Approve conformed copies of resolutions relative to the Proposition 218 process and the Yosemite West Wastewater Facilities Project for Resolution Nos. 04-88/Proposition 218 process; No. 04-89/intent to form Assessment District 01-1—Yosemite West Wastewater Facilities Project; and No. 04-90/preliminarily approving the Engineers' report, to incorporate final changes in the documents.

Subsequent to the Board's actions on March 9, 2004, it was brought to our attention that there were minor changes that needed to be incorporated in the final version of the resolutions that amend the Proposition 218 process and for the Yosemite West Wastewater Facilities Project. These changes are non-substantive and were intended for inclusion in the March 9th package.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has taken a number of actions regarding the Yosemite West Wastewater Facilities Project.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Financial Impact? ( ) Yes (X) No Current FY Cost: $
Budgeted in Current FY? ( ) Yes ( ) No ( ) Partially Funded
Amount in Budget: $
Additional Funding Needed: $

List Attachments, number pages consecutively

Source:

Internal Transfer

Unanticipated Revenue 4/5’s vote
Transfer Between Funds 4/5’s vote
Contingency 4/5’s vote
( ) General ( ) Other

CLERK'S USE ONLY

Res. No.: 04-136, 04-142, 04-145
Vote - Ayes: 5 Noes: _
Approved: _
Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date: __________
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: __________
Deputy

Revised Dec. 2002
MARIPOSA COUNTY BOARD OF SUPERVISORS RESOLUTION NO. 04-144

A RESOLUTION OF INTENTION
TO MAKE ACQUISITIONS AND IMPROVEMENTS

Assessment District No. 01-1
(Yosemite West Wastewater Facilities Project)

RESOLVED by the Board of Supervisors (the "Board") of the County of Mariposa (the "County"), State of California, as follows:

1. **Intention.** The public interest, convenience and necessity require, and that the Board intends to order the making of the acquisitions and improvements (the "Improvements") described in Exhibit "A" attached hereto and made a part hereof in and for the County's proposed Assessment District No. 01-1 (Yosemite West Wastewater Facilities Project) (the "Assessment District").

2. **Law Applicable.** Except as herein otherwise provided for the issuance of bonds, all of the work shall be done as provided in the Municipal Improvement Act of 1913, Division 12 of the Streets and Highways Code of California (the "Act").

3. **Nature and Location of and Grades for Improvements.** All of Improvements are to be constructed at the places and in the particular locations, of the forms, sizes, dimensions and materials, and at the lines, grades and elevations, as shown and delineated upon the plans, profiles and specifications to be made therefor, as hereinafter provided. There is to be excepted from the work above described any of such work already done to line and grade and marked excepted or shown not to be done on the plans, profiles and specifications. Whenever any public way is herein referred to as running between two public ways, or from or to any public way, the intersections of the public ways referred to are included to the extent that work is shown on the plans to be done therein. The streets and highways are or will be more particularly shown in the records in the office of the County Recorder of the County and shall be shown upon the plans.

4. **Change of Grade.** Notice is hereby given of the fact that in many cases the Improvements will bring the finished work to a grade different from that formerly existing, and that to the extent the grades are hereby changed and that the work will be done to the changed grades.

5. **Work on Private Property.** In cases where there is any disparity in level or size between the Improvements proposed to be made herein and private property and where it is more economical to eliminate such disparity by work on the private property than by adjustment of the work on public property, it is hereby determined that it is in the public interest and more economical to do such work on private property to eliminate such disparity. In such cases, the work on private property shall, with the written consent of the owner of the property, be done and the actual cost thereof may be added to the proposed assessment of the lot on which the work is to be done.
6. **Official Grades.** This Board does hereby adopt and establish as the official grades for the work the grades and elevations to be shown upon the plans, profiles and specifications. All such grades and elevations are to be in feet and decimals thereof with reference to the datum plane of this County.

7. **Descriptions - General.** The descriptions of the Improvements and the termini of the work contained in this Resolution are general in nature. All items of work do not necessarily extend for the full length of the description thereof. The plans and profiles of the Improvements and maps and descriptions as contained in the Engineer's Report, hereinafter directed to be made and filed, shall be controlling as to the correct and detailed description thereof.

8. **Special Benefit and Boundary Map.** The contemplated Improvements, in the opinion of this Board, are of more than general or ordinary public benefit, and the costs and expenses thereof are made chargeable upon the Assessment District, the exterior boundaries of which are shown on a map thereof on file in the office of the Clerk of the Board, to which reference is hereby made for further particulars. The map indicates by a boundary line the extent of the territory proposed to be included in Assessment District and shall govern for all details as to the extent of the Assessment District.

9. **Public Property.** This Board declares that all public streets, highways, lanes and alleys, and properties owned by any public agency or department of the United States of America, the State of California, the County, any city or special district, within the Assessment District and in use in the performance of a public function shall be omitted from the assessment hereafter to be made; provided, however that to the extent found to be specially benefited, such lands shall be subject to assessment.

10. **Engineer's Report.** The Improvements are hereby referred to the Public Works Director of the County as the Engineer of Work (the "Engineer of Work") and to Wilson & Associates being a competent firm employed for the purpose hereof as the assessment engineer for the Assessment District (the "Assessment Engineer"), and the Engineer of Work, with the assistance of the Assessment Engineer is hereby directed to make and file with the Clerk of the Board a report in writing (the "Engineer's Report"), presenting the following:

   (a) Maps and descriptions of the lands and easements to be acquired, if any;

   (b) Plans and specifications of the proposed Improvements if the Improvements are not already installed. The plans and specifications do not need to be detailed and are sufficient if they show or describe the general nature, location, and extent of the Improvements. If the Assessment District is divided into zones, the plans and specifications shall indicate the class and the type of the Improvements to be provided for each zone. The plans or specifications may be prepared as separate documents, and either or both may be incorporated in the Engineer's Report as a combined document.

   (c) A general description of Improvements already installed and any other property necessary or convenient for the operation of the Improvements, if the works, appliances, or property are to be acquired as part of the Improvements.

   (d) An estimate of the cost of the Improvements and of the cost of lands, rights-of-way, easements, and incidental expenses in connection with the Improvements, including any cost of issuing and registering bonds.
(e) A diagram showing, as they existed at the time of the passage of this Resolution, all of the following:

(1) The exterior boundaries of the Assessment District.

(2) The boundaries of any zones within the Assessment District.

(3) The lines and dimensions of each parcel of land within the Assessment District.

Each subdivision, shall be given a separate number upon the diagram. The diagram may refer to the county assessor’s maps for a detailed description of the lines and dimensions of any parcels, in which case those maps shall govern for all details concerning the lines and dimensions of the parcels.

(f) A proposed assessment of the total amount of the cost and expenses of the proposed improvement upon the several subdivisions of land in the Assessment District in proportion to the estimated benefits to be received by each subdivision, respectively, from the improvement. The assessment shall refer to the subdivisions by their respective numbers as assigned pursuant to subdivision (e).

(g) A proposed maximum annual assessment upon each of the several subdivisions of land in the Assessment District to pay cost incurred by the County and not otherwise reimbursed resulting from the administration and collection of assessments or from administration or registration of any associated bonds and reserve or other related funds.

When any portion or percentage of the costs and expenses of the acquisitions and improvements is to be paid from sources other than assessments, the amount of such portion or percentage shall first be deducted from the total estimated cost and expenses of the acquisitions and improvements, and the assessment shall include only the remainder of the estimated cost and expenses.

11. Use of Surplus. If any excess shall be realized from the assessment it shall be used, in such amounts as this Board may determine, in accordance with the provisions of the Act, for one or more of the following purposes:

(a) Transfer to the general fund of this County, provided that the amount of any such transfer shall not exceed the lesser of $1,000 or 5% of the total amount expended from the improvement fund;

(b) As a credit upon the assessment and any supplemental assessment or for the redemption of bonds, or both; or

(c) For the maintenance of the improvements.

12. Contact Person. Jim Petropoulos, Public Works Director of the County, is hereby designated as the person to answer inquiries regarding any protest proceedings to be had herein, and may be contacted during regular office hours at County of Mariposa, Public Works Department, 4639 Ben Hur Road, Mariposa, California 95338, or by calling telephone number (209) 966-5356.
13. **Contracts with Others.** To the extent that any of the work, rights, improvements and acquisitions indicated in the Engineer's Report, to be made as provided herein, are shown to be connected to the facilities, works or systems of, or are to be owned, managed and controlled by, any public agency other than this County, or of any public utility, it is the intention of this Board to enter into an agreement with such public agency or public utility pursuant to Chapter 2 (commencing with Section 10100) of the Act, which agreement may provide for, among other matters, the ownership, operation and maintenance by such agency or utility of the works, rights, improvements and acquisitions, and may provide for the installation of all or a portion of such improvements by the agency or utility and for the providing of service to the properties in the area benefiting from the work, rights, improvements and acquisitions by such agency or utility in accordance with its rates, rules and regulations, and that such agreement shall become effective after proceedings have been taken for the levy of the assessments and sale of bonds and funds are available to carry out the terms of any such agreement.

14. **Improvement Bonds.** Notice is hereby given that serial and/or term improvement bonds (the “Bonds”) to represent unpaid assessments, and bear interest at the rate of not to exceed such rate of interest as may be authorized by applicable law at the time of sale of such bonds, will be issued hereunder in the manner provided by the Improvement Bond Act of 1915, Division 10 of the California Streets and Highways Code (the “Bond Law”), the last installment of which bonds shall mature not to exceed thirty-nine (39) years from the second day of September next succeeding their date. The bonds shall be issued in such series and shall mature in such principal amounts at such times as shall be determined by this Board at the time of the issuance of such bonds. The provisions of Part 11.1 of the Bond Law, providing an alternative procedure for the advance payment and calling of bonds, shall apply to the bonds issued in these proceedings. It is the intention of this Board to create a special reserve fund pursuant to and as authorized by Part 16 of the Bond Law. It is now the intention of the County that the County will not obligate itself to advance available funds from the treasury of the County to cure any deficiency in the redemption fund to be created with respect to the bonds; provided, however, that any final determination not to obligate itself shall not prevent the County from, in its sole discretion, so advancing funds.

15. **Refunding of Bonds.** The bonds may be refunded pursuant to the provisions of Division 11.5 of the California Streets and Highways Code upon the determination of the Board of the County that the public interest or necessity requires such refunding. Such refunding may be undertaken by the Board when, in its opinion, lower prevailing interest rates may allow reduction in the amount of the installments of principal and interest upon the assessments given to owners of property assessed for the works herein described. The refunding bonds shall bear interest at a rate not to exceed that which is stated in the resolution of the Board expressing its intention to issue the refunding bonds, which resolution of intention shall also set forth the maximum term of years of the refunding bonds. The refunding shall be accomplished pursuant to Division 11.5 (commencing with Section 9500) of the California Streets and Highways Code, except that, if, following the filing of the report specified in Section 9523 and any subsequent modifications of the report, the Board finds that each of the conditions specified in the resolution of intention to issue the refunding bonds is satisfied and that adjustments to the assessments are on a pro-rata basis, the Board may approve and confirm the report and may, without further proceedings, authorize, issue and sell the refunding bonds pursuant to Chapter 3 (commencing with Section 9600) of Division 11.5 of the California Streets and Highways Code.

16. **Division 4.** Reference is hereby made to proceedings had pursuant to Division 4 of the Streets and Highways Code of California which are on file in the office of the Clerk of the
Board and which are part of the Engineer's Report. It is the intention of this Board to comply with Division 4 of the Streets and Highways Code of California by proceeding under Part 7.5 thereof. To that end, the Engineer of Work is hereby directed to include in the Engineer's Report all of the material specified by such Part 7.5 and for which the total true value shall be estimated as the full cash value of the parcels of land in the Assessment District as shown on the last equalized assessment roll of the County.

17. **No Private Contract.** Notice is hereby given that, in the opinion of this Board, the public interest will not be served by allowing the property owners to take the contract for the construction of the improvements and therefore that, pursuant to Section 20487 of the California Public Contract Code, no notice of award of contract shall be published.

18. **Reimbursement Declaration.** The County intends to issue the Bonds, which are "Obligations" under United States Income Tax Regulations section 1.150-2 (the "Regulations"), to finance all or a portion of the costs of the Improvements. The Board hereby declares that the County reasonably expects to use a portion of the proceeds of the Bonds for reimbursement of expenditures for the Improvements that are paid before the date of issuance of the Bonds. This section of this resolution shall be solely for the purpose of complying with the provisions of the Regulations and shall not be deemed an approval of all or any part of the Assessment District or a commitment on the part of this Board to issue any or all of the Bonds or otherwise provide for financing.

19. **Effective.** This resolution shall be effective upon its adoption.

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PASSED AND ADOPTED this 6th day of April, 2004 by the following vote:

AYES: STETSON, BALMAIN, BIBBY, PARKER, PICKARD

NOES: NONE

ABSENT: NONE

ABSTAINED: NONE

COUNTY OF MARIPOSA

GARRY D. PARKER, Chairman

ATTEST:

MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

THOMAS P. GUARINO, County Counsel
EXHIBIT A

COUNTY OF MARIPOSA
Assessment District No. 01-1
(Yosemite West Wastewater Facilities Project)

DESCRIPTION OF IMPROVEMENTS

Within the County of Mariposa (the “County”), State of California, the construction and acquisition of the public sewer system and related improvements (the “Improvements”), including the acquisition of all lands, easements, rights-of-way, licenses, franchises, and permits in accordance with plans and specifications to be approved by the County. The Improvements are described in detail in the Engineer’s Report prepared under Section 10 of the within Resolution of Intention and reference is hereby made to that report for details. Capitalized terms shall have the meanings defined in that report. The Improvements are generally described as follows:

1. Wastewater treatment and disposal system improvements, including conversion of aerated lagoons to extended aeration process treatment units and the conversion of the existing effluent disposal system from winter leach field/summer spray irrigation system to a year-round subsurface drip irrigation system, to be constructed within the existing Y-West Wastewater Facilities site and including the installation of a new headworks and a comminutor.

2. Collection system piping rehabilitation improvements, including repairs and replacements recommended by the Psomas dated April 2, 2001, entitled “Yosemite West Build-Out Improvements Report” (the “Psomas Report”) to reduce infiltration and inflow to the system.

3. All other incidental work that is necessary and/or convenient to accomplish the above Improvements, including the reimbursement of all or a portion of the costs of works already installed, to the extent permitted by applicable law.