

CARMEL AREA WASTEWATER DISTRICT

SUMMARY OF ASSESSMENT DISTRICT FORMATION PROCEEDINGS

Key Participants. The financing team will consist primarily of: the District's board members and general counsel; Jones Hall, acting as special counsel; and an assessment engineer. After formation, the District may want to consider engaging an assessment district administrator to process the assessment roll each year and transmit the assessment roll to the County assessor's office. This can be done either by the County, if they are willing, or an outside firm; in either case, the annual cost would be paid as a component of the annual assessments.

Assessment District Formation. Below is a brief overview of the assessment district formation process, which is carried out under the Municipal Improvement Act of 1913 (Division 12 of the Streets and Highways Code) (the "1913 Act").

1. Prepare Engineer's Report, Assessment Diagram and Boundary Map. The assessment engineer, with input from District staff and special counsel, creates an Engineer's Report that shows the estimated costs of the project and related financing costs. The Engineer's Report also shows how these costs are apportioned or spread to the parcels in the assessment district based on the special benefit each parcel will receive from the project. This process is governed by the 1913 Act and the California Constitution (Proposition 218).

The assessment engineer will also create the boundary map that shows the limits of the assessment district and a detailed assessment diagram that shows the individual parcels in the Assessment District. These completed documents are filed with the District Secretary on or before the next item below.

2. Obtain the Consent of the County or City in which the Assessment District will be Formed. Section 10104 of the 1913 Act requires any special district proposing to form an assessment district to first obtain the consent of the city or county in which the assessment district is to be formed. The city or county whose consent is required must pass a resolution evidencing their consent before the District can adopt its Resolution of Intention, which is the initial action required in the proceedings to form the Assessment District.

First, the District's Board of Directors adopts a short resolution formally requesting the consent of the city or county. Then, a District official or the Engineer of Work contacts the



appropriate official at the city or county (typically the city clerk or city attorney, if a city's consent is needed, or clerk of the board of supervisors or county counsel, if a county's consent is needed) and sends them a package containing (a) a signed copy of the District resolution requesting approval, (b) a draft of the proposed Resolution of Intention to form the assessment district, (c) a copy of the proposed Boundary Map of the Assessment District (which the Engineer of Work will have prepared), and usually (d) a form of resolution granting consent that the city clerk or county clerk of the board can use. This resolution can appear on the consent calendar of the city or county, and does not obligate the city or county in any way.

3. Second Board Meeting. After the filings in 1 above, and the city or county adopts its consent resolution under 2 above, the District's board is asked to adopt two resolutions. The first is the ***Resolution of Intention of Make Acquisitions and Improvements***. This resolution formally begins the assessment process, evidences the intention (but not obligation) of the Board to form the assessment district, and otherwise complies with the various provisions of the 1913 Act.

The second resolution is the ***Resolution Preliminarily Approving Engineer's Report and Directing Actions With Respect Thereto***. This resolution gives tentative approval to the Engineer's Report and sets the date for the public hearing and assessment ballot tabulation that are required under the 1913 Act and Proposition 218. The public hearing date must be no sooner than 45 days from the date the assessment notices and ballots are mailed to the parcel owners. This resolution also directs the recording of the boundary map to give recorded notice that the assessment process has begun.

4. Prepare and Mail Notices and Ballots; Record Boundary Map. After Item 2 above, the assessment engineer and District staff mail the assessment notices and ballots to the parcel owners. The assessment notice and ballot must show the amount of the proposed assessment, the total proposed assessment and how the assessments are apportioned to each parcel. The assessment notice and ballot must specify the date of the public hearing, the deadline for returning ballots to the District secretary (which is by the close of the public hearing), and the address for returning the ballots. A return envelope or similar method must be provided to assure that the ballot remains sealed until the time for tabulation after the public hearing. The assessment notices and ballots must be mailed at least 45 days before the date of the public hearing. The assessment engineer will also assist in the completion and recording of the boundary map.

5. Conduct Information Workshop(s). During the 45-day period before the public hearing, it is suggested that the District hold at least one workshop for property owners to discuss the proposed assessments and the projects to be financed, and answer questions. A notices of the workshop may be included with the mailed assessment notice and ballot.

6. Third Board Meeting. At this meeting, the Board holds the public hearing on the proposed assessment. Any person wishing to speak to the subject is allowed to do so. After all wishing to speak have done so, the hearing is closed and the ballots may be tabulated. Since the law now requires that ballots remain sealed until the end of the hearing, time must be allowed to tabulate the ballots. This may be done by holding the hearing early on the Board agenda and returning to the matter some time later or by deferring any action on the ballots to a subsequent Board meeting. If this is not possible (because of numbers of Ballots or time or both), schedule



the tabulation to be done in a public space the next day, with the results reported at the next Board meeting.

In order for the assessment district to be formed and the project to go forward, there must a majority approval (50% +1) based on the assessment ballots actually received from the parcel owners, with each ballot weighted based on the dollar amounts assessed against that ballot's parcel.

If the Board wishes to confirm the ballot results at this same meeting, it asks the District Secretary to announce the results and, if there is affirmative approval by a majority based on dollars assessed, the Board adopts a ***Resolution Adopting Engineer's Report, Confirming the Assessment, Ordering the Work and Directing Actions With Respect Thereto***, which formally determines that the balloting was affirmative and approves the assessments on each property. This resolution also directs the recording of the assessment diagram and a special notice of assessment required to establish the assessment liens on each property assessed. Finally, this resolution directs the conduct of the cash payment period during which property owners may pay all or part of their assessments in cash, if they want to.

If the Board wishes to defer the tabulation of the ballot to another meeting, it may do so and the actions described in the previous paragraph will be taken at that meeting.

7. Notices of Assessment. If the Board adopts the resolution in Item 5 above, District staff, with the help of the assessment engineer and special counsel, prepares three notices:

(a) A notice to be mailed to each parcel owner informing them that the assessment district has been formed.

(b) A notice to be published in a newspaper of general circulation in the area of the assessment district.

(c) A notice to be recorded with the County recorder's office.