

**EXECUTIVE OFFICER'S AGENDA REPORT
MARCH 24, 2010**

**LAFCO APPLICATION NO. 2009-06 – CHANGE OF ORGANIZATION
CONSISTING OF THE FORMATION OF
COUNTY SERVICE AREA (CSA) NO. 27 (EMPIRE - PHASE 1)**

PROPOSAL

On September 15, 2009, the Stanislaus County Board of Supervisors adopted a resolution requesting that the Commission consider the formation of a new County Service Area (CSA) No. 27 (Empire - Phase 1) to provide the following extended services: storm drain system maintenance; cleaning and maintenance of 28 catch basins; maintenance of approximately 10,600 linear feet of curb and gutter; and periodic street sweeping. The County Department of Public Works has reviewed and approved an engineer's report and proposed budget for the provision of the necessary extended services. (See attached Exhibit "A" – Board Resolution No. 2009-633.)

The boundaries of the proposed County Service Area No. 27 (Empire – Phase 1) will include 80 existing parcels, totaling approximately 44.52 acres. (See attached Map - Exhibit "B".)

Purpose of a County Service Area

A County Service Area (CSA) is a special taxing district empowered to provide specific services within a specified boundary. The tax rate is set by a vote of the people within the boundaries of the service area.

The intent of the CSA law (Government Code Section 25210) was to enable the creation of quasi-agencies governed by the board of supervisors as an alternate method of providing a wide variety of municipal-type services to unincorporated areas. In financing services, CSAs have specific statutory authority to fix and collect charges for a particular extended service. As long as the charge does not exceed the cost of the provision of service(s), it is not considered a special tax.

Under CSA law, services including storm drainage maintenance and street sweeping can be funded by special assessments levied under that law. Before assessments can be levied however, a CSA would have to be specifically authorized to provide such services, and the assessments would have to be approved by the property owners pursuant to Proposition 218. Proposition 218, which was approved by the State electorate in November 1996, applies to all new or increased assessments.

Background

In Fiscal Year 2005/2006, the Stanislaus County Community Development Department, along with several other agencies, implemented plans to provide a storm drainage system to the unincorporated community of Empire. The storm drain system is to be constructed in three phases: Phase 1 will provide infrastructure to approximately 80 parcels; Phase 2 will include approximately 154 acres; and Phase 3 will include approximately 179 parcels.

Justification

If approved, the formation of CSA No. 27 (Empire - Phase 1) will enable the County, without the extra cost to the General Fund and taxpayers outside the proposed boundary, to provide and finance the extended services to the affected property owners. Thus, a CSA can be considered

cost-effective as it would provide and finance extended public services only to the affected property owners.

Assessment for CSA No. 27 (Empire - Phase 1)

According to information provided by the County, the proposed assessment for the new CSA will provide funding for the maintenance and operation of the storm drain system within a specified area. Currently, there is no identified regional district-funding source within the area of Empire for the maintenance of the Empire Storm Drain Project improvements. The new maintenance costs are expected to take affect during the Fiscal Year 2011-2012.

If CSA No. 27 is not formed, the County Department of Public Works would provide minimum maintenance to keep the storm drain system functioning. However, according to County Public Works, it is anticipated that the system would fail before the maximum service life is realized.

Ballot Procedure

Pursuant to the provisions of Proposition 218, the Board of Supervisors held a public hearing and ballot proceeding on November 24, 2009. This resolution outlined the proposed method for calculation and levying of identified charges to pay for the extended services provided by the proposed CSA No. 27 (Empire - Phase 1) and requested that the Commission consider waiver of conducting authority proceedings. (See attached Board Resolution No. 2009-791, Exhibit "C".)

Subsequently, on December 8, 2009, the Board approved the adoption of the ballot procedure results. (See attached Board Resolution No. 2009-821, Exhibit "D".) According to the results of the ballot procedure, the proposed CSA No. 27 received a total of 56.572 weighted ballots, with 45.594 weighted ballots (or approximately 80 percent) voting in support of the formation. (See attached ballot results, certified by the Clerk of the Board of Supervisors, Exhibit "E".)

DISCUSSION

Generally, County Service Areas are formed to provide extended levels of service to unincorporated areas, and the governing board is the Board of Supervisors. The formation process may only be initiated by a Resolution of the Board of Supervisors.

Service Plan

To meet the conditions for the County's Empire Storm Drain Project, the formation of a County Service Area is necessary to provide funds to pay for the maintenance of a storm drain system for the unincorporated community of Empire.

Boundary Issues

The proposed County Service Area boundary and the Sphere of Influence will be coterminous. The service area does not overlap or impact other service providers in the area.

Sphere of Influence

Government Code Section 56425 requires the Commission to consider and prepare written determinations with respect to the four (4) factors put forth in the law when establishing a Sphere

of Influence. The following written determinations are relevant for the establishment of a Sphere of Influence for CSA No. 27 (Empire - Phase 1):

(1) The present and planned land uses in the area, including agriculture and open-space lands.

The County retains the responsibility for land use decisions within the County Service Area (CSA) boundaries. The present land uses within the proposed sphere of CSA No. 27 (Empire - Phase 1) include residential, commercial, industrial, public (school and church), and open space areas, which are consistent with the planned land uses contemplated under the Empire Community Plan and County General Plan.

When the County approves development within an unincorporated area, it may require the formation, or annexation to, a County Service Area to provide extended services necessary to serve the land uses within the development boundaries. Only those residents who benefit from the services provided by the CSA pay for them, which are funded through an assessment levied on all parcels within the CSA boundaries.

(2) The present and probable need for public facilities and services in the area.

The present and probable need for public facilities and services in the area has been considered, as reflected in County-approved engineer's report for CSA No. 27 (Empire - Phase 1). The majority (80%) of the affected property owners have confirmed, by a ballot measure, their desire and need for these governmental services by approving a special assessment under Proposition 218.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

The County is presently constructing a new storm drain system which is being built for the unincorporated community of Empire. Services provided by CSA No. 27 (Empire - Phase 1) would also include street sweeping, as well as curb and gutter repair.

In addition, based on the information provided by the County, it can be determined that, upon formation, CSA No. 27 (Empire - Phase 1) will have adequate controls and funding streams to provide the appropriate level of storm drain services and maintenance of the dual use basins to serve the existing and future residents within the boundaries of the CSA.

(4) The existence of any social or economic community of interest in the area if the commission determines that they are relevant to the agency.

There are no communities of interest within the boundaries of CSA No. 27 (Empire - Phase 1).

In determining a Sphere of Influence for a County Service Area, the Commission has established spheres, which are coterminous with the actual boundaries of the CSAs. The reasons for the establishment of a coterminous sphere include the recognition of the boundary's relationship to the planned land uses in the area, and the need for the services provided by the CSA, as well as the level of services, which will be provided based on the County engineer's report and proposed budget.

Individual Factors for Consideration

California Government Code Section 56668 provides a list of factors to be considered in the review of a proposal, including the formation of a district. The Commission's review includes, but is not limited to, consideration of the following factors:

- a. Population and Land Use: The proposal will have no effect on population or population density. CSAs have no land use authority and the County's General Plan and zoning will not change as a result of this proposal.
- b. Governmental Services and Controls: The proposed CSA would initially provide the necessary funding mechanism to provide storm drain services to approximately 80 parcels within the unincorporated community of Empire.
- c. Effect of Proposal: The formation of CSA No. 27 would allow the County Board of Supervisor's to finance the necessary extended services to implement the Empire Storm Drain Project.
- d. Conformity with Plans: The formation of the CSA conforms to the Empire Community Plan, County General Plan, and County Redevelopment Agency Plan.
- e. Impact on Agricultural Lands: The proposal, if approved, will result in the ability of the County to provide a funding mechanism for extended storm drain services within a portion of the unincorporated community of Empire, and therefore, would not have an impact on agricultural lands.
- f. Definiteness of Boundaries: The boundaries of the proposal will cause no conflicts with lines of assessment or ownership. The boundary and sphere of CSA No. 27 (Empire - Phase 1) would be coterminous and would not overlap or impact other service providers in the area.
- g. Consistency with General Plan(s): The proposal is consistent with the adopted County General Plan and Empire Community Plan.
- h. Conformance with Spheres of Influence: The territory is currently located within the Sphere of Influence of the City of Modesto, however, the extended services proposed by CSA No. 27 are not currently provided to the unincorporated area.
- i. Comments from Affected Agencies and Jurisdictions: All affected agencies and jurisdictions have been notified pursuant to State law requirements and the Commission adopted policies. To date, no comments regarding this proposal have been received.
- j. Ability to Serve Proposed Area: The services provided by the proposed CSA will be funded by the existing and future landowners of the parcels within the territory. The CSA will be a dependent agency, with the Stanislaus County Board of Supervisors serving as the district's governing body. The day-to-day operations of the CSA will be provided by the County Public Works Department.
- k. Water Supplies: Not applicable -The formation of the proposed CSA will not affect the timely availability of water supplies.

- l. Regional Housing Needs: Not applicable - The formation of the proposed CSA will not affect the County's ability to achieve its fair share of the regional housing needs.
- m. Landowner Comments: No landowner comments have been submitted to date.
- n. Other Land Use Information: There is no other land use information related to this project.
- o. Environmental Justice: Beginning January 1, 2008, Government Code §56668 requires that LAFCO consider the extent to which proposals for changes of organization will promote environmental justice. As defined in the statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

While staff is not aware of any specific intent to *promote* environmental justice in the determination of the subject proposal area boundaries or in the decision to form a new County Service Area (CSA), staff has determined that approval of the proposal would not result in the unfair treatment of any person based on race, culture or income with respect to the provision of services within the proposal area.

ENVIRONMENTAL REVIEW

The formation of a County Service Area (CSA), which constitutes the formation of a special assessment district, does not constitute a "project" under the California Environmental Quality Act (CEQA), as the formation of the CSA involves the formation of an assessment district and does not affect the physical conditions within the area. As stated in Section 15061 (b) [3] of the CEQA Guidelines, CEQA does not apply if the project does not have the potential for causing a significant effect on the environment. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project. An economic or social change by itself shall not be considered a significant effect on the environment (CEQA Guidelines §15382).

The County as Lead Agency for the Empire Storm Drain Project, prepared and subsequently approved a Notice of Exemption on July 21, 2009, pursuant to the California Environmental Quality Act (CEQA), see Exhibit "F". Based on the above, the LAFCO Commission does not have any further obligation under CEQA. Therefore, it can be determined that the formation of County Service Area No. 27 (Empire - Phase 1) will have no potential for causing a significant effect on the environment.

CONCLUSION

The County has requested CSA No. 27 (Empire - Phase 1) to be formed for the specific purpose of providing a funding mechanism for extended storm drain services within a specific area. The CSA, once formed, can be used to assess the individual property owners for the identified services associated with the actual systems in place.

ALTERNATIVES FOR LAFCO ACTION

After consideration of this report and any testimony or additional materials that are submitted, the Commission may consider selecting one of the following options:

- Option 1:** Approve the request, as submitted by Stanislaus County.
- Option 2:** Deny the request, without prejudice.
- Option 3:** Continue the request to a future meeting (maximum 70 days).

RECOMMENDED ACTION

Approve Option 1. Based on the information contained in this report, Staff recommends that following the required public hearing, the Commission adopt Resolution 2010-04, which approves the proposal subject to the following:

1. The proposal is categorically exempt for the provisions of the California Environmental Quality Act, pursuant to Section 15061(b) [3] of the CEQA Guidelines.
2. The Change of Organization shall consist of the Formation of County Service Area No. 27 (Empire - Phase 1).
3. Adoption of a Sphere of Influence for County Service Area No. 27 (Empire - Phase 1), which is coterminous with the district's boundaries at the time of formation.
4. Waiver of conducting authority proceedings, as requested by the County Board of Supervisors, as the required ballot measure has been conducted by the County and upon conclusion, the majority of landowners were not in protest of the formation of County Service Area (CSA) No. 27 (Empire - Phase 1).
5. Directs the Executive Officer to prepare and execute a Certificate of Completion in accordance with Government Code Section 57200, subject to the specified terms and conditions contained in the commission resolution.

Respectfully submitted,

Marjorie Blom

Marjorie Blom
Executive Officer

- Attachments: LAFCO Resolution No. 2010-04 (pg. 8)
Exhibit A: Board of Supervisors Resolution No. 2009-633 (pg. 12)
Exhibit B: Map of County Service Area No. 27 (Empire - Phase 1) (pg. 22)
Exhibit C: Board of Supervisors Resolution No. 2009-791 (pg. 26)
Exhibit D: Board of Supervisors Resolution No. 2009-821 (pg. 50)
Exhibit E: Verification of Proposition 218 Ballot Procedure Results (pg. 54)
Exhibit F: County Environmental Documentation – Notice of Exemption (pg. 56)

LAFCO Resolution No. 2010-04

DRAFT

**STANISLAUS COUNTY LOCAL AGENCY
FORMATION COMMISSION**

RESOLUTION

DATE: March 24, 2010

NO. 2010-04

**SUBJECT: Approving A Change of Organization Consisting of the Formation of
County Service Area (CSA) No. 27 (Empire – Phase 1)**

On the motion of Commissioner _____, seconded by Commissioner _____ and approved by the following:

Ayes: Commissioners:
Noes: Commissioners:
Absent: Commissioners:
Ineligible: Commissioners:

THE FOLLOWING RESOLUTION WAS ADOPTED:

WHEREAS, the request to institute change of organization proceedings for the Formation of County Service Area No. 27 (Empire – Phase 1) was initiated on September 15, 2009, by the Stanislaus County Board of Supervisors, Resolution No. 2009-633;

WHEREAS, as specified in the County’s Board of Supervisors Resolution No. 2009-633, the reason for the change of organization is that no regional-district funding source within the area of Empire has been identified for the maintenance of the Empire Storm Drain Project Phase One improvements;

WHEREAS, the Formation of County Service Area No. 27 (Empire – Phase 1) will fund the maintenance of storm drain system maintenance, cleaning of catch basins, curb and gutter maintenance, and periodic street sweeping within the first phase of the county-approved Empire Storm Drain Project area;

WHEREAS, in accordance with Government Code Section 61014(f), the Board of Supervisors on November 24, 2009, conducted the necessary ballot procedure for the Formation of County Service Area No. 27 (Empire – Phase 1);

WHEREAS, on December 8, 2009, the Board of Supervisors approved a resolution adopting the ballot procedure results, whereby 80 percent of the ballots were in favor of the proposal;

WHEREAS, in the form and manner provided by law pursuant to Government Code Sections 56153 and 56157, the Executive Officer has given notice of the public hearing by the Commission on this matter;

WHEREAS, in compliance with Commission policy and Government Code Section 56157(g), the Notice of Hearing on this proposal was provided by publication of a legal ad in The Modesto Bee, a newspaper of general circulation, on March 3, 2010;



WHEREAS, as required by State law, individual public hearing notices were provided to affected and interested agencies, County departments, and those individuals and agencies requesting mailed notice;

WHEREAS, the public hearing by the Commission was held upon the date and at the time and place specified in the public hearing notice; and

WHEREAS, the Commission has, in evaluating the proposal, considered the report submitted by the Executive Officer, including the factors set forth in Sections 56668 and 56425, of the California Government Code on March 24, 2010.

NOW, THEREFORE, BE IT RESOLVED that the Commission:

1. Finds this proposal to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b) [3] of the CEQA Guidelines.
2. Determines that the subject proposal consists of a Change of Organization establishing the Formation of a new County Service Area (CSA) No. 27 (Empire – Phase 1).
3. Adopts the written determinations pursuant to Government Code Section 56425, as described and put forth in the staff report and incorporated herein in full, and establishes a coterminous sphere of influence for County Service Area No. 27 (Empire – Phase 1), consistent with adopted policies for the formation of a County Service Area.
4. Approves the Change of Organization proceedings consisting of the Formation of CSA No. 27 (Empire – Phase 1), subject to the following terms and conditions, as authorized under Government Code Section 56886:
 - (a) Pursuant to Government Code Section 56886 (b), the approval and adoption of a special assessment by the Board of Supervisors is allowed pursuant to the requirements and procedures under Section 4 of Article XIII D of the California Constitution (Proposition 218).
 - (b) Pursuant to Government Code Section 56886(s), the subject territory shall be subject to the levying and collection of any authorized charge, fee, assessment or tax approved through the ballot procedure for the Formation of County Service Area No. 27 (Empire – Phase 1).
 - (c) Upon formation, County Service Area No. 27 (Empire – Phase 1) shall be authorized to provide the following functions and services as active powers: storm drain system maintenance; cleaning and maintenance of catch basins; curb and gutter maintenance; and periodic street sweeping.
5. Approve the proposal subject to the following terms and conditions:
 - (a) The County shall pay the required State Board of Equalization fees.
 - (b) The County agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers and employees from any claim, action or proceeding against



LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of LAFCO concerning this proposal or any action relating to or arising out of such approval, and provide for reimbursement or assumption of all legal costs in connection with that approval.

- (c) The effective date shall be the date of recordation of the Certificate of Completion.
- 6. Designates the proposal as the “Formation of County Service Area No. 27 (Empire – Phase 1)”.
- 7. Pursuant to Government Code Section 56663(c), waives conducting authority proceedings subject to the requirements of Government Code Section 57000 et seq., and orders the Formation of County Service Area No. 27 (Empire – Phase 1), as a majority of landowners voted in support of the proposal as certified by the Stanislaus County Clerk of the Board of Supervisors on November 24, 2009.
- 8. Authorizes the Executive Officer to prepare and execute a Certificate of Completion in accordance with Government Code Section 57200, subject to the specified terms and conditions.

ATTEST: _____
Marjorie Blom
Executive Officer

Exhibit A

Board of Supervisors Resolution No. 2009-633

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works

BOARD AGENDA # *C-3

Urgent Routine

AGENDA DATE September 15, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Adopt a Resolution Initiating Proceedings for the Formation of County Service Area 27-Empire

STAFF RECOMMENDATIONS:

1. Adopt a resolution initiating proceedings for the formation of County Service Area 27-Empire.
2. Direct the Public Works Department to prepare and file the required Engineer's Report.
3. Approve the use of up to \$5,000 of Community Development Funds for initial start up hard costs associated with the formation of County Service Area 27-Empire.
4. Direct the Auditor-Controller to increase appropriations as detailed in the Budget Journal Form.

FISCAL IMPACT:

Ongoing operation and maintenance of the County Service Area 27-Empire will be borne by the district once established. The initial formation and start-up costs for the said district are estimated to be \$17,000 and include the State Board of Equalization filing fee of \$1,200, Local Agency Formation Commission fee of \$3,000 and administration costs of \$12,800. Such costs are recommended to be covered through the combined use of Community Development Funds and the Public Works Road Operations budget.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-633

On motion of Supervisor Grover, Seconded by Supervisor Monteith

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:


12

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. CSA-27-1

Approval to Adopt a Resolution Initiating Proceedings for the Formation of County Service Area 27-Empire

Additionally, a request in the amount of \$6,000 is being made for funding from Stanislaus County Redevelopment Funds.

The Community Development Fund was established by the Board of Supervisors at \$1.5 million as part of the Final Budget during Fiscal Year 2007-2008. To date, four projects have been awarded funding from this source, the North Martin Luther King Jr. Drive Sidewalk Project (\$64,120), the County-wide Growth Management Strategy (\$100,000), the Keyes Sidewalk Incentive Program (\$60,000), and the Marshall Avenue Lighting District (\$3,200). The current uncommitted balance in the Community Development Fund is \$1,272,680. If the use of Community Development Funds for the County Service Area 27 is approved, the uncommitted balance would be \$1,267,680, not including interest earnings.

If the formation fails, the Department of Public Works will provide the minimum maintenance required to keep the storm drain system functioning however, it is anticipated that the system would fail before the maximum service life is realized. The cost of this minimum maintenance is estimated to be approximately \$5,000 per year and will be absorbed into the Public Works Road Operations budget.

The total estimated cost of construction for Phase 1A is \$2,494,000 with total Phase 1A project costs estimated not to exceed \$3,000,000. The project will be funded through a combination of Community Development Block Grant (approximately \$1.9 million) and Redevelopment Agency (\$1.1 million) funds.

DISCUSSION:

A signed resolution from the Board of Supervisors is required, per California Government Code Section 25211.3, in order to initiate proceedings in the establishment of a County Service Area.

In March 2006, the Board of Supervisors authorized the County to enter into a contract with Stantec Consulting Inc. to provide design, surveying and general engineering services to develop plans and specification for the Empire Infrastructure Improvement project. The design process was the first step toward the ultimate realization of storm drain infrastructure in Empire and is funded by the Community Development Block Grant (CDBG) Program and the Stanislaus County Redevelopment Agency. On July 21, 2009, the Board adopted the plans and specifications for the Empire Improvement Project Phase 1A and related actions including environmental exemption.

The project is to be constructed in three phases. Phase one (1) will provide infrastructure to approximately 44.52 acres that serve 80 parcels, Phase two (2) will include approximately 154 parcels, and Phase three (3) will include approximately 179 parcels. The total proposed improvements would serve approximately 152 acres within the unincorporated area of Empire.

Approval to Adopt a Resolution Initiating Proceedings for the Formation of County Service Area 27-Empire

Following the current schedule mandated by the funding mechanisms, Phase 1 of this project is due to be completed by June 30, 2010. The completion of phases two (2) and three (3) is anticipated for Fiscal Year 2012-2013. The overall completion time for all phases may be extended beyond the anticipated completion date dependent on the Redevelopment Agency and Community Development Block Grant program's ability to provide the funding mechanisms for the capital improvements. Phases two (2) and three (3) will be conditioned upon annexation into or formation of a county service area

The proposed County Service Area is located in the unincorporated town of Empire and encompasses those parcels that will receive special benefit from Phase 1 improvements. The purpose of this County Service Area is to provide for the ongoing maintenance and operation of the storm drain system once the improvements and infrastructure have been installed.

The boundary of CSA 27 is shown on Exhibit "A" and "B" that is attached hereto. Phase 1 is generally located:

- North of State Route 132
- East of the Santa Fe Railroad
- South of 2nd Street
- South of Center Avenue

The purpose of this County Service Area is to provide for the ongoing maintenance and operation of the storm drain system. The special benefit assessments to be levied for this district are intended to provide a revenue source for all the maintenance of the service area's storm drain system including, but not limited, to the materials, equipment, labor, and administrative expenses. These special benefit services may include, but not be limited to, monthly or bi-monthly street sweeping, park and streetscape maintenance and storm water system maintenance to ensure maximum service life of the system. If the formation of the CSA is approved, the first year's assessment is anticipated to be approximately \$76 per parcel.

The formation of a County Service Area is a multiple action process:

- Adopt a resolution initiating proceedings for the formation of County Service Area 27-Empire;
- Prepare an Engineer's Report to describe services and spread the cost of the improvements over the benefitting parcels;
- Send a mail-in ballot to affected landowners with ballots tabulated after the public hearing;
- Affected landowners will be given an opportunity to speak for or against the formation or the proposed assessment at the public hearing;
- At the conclusion of the public hearing, the Chairman of the Board will request that the Clerk of the Board open and tally the Ballots; and,
- The Board may adopt a resolution ordering the formation of County Service Area 27-Empire be approved upon adoption of the tallied ballots and contingent upon approval of the formation of the County Service Area by the Local agency Formation Commission.

Approval to Adopt a Resolution Initiating Proceedings for the Formation of County Service Area 27-Empire

Attachments of Exhibits A & B show the proposed boundary of the proposed County Service Area 27-Empire.

The use of Community Development funds to cover the initial start-up hard costs associated with the formation of CSA 27-Empire is consistent with the Community Development fund goal of providing funding for "one-time projects or programs benefiting the unincorporated area that demonstrates strong local support and commitment and a general public benefit." This funding approach was shared with Supervisor William O'Brien who indicated general support.

Information regarding the Empire Improvement Project and the proceedings associated with formation of county service areas has been shared with the community through the Empire Municipal Advisory Council through their regular meetings. Such updates will continue as necessary through the construction and formation process to ensure open communication with the community on this infrastructure project.

POLICY ISSUES:

The Board should consider if this recommended action is consistent with its priorities of providing a safe community and a well-planned infrastructure system.

STAFFING IMPACT:

There is no staffing impact associated with this item.

DF/DH/RM:lc

H:\Denny Ferreira\Proposals\Empire CSA\Board Items\Initiate Proceedings\Empire Initiate Proceedings To Form 9-15-09

**AUDITOR-CONTROLLER
BUDGET JOURNAL**



Balance Type	Budget
Category	Budget - Upload
Source	
Currency	USD
Budget Name	LEGAL BUDGET
Batch Name	
Journal Name	
Journal description	Est budget for transfer of Community Devt Fund (CSA 27 Empire)
Period	JUL-09 to JUN-10
Organization	Stanislaus Budget Org
	BO#

Line	Coding Structure						Debit		Credit	Description
	Fund	Org	Account	G/L Proj	Loc	Misc	incr appropriations decr est revenue	decr appropriations incr est revenue		
1	107	15292	85850		0	0	5,000.00		increase trans out-CDF	
2							0			
3							0			
4							0			
5							0			
6							0			
7							0			
8							0			
9							0			
10							0			
11							0			
12							0			
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16							0			
17							0			
18							0			
19							0			
20							0			
21							0			
22							0			
23							0			
24							0			
25							0			
Totals							6,000.00			

Est budget for transfer of Community Devt Fund (CSA 27 Empire)

Requesting Department		CEO	Auditors Office Only	
Sharon Andrews				
Signature		Signature	Prepared By	Admin Approval (\$75K+)
9/4/09		9/8/09	9/4/09	9/4/09
Date		Date	Date	Date

Contact Person & Phone Number

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
STATE OF CALIFORNIA

Date: September 15, 2009

No. 2009-633

On motion of Supervisor Grover Seconded by Supervisor Monteith
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

Item # *C-3

THE FOLLOWING RESOLUTION WAS ADOPTED:

APPROVAL TO ADOPT A RESOLUTION INITIATING PROCEEDINGS FOR THE FORMATION OF
COUNTY SERVICE AREA 27-EMPIRE

BE IT RESOLVED, that the Board of Supervisors, of the County of Stanislaus, State of California, hereby finds and determines as follows:

1. There is a need to provide on going funding to support the provision of the special benefit of a unified storm drain system in the unincorporated community of Empire. In order to promote health, safety and welfare of the residential and commercial area, and to accomplish that objective, the Board proposes the formation of County Service Area 27-Empire.
2. The area being included in the formation of the new county service area shall consist of all that land shown on the attached legal description (Exhibit "A") and map (Exhibit "B"), and shall be called "County Service Area 27-Empire".
3. The improvements to be constructed and maintained within County Service Area 27-Empire will consist of 5,630 linear feet of storm drain piping, 22 storm drain manholes, 10,600 linear feet of curb and gutter, and routine street sweeping to prevent build up of silt and other damaging materials to the storm drain system.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the County Engineer is ordered to prepare and file a report in accordance with the California Constitution Article XIII D Section 4(b).

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk
Stanislaus County Board of Supervisors,
State of California

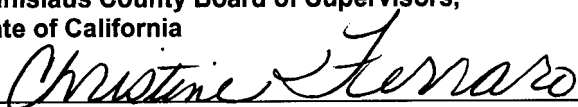


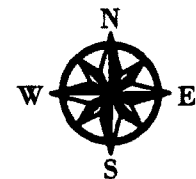
EXHIBIT "A"
CSA 27 FORMATION- EMPIRE

All that portion of real property located in Section 29 and 30, Township 3 South, Range 10 East, Mount Diablo Base and Meridian in the County of Stanislaus State of California Described as follows:

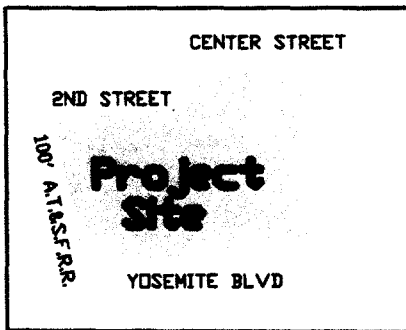
Commencing at the common section corner of Sections 30, 29, 31 and 32 of said Township and Range, thence South $89^{\circ}59'00''$ West a distance of 297.34 feet to the easterly right of way of Atchison Topeka and Santa Fe Railroad and being the **TRUE POINT BEGINNING OF THIS DESCRIPTION**. (1) thence North $11^{\circ}27'30''$ West a distance of 995.21 feet along the easterly line of said A.T.&S.F.R.R. to the northerly line of 2nd street. (2) thence North $89^{\circ}59'00''$ East along the north line of 2nd street a distance of 863.68 feet to the east right of way line of "G" Street (3) thence North $00^{\circ}04'00''$ West a distance of 310.00 feet to the north line of a 10 foot alley (4) thence North $89^{\circ}59'00''$ East a distance of 923.60 feet to the east line of Lot 1 of Block 1 of Map of the Root Addition recorded on Volume 9 of Maps, Page 40 Stanislaus County Records. (5) thence South $00^{\circ}04'00''$ East a distance of 1286.00 feet along the east line of Lots 1-11 of said Block 1 and its southerly extension to the south line of said section 29. (6) thence South $89^{\circ}59'00''$ West a distance of 1621.94 feet along the south line of said section 29 and 30 to the true point beginning of this description.

Containing an Area = 44.52 Acres

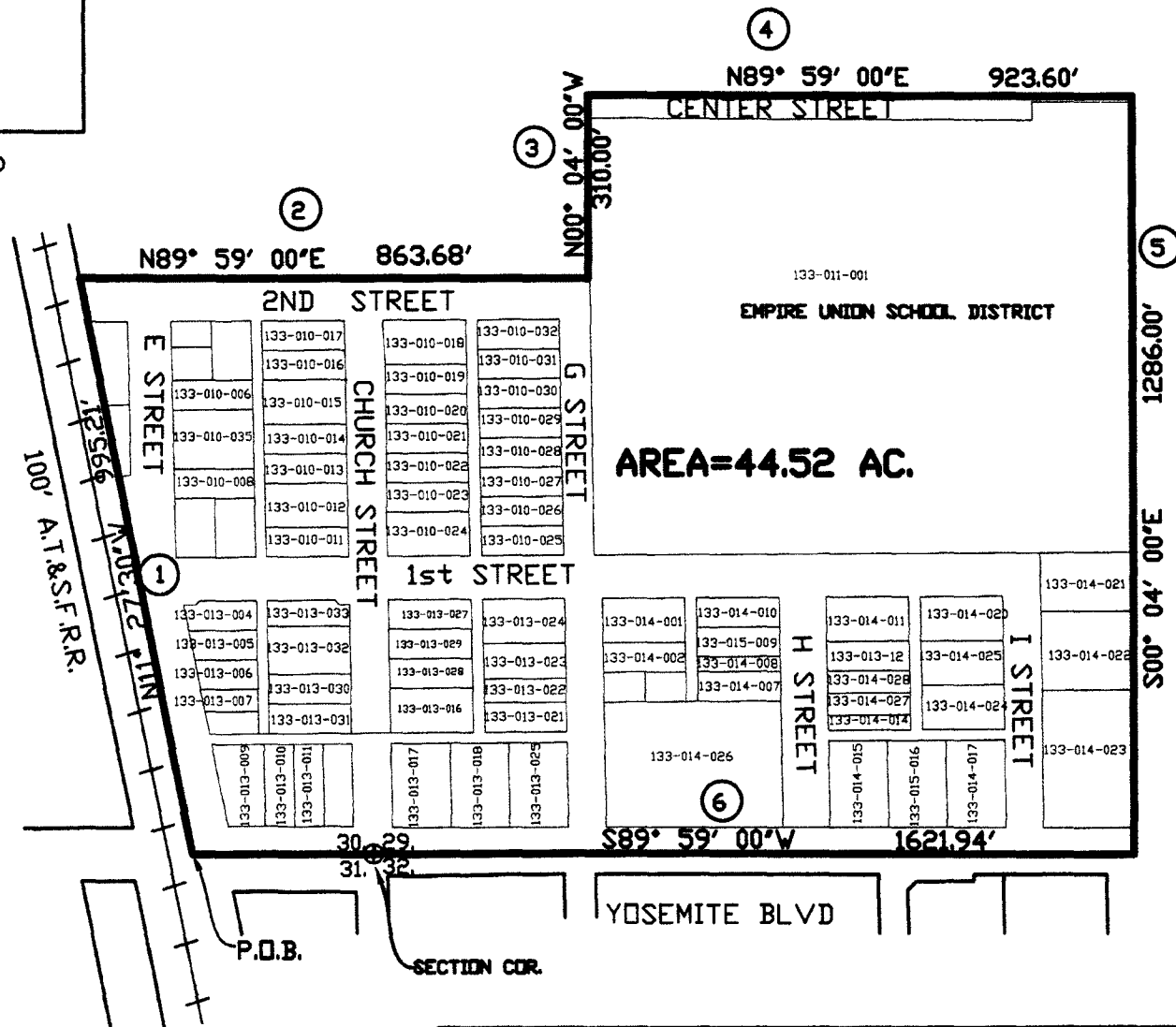
EXHIBIT 'B'



SCALE: 1"=300'



Vicinity Map
Not to Scale



19

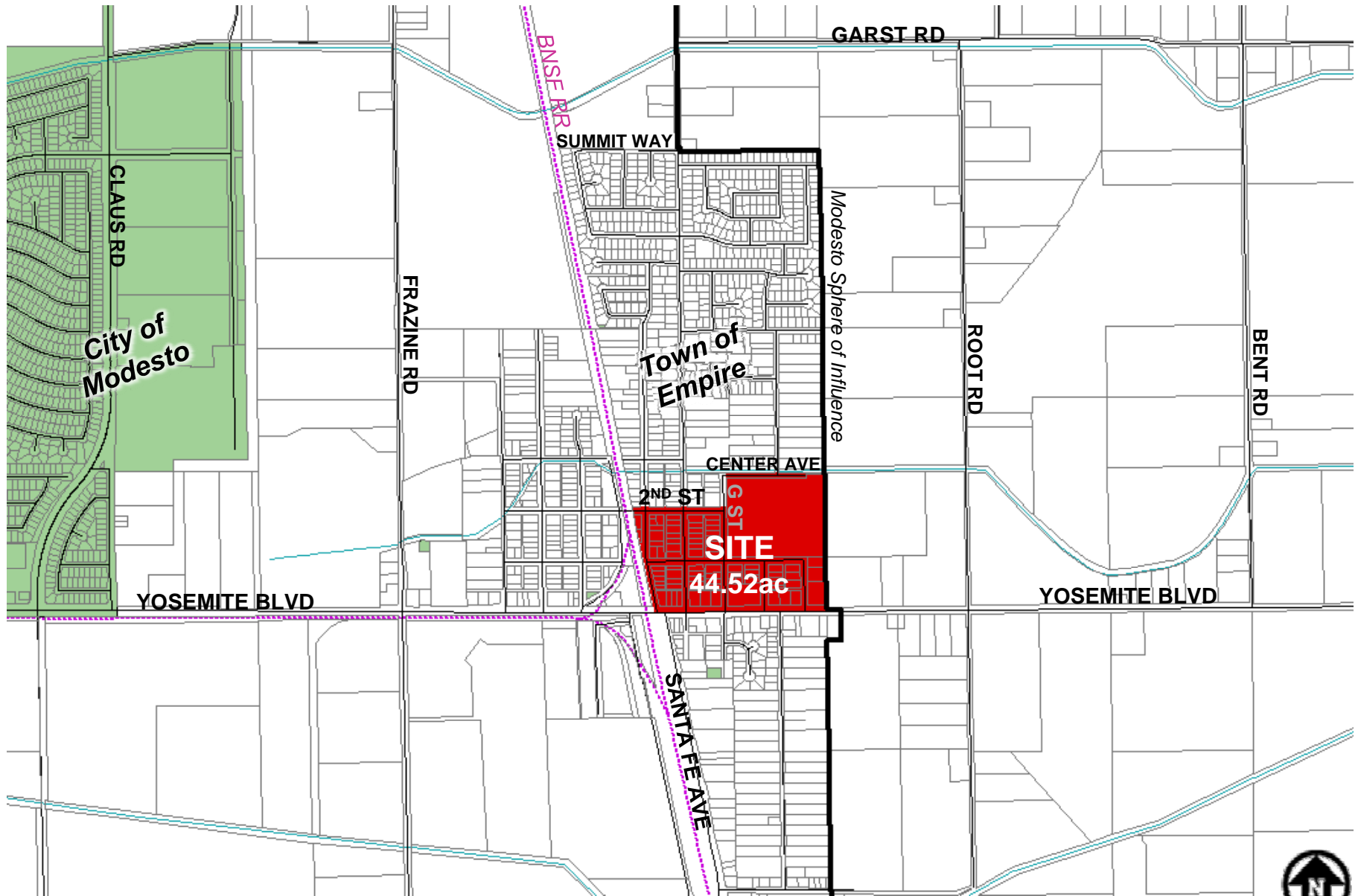
CSA 27-EMPIRE FORMATION		DEPARTMENT OF PUBLIC WORKS STANISLAUS COUNTY	
BEING A PORTION OF SECTION 29 AND 30 TOWNSHIP 3 SOUTH, RANGE 10 EAST M.D.B.M.		DATE: 08-17-2009	SCALE: 1"=300'
		DRAWN BY: NCW CHECKED BY: LF	

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Exhibit B

**Map of County Service Area No. 27
(Empire - Phase 1)**

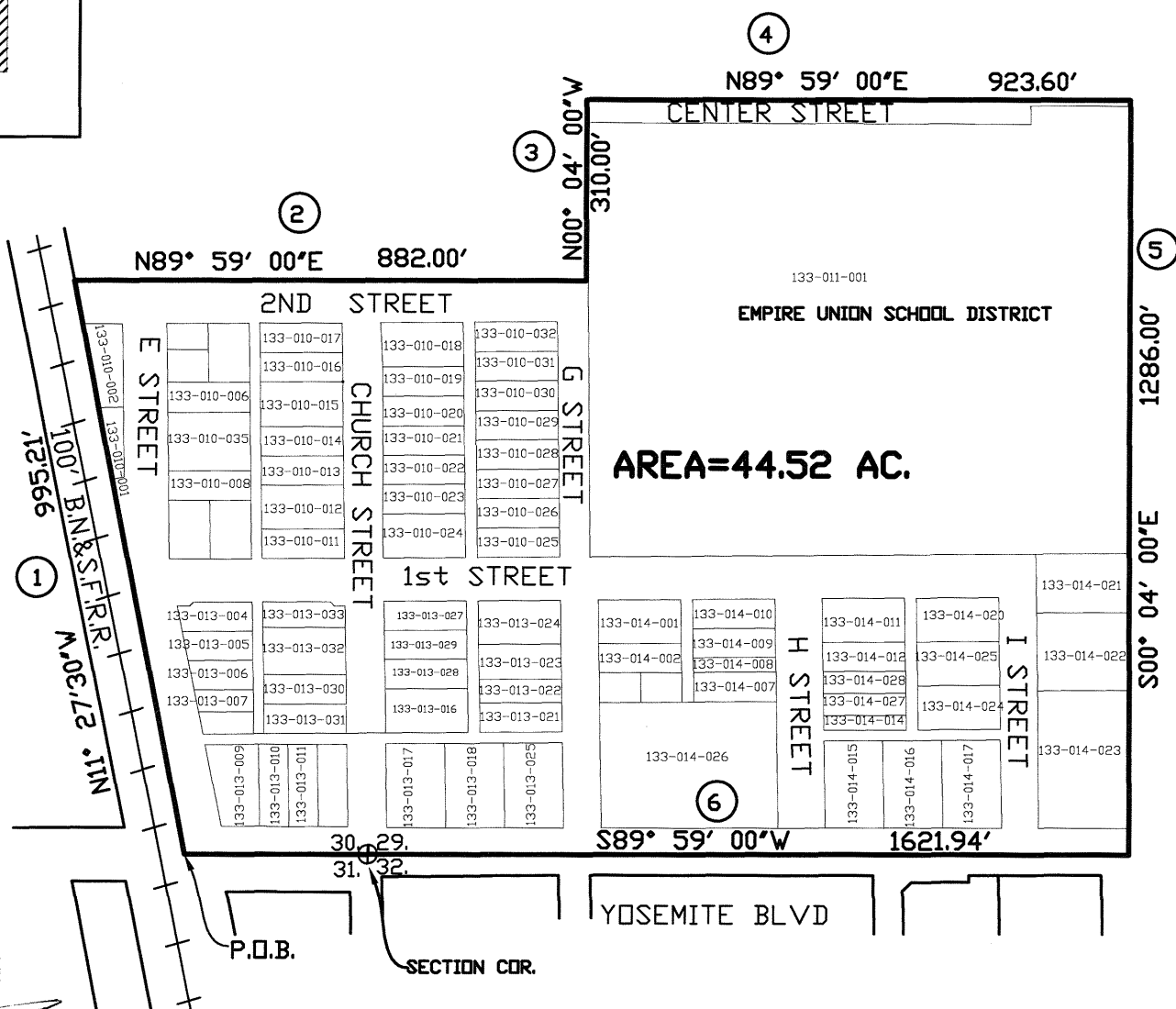
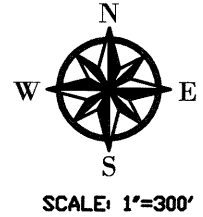
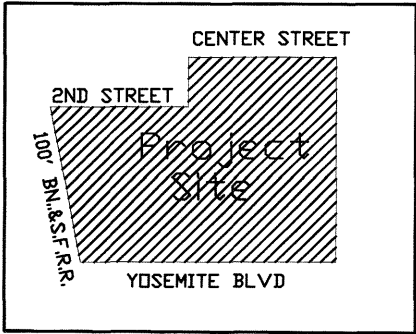
FORMATION OF COUNTY SERVICE AREA (CSA) NO. 27 – EMPIRE (PHASE 1) VICINITY MAP



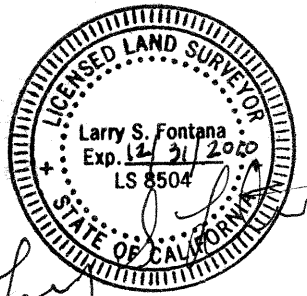
22

Source: LAFCO Files, County GIS, Mar. 2010





23



Formation of County Service Area (CSA) No.27- Empire (Phase 1)		DEPARTMENT OF PUBLIC WORKS STANISLAUS COUNTY	
BEING A PORTION OF SECTION 29 AND 30 TOWNSHIP 3 SOUTH, RANGE 10 EAST M.D.B.M.		DATE: 08-17-2009	SCALE: 1"=300'
		DRAWN BY: NCW	CHECKED BY: LF

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Exhibit C

Board of Supervisors Resolution No. 2009-791

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works

BOARD AGENDA # 9:15 a.m.

Urgent Routine

AGENDA DATE November 24, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Public Hearing to Consider the Formation of County Service Area 27-Empire and Conduct a Ballot Procedure in Compliance with Proposition 218, and Consent to the Waiver of Conducting Authority Proceedings for Formation Of County Service Area 27-Empire

STAFF RECOMMENDATIONS:

1. Find that the notice of the Public Hearing was given pursuant to Government Code Sections 25211.3(b) and 6061.
2. Conduct the Public Hearing to receive comments regarding:
 - A. The proposed method of calculating the amount of the annual assessment.
 - B. The levy of the annual assessment to pay for the county service area.

(Continued on Page 2)

FISCAL IMPACT:

Ongoing operation and maintenance costs of County Service Area 27 - Empire (CSA 27) will be borne by the district once established. The initial formation and start-up costs for the said district are estimated to be \$17,000 and include the State Board of Equalization filing fee of \$1,200, Local Agency Formation Commission fee of \$3,000 and administration costs of \$12,800. Start up costs will be covered through the combined use of Community Development funds, Stanislaus County Redevelopment Agency funds and the Public Works Road Operations budget.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-791

On motion of Supervisor O'Brien, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. CSA-27-2

Public Hearing to Consider the Formation of County Service Area 27-Empire and Conduct a Ballot Procedure in Compliance with Proposition 218, and Consent to the Waiver of Conducting Authority Proceedings for Formation Of County Service Area 27-Empire

FISCAL IMPACT Continued:

The proposed annual budget to operate CSA 27 – Empire contains the following: \$5,530 for street sweeping, \$2,700 for drain cleaning and maintenance, administration cost of \$823, fund balance reserve of \$649, and a general benefit credit of \$1,266, for a total of \$8,436. Using the budget figures listed above, the levied amount for residential and commercial parcels within this district is proposed at \$77.88 and \$272.58 per acre, respectively.

If the formation fails, the Department of Public Works will provide the minimum maintenance required to keep the storm drain system functioning. However, it is anticipated that the system would fail before the maximum service life is realized. The cost of this minimum maintenance is estimated to be approximately \$1,300 per year and would be absorbed into the Public Works Road Operations budget.

STAFF RECOMMENDATIONS Continued:

3. Authorize the Clerk of the Board to oversee the tabulation of the sealed ballots and determine whether a majority protest against the assessment exists and submit the results to the Board of Supervisors at the December 8, 2009 Board meeting.
4. If a majority protest is not filed, order that the following action occur:
 - A. Find that the formation and assessments are necessary to: meet operating and maintenance expenses; meet financial reserve needs; and required to maintain the proposed service levels within the proposed district area;
 - B. Form County Service Area 27-Empire and confirm the boundary of the district as those being described on Exhibits "A" and "B", which are made a part hereof;
 - C. Direct the Department of Public Works to file the formation with the California State Board of Equalization;
 - D. Set the 2011/2012 annual assessments at \$77.88 per Equivalent Benefit Unit (EBU). The parcels subject to the annual assessments are shown on Exhibit "C", which is a part hereof;
 - E. Authorize the Auditor-Controller to add the annual assessment to the 2011-2012 Tax Roll;
 - F. Make the Engineer's Report a part of the record of this proceeding;
 - G. Approve the Resolution of Application per Government Code Section 25113(b); and,
 - H. Direct the Department of Public Works to file an application with the Stanislaus County Local Agency Formation Commission per Government Code Section 56652.

Public Hearing to Consider the Formation of County Service Area 27-Empire and Conduct a Ballot Procedure in Compliance with Proposition 218, and Consent to the Waiver of Conducting Authority Proceedings for Formation Of County Service Area 27-Empire

DISCUSSION:

The proposed County Service Area (CSA) 27 is located in the unincorporated town of Empire. The purpose of this CSA is to ensure the ongoing maintenance and operation of the storm drain system.

In March 2007, the Board of Supervisors authorized the County to enter into a contract with Stantec Consulting Inc. to provide design, surveying and general engineering services to develop plans and specification for the Empire Infrastructure Improvement Project. The design process was the first step toward the ultimate realization of storm drain infrastructure in Empire and is funded by the Community Development Block Grant (CDBG) Program and the Stanislaus County Redevelopment Agency. On July 21, 2009, the Board adopted the plans and specifications for the Empire Improvement Project Phase 1A and related actions including environmental exemption. The Board of Supervisors awarded the contract to Granite Construction Company on November 3, 2009 for the construction of all the improvements.

The project is to be constructed in three phases. Phase one (1) will provide infrastructure to approximately 44.52 acres that serve 80 parcels, Phase two (2) will include approximately 154 parcels and Phase three (3) will include approximately 179 parcels. The total proposed improvements would serve approximately 152 acres within the unincorporated town of Empire. Phase 1 of this project is due to be completed by June 30, 2010. The estimated completion of phases two (2) and three (3) is Fiscal Year 2012-2013. The overall completion time for all phases may be extended beyond the anticipated completion date dependent on the Redevelopment Agency and Community Development Block Grant programs' ability to provide the funding for the capital improvements. Phases two (2) and three (3) will be conditioned upon the annexation into or formation of a county service area.

The proposed CSA 27 encompasses those parcels that will receive special benefit from Phase 1 improvements. The purpose of this county service area is to provide for the ongoing maintenance and operation of the storm drain system once the improvements and infrastructure have been installed. The special benefit assessments to be levied for this district are intended to provide a revenue source for all the maintenance of the storm drain system including, but not limited to the materials, equipment, labor, and administrative expenses.

Public Hearing to Consider the Formation of County Service Area 27-Empire and Conduct a Ballot Procedure in Compliance with Proposition 218, and Consent to the Waiver of Conducting Authority Proceedings for Formation Of County Service Area 27-Empire

The boundary of CSA 27 is shown on Exhibit "A" and "B" that is attached hereto. Phase 1 is generally located:

- North of State Route 132
- East of the Santa Fe Railroad
- South of 2nd Street
- South of Center Avenue
- Approximately 1,325 feet west of the center line of Root Road

The services provided to the proposed CSA will only provide a special benefit to the parcels within the district. The Stanislaus County Department of Public Works provides limited street sweeping services (four times annually) as a general benefit to the unincorporated areas of the County to maintain the drainage infrastructure. The special benefit that is provided to county service areas is an additional twenty-two (22) sweeps annually for a total of twenty-six (26). Along with the additional sweeping, extensive preventative maintenance is provided to the infrastructure in order for it to operate and function as designed.

Proposition 218 was a statewide initiative approved by the voters in November, 1996. It required that the property owners of the proposed district or existing district, through a ballot procedure, approve specific benefit assessments and any increase of said assessment. The assessment ballot was mailed out with a notice of the proposed assessment. This notice described the specific benefit of the proposed district, the total amount thereof chargeable to the entire district, the amount chargeable to the owners' particular parcel, the duration of the payments, the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of the Public Hearing.

The above mentioned ballot procedures have been completed and the notices were mailed to the property owners. A Public Hearing is being conducted to consider all objections or protests, if any, to the proposal. Any interested person may present written or oral testimony at the public hearing. At the conclusion of the public hearing, the submitted assessment ballots will be tabulated to determine if a majority protest exists, and the results posted by the Clerk of the Board of Supervisors. Based on the results, the formation of the district and the levy of the annual assessments will or will not occur. All assessment ballots submitted are public information and subject to inspection, by request, under the Public Records Act.

If a simple majority of the assessment ballots received protest the method for calculating the annual assessment and levy of the annual assessment to pay for the service area, a majority protest will have been filed, and Proposition 218 prohibits the County from levying the annual assessment, therefore, the District will not be formed. If a majority protest has not been filed regarding the method for calculating the annual assessment and the levy of the annual assessment to maintain the district, it is recommended that the Board of Supervisors: (a) Find

Public Hearing to Consider the Formation of County Service Area 27-Empire and Conduct a Ballot Procedure in Compliance with Proposition 218, and Consent to the Waiver of Conducting Authority Proceedings for Formation Of County Service Area 27-Empire

that all of the territory within the district will benefit by the formation of the district; (b) Form the district and confirm the boundary of the district as being those described on Exhibits "A" and "B"; (c) If a majority protest does not exist, Direct the Department of Public Works to file an application with the Stanislaus County Local Agency Formation Commission; (d) Approve the method for calculating the amount of the annual assessment that will be used to pay for storm drain maintenance; and, (e) Set the 2011/2012 annual assessment at \$77.88 per Equivalent Benefit Unit.

Proposition 218 states in Section 4 of Article XIII D *"The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel"*.

The formula to calculate the annual assessment is written as follows:

AMOUNT OF ANNUAL ASSESSMENT LEVIED: (Estimated Operations and Maintenance) plus (Administration and Operational Reserve costs) minus (Fund Balance from the previous year and the Estimated Assessment Revenue for Current Year).

If the district is formed and the formula approved, the total amount of assessments chargeable to the district for Fiscal Year 2011-2012 will be \$8,436.

If the district operation and maintenance costs are less then expected, the fund balance will be carried forward to reduce the amount to be collected the following year. Although some special districts receive a portion of the property tax collected by the County, the district is not expected to receive a portion of the property tax revenue in the future. However, if the district does receive any property tax revenue in the future, it will reduce or offset the amount of operation and maintenance costs that must be collected by the annual assessment.

The formula used to calculate the proportional benefit to each parcel within the proposed County Service Area begins with a basic Equivalent Benefit Unit (EBU). From this base unit, parcels are analyzed according to their actual equivalent use and benefit within the district. Specific land type and uses are outlined in detail within the attached Engineer's Report. The following uses specific to this formation are detailed below. Specifically, as illustrated in the table below, each residential parcel receives 1.0 EBU. All other parcels within the proposed service area receive an EBU value upon its specific parcel use.

Public Hearing to Consider the Formation of County Service Area 27-Empire and Conduct a Ballot Procedure in Compliance with Proposition 218, and Consent to the Waiver of Conducting Authority Proceedings for Formation Of County Service Area 27-Empire

The following formula is used to calculate each parcel's EBU (proportional benefit):

$$\text{Parcel Type EBU} \times \text{Acres or Units} = \text{Parcel EBU}$$

The total number of EBU's is the sum of all individual EBU's applied to parcels that receive special benefit from the improvements. An assessment amount per EBU (assessment rate) for the improvements is established by taking the total cost of the improvements and dividing the amount by the total number of EBU's of all benefiting parcels from the improvements. The rate is then applied back to each parcel's individual EBU to determine the parcel's proportionate benefit and assessment obligation for the improvements.

$$\text{Total Balance to Levy} / \text{Total EBU's} = \text{Levy per EBU}$$

$$\text{Levy per EBU} \times \text{Parcel EBU} = \text{Parcel Levy Amount}$$

PARCEL TYPES INCLUDED WITH THIS FORMATION

PARCEL TYPE	PARCELS	ACRES	E.B.U.	E.B.U TOTAL
Residential*	64		1.000	63.000
Comm./Industrial	8	1.370	3.500	4.795
School/Church	4	17.870	2.200	39.314
Vacant Lot	1	0.930	1.000	0.930
Parks	3	0.710	0.400	0.284
Total	80	20.880	8.100	108.323

* One residential property within the boundary of the district receives no special benefit.

The total acreage of all the parcels within the district is 44.52 acres. As shown in the table above, the total EBUs for this County Service Area is 108.323. Using the formula listed above, the levied amount for this district is \$77.88 per EBU. The total amount of the annual assessment that would be levied against each parcel for the 2011-2012 Tax Year is shown on Exhibit "C" of the Engineer's Report.

The expressed purpose of the annual assessment is to provide a continued source of funding for County Service Area 27 – Empire for the ongoing maintenance and operation of the storm drain system. Future phases of the Empire Improvement Project will require the annexation of those specific improvement areas into County Service Area 27 – Empire prior to construction commencing.

Public Hearing to Consider the Formation of County Service Area 27-Empire and Conduct a Ballot Procedure in Compliance with Proposition 218, and Consent to the Waiver of Conducting Authority Proceedings for Formation Of County Service Area 27-Empire

POLICY ISSUES:

The Board should consider if the recommended actions are consistent with its priorities of providing a safe community, a healthy community, and a well-planned infrastructure system.

STAFFING IMPACT:

Stanislaus County Department of Public Works staff will manage the administration of County Service Area 27-Empire. No additional staffing will be needed at this time.

DF:lc

H:\Denny Ferreira\Proposals\Empire CSA\Board Items\Public Hearing\Board Agenda For Public Hearing On Nov 24 - Page2

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
STATE OF CALIFORNIA

Date: November 24, 2009

No. 2009-791

On motion of Supervisor O'Brien Seconded by Supervisor Grover
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

Item # 9:15 a.m.

THE FOLLOWING RESOLUTION WAS ADOPTED:

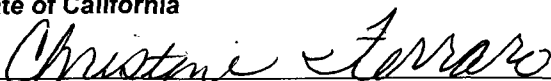
APPROVAL TO ADOPT A RESOLUTION OF APPLICATION FOR THE FORMATION OF COUNTY
SERVICE AREA 27-EMPIRE

BE IT RESOLVED, that the Board of Supervisors, of the County of Stanislaus, State of California, hereby finds and determines as follows:

1. The improvements to be constructed and maintained within County Service Area 27-Empire will consist of 5,630 linear feet of storm drain piping, 22 storm drain manholes, 10,600 linear feet of curb and gutter, and routine street sweeping to prevent build up of silt and other damaging materials to the storm drain system.
2. There is a need to provide on going funding through assessments, to support the provision of the special benefit of a unified storm drain system in the unincorporated community of Empire. In order to promote health, safety and welfare of the residential and commercial area, and to accomplish that objective, the Board proposes the formation of County Service Area 27-Empire and approves the method of assessment.
3. The area being included in the formation of the new county service area shall consist of all that land shown on the attached legal description (Exhibit "A") and map (Exhibit "B"), and shall be called "County Service Area 27-Empire".

NOW, THEREFORE, BE IT FURTHER RESOLVED that the County Engineer is ordered to prepare and file a report in accordance with the California Constitution article XIII D Section 4(b).

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk
Stanislaus County Board of Supervisors,
State of California





DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

1010 10th Street, Ste. 3500, Modesto, CA 95354
Phone: 209.525.6550/email:publicworks@stancounty.com

COUNTY SERVICE AREA NO. 27
ANNUAL ENGINEER'S REPORT

EMPIRE

FISCAL YEAR 2011/2012

SET HEARING:
PUBLIC HEARING:

SEPTEMBER 29, 2009
NOVEMBER 24, 2009

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ENGINEER'S REPORT AFFIDAVIT

County of Stanislaus, State of California

CSA NO. 27 – EMPIRE

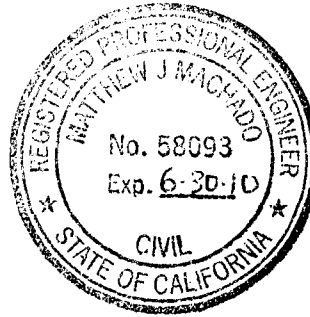
This report describes the district and all relevant zones therein including the budget(s), parcels and assessments to be levied for the fiscal year 2011/2012. Reference is hereby made to the Stanislaus County Assessor's maps for a detailed description of the lines and dimensions of parcels within the County Service Area (CSA).

The undersigned respectfully submits the enclosed report as directed by the Board of Supervisors.

Dated this 9TH day of SEPTEMBER, 2009



MATT MACHADO, DIRECTOR, PE
Stanislaus County Department of Public Works



**COUNTY SERVICE AREA NO. 27
ANNUAL ENGINEER'S REPORT
FISCAL YEAR 2011/2012**

INTRODUCTION:

In Fiscal Year 2005/2006 the Community Development Department along with other agencies implemented plans to provide a storm drainage system to the unincorporated area of Empire. Since a specific need for this infrastructure was validated and supported by input from the community, the Redevelopment Agency Implementation Plan and the Community Development Block Grant Annual Action Plan (CDBG) provided funding for the planning and implementation of this project. Approximately \$2,500,000 was allocated for the project through federal and local funding.

Currently the project is to be constructed in three phases. Phase one (1) will provide infrastructure to approximately 80 parcels, Phase two (2) will include approximately 154 parcels, and Phase three (3) will include approximately 179 parcels. The total proposed improvements would serve a total of 152.11 acres within the unincorporated area of Empire. Following the current schedule mandated by the funding mechanisms, Phase 1 of this project is due to be completed by June 30, 2010.

In order for the County to maintain infrastructure such as this, the Public Works Department recommends that a County Service Area be established. The County Service Area will provide funding for the continual upkeep and maintenance of the infrastructure in order for it to function as originally designed. "County Service Area No. 27 (CSA 27)-Empire" will be established to exclusively maintain the extended storm drainage and infrastructure that is provided to the unincorporated area of Empire.

PART I – PLANS AND SPECIFICATIONS

A. Description of the service area

CSA 27-phase 1 consists of 80 out of the anticipated 413 parcels that will receive a special benefit from CSA-27-Empire. This unincorporated area encompasses an area of land totaling approximately 44.52 acres. The boundary of CSA 27 is shown on Exhibit "A" that is attached hereto and made a part of this Engineer's Report. Phase 1 is generally located:

- North of State Route 132
- East of the Santa Fe Railroad
- South of 2nd street
- South of Center Avenue

Streets that are within the proposed boundary are as follows:

- 1st Street west of the Railroad
- 2nd Street west of the Railroad
- E Street (between State Route 132 and 2nd Street)
- Church Street (between State Route 132 and 2nd Street)
- North G Street (Between State Route 132 and 2nd Street)
- H Street (Between State Route 132 and 1st Street)
- I Street (Between State Route 132 and 1st Street)

Attached with this document is a Map titled, exhibit "B" showing the boundary of the proposed CSA.

B. Description of Improvements and Services

The purpose of this district is to ensure the ongoing maintenance and operation of the storm drain system. The special benefit assessments to be levied for this district are intended to provide a revenue source for all the maintenance and servicing of the service area's improvements including, but not limited, to the materials, equipment, labor and administrative expenses. However, the assessments are not intended to fund reconstruction or major renovations of the improvements and facilities. The improvements to be maintained and funded entirely or partially through the service areas assessments are generally described as:

- Periodic cleaning and maintenance (as needed) on the following Storm Drain System:
 - 70 linear feet of 66 inch storm drain;
 - 550 linear feet of 48 inch storm drain;
 - 1,580 linear feet of 30 inch storm drain;
 - 850 linear feet of 24 inch storm drain;
 - 1,710 linear feet of 18 inch storm drain;
 - 510 linear feet of 12 inch storm drain;
 - 360 linear feet of 66 inch horizontal drain
 - 22 storm drain manholes;
 - 2 horizontal drain manholes;
- Periodic cleaning and maintenance of 28 catch basins;
- Maintain 10,600 linear feet of curb and gutter as related to the continued functionality of the storm drain system;);
- Periodic street sweeping to prevent build up of silt and other damaging materials to the storm drain system. All debris is contained and hauled off the site with containment bins;

PART II - METHOD OF APPORTIONMENT

A. Benefit Analysis

The method of apportionment described in this report for allocation of special benefit assessments utilizes commonly accepted engineering practices. The formula used for calculating assessments for the district reflects the composition of the parcels and improvements provided to fairly apportion the costs based on special benefits to each parcel. Furthermore, pursuant to the Constitution Article XIID Section 4, a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel and a parcel may only be assessed for special benefits received.

The storm drain facilities and the infrastructure provide special benefits to the properties within the CSA. Each parcel receives equal benefit from the extended storm drainage. The extended storm drainage only provides a special benefit to the parcels within CSA 27; therefore, no general benefit has been assigned.

There are four (4) parcels (Apr # 133-013-010, 133-013-011, 133-013-018, and 133-014-016) that exclusively front State Route 132/ Yosemite Boulevard that receive no special benefit from the services provided by the county service area due to an existing 36 inch Cal Trans positive storm drain pipe that discharges directly to the Modesto Irrigation District's system.

B. Assessment Methodology

The method of apportionment for the CSA calculates the receipt of special benefits from the respective improvements based on the actual or the proposed land use of the parcels within the district. The special benefit received by each lot or parcel is equated to the overall land use of the parcels within the CSA based on the parcel's actual land use or proposed development.

Upon review of the proposed improvements it has been determined that each of the residential parcels within the CSA receives special benefits from all the improvements to be funded by annual assessments. The parcels within the CSA may be identified by one of the following land use classifications and is assigned a weighting factor known as Equivalent Benefit Unit (EBU). The EBU calculated for a specific parcel defines the parcel's proportional special benefits from the CSA's improvements, facilities and services.

Equivalent Benefit units (EBU):

To assess benefits equitably it is necessary to relate each property's proportional special benefits to the special benefits of all other property in the CSA. The EBU method of apportioning assessments uses the single-family home site as the basic unit of assessment. A single-family home site equals one EBU. All other land uses are converted to EBU's based on an assessment formula that equates the property's specific development status, type of development (land use) and size of property, as compared to a single-family home site.

The EBU method of apportioning special benefits is typically seen as the most appropriate and equitable assessment methodology, as the benefits to each parcel from the improvements are apportioned as a function of land use type, size and development. Although the EBU method of apportioning special benefits commonly used and applied to CSA's that have a range of land use classifications (residential and non-residential use), the CSA is comprised of only residential properties and the following apportionment analysis of special of special benefit addresses only residential land uses. Not all land use types described in the following are necessarily applicable to the development of properties within the CSA, but are presented for comparison purposes to support the proportional special benefit applied to those land use types within the district.

EBU Application by Land Use:

Single Family Residential- This land use is defined as a fully subdivided residential home site with or without structure. This land use is assessed 1.00 EBU per parcel or lot. This is the base value that all other properties are compared and weighted against.

Multi-family Residential- This land use is defined as a fully subdivided residential parcel that has more than one residential unit developed on the property typically includes apartments, duplexes, triplex etc. (It does not typically include condominiums, town-homes, or mobile home parks). Based on average population densities and the size of the structure as compared to a typical single-family residential unit, multi-family residential parcels shall be proportionally assessed for the parcel's total number of residential units utilizing a sliding

single family residential, it would not be reasonable to conclude that on a per unit basis, the benefits are equal. Studies have consistently shown that the average multi-family unit impacts infrastructure approximately 75% as much as a single family residence (sample sources: Institute of Transportation Engineers Informational Report Trip Generation, Fifth Edition; Metcalf and Eddy, Wastewater Engineering Treatment, Disposal, Reuse, Third Addition). These various studies indicate the most public improvements and infrastructure are utilized and impacted at reduced levels by multi-family residential units and a similar reduction in proportional benefit is appropriate. Furthermore, it is also reasonable to conclude that as the density (number of units) increases, the proportional benefit per unit tends to decline because the unit size and people per unit usually decreases. Based on these considerations and the improvements provided by the CSA, it has been determined that an appropriate allocation of special benefit for multifamily residential properties as compared to a single family residential is best represented by the following special benefit assignment: 0.75 EBU per unit for the first 5 units; 0.50 EBU per unit for units 6 through 50; and 0.25 EBU per unit for all remaining units

Condominium/Town-Home Units- Condominiums and town-homes tend to share attributes of both a single-family residential and multi-family residential properties and for this reason are identified as a separate land use classification. Like most single-family residential properties, these properties are not usually considered rental property and generally the County assigns each unit a separate APN or assessment number. However, condominiums and town homes often have similarities to multi-family residential properties in that they are generally zoned medium to high density and in some cases may involve multiple units on a single APN. In consideration of these factors it has been determined that an appropriate allocation of special benefit for condominiums, town-homes and similar residential properties is best represented by an assignment of 0.75 EBU pr unit regardless of whether each unit is assigned an individual APN or there are multiple units assigned to the APN. There is not an adjustment factor for parcels with more than five units.

Planned-Residential Development- This land use is defined as any property for which a tentative or final tract map has been filed and approved (a specific number of residential lots and units has been identified) and the property is expected to be subdivided within the fiscal year or is part of the overall improvement and development plan for the CSA. This land use classification often times involves more than a single parcel (e.g. the approved tract map encompasses more than a single APN). Each parcel that is part of the approved tract map shall be assessed proportionally for the proposed or estimated residential type and units to be developed on that parcel as part of the approved tract map. Accordingly, each parcel is assigned an appropriate number of benefit units that reflects the development of that property at build-out (the EBU assigned to each parcel shall represent the combination of single family, condominium, multifamily units to be developed).

Exempt Parcels- This land use identifies properties that are not assessed and are assigned 0.00 EBU. This land use classification may include but is not limited to:

- Lots or parcels identified as public streets and other roadways (typically not assigned an APN by the County):
- Private properties that cannot be developed independently for an adjacent property, such as common areas, sliver parcels or bifurcated lots or properties with very restrictive development use

These types of parcels are considered to receive little or no benefit from the improvements and are therefore exempted from assessment.

Special Cases- in many CSA's where multiple land use classifications are involved, there is usually one or more properties that the standard land use classifications or usual calculation of benefit will not accurately identify the special benefits received from the improvements. For example, a parcel may be identified as a vacant residential property, however only a small percentage of the parcel's total acreage can actually be developed. In this case, an appropriate calculation would be based on the net acreage that can be utilized rather than the gross acreage of the parcel. The following table provides a summary of land use types, the EBU factors used to calculate each parcels individual EBU as outlined above.

PART III – BUDGET ANALYSIS

A. Fund Balance

The assessment for Fiscal Year 2011/2012 would be \$75.62 per EBU. The 80 parcels within Phase one would have a total combined E.B.U. of 111.563.

Fund balance is accrued from the difference of the revenue received from the annual assessments and the actual yearly operating cost for each fiscal year. Any additional funds will be maintained within the CSA to provide funding for the first six months of operating costs. The fiscal year is the 12-month period commencing on July 1st and ending on the following June 30th. However, the annual assessment is collected in December and April. This means the fiscal year starts on July 1st but the first installment of the annual assessment will not be collected until December. This creates a 6-month lag in receiving the money necessary to maintain the various services provided. An amount of \$649 or one sixth (1/6) of the funding needed to cover this dry period will be included in the assessment calculation until 2017/2018 to build a reserve. When sufficient fund balance exists to fund six months of operating costs and any required capitol improvement reserve, the remaining fund balance will be used to offset the following year's expenditures.

B. Budget Formula

Land use and Equivalent benefit units

Property type	EBU	Multiplier
Single Family Residential	1.00	Per unit/lot (parcel)
Multi-Family Residential	0.75	Per unit for the first 5 units
	0.50	Per unit for units 6 thru 50
	0.25	Per units > 50
Condominium/Town- Home Units	0.75	Per Unit
Planned Residential Development	1.00	Per planned Residential lot
	0.75	Per planned Condominium
	0.75	Per unit for the first 5 units
	0.50	Per unit for units 6-50
	0.25	Per unit >50
Vacant/Undeveloped Residential Land	1.00	Per Acre
Public Park	0.40	Per Acre
Public Storm Drain Basin	0.40	Per Acre
Public School/Congregations	2.20	Per Acre
Commercial/Industrial Parcel	3.50	Per Acre
Undeveloped Commercial/Industrial Parcel	1.00	Per Acre
Rural/ Agricultural	1.00	Per Acre
Exempt Parcels	0.00	Per parcel

The following formula is used to calculate each parcel's EBU (proportional benefit):

$$\text{Parcel Type EBU} \times \text{Acres or Units} = \text{Parcel EBU}$$

The total number of EBU's is the sum of all individual EBU's applied to parcels that receive special benefit from the improvements. An assessment amount per EBU (assessment rate) for the improvements is established by taking the total cost of the improvements and dividing the amount by the total number of EBU's of all benefiting parcels from the improvements. The rate is then applied back to each parcel's individual EBU to determine the parcel's proportionate benefit and assessment obligation for the improvements.

$$\text{Total Balance to Levy} / \text{Total EBU's} = \text{Levy per EBU}$$

$$\text{Levy per EBU} \times \text{Parcel EBU} = \text{Parcel Levy Amount}$$

PARCEL TYPES INCLUDED WITH THIS FORMATION

PARCEL TYPE	PARCELS	ACRES	E.B.U.	E.B.U TOTAL
Residential	64		1.000	63.000
Comm./Industrial	8	1.370	3.500	4.795
School/Church	4	17.870	2.200	39.314
Vacant Lot	1	0.930	1.000	0.930
Parks	3	0.710	0.400	0.284
Total	80	20.880	8.100	108.323

PART IV - SERVICE AREA BUDGET

EXPENSE DESCRIPTION	TOTAL BUDGET
ADMINISTRATION	
County Administration	\$823
Miscellaneous/Other Admin Fees	\$0
Total	\$823
PUBLIC WORKS	
Pond Excavation	\$0
Pump Replacement	\$0
Cleaning Draining System	\$2,700
Street Sweeping	\$5,530
Curb & Gutter Repair	\$0
Weed Spraying	\$0
Erosion Control	\$0
Separator Cleaning	\$0
Utilities	\$0
Total	\$8,230
Capital Improvement Reserve	\$0
General Benefit	(\$1,266)
Total Administration, Parks & Rec, Public Works Budget	\$7,787
Fund Balance Information	
Beginning Fund Balance (Estimated for 2009/10)	\$0
Capital Improvement Reserve (-)	\$0
Available Fund Balance	\$0
Adjustments to Available Fund Balance	
General Fund (or PW) Loan Repayment/Advance (+)	\$0
Other Revenues/General Fund (Contributions I.e. Grants) (+)	\$0
Capital Improvement Expenditure (pumps etc.) (-)	\$0
6 Months Operating Reserve (-)	(\$3,894)
Use of Fund Balance for FY 2009/10 (-)	\$0
Contingency Reserve (-)	\$0
Total Adjustments	(\$3,894)
Remaining Available Fund Balance	(\$3,894)
Total Administration, Parks & Rec, Public Works Budget	\$7,787
Use of Fund Balance/Add'l reserve (-/+)*	\$649
Balance to Levy	\$8,436
District Statistics	
Total Parcels	80
Parcels Levied	80
Total EBU	108.323
Levy EBU	\$77.88
Capital Reserve Target	\$0

* an amount equaling 1/6 of the 6 month operating reserve will be collected until reserve is attained.

PART V – ASSESSMENTS

2011/2012 Assessment = \$8,436.00 / 108.323 E.B.U. = \$77.88 per E.B.U.

Proposition 218 took effect on July 1, 1997, and requires an assessment ballot procedure in order to establish or increase the assessment.

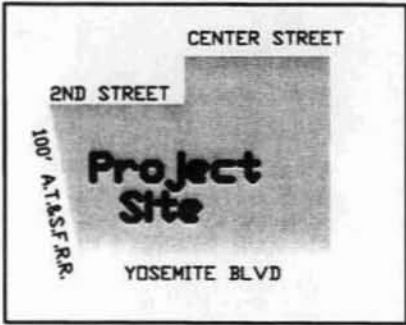
The parcels subject to the assessment are listed on Exhibit "D" that is attached hereto and made a part of this Engineer's Report.

EXHIBIT "A"
CSA 27 FORMATION- EMPIRE

All that portion of real property located in Section 29 and 30, Township 3 South, Range 10 East, Mount Diablo Base and Meridian in the County of Stanislaus State of California Described as follows:

Commencing at the common section corner of Sections 30, 29, 31 and 32 of said Township and Range, thence South 89° 59' 00" West a distance of 297.34 feet to the easterly right of way of Atchison Topeka and Santa Fe Railroad and being the **TRUE POINT BEGINNING OF THIS DESCRIPTION.** (1) thence North 11° 27' 30" West a distance of 995.21 feet along the easterly line of said A.T.&S.F.R.R. to the northerly line of 2nd street. (2) thence North 89° 59' 00" East along the north line of 2nd street a distance of 863.68 feet to the east right of way line of "G" Street (3) thence North 00° 04' 00" West a distance of 310.00 feet to the north line of a 10 foot alley (4) thence North 89° 59' 00" East a distance of 923.60 feet to the east line of Lot 1 of Block 1 of Map of the Root Addition recorded on Volume 9 of Maps, Page 40 Stanislaus County Records. (5) thence South 00° 04' 00" East a distance of 1286.00 feet along the east line of Lots 1-11 of said Block 1 and its southerly extension to the south line of said section 29. (6) thence South 89° 59' 00" West a distance of 1621.94 feet along the south line of said section 29 and 30 to the true point beginning of this description.

Containing an Area = 44.52 Acres

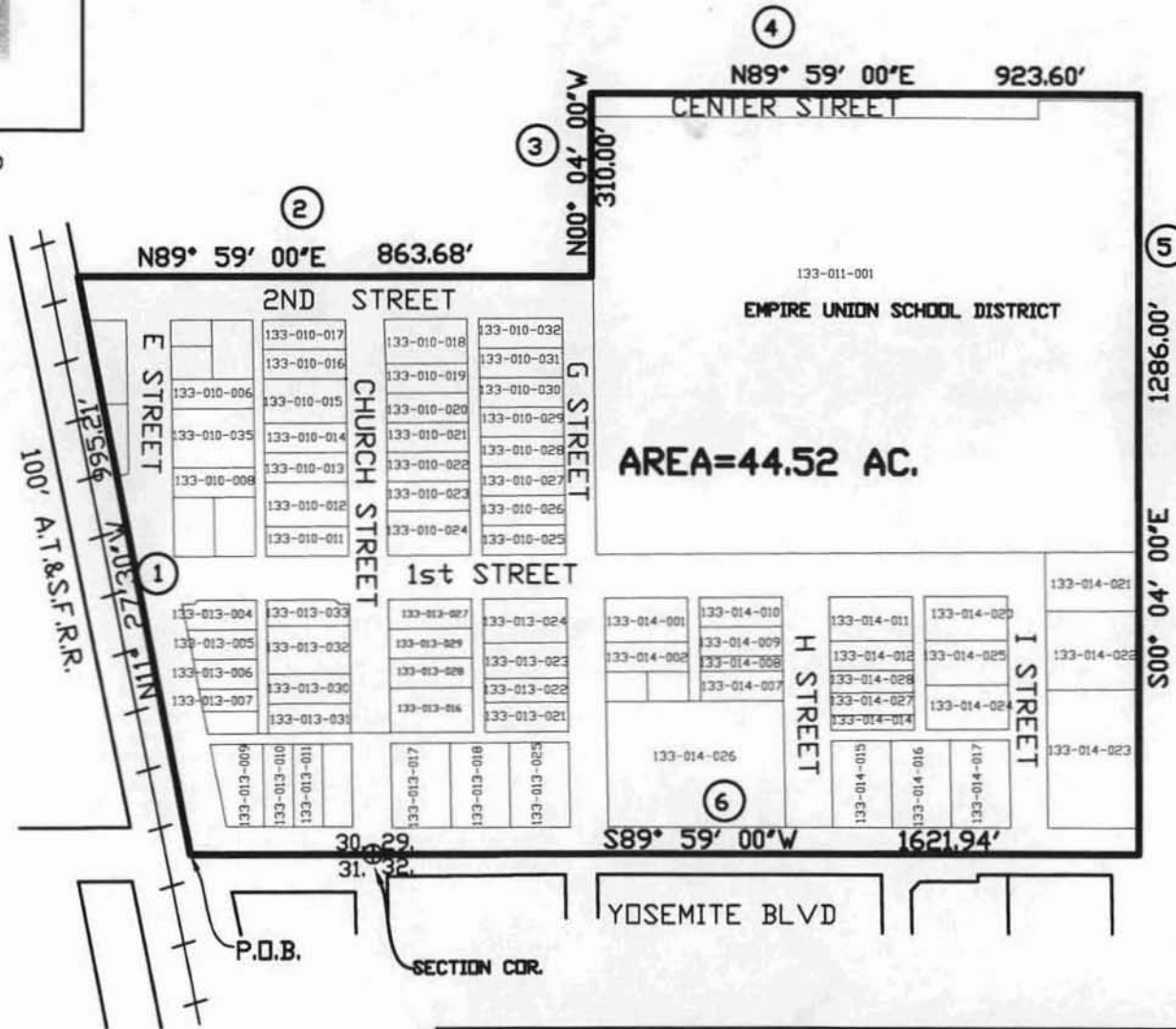


Vicinity Map
Not to Scale

EXHIBIT 'B'



46



CSA 27-EMPIRE FORMATION		DEPARTMENT OF PUBLIC WORKS STANISLAUS COUNTY	
BEING A PORTION OF SECTION 29 AND 30 TOWNSHIP 3 SOUTH, RANGE 10 EAST M.D.B.M.		DATE: 08-17-2009	SCALE: 1"=300'
		DRAWN BY: NCW CHECKED BY: LF	

EXHIBIT "D"
PARCEL COUNT FOR
COUNTY SERVICE AREA NO. 27
EMPIRE
FISCAL YEAR 2011/2012

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU	A.P.N.	ASSESSMENT	EBU
SINGLE FAMILY DWELLING			133-010-027	\$77.88	1
			133-010-028	\$77.88	1
			133-010-029	\$77.88	1
			133-010-030	\$77.88	1
			133-010-031	\$77.88	1
133-010-001	\$77.88	1	133-010-032	\$77.88	1
113-010-002	\$77.88	1			
133-010-003	\$77.88	1	133-010-035	\$77.88	1
133-010-004	\$77.88	1	TOTAL	\$2,492.16	33
133-010-005	\$77.88	1			
133-010-006	\$77.88	1	133-013-004	\$77.88	1
			133-013-005	\$77.88	1
133-010-008	\$77.88	1	133-013-006	\$77.88	1
133-010-009	\$77.88	1	133-013-007	\$77.88	1
133-010-010	\$77.88	1	133-013-008	\$77.88	1
133-010-011	\$77.88	1	133-013-009	\$77.88	1
133-010-012	\$77.88	1			
133-010-013	\$77.88	1	133-013-016	\$77.88	1
133-010-014.	\$77.88	1			
133-010-015	\$77.88	1	133-013-021	\$77.88	1
133-010-016	\$77.88	1	133-013-022	\$77.88	1
133-010-017	\$77.88	1	133-013-023	\$77.88	1
133-010-018	\$77.88	1	133-013-024	\$77.88	1
133-010-019	\$77.88	1			
133-010-020	\$77.88	1	133-013-027	\$77.88	1
133-010-021	\$77.88	1	133-013-028	\$77.88	1
133-010-022	\$77.88	1	133-013-029	\$77.88	1
133-010-023	\$77.88	1	133-013-030	\$77.88	1
133-010-024	\$77.88	1	133-013-031	\$77.88	1
133-010-025	\$77.88	1	133-013-032	\$77.88	1
133-010-026	\$77.88	1	133-013-033	\$77.88	1
133-014-001	\$77.88	1	TOTAL	\$1,401.84	18

EXHIBIT "D"
PARCEL COUNT FOR
COUNTY SERVICE AREA NO. 27
EMPIRE
FISCAL YEAR 2011/2012

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU	A.P.N.	ASSESSMENT	EBU
133-014-002	\$77.88	1	<u>COM/IND</u>	<u>ACRES</u>	
			133-013-009	0.25	\$68.15 0.875
133-014-008	\$77.88	1	133-013-010	0.16	\$0.00 0.000
133-014-009	\$77.88	1	133-013-011	0.16	\$0.00 0.000
133-014-010	\$77.88	1	133-013-012	0.16	\$43.61 0.560
133-014-011	\$77.88	1	133-013-017	0.32	\$87.23 1.120
133-014-012	\$77.88	1	133-013-018	0.32	\$0.00 0.000
			133-013-025	0.32	\$87.23 1.120
133-014-014	\$77.88	1	<u>TOTAL</u>	<u>1.69</u>	<u>\$286.21 3.675</u>
133-014-016	\$0.00	0	133-014-015	0.32	\$87.23 1.120
113-014-020	\$77.88	1	<u>TOTAL</u>	<u>0.32</u>	<u>\$87.23 1.120</u>
133-014-024	\$77.88	1			
133-014-025	\$77.88	1	<u>C/I TOTALS</u>	<u>2.01</u>	<u>\$373.43 4.795</u>
133-014-027	\$77.88	1			
133-014-028	\$77.88	1	<u>SCH/CHUR</u>	<u>ACRES</u>	
<u>TOTAL</u>	<u>\$1,012.44</u>	<u>12</u>	133-011-001	15.71	\$2,691.69 34.562
			<u>TOTAL</u>	<u>15.71</u>	<u>\$2,691.69 34.562</u>
SFD TOTALS	\$4,906.44	63			
			133-014-017	0.32	\$54.83 0.704
			133-014-021	0.41	\$70.25 0.902
			133-014-026	1.43	\$245.01 3.146
			<u>TOTAL</u>	<u>2.16</u>	<u>\$370.09 4.752</u>
			<u>S/C TOTALS</u>	<u>17.87</u>	<u>\$3,061.77 39.314</u>
<u>PARKS</u>	<u>ACRES</u>				
133-014-003	0.08	\$2.49 0.032			
133-014-004	0.08	\$2.49 0.032			
133-014-022	0.55	\$17.13 0.220			
<u>TOTAL</u>	<u>0.71</u>	<u>\$22.12 0.284</u>			
			<u>VACANT</u>	<u>ACRES</u>	
			133-014-023	0.93	\$72.43 0.930
			<u>TOTAL</u>	<u>0.93</u>	<u>\$72.43 0.930</u>
			CSA TOTALS		\$8,436.20 108.323

Exhibit D

Board of Supervisors Resolution No. 2009-821

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works

BOARD AGENDA # *C-11

Urgent Routine

AGENDA DATE December 8, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Adopt the Results of the Proposition 218 Ballot Procedure held on November 24, 2009 for County Service Area 27-Empire

STAFF RECOMMENDATIONS:

1. Adopt the results of the ballot procedure (Support: 45.594, Protest 10.978, Incomplete: 0) held on November 24, 2009, for the approval to levy assessments within the legal boundary of CSA 27-Empire.
2. Direct the Department of Public Works to file an application with the Local Agency Formation Commission per Government Code 56652
3. Set the 2011/2012 annual assessments at \$77.88 per Equivalent Benefit Unit (EBU).
4. Authorize the Auditor-Controller to add the annual assessment to the 2011/2012 Tax Roll.

FISCAL IMPACT:

The proposed annual budget to operate CSA 27 - Empire contains the following: \$5,530 for street sweeping, \$2,700 for drain cleaning and maintenance, administration cost of \$823, fund balance reserve of \$649, and a general benefit credit of \$1,266, for a total of \$8,436. Using the budget figures listed above, the levied amount for residential and commercial parcels within this district is proposed at \$77.88 and \$272.58 per acre, respectively.

BOARD ACTION AS FOLLOWS:

No. 2009-821

On motion of Supervisor Chiesa, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. CSA-27-2

Approval to Adopt the Results of the Proposition 218 Ballot Procedure held on November 24, 2009 for County Service Area 27-Empire

DISCUSSION:

County Service Area (CSA) 27 is located in the unincorporated town of Empire. The purpose of this CSA is to ensure the ongoing maintenance and operation of the storm drain system.

In March 2007, the Board of Supervisors authorized the County to enter into a contract with Stantec Consulting Inc. to provide design, surveying and general engineering services to develop plans and specification for the Empire Infrastructure Improvement Project. The design process was the first step toward the ultimate realization of storm drain infrastructure in Empire and is funded by the Community Development Block Grant (CDBG) Program and the Stanislaus County Redevelopment Agency. On July 21, 2009, the Board adopted the plans and specifications for the Empire Improvement Project Phase 1A and related actions including environmental exemption. The Board of Supervisors awarded the contract to Granite Construction Company on November 3, 2009 for the construction of all the improvements.

CSA 27 encompasses those parcels that will receive special benefit from Phase 1 improvements. The purpose of this county service area is to provide for the ongoing maintenance and operation of the storm drain system once the improvements and infrastructure have been installed. The special benefit assessments to be levied for this district are intended to provide a revenue source for all the maintenance of the storm drain system including, but not limited to the materials, equipment, labor, and administrative expenses.

The services provided to the proposed CSA will only provide a special benefit to the parcels within the district. The Stanislaus County Department of Public Works provides limited street sweeping services (four times annually) as a general benefit to the unincorporated areas of the County to maintain the drainage infrastructure. The special benefit that is provided to county service areas is an additional twenty-two (22) sweeps annually for a total of twenty-six (26). Along with the additional sweeping, extensive preventative maintenance is provided to the infrastructure in order for it to operate and function as designed.

Proposition 218 was a statewide initiative approved by the voters in November, 1996. It required that the property owners of the proposed district or existing district, through a ballot procedure, approve specific benefit assessments and any increase of said assessment. The assessment ballot was mailed out with a notice of the proposed assessment. This notice described the specific benefit of the proposed district, the total amount thereof chargeable to the entire district, the amount chargeable to the owners' particular parcel, the duration of the payments, the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of the Public Hearing.

Approval to Adopt the Results of the Proposition 218 Ballot Procedure held on November 24, 2009 for County Service Area 27-Empire

The above-mentioned ballot procedures have been completed and the notices were mailed to the property owners. A Public Hearing was conducted to consider all objections or protests, if any, to the proposal on November 24, 2009 at 9:15 a.m. At the conclusion of the public hearing, the submitted assessment ballots were tabulated and determined that a majority protest did not exist. The results are included herein and have been posted by the Clerk of the Board of Supervisors. With Board approval, based on the results, the formation of the district and the levy of the annual assessments will occur. All assessment ballots submitted are public information and subject to inspection, by request, under the Public Records Act.

POLICY ISSUES:

The Board should consider if the recommended actions are consistent with its priorities of providing a safe community, a healthy community, and a well-planned infrastructure system.

STAFFING IMPACT:

Stanislaus County Department of Public Works staff will manage the administration of County Service Area 27-Empire. No additional staffing will be needed at this time.

DF:jg
H:\Denny Ferreira\Proposals\Empire CSA\Board Items\Accept the Results

ATTACHMENTS AVAILABLE
FROM YOUR CLERK

Exhibit E

Verification of Proposition 218 Ballot Procedure Results



November 24, 2009

MEMO TO: Jim De Martini, Chairman

FROM: Christine Ferraro Tallman, Clerk of the Board

RE: **FORMATION OF THE EMPIRE COUNTY SERVICE AREA - 27**

We have completed our count of the Empire County Service Area – 27 Formation ballot procedure. On December 8, 2009, the results will be presented to the Board of Supervisors. These votes have been counted and verified by staff.

We present the results from the ballot process for your certification.

Weighted Votes cast in support of the formation	45.594
Weighted Votes cast in protest of the formation	10.978
Weighted Incomplete ballots	<u>0</u>
Total Weighted Ballots Received	56.572

Certified by:

Christine Ferraro
Clerk of the Board of Supervisors

11/24/09
Date

Exhibit F

**County Environmental Documentation –
Notice of Exemption**

STANISLAUS COUNTY
DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT
1010 10th Street, Suite 3400
Modesto, California 95354

FILED

09 JUL 23 AM 8:01

STANISLAUS CO. CLERK-RECORDER

Jennifer Mercado

BY _____ DEPUTY

NOTICE OF EXEMPTION

Project Title: Empire Improvement Project Phase 1A

Applicant Information: Stanislaus County / 1010 10th Street, Suite 3400 / Modesto, CA 95354 / (209) 525-6330

Description & Location of Project: Empire Improvement Project Phase 1A consists of installing curb, gutters, handicap returns, new street section and a self-contained underground french drain. Phase 1A encompasses the area generally bounded on the south by Highway 132; on the west by E Street; on the east by I Street; and, on the north by 2nd Street and Center Avenue. Additional project area boundaries include F Street, G Street and Sunshine Court, south of Highway 132. The project area is located within the Community of Empire, east of the City of Modesto, in Stanislaus County.

Name of Agency Approving Project: Stanislaus County Board of Supervisors

Lead Agency Contact Person: Aaron Farnon, Comm. Dev. Division Manager

Telephone: (209) 525-6330

Exempt Status: (check one)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: CA Code of Regulations § 15301 & 15302
- Statutory Exemptions. State code number: _____
- General Exemption.

Reasons why project is exempt: The project consists of minor alterations, maintenance, and reconstruction of existing public facilities.

(I:\BOS\cdbgl\Empire Improvement Project Phase 1A\Notice of Exemption.wpd)

Date removed from posting 8-27-09