

FUNDING: Developer Funds. (No Federal Funding)

DEPARTMENT RECOMMENDATION

Community Development Agency, Administration and Finance Division recommending the Board consider the following:

- 1) Review and accept the Engineer's Report dated January 2016 supporting the proposed benefit assessment for the Carson Crossing Drive Drainage Zone of Benefit;
- 2) Approve and authorize the Chair to sign Resolution **040- 2016** authorizing commencement of an assessment ballot proceeding for the owners of property within the zone boundaries to consider levy of the benefit assessment for the Carson Crossing Drive Drainage Zone of Benefit No. 98310, noting that approval of the funding mechanism is required in order for formation of the zone to be completed;
- 3) Waive the forty-five (45) day balloting period prescribed under Government Code section 53753 (b) at the request of the property owners;
- 4) Conduct a hearing on March 8, 2016 at 11:00 a.m., at which time the assessment ballots will be distributed, received and tabulated; and
- 5) If no majority protest exists, authorize the Chair to sign Resolution **041-2016** adopting the subject benefit assessment to be levied commencing in the 2017-18 tax year.

DISCUSSION / BACKGROUND

An application has been submitted and reviewed by staff to form the Carson Crossing Drive Drainage Zone of Benefit No. 98310. The proposed zone consists of approximately 412.53 acres located southwest of Golden Foothill Parkway in the El Dorado Hills area. The original application consisted of twelve (12) parcels owned by a single landowner, Lennar Homes of California, Inc. (Lennar), and was submitted in order to satisfy Conditions of Approval for TM 04-1391R Carson Creek 2/Carson Creek Phase 2, Unit 1, Item No. 44, as amended and approved by the Planning Director on January 31, 2014. Final Maps were approved for Carson Creek Unit 1, Phases A and B by the Board of Supervisors on September 1, 2015 (Legistar File 15-0990, Item 16 and 15-0991, Item 17). Resolution 033-2016 was adopted by the Board on February 23, 2016 (Legistar file 16-0064, Item 36) forming the Carson Crossing Drive Drainage Zone of Benefit 98310, contingent on approval of funding for zone activities.

Lennar and the County entered into Agreement 15-54291, *Agreement for Carson Crossing Drive Drainage Zone of Benefit 98310 Formation Between County And Owner* (Agreement) for Carson Creek Unit 1 - Phase A-D, TM 04-1391R-2 to ensure formation of the zone of benefit to provide funding for storm water drainage facility maintenance. The Agreement further provides that Lennar will not close escrow on the sale of, nor transfer title on any property located in the Subdivision prior to the time the zone is fully formed (Article 2), and that the County will not consider approval for later phases of the subdivision until the drainage zone of benefit is formed (Article 11). The Agreement was fully executed on September 2, 2015.

The Final Maps recorded for Carson Creek Unit 1 - Phase A and Phase B resulted in the current configuration of two hundred fourteen (214) parcels, of which two hundred thirteen (213) are owned by the original applicant. The remaining parcel is owned by El Dorado Irrigation District.

The proposed purpose of the Carson Crossing Drive Drainage Zone of Benefit is to provide a proportional share of the drainage facility maintenance service and replacement costs for specific storm water drainage improvements within the zone boundaries. The facilities include three con-spans that provide crossings for Carson Crossing Drive over Carson Creek and its tributaries, and storm drainage facilities associated with the segment of Carson Crossing Drive within the zone. The

proportionality of the County's and proposed zone's costs is described in the Engineer's Report submitted with the Application and Petition to Form the zone, and included with the Resolution of Intent to Levy a Benefit Assessment. Maintenance of all other drainage facilities within the zone that are not associated with the segment of roadway and the con-spans will be the responsibility of a homeowners' association or other entity acceptable to the Board.

County Service Area law provides that formation of a zone of benefit is contingent upon approval of funding through lawful proceedings. The applicant has proposed funding through a benefit assessment which requires approval of a weighted majority of the property owners subject to the proposed assessment.

Lennar, as the majority property owner and petitioner to form the zone, has requested a waiver of the forty-five (45)-day balloting period prescribed under Government Code section 53753(b), and that the assessment ballot proceedings, including the public hearing, commence immediately following adoption of the Resolution of Intent, and be concluded on the same day (Attachment G).

California Civil Code Section 3513 allows a party to "waive the advantage of a law intended solely for his benefit (sic)." The prescribed forty-five (45)-day balloting period is for the benefit of property owners who may be subject to a new or increased benefit assessment. Lennar, one of two property owners, is currently the majority owner of all properties within the Carson Crossing Drive Zone of Benefit. The second property owner has consented to the waiver, therefore all record owners within the zone have provided consent to the waiver (Attachment H).

ALTERNATIVES

The Board may deny the request for waiver and instead hold the assessment ballot proceedings and public hearing at the next available regular meeting following the forty-five (45)-day balloting period, which would be May 3, 2016.

Another option available to the Board is to initiate proceedings by adopting the Resolution of Intent and setting the assessment ballot hearing date in less than forty-five (45) days, to allow for mail delivery of the assessment ballots. Future regular Board meeting dates available for this option are March 22, 2016, April 5, 2016, and April 19, 2016.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel

CAO RECOMMENDATION

Chief Administrative Office concurs with staff's recommendations.

FINANCIAL IMPACT

The costs associated with the formation of the zone of benefit and associated assessment ballot proceeding will be paid by the applicant. Funding for the drainage facility maintenance services will be provided in part through a benefit assessment if approved in the assessment ballot proceeding.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) The Clerk will have the Chair sign two (2) originals of the Resolution of Intent to Levy and forward one (1) original to CDA Administration and Finance for processing.
- 2) The Clerk will conduct an assessment ballot proceeding in accordance with the Board's determination in this matter.

3) If no majority protest exists, the Clerk will have the Board Chair sign two (2) originals of the Resolution Establishing the Benefit Assessment and forward one (1) original to CDA Administration and Finance for processing.

STRATEGIC PLAN COMPONENT

Infrastructure, effective services and financial stability.

CONTACT

Kate Sampson, Assistant Director
Administration and Finance Division
Community Development Agency