



Council Agenda Report

From: Kirk Gonzalez, Utilities Planning and Engineering Manager

Subject: Approval of a Resolution Making Findings Pursuant to Government Code § 51292 for the Placement of Public Improvements in an Agricultural Preserve in Furtherance of the Recycled Water Project

CEQA Determination: The City relying upon the previously certified IS/MND for the Recycled Water Distribution System project. The City has fulfilled the requirements of the California Environmental Quality Act for the Recycled Water Distribution System project. The City prepared an Initial Study and Mitigated Negative Declaration (IS/MND) and circulated it for public comment (State Clearinghouse #2018051033). The City certified the IS/MND and filed a Notice of Determination on August 24, 2018.

Date: September 3, 2024

Facts

1. The City is one of five Groundwater Sustainability Agencies (GSAs) that are collectively working to implement a common Groundwater Sustainability Plan (GSP) as mandated under the Sustainable Groundwater Management Act (SGMA).
2. The GSP includes City recycled water as a component of a conceptual Blended Water Project outlined in the plan. The Blended Water Project aims to provide supplemental water to groundwater extractors in the basin to offset groundwater pumping and contribute toward compliance with the SGMA.
3. The City has planned, designed and is advancing the installation of a Recycled Water Distribution System to deliver recycled water to east Paso Robles to offset irrigation pumping and to recharge the groundwater basin. The complete Recycled Water Distribution requires a 900,000-gallon storage tank at the east end of the City, near Barney Schwartz Park, to provide the necessary operational storage and system pressure.
4. The tank site selection was based primarily on elevation, topography, and proximity of the site to the recycled water backbone infrastructure and future recycled water use sites.
5. Lower acquisition cost due to the agricultural uses of the land and the agricultural preserve restriction was not the primary consideration for the choice of the property.
6. Other sites within and near the City that provide the appropriate elevation for the tank are very limited, are poor candidates for the tank site due to their greater distance from the distribution system and future recycled water users, and thus not reasonably feasible to locate this public improvement.
7. Construction of the tank and related facilities at the proposed site will provide benefit to the property and surrounding properties by providing a reliable supplemental water supply and will allow users to offset historical groundwater pumping.
8. The storage tank site is located on private land owned by a private party (currently Vina Robles) and is located at APN 020-211-015

9. To facilitate purchase of needed property and easements needed for the project, the City council has authorized the City Manager to enter into agreements that include payments for the needed easements and property acquisition to allow future construction of the project consistent with the project budget.
10. The City has retained the services of a specialized real estate services firm, Hamner Jewell and Associates (HJA) of Arroyo Grande, to assist with acquisition of the easements and land including the planned storage tank site.
11. Negotiation of agreements for purchase of the tank site and minor easements on the Vina Robles property is underway.
12. The tank site property is subject to an existing Open Space Easement Agreement and a Williamson Act Contract.
13. The Open Space Easement Agreement allows for construction of public service facilities installed for the benefit of the surrounding properties, pursuant to Section 5 "Construction of Improvements" of the agreement.
14. The Williamson Act Contract only allows for "agricultural or compatible uses" for the lands without exception.
15. The California Government Code § 51292 allows for a public agency to locate a public improvement within an agricultural preserve upon the making of certain findings by the City, made prior to the acquisition of the property.

Options

1. Take no action;
2. Approve the attached resolution, making findings related to Government Code § 51292 and Property Acquisition for the Recycled Water Project;
3. Provide alternative direction to staff.

Analysis and Conclusions

The City has been working to acquire the remaining easements and land needed for the recycled water distribution pipeline and the storage tank. The storage tank site and minor easements are located on properties owned by Vina Robles, immediately east of the City, and these properties are subject to an Open Space Agreement and a Williamson Act Contract. The City Attorney has reviewed the Open Space Agreement and a Williamson Act Contract to determine requirements

Open Space Easement Agreement

The Open Space Easement Agreement for the property restricts the use of the land to primarily agricultural uses, but also allows for construction of public service facilities if the facilities are installed for the benefit of the surrounding properties (Open Space Agreement Section 5 "Construction of Improvements"). Further, the installation of the public service facilities is not required to be for the sole benefit of the surrounding property. Though the benefit provided to the surrounding properties from the installation of the tank and related facilities is not the sole purpose of the City's action, even a partial benefit to the surrounding properties complies with the restrictions in the Open Space Easement Agreement.

Construction of the recycled water storage tank at the proposed location will provide a supplemental water supply that is suitable for irrigation of wine grapes and other agricultural crops to agricultural irrigators and would allow properties in the region and the remainder of the agriculture lands not include in the acquisition to utilize the supplemental water supply to offset some groundwater pumping, consistent with the Paso Robles Basin's GSP.

Williamson Act Contract

The Williamson Act Contract only allows for “agricultural or compatible uses” for the lands, similar to the Open Space Easement Agreement, but restricts the use without exception for public facilities. The Williamson Act is generally codified in sections 51200 - 51297 of the California Government Code. The code does allow, via a process, the ability of a subsequent purchaser of the property to cancel the Williamson Act Contract for the purchased lands. Specifically for the City, section 51292 allows for a public agency to locate a public improvement within an agricultural preserve upon the making of certain findings, made prior to the acquisition of the property.

First, The California Government Code requires that agencies proposing to place public improvements in an agricultural preserve must find that selection of the location for the public improvement was not based primarily on lower cost of acquiring land in an agricultural preserve and second, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement. Additionally, the City must find that the property may benefit from the proposed public improvement.

Siting of the proposed recycled water storage tank was based primarily on the site elevation, topography, and proximity of the site relative to the recycled water backbone infrastructure and future recycled water use sites. Additionally, constructability, future maintenance and access we considered when siting tank. The site of the recycled water storage tank was not based on lower cost of land within an agricultural area. Thus, the first provision is satisfied.

Additionally, It is not reasonably feasible to construct the tank site outside of the agricultural preserve land because there are limited sites which provide suitable elevation and are proximal to/ in the vicinity of the recycled water system backbone infrastructure and future use sites. Thus, the second provision is satisfied.

Fiscal Impact

There are no direct costs associated with making the required findings relating to the Williamson Act and Open Space Agreements for the property. Purchase of the needed land and easements for the project have been budgeted and the current estimated cost for acquisition of all property and easements required for the recycled water project on the land owned by Vina Robles, including the tank, is \$389,500.

CEQA

The City has fulfilled the requirements of the California Environmental Quality Act for the Recycled Water Distribution System project. The City prepared an Initial Study and Mitigated Negative Declaration (IS/MND) and circulated it for public comment (State Clearinghouse #2018051033). The City certified the IS/MND and filed a Notice of Determination on August 24, 2018.

Recommendation (Option 2)

Approve Resolution 24-XXX making findings pursuant to government code section 51292 for the placement of public improvements in an agricultural preserve in furtherance of the recycled water distribution project.

Attachments

1. Resolution 24-XXX – Findings for RW Project Property Acquisition