



Board Agenda Item 10

DATE: March 19, 2024

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Millerton Specific Plan Area Infrastructure Update and Surface Water Treatment Plant Master Agreement

RECOMMENDED ACTION(S):

- 1. Receive update on present conditions and progress of development within the Millerton Specific Plan Area, located along Millerton Road between Friant and Auberry Roads, approximately 5 miles northeast of the northernmost boundary of the City of Fresno, with special emphasis on the status of the Surface Water Treatment Plant and Wastewater Treatment Plant serving the Millerton Specific Plan Area and County Service Area No. 34; and**
- 2. Approve and authorize the Chairman to execute the proposed Master Agreement Pertaining to Millerton Specific Plan Area Surface Water Treatment Plant with developers (a)104 Investments, LLC, (b) 3B Development, Inc., (c) The Clarksfield Company, Inc., and (d) JPJ Incorporated, providing for the improvement of the Surface Water Treatment Plant serving the Millerton Specific Plan Area and County Service Area No. 34 by construction or installation of a granulated activated charcoal filtration system, to be constructed or installed by the County and paid for by the developers, less any funds obtained by County from an alternative source, currently estimated cost of \$2,000,000.00.**

Under the first recommended action, your Board will receive an update on the Millerton Specific Plan Area infrastructure progress, detailed in this agenda item. Approval of the second recommended action will allow the County's execution of the proposed Master Agreement Pertaining to Millerton Specific Plan Area Surface Water Treatment Plant (Agreement) between the County and JPJ Incorporated, 3B Development Inc., 104 Investments, LLC, and The Clarksfield Company Inc., (collectively, Developers) to collectively provide the County with upfront financing for the design, development, and construction of a granulated activated carbon filter system (GAC System) to serve the Millerton Specific Plan Area's surface water treatment plant, which is operated by County Service Area No. 34 (CSA 34).

The proposed Agreement will ensure that the Surface Water Treatment Plant (SWTP) serving CSA 34 is capable of safely meeting the demand of homes to be constructed in the CSA. No General Fund money will be used to finance the improvements to CSA 34 infrastructure. The proposed Agreement is not a global solution to the impediments to further development in CSA 34, but it addresses one outstanding issue.

This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

Your Board may reject the proposed Agreement and provide direction to staff. The County may have

remedies available against some or all of the Developers.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions, and no General Fund money will be used to finance improvements to CSA 34 infrastructure. One or more of the Developers have posted bonds for the construction of infrastructure improvements which will be addressed by the construction or installation of the GAC system. Staff will return to your Board to partially release the bonds once the GAC system has been completed and other terms of the proposed Agreement have been fulfilled.

DISCUSSION:

Background:

The Millerton Specific Plan and associated Environmental Impact Report were approved by your Board on December 18, 1984. Under the December 19, 2000 Infrastructure Plan, the physical infrastructure to support the specific plan area, including the SWTP and WWTP and related appurtenances, would be constructed by the developers and accepted by the County into the newly-formed CSA 34, upon completion of the infrastructure improvements by the developers.

The method for ensuring the construction of infrastructure improvements was by attaching specific improvements to individual tracts, to be completed by the developer constructing the tract as required by a subdivision improvement agreement.

Wastewater Treatment Plant Current Summary:

- The Conditional Use Permit to allow the construction of the existing wastewater treatment plant and 45-acre foot lined treated effluent storage pond. was approved by your Board on October 9, 2003, by Conditional Use Permit (CUP) No. 2979.
- CUP 3698 was approved by the Planning Commission on November 18, 2021. CUP 3698 was approved to authorize the construction and use of two additional effluent storage ponds with the related supply and distribution lines. The total capacity for the approved ponds is approximately 100 -acre feet. Construction of the ponds has begun but has not been completed. The developer is working to finalize the design, complete construction including the lining of the ponds, and to obtain the required permits for the State Regional Water Quality Control Board (RWQCB).
- CUP 3727 and Amendment to Text No. 382 were approved by your Board on May 17, 2022, and authorized the use of treated effluent to be irrigated on common area landscaping, and on agriculture land adjacent to the Millerton Specific Plan Area and within the Plan Area.
- In December 2022 and January 2023, the County of Fresno experienced a series of atmospheric river weather events resulting in heavy rains and causing a rapid increase in the water level in the existing 45-acre foot storage pond. The combination of treated effluent and precipitation increased the pond level such that it began encroaching into the required freeboard level.
- In February of 2023 the County hired a contractor to transport treated effluent from the existing 45 -acre foot treated effluent storage pond to the City of Fresno Regional Wastewater Reclamation Facility (RWRF). If the County did not take this action., the storage pond would have overtopped resulting in the treated effluent discharging into White Fox Creek. If that were to have occurred, the County CSA34 would have faced potential fines and penalties from the State RWQCB in the amount of \$10,000 a day.

- In December of 2023 and January of 2024, the County once again experienced a series of atmospheric river events resulting in heavy rains, again creating the issue of the existing 45-acre foot storage pond level rising and encroaching into the required freeboard level.
- In January of 2024 JPJ Incorporated hired a contractor to transport treated effluent from the existing 45-acre foot treated effluent storage pond to the City of Fresno RWRF, and that operations is continuing to occur until such time adequate capacity in the pond is achieved.
- Work implementing CUP 3968 continues which will develop addition storage capacity and beneficial reuse areas to utilize the treated effluent.

Remaining Final Map Obligations Related to Final Maps specific to the WWTP improvements:

Under a Tract 4968 Subdivision Agreement between the County and JPJ Incorporated, the latter is obligated to construct treated effluent beneficial reuse areas (spray fields) and two additional treated effluent ponds. JPJ Incorporated is also required to obtain all permits at its sole cost and expense, including the required State permitting.

These obligations remain incomplete despite performance schedules which have come and gone. Completion of these obligations is necessary to provide the capacity for additional homes currently proposed to be constructed.

Surface Water Treat Plant Current Summary:

Development within the Millerton Specific Plan Area has progressed more slowly than originally anticipated. To date, roughly 10%-15% of the original number of residential units anticipated in the plan have been built out. Although Phase I of the SWTP had been constructed and operated with no treatment issues for a number of years, in 2017, CSA 34 was issued Compliance Order No. 03-2317R_002. The Compliance Order was issued on March 23, 2017, for violation of the Stage 2 Disinfection Byproduct Rule Haloacetic Acids Maximum Contaminant Level. CCR, Title 22, Chapter 15.5 (Stage 2 Disinfection Byproduct Rule) adopted by California, effective June 21, 2012, requires water systems serving less than 10,000 persons to monitor and report disinfection byproduct and residual disinfectant levels.

At the time of the issuance of the Compliance Order, Phase II of the SWTP, which would expand the treatment capacity from 350 gallons per minute (GPM) to 800 GPM, was being considered by the developer of Tract 4968. The Compliance Order stated that the proposed expansion project must address the compliance issue and identify a solution to bring the water system back in compliance.

- On September 8, 2017 - SWTP expansion plans approved by County staff, representatives from developers within the Specific Plan were JPJ Inc., Assemi Group, Granville Homes, and The Clarksfield Company. There was an agreement for a design/build process. This expansion would increase production to a design of 800 gpm (minus losses) and address the Compliance Order. The approval included a decision tree, submitted by JPJ Inc. engineer of record, on treatment option steps that would potentially reduce the Haloacetic Acid (HAA5) below the MCL for the Compliance Order to be lifted.
- From 2018 to the first quarter of 2023 JPJ Incorporated and their engineer of record actively engaged in the process related to design, testing and construction to expand the SWTP and reduce the levels of HAA5 to allow State-issued Compliance Order to be lifted.
- In January of 2023 CSA 34 issued a Boil Water Order as a result of high turbidity levels in the treated water due to poor raw water quality conditions in Millerton Lake.
- In March of 2023 the Boil Water Order ended as the water quality in the lake improved.

- The Compliance Order remains in effect and with the addition of the GAC system, the Department believes the plant will be able to meet the water quality in order for it to be lifted.

Remaining Final Map Obligations Related to Final Maps specific to the SWTP improvements:

Under a Tract 4968 Subdivision Agreement between the County and JPJ Incorporated, the latter is obligated to perform the following obligations:

- Expansion of the Surface Water Treatment Plant and the required State permits
- Upon 4 consecutive quarters of the SWTP meeting HAA5 compliance Board action will be required to place the SWTP into a 1-year warranty period.

A Tract 6189 Subdivision Agreement between the County and 3B Development, Inc. also requires the construction of potable water distribution infrastructure.

As of this date, these obligations also remain incomplete. Completion of these obligations is necessary to provide the capacity for additional homes currently proposed to be constructed.

Granulated Activated Carbon Filter System (GAC) for the SWTP:

The County's CSA 34 has determined that the addition of a GAC system is an appropriate method of treatment to render the SWTP capable of supporting additional homes in the Millerton Specific Plan Area and lift the State issued Compliance Order for the SWTP. The County and the Developers have agreed to this method of treatment and to an estimated project budget.

Proposed Agreement:

The Agreement is the product of extensive negotiation involving the Department of Public Works and Planning, the County Administrative Office, and the Developers. As part of the Agreement, the Developers will finance the construction of the GAC system, ensuring that County General Fund money is not spent to support CSA 34. While the agreement does not offer a global solution to the issues preventing further development in CSA 34, which include the WWTP, it is a step towards consensus between the County and Developers and offers a partial solution to those issues.

The County will construct the GAC system, but the developers will collectively pay an initial amount of \$2,000,000.00 to the County to cover the estimated costs of the design and construction. The County will construct the GAC system using its regular process for the design, bidding and construction of a public works project that must comply with all relevant federal, state, and local laws pertaining to the construction of public works projects.

The Agreement requires the county to undertake best efforts, in a manner specified in the Agreement, to obtain an alternative funding source to offset the Developers' upfront financing. These methods include seeking grant funding, engaging in a Proposition 218 process, and seeking voluntary contributions.

While the specific improvements identified above are necessary to support the proposed development within the Millerton Specific Plan Area and were required of Tracts 4968 and 6189 at the time they were approved, the improvements will have the additional effect of improving the ability of the SWTP to serve existing homes.

California Environmental Quality Act:

The Recommended Actions require no further review under the California Environmental Quality Act

(CEQA). They fall within the scope of the environmental review already performed for the Millerton Specific Plan, Tract 4968, and Tract 6189. There are no changes to the mitigation and exactions attached to the Millerton Specific Plan Area development, such mitigation and exactions merely being further specified.

REFERENCE MATERIAL:

BAI #17, May 1, 2018

BAI #20, December 19, 2000

BAI # 53, November 16, 2021

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Master Agreement Pertaining to Millerton Specific Plan Area Surface Water Treatment Plant

CAO ANALYST:

Salvador Espino