



County of Fresno

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2281 Tulare Street
Fresno, California
93721-2198

Legislation Text

File #: 21-0457, **Version:** 1

DATE: July 13, 2021

TO: Board of Supervisors

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

SUBJECT: Revised Certificates of Tentative Cancellation for the Partial Cancellation of Agricultural Land Conservation Contract Nos. 365 and 367 and Cancellation of Agricultural Land Conservation Contract Nos. 2227 and 2799 (RLCC Nos. 982, 983, 985 and 986)

RECOMMENDED ACTION(S):

- 1. Adopt Resolution authorizing revised Certificates of Tentative Cancellation for the partial Cancellation of Agricultural Land Conservation Contract Nos. 365 and 367 and Cancellation of Agricultural Land Conservation Contract Nos. 2227 and 2799 filed by RWE Solar Development, LLC on behalf of G3 Farming Trust, Woolf Properties and Woolf Family Trust No. I; and**
- 2. Authorize Chairman to sign the revised Certificates of Tentative Cancellation and approve recordation of the Certificates of Cancellation when all conditions included in the revised Certificates of Tentative Cancellation have been satisfied.**

The subject parcels are located on the west side of State Route 269 (Lassen Avenue), between Gale Avenue and Jayne Avenue, approximately one and a half-mile south of the City of Huron (APNs: 075-060-15s, 075-060-52s, 075-070-01s, 075-070-32s, 075-070-33s, 075-070-34s, 075-070-35s). This item pertains to a location in District 4.

This item comes to your Board in response to a request by the Applicant to allow the cancellation of the above-referenced Williamson Act contracts involving approximately 1,600 acres to be recorded in two phases. On December 15, 2020, your Board approved cancellation of several contracts affecting a cumulative total of approximately 1,600 acres of land, contingent upon the applicant obtaining the required land use permits and payment of the cancellation fee for the entire 1,600 acres. Phase 1 of the Applicant's proposed approach for phased implementation of the cancellation process would involve Agricultural Land Conservation Contract (ALCC) Nos. 365, 367, 2227 and 2799 totaling approximately 1,278 acres. Phase 2 also would involve portions of ALCC No. 365, as well as ALCC Nos. 1809 and 5150, for a total of approximately 322 acres. The Applicant has made this request for the proposed phasing approach because they are reconsidering, and have not yet finally determined, whether to pursue a component of the project known as the Stonecrop Solar facility that previously was approved under Unclassified Conditional Use Permit (CUP) No. 3563.

If the Applicant later decides to pursue development of the Stonecrop Solar facility, the remaining acreage will be removed from the contracts by a similar process as the Phase 1 contract cancellation. If your Board approves the proposed phased cancellation, the following conditions shall apply to the Phase 1 cancellation of Contract Nos. 365, 367, 2227 and 2799 totaling approximately 1,278 acres and the respective parcels that are covered by said contracts:

1. The Applicant shall pay the Cancellation Fee in the amount of \$198,750, as determined by the County Assessor and certified by the Board of Supervisors, prior to issuance by the Board of a Certificate of Cancellation for ALCC No. 365, involving a 159.63-acre parcel identified as APN 075-060-15s. The Cancellation Fee shall be paid, and a Certificate of Cancellation issued, prior to issuance of any permit associated with the proposed use.
2. The Applicant shall pay the Cancellation Fee in the amount of \$198,750, as determined by the County Assessor and certified by the Board of Supervisors, prior to issuance by the Board of a Certificate of Cancellation for ALCC No. 367, involving a 159.77-acre parcel identified as APN 075-060-52s. The Cancellation Fee shall be paid, and a Certificate of Cancellation issued, prior to issuance of any permit associated with the proposed use.
3. The Applicant shall pay the Cancellation Fee in the amount of \$796,875, as determined by the County Assessor and certified by the Board of Supervisors, prior to issuance by the Board of a Certificate of Cancellation for ALCC No. 2227, involving a 638.82-acre parcel identified as APN 075-070-01s. The Cancellation Fee shall be paid, and a Certificate of Cancellation issued, prior to issuance of any permit associated with the proposed use.
4. The Applicants shall pay the Cancellation Fee in the amount of \$400,000, as determined by the County Assessor and certified by the Board of Supervisors, prior to issuance by the Board of a Certificate of Cancellation for ALCC No. 2799, involving four parcels identified as APNs 075-070-32s, 075-070-33s, 075-070-34s and 075-070-35s, totaling 320.02 acres. The Cancellation Fee shall be paid, and a Certificate of Cancellation issued, prior to issuance of any permit associated with the proposed use.

ALTERNATIVE ACTION:

Your Board may deny the Applicant's request to allow phasing of the Williamson Act contract cancellations included in the Applicant's original petition which was approved by your Board on December 15, 2020. Denial of the proposed cancellation phasing would require that the Applicant pay the cancellation fee originally certified by your Board on December 15, 2020, in the amount of \$1,987,500 for all of the parcels that collectively comprised the subject of the original cancellation petitions, totaling approximately 1,600 acres.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. The Applicant paid an application fee of \$3,290 for the cost of processing the separate application requesting approval of the phased approach to implementation of the cancellation process.

DISCUSSION:

The Applicant, RWE Solar Development, LLC originally filed a petition for partial cancellation of ALCC Nos. 365 and 367 and cancellation of ALCC Nos. 1809, 2227, 2799 and 5150 to remove approximately 1,600 acres of land from the Williamson Act Program to allow development of a 150-megawatt (MW) photovoltaic solar power generation facility on approximately 1,273 acres (Fifth Standard Solar Facility), a 20-MW photovoltaic solar power generation facility on approximately 322 acres (Stonecrop Solar Facility) and a 100-MW electrical battery storage facility on approximately five acres (Blackbriar Battery Storage Facility).

At its October 22, 2020 hearing, the Planning Commission certified the Environmental Impact Report prepared for the project (EIR No. 7257 - State Clearinghouse No. 2017091038) and approved Unclassified Conditional Use Permit (CUP) No. 3562 for the Fifth Standard Solar Facility, CUP No. 3563 for the Stonecrop Solar Facility and CUP No. 3564 for the Blackbriar Battery Storage Facility.

On December 15, 2020, your Board adopted a Resolution authorizing partial cancellation of ALCC Nos. 365 and 367 and cancellation of ALCC Nos. 1809, 2227, 2799 and 5150, authorized the Chairman to sign Certificates of Tentative Cancellation, and approved recordation of Certificates of Cancellation subject to the payment of a Cancellation Fee in the total amount of \$1,987,500 as determined by the County Assessor, for all of the parcels that collectively comprised the subject of the original cancellation petitions.

Subsequent to your Board's approval of the cancellation petition for the 1,600 acres of land, the Applicant contacted County staff requesting that cancellation of the contracts be executed in two phases. It was proposed that the Phase 1 cancellation would involve approximately 1,278 acres and Phase 2 would involve approximately 322 acres. The reason for the proposed phasing is that the 20-MW Stonecrop Solar facility that was approved by CUP No. 3563 may not be constructed as it was originally planned. Should it be determined that development of the Stonecrop Solar facility will be pursued in the future, then contract cancellation on the remaining parcels will be addressed in a manner similar to this Item, as a separate "revised" tentative cancellation.

Because the Assessor's office previously calculated the cancellation fee, consistent with the Applicant's original request, for the entire 1,600 acres of land, the cancellation fee for the parcels restricted by those contracts to be included in the Phase 1 cancellation required reassessment by the Assessor's office, and preparation of a new Resolution and the accompanying Tentative Certificates of Cancellation. As noted, a similar process will occur for the acreage involved in development of the Stonecrop Solar facility, should that project phase be pursued. However, if CUP No. 3563 for the development of the Stonecrop Solar facility expires, then the contracts on the remaining 322 acres of land will be non-renewed, because contract cancellation on that acreage was approved by the Board due to the lack of irrigation water to farm the land.

Attachment A is a location map of the subject parcels, Attachment B depicts the zoning of the subject parcels and surrounding area, Attachment C depicts the existing land use of the subject parcels and surrounding parcels, and Attachment D is an aerial photograph of the subject parcels identifying the phased cancellation.

ENVIRONMENTAL DETERMINATION:

EIR No. 7257 was certified by the Planning Commission on October 22, 2020. The EIR included a discussion for the proposed cancellation petition to remove approximately 1,600 acres of land from the Williamson Act contract. On December 15, 2020, your Board approved cancellation of Williamson Act contracts on the 1,600 acres of land based on the EIR that was prepared for the project addressing the environmental impacts associated with contract cancellation on the subject 1,600 acres of land.

PUBLIC HEARING NOTICE:

The State of California Department of Conservation (DOC) and all landowners within one quarter mile of the subject property were provided notice of today's hearing, and the notice was also published.

REFERENCE MATERIAL:

BAI #17, December 15, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D
On file with the Clerk - Resolution
On file with the Clerk - Certificates of Tentative Cancellation

CAO ANALYST:

Ron Alexander