

exchange would swap the current tank lot for a new site located further up the hill and further away from existing residential structures. The exchange would include a new water line and access easement for the District and facilitate better access to the new tank lot. In exchange, the District would relinquish its existing tank lot following completion of construction of the new tanks.

The Land Exchange Agreement was executed on March 29, 2024 and provided the District six months to perform a due diligence review of the proposed new tank lot prior to proceeding with the land exchange. Within that timeframe, staff performed environmental, geotechnical, and land surveying due diligence to help determine the appropriateness of the proposed new tank lot. Environmental assessment conducted by Environmental Science Associates (ESA) included a Phase I Environmental Site Assessment as well as Biological Site and Cultural Resources Assessments. None of these assessments identified Recognized Environmental Conditions that could affect the subject property, nor were any sensitive biological communities or cultural resources identified within the proposed tank site.

A geotechnical review evaluated previous detailed field investigations including geotechnical reports, soil borings and seismic design parameters along with a desktop assessment of the site to determine the landslide potential and variability of depth to bedrock across the proposed site. Results concluded that the site is suitable for the construction of the two proposed tanks, especially in areas with shallower bedrock; however, a robust retaining wall will be needed due to the grade across the new site. Finally, land surveying efforts determined the need for minor corrections to the legal descriptions, which are included in the proposed amendment to the Land Exchange Agreement.

Overall, the proposed site appears constructible for the two proposed tanks, but staff has requested, and the property owner has agreed, to extend the due diligence period until October 9, 2024 to allow the District to assess any comments to the proposed project received by the District. Staff recommends that the Board authorize the Board President to execute an amendment to the Land Exchange Agreement to correct the property/easement legal description and extend the due diligence period. Staff is also recommending that the Board authorize the District General Manager to complete the due diligence review and proceed with the proposed land exchange, barring any legal challenge to the project under the California Environmental Quality Act (CEQA).

Staff further recommends that the Board approve of the Hind Tanks Replacement project and direct staff to file the Notice of Exemption with the Marin County Recorder's Office.

ENVIRONMENTAL REVIEW: The Director of Engineering has found that the Project is categorically exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15031, Existing Facilities, 15302, Replacement or reconstruction, 15303 New Construction or Conversion of Small Structures, and 15304 Minor Alternations to Land. The Project qualifies for each of these exemptions, in the alternate, inasmuch as the proposed project involves the replacement of existing water storage tanks with negligible or no expansion of capacity, but only enhancements to achieve adequate fire flow for the surrounding area. Further, the project will involve some grading to prepare the new site and construct two new water storage tanks in place of the existing redwood tanks, as well as the subsequent demolition and removal of the two existing water tanks, which will allow the District to continue ongoing water service to the surrounding area.

Exceptions to CEQA Exemptions (Section 15300.2)

The District has also determined that none of the exceptions under CEQA Guidelines Section 15300.2 apply to the proposed project. Specifically:

1. Location in Sensitive Environments

The District has carefully assessed the location of the relocation site and determined that the new tank site is not located within an environmentally sensitive area as defined under CEQA Guidelines section 15300.2, subd. (a). The site has been evaluated for the presence of sensitive habitats, rare species, wetlands, and other resources of critical concern, and it has been confirmed that these areas are free from such environmental sensitivities. This assessment aligns with legal precedents where categorical exemptions were upheld for projects located outside sensitive environmental areas, thereby reinforcing the District's determination that the project qualifies for exemption.

2. Cumulative Impact

The District has considered the potential cumulative impacts of the proposed project and it has been determined that the cumulative impact of the project is not significant as the capacity of the new tanks is enhanced only to achieve fire flow for the surrounding area and as such will not contribute to any significant cumulative environmental impacts.

3. Unusual Circumstances

The District has considered and determined that the project does not present any unusual circumstances that could lead to significant environmental effects in that the project will allow continued water service and enhanced fire flow to the surrounding area consistent with historical use of the facilities and the mission of the District.

4. Scenic Highways

The project area does not include any state-designated scenic highways, and the project will not involve the removal or alteration of any significant visual resources that contribute to scenic vistas.

5. Historical Resources:

The project is not listed as an historical resource, and the project does not propose any activities that could adversely affect historical resources [*North County Advocates v. City of Carlsbad* (2015) 241 Cal.App.4th 94, 110 (“confirming that a project is exempt from CEQA where it ‘does not affect historical resources’”).].


CONCLUSION

The District has thoroughly reviewed the proposed project and determined that it is categorically exempt from CEQA under multiple sections of the CEQA Guidelines as explained above. Additionally, the District has determined that none of the exceptions outlined in CEQA Guidelines Section 15300.2 apply to the proposed project. Given these findings, the proposed project is proper under the applicable categorical exemptions invoked, and the project may proceed without further environmental review under CEQA.

FISCAL IMPACT: The Hind Tanks Replacement Project is identified in the adopted budget for Fiscal Year 2024 and 2025 under the A1A11 Replacement of Storage Tanks fund center.

ATTACHMENT(S):

1. Draft Notice of Exemption
2. Site Map

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Engineering	 Alex Anaya Engineering Director	 Ben Horenstein General Manager