

# **REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT AND RECORD OF ACTION**

**September 26, 2023**

## **FROM**

**BRENDON BIGGS, Chief Flood Control Engineer, Flood Control District  
TERRY W. THOMPSON, Director, Real Estate Services Department**

## **SUBJECT**

**Desert Knolls Wash Phase III Flood Control Improvement Project in the Town of Apple Valley**

## **RECOMMENDATION(S)**

Acting as the governing body of the San Bernardino County Flood Control District:

1. Authorize the acquisition of approximately 8.9-acres of property in the Town of Apple Valley from 17500 Mana Road, LLC (portion of Assessor's Parcel Number 0473-183-21) for the Desert Knolls Wash Phase III Flood Control Improvement Project, subject to two non-exclusive easement reservations, consisting of a .43-acre easement area for a shared access bridge and a 2.17-acre easement area for physical education activities, with construction of the shared access bridge to be completed by the San Bernardino County Flood Control District as in-kind consideration for the property acquisition, pursuant to Water Code Appendix Section 43-6.
2. Approve the Purchase and Sale Agreement with 17500 Mana Road, LLC, for the acquisition of approximately 8.9-acres of property in the Town of Apple Valley (portion of Assessor Parcel Number 0473-183-21) for Desert Knolls Wash Phase III Flood Control Improvement Project, subject to two non-exclusive easement reservations, consisting of a .43-acre easement for a shared access bridge and a 2.17-acre easement for physical education activities.
3. Authorize the Chair of the Board of Supervisors or the Director of the Real Estate Services Department to execute the Grant Deed, escrow documents, and any other documents necessary to complete the acquisition of the property, subject to County Counsel review.
4. Approve the plans and specifications for the Desert Knolls Wash Phase III Flood Control Improvement Project in the Town of Apple Valley, as signed and sealed by a registered civil engineer.
5. Authorize the Chief Flood Control Engineer of the San Bernardino County Flood Control District to advertise the Desert Knolls Wash Phase III Flood Control Improvement Project in the Town of Apple Valley for formal bids.

(Presenter: Brendon Biggs, Chief Flood Control Engineer, 387-7906)

## **COUNTY AND CHIEF FLOOD CONTROL ENGINEER GOALS & OBJECTIVES**

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.**

**Provide for the Safety, Health and Social Service Needs of County Residents.**

**Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.**

## **FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The San Bernardino County Flood Control District (District) is funded by property tax revenue, fee revenue, and other local, state, and federal funding. The access bridge is part of the planned flood control improvements for the Desert Knolls Wash Phase III Flood Control Improvement Project in the Town of Apple Valley (Project). The cost to design and construct the access bridge, which is the in-kind consideration for the acquisition of the approximately 8.9-acres of property in the Town

of Apple Valley (portion of Assessor's Parcel Number 0473-183-21) (Property), will be funded by property tax revenue and a \$1,932,000 federal grant. Based on an internal valuation performed by the Real Estate Services Department (RES D), the value of the Property being acquired is approximately the same as the value of the design and construction of the shared access bridge. Sufficient appropriation and revenue for the Project and the access bridge are included in the District's 2023-24 budget (1940002532 F01854).

### **BACKGROUND INFORMATION**

The Project involves the construction of approximately 2,590 linear feet of flood control improvements to the Desert Knolls Wash drainage system that extends from the existing concrete channel and terminates near the confluence with the Mojave River in the Town of Apple Valley. The Project improvements include constructing a series of grade stabilization structures along the full length of the channel, slope stabilization, maintenance access roads with access ramps and a bridge. In order to complete the Project, the District will need to acquire the Property, which is within the footprint of the Desert Knolls Wash.

17500 Mana Road, LLC (Mana Road) operates an education facility on its property known as the Academy for Academic Excellence and conveying the Property to the District will bisect a portion of Mana Road's retained property, requiring an access bridge to access each side of the retained property. As a result, the Property will be acquired with two easement reservations in favor of Mana Road, consisting of a .43-acre easement for a pedestrian and vehicular access bridge to cross over the wash and a 2.17-acre easement for physical education activities for Mana Road's students during school hours. The access bridge easement will automatically terminate in the event that the bisected portions of Mana Road's retained property are not under common ownership and the physical education easement will automatically terminate in the event that the Mana Road property is no longer used for an educational facility. Recommendation Nos. 1 and 2 will allow the acquisition of the Property and approve the Purchase and Sale Agreement (PSA).

The District has requested RES D to assist with carrying out the Property acquisition transaction. RES D will administer the PSA, manage the associated escrow to review title and perform due diligence on the Property prior to close, and carry out any other incidental actions associated with the PSA. Recommendation No. 3 allows the Director of RES D to execute any necessary documents related to the acquisition of the Property.

Acquisition of the Property and construction of the shared access bridge will be performed in compliance with the California Environmental Quality Act (CEQA). The District previously prepared an Initial Study/Mitigated Negative Declaration, which determined that no significant environmental effects would occur because mitigation measures will be implemented to reduce all significant impacts to less than significant levels.

On July 25, 2017 (Item No. 66), the Board of Supervisors (Board), acting as the governing body of the District, adopted a Mitigated Negative Declaration for the Project, approved the Project, and directed the Clerk of the Board to file a Notice of Determination for the Project. No timely challenge was filed under the CEQA. Additionally, in 2018, the District applied for and received State regulatory permits from the Lahontan Regional Water Quality Control Board and the California Department of Fish and Wildlife, thereby, meeting CEQA and State regulatory permit requirements necessary for implementation.

Recommendation No. 4 will approve plans and specifications for the Project, which include an allowance in the amount of \$500,000 for differing site conditions associated with subgrade stabilization, utility conflicts, and/or repairs due to storm events.

### **PROCUREMENT**

The District's acquisition of the Property is made pursuant to Water Code Appendix Section 43-6. Approval of Recommendation No. 5 will allow the Project to be advertised to invite formal bids in accordance with Section 22037 of the California Public Contract Code. The District anticipates returning to the Board for an award of the construction contract by the end of 2023-24.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Agnes Cheng, and Sophie A. Curtis, Deputies County Counsel, 387-5455) on August 30, 2023; Finance (Carl Lofton, Administrative Analyst, 387-5404) on September 12, 2023; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on September 12, 2023.