

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

**November 15, 2022**

**FROM**

**BRENDON BIGGS, Chief Flood Control Engineer, Flood Control District**

**TERRY W. THOMPSON, Director, Real Estate Services Department**

**SUBJECT**

Real Property Exchange with Speedway SBC Development, LLC and Speedway Commerce Center Development, LLC in the City of Fontana Sphere of Influence

**RECOMMENDATION(S)**

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

1. Adopt Resolution declaring the San Bernardino County Flood Control District-owned property consisting of a 3.50-acre portion of Assessor's Parcel Number 0229-291-57, in the City of Fontana Sphere of Influence, is surplus and no longer necessary for the uses and purposes of the San Bernardino County Flood Control District and the conveyance is in the public interest; that pursuant to Government Code section 54221(f)(1)(C), the San Bernardino County Flood Control District property is exempt surplus land; and authorizing the sale of said San Bernardino County Flood Control District property to Speedway SBC Development, LLC, and that the property conveyed will not substantially conflict or interfere with the use of the remaining property retained by the San Bernardino County Flood Control District, and will have no impact nor interfere with flood protection in the region; and authorizing in exchange for said District property the acceptance of Assessor's Parcel Number 0229-291-45 from Speedway Commerce Center Development, LLC, an affiliate of Speedway SBC Development, LLC, consisting of approximately 3.85 acres in the San Sevaine Channel, and also in the City of Fontana Sphere of Influence, for regional flood control pursuant to Water Code Appendix section 43-6, County Policy 12-17, and Government Code section 25365(b); and finding the exchange of the property is categorically exempt from further environmental review under the California Environmental Quality Act Guidelines, Title 14 of the California Code of Regulations sections 15312 (Surplus Government Property Sales) and 15061(b) (Common Sense Exemption) (Four votes required).
2. Approve Property Exchange Agreement with Speedway SBC Development, LLC that authorizes the exchange of San Bernardino County Flood Control District-owned property consisting of a 3.50-acre portion of Assessor's Parcel Number 0229-291-57, in the City of Fontana Sphere of Influence for the acceptance of Assessor's Parcel Number 0229-291-45 from Speedway Commerce Center Development, LLC, an affiliate of Speedway SBC Development, LLC, consisting of approximately 3.85 acres in the San Sevaine Channel, and also in the City of Fontana Sphere of Influence, for regional flood control pursuant to Water Code Appendix section 43-6, County Policy 12-17, and Government Code section 25365(b). (Four votes required)

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3. Authorize the Chairman of the Board of Supervisors to execute the Property Exchange Agreement and Grant Deed to convey a 3.50-acre portion of Assessor's Parcel Number 0229-291-57 to Speedway SBC Development, LLC.
4. Authorize the Director of the Real Estate Services Department to execute any other documents and take any actions necessary to complete this transaction, subject to County Counsel review.
5. Direct the Clerk of the Board of Supervisors to file and post the Notice of Exemption for the exchange of property.

(Presenter: Terry W. Thompson, Director, Real Estate Services Department, 387-5000)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

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

**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) and there is no cost associated with this real property exchange. The San Bernardino County Flood Control District (District) is funded by property taxes, fees, and other local, state, and federal funding. The value of the fee property received by the District exceeds the value of the fee simple interest conveyed to Speedway SBC Development, LLC (Developer). In addition, the District will receive reimbursement of incurred fees of approximately \$30,000 for administration costs related to this request.

**BACKGROUND INFORMATION**

The recommended actions will declare the District-owned property in the City of Fontana Sphere of Influence, comprising a 3.50-acre (152,460 square foot) portion of a parcel commonly known by Assessor's Parcel Number (APN) 0229-291-57 (District Property) as surplus property, declare the property exempt surplus land pursuant to Government Code section 54221(f)(1)(C), and approve and authorize the conveyance of the District Property to the Developer in exchange for the 3.85-acre APN 0229-291-45 (Developer Property).

The District owns in fee APN 0229-291-57, a portion of which is utilized and known as "VIP Road," used by the adjacent Auto Club Speedway property during special events pursuant to a road easement held by the Developer. The Developer seeks to acquire the District Property in fee, as it was a condition of approval for their adjacent proposed development for public access.

The District operates the San Sevaine Channel (Channel), which commences at Wilson Avenue, in the City of Rancho Cucamonga and continues south to Philadelphia Avenue, in the City of Fontana. The Developer's affiliate, Speedway Commerce Center Development, LLC, owns in fee the Developer Property, over which the District currently holds an easement. The Developer proposes to convey it in fee to the District for the purpose of operating and maintaining its Channel.

Both Parties have agreed that it is in their mutual interest to enter into the Property Exchange Agreement. The District requested that the Real Estate Services Department (RESA) review the appraisals submitted by the Developer and prepare the necessary documents to complete the transaction. Appraisal Reports 22-31 and 22-32, prepared by CBRE – Valuation and Advisory Services for the Developer, found that fair market value of

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Developer Property exceeds the value of the District Property. The values were confirmed by Appraisal Reviews 22-31R and 22-32R prepared and maintained by RESD.

The conveyance of the Property was reviewed pursuant to the Surplus Land Act, and the Property was determined to be "exempt surplus land" as defined in Government Code section 54221(f)(1)(C), because it is surplus land that the District is exchanging for another property necessary for the District's use. RESD notified the California Department of Housing and Community Development on November 1, 2022 about the proposed property exchange as required for compliance with the Surplus Land Act.

The exchange was reviewed pursuant to the California Environmental Quality Act (CEQA) and was determined to be categorically exempt from further environmental review under Title 14 of the California Code of Regulations (CEQA Guidelines), sections 15312 (Surplus Government Property Sales) and 15061(b) (Common Sense Exemption) of the CEQA Guidelines. The District Property is of no public use, is surplus government property, and is not located in an area of statewide, regional, or area-wide concern as identified in Section 15206(b)(4) of the CEQA Guidelines. Also, pursuant to section 15061(b) of the CEQA Guidelines, it can be seen with certainty that there is no possibility that the exchange may have a significant effect on the environment. The District will have fulfilled its obligation under CEQA for this Property with the posting of the Notice of Exemption by the Clerk of the Board of Supervisors.

Following the grant of District Property as set forth in the Property Exchange Agreement, the Developer shall, after improvement of the District Property, dedicate the District Property for perpetual public roadway purposes, allowing 24 hour/seven days a week public access. After the Developer acquires the District Property, and if it fails to dedicate it for public roadway purposes, then it must convey to the District, with a written request, an access easement over the former District Property for the District to have access to the Channel.

### **PROCUREMENT**

This exchange in real property interests between the District and the Developer will be made pursuant to the Water Code Appendix section 43-6, County Policy 12-17, and Government Code section 25365(b). Government Code section 25365(b) authorizes the Board of Supervisors, by a four-fifths vote, to exchange real property with any person, firm, or corporation, where the real property to be exchanged is not required for county use and the property to be acquired is required for county use. The value of any private real property exchanged shall be equal to, or greater than, 75% of the value of the county property offered in exchange, with cash contributed to balance the transaction if needed. Because the value of the Developer Property exceeds the value of the District Property, the exchange is permissible. No cash will be contributed to the exchange. The District has complied with the publication requirements of Government Code sections 25365 and 6061.

### **REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Scott Runyan, Principal Assistant County Counsel, and Sophie A. Akins, Deputy County Counsel, 387-5455) on October 14, 2022; San Bernardino County Flood Control District (Mervat Mikhail, Deputy Director, 387-7916) on October 12, 2022; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on September 12, 2022; Finance (Penelope Chang, Administrative Analyst, 387-4886) on October 25, 2022; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-4376) on October 25, 2022.

(BF: 361-8976)

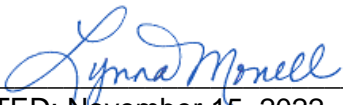
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Record of Action of the Board of Supervisors  
San Bernardino County Flood Control District

**CONTINUED TO DECEMBER 6, 2022**

Moved: Joe Baca, Jr. Seconded: Janice Rutherford  
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Curt Hagman, Joe Baca, Jr.  
Absent: Dawn Rowe

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: November 15, 2022



cc: File-  
LA 11/21/2022