

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

December 19, 2023

FROM

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

SUBJECT

Purchase and Sale Agreement for the Relinquishment of a San Bernardino County Flood Control District Easement to Lennar Homes of California, LLC in the City of Rialto

RECOMMENDATION(S)

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

1. Adopt a **Resolution No. 2023-218** that:
 - a. Makes Responsible Agency findings pursuant to the California Environmental Quality Act.
 - b. Declares the easement interest held by the San Bernardino County Flood Control District in approximately 76,470 square feet of vacant land owned by Lennar Homes of California, LLC, located on a portion of Assessor's Parcel Number 0264-842-03, is no longer necessary to be retained for the uses and purposes of the San Bernardino County Flood Control District, in accordance with County Policy 12-17.
 - c. Finds the relinquishment of the easement interest is in the public interest and will not conflict or interfere with flood control operations in the region.
 - d. Authorizes the relinquishment and sale of the easement interest in Recommendation 1.b. to Lennar Homes of California, LLC, upon payment of \$65,000 plus reimbursement of incurred administrative costs, pursuant to Water Code Appendix Section 43-6.
2. Approve Appraisal No. 23-13 dated January 9, 2023, a copy of which is on file with the Real Estate Services Department.
3. Approve the Purchase and Sale **Agreement No. 23-1397** with Lennar Homes of California, LLC, for the relinquishment and sale of the San Bernardino County Flood Control District easement in Recommendation 1.b.
4. Authorize the Chair of the Board of Supervisors to execute the Quitclaim Deed to convey the easement interest to Lennar Homes of California, LLC.
5. Authorize the Director of the Real Estate Services Department to execute any other documents, subject to County Counsel review, necessary to complete these transactions.
6. Direct the Clerk of the Board of Supervisors to file and post the Notice of Determination as required under the California Environmental Quality Act.

(Presenter: Terry W. Thompson, Director, 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.

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

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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 (FCD) is funded by property tax revenue, fee revenue, and other local, state, and federal funding. FCD will receive revenue from Lennar Homes of California, LLC (Developer) for Zone 2 (1920002522) in the amount of \$65,000, plus reimbursement of administrative costs related to this request, totaling an estimated \$25,300.

BACKGROUND INFORMATION

The Developer, which owns Assessor's Parcel Number 0264-842-03 in fee, along with other parcels in the surrounding areas, desires to complete a residential subdivision development project, formerly known as Lytle Creek Ranch, and now referred to as River Ranch (Project) in the City of Rialto (City). However, an existing FCD easement in the Project area is in conflict with the proposed development.

On February 8, 2022 (Item No. 63), the Board of Supervisors (Board) approved Participation Agreement No. 22-101 (Participation Agreement). The Participation Agreement required FCD to negotiate with the Developer in good faith, and subject to the Board's approval, complete an easement exchange that will serve both the needs of FCD and the Developer. Additionally, this agreement also required the Developer to make a \$200,000 refundable good faith deposit to be applied towards FCD's easement relocation costs associated with the development and all related FCD administrative costs.

During the negotiation process, FCD and the Developer agreed to carry out the easement relinquishment in two separate phases. The first phase involved the exchanges of properties with equal values, therefore, with no monetary exchange. The second and final phase contemplates FCD's relinquishment of remaining easement interest to the Developer at a price determined to be fair market value plus reimbursement of FCD's administrative costs. Additionally, approval of this item will authorize the Director of the Real Estate Services Department (RES D) to execute any other incidental documents as necessary to complete this transaction, subject to County Counsel review. The Director of RES D will not be authorized to execute any documents that would bind FCD to any actions not contemplated by, or arising from, the transaction which is the subject of these recommendations.

On May 23, 2023 (Item No. 101), the Board completed the first phase by approving Easement Exchange Agreement No. 23-492 (Exchange Agreement). Pursuant to the Exchange Agreement, FCD quitclaimed an approximate 48,565 square foot portion of one of its access easements containing approximately 125,035 square feet, and the entirety of another access easement containing approximately 6,000 square feet. In exchange, the Developer granted two replacement easements, containing 35,724 and 5,720 square feet respectively, to FCD. A total of approximately 54,565 square feet of FCD's easement area was relinquished in exchange for approximately 41,444 square feet of replacement easement area, which was deemed to be equivalent in value and utility. This exchange ensured FCD's ongoing access to its facilities in the area, while partially resolving the conflict with the Developer's Project. However, of the total 125,035 square foot easement area referenced above, approximately 76,470 square feet (Remainder Easement) is still in place and in conflict with the Project.

FCD requested RES D assist with the relinquishment and sale of the Remainder Easement to the Developer. RES D staff reviewed the appraisal provided by the Developer and determined

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that it used acceptable valuation methods, and that the appraised value of \$65,000 is consistent with fair market value. The relinquishment of the Remainder Easement will satisfy the intent of the Participation Agreement and will resolve the Developer's need to complete its Project.

The City, as Lead Agency for the Project under the California Environmental Quality Act (CEQA), adopted the Final Environmental Impact Report (EIR) (State Clearing House No. 20090611113) for the Project (Resolution No. 5862) on July 13, 2010, certifying the EIR. A Notice of Determination was filed with the San Bernardino County Clerk of the Board and the State Office of Planning and Research on September 12, 2019. The EIR reflects the independent judgment of the Lead Agency. FCD has a more limited approval and implementing authority related to the Project, therefore, serves only as a Responsible Agency pursuant to CEQA. As the Responsible Agency, FCD considered the EIR prepared for the Project and independently finds that the EIR is adequate for use by FCD to take action on the relinquishment of the Remainder Easement to the Developer and execution of the Purchase and Sale Agreement. Furthermore, FCD finds that no significant adverse impacts will occur as a result of the relinquishment and sale of the Remainder Easement, and other than the Notice of Determination referenced in Recommendation No. 6 above, finding that adequate mitigation has been provided to avoid direct and/or indirect environmental effects of relinquishment of Remainder Easement, no further CEQA analysis is required.

PROCUREMENT

The relinquishment of the Remainder Easement to the Developer will be made pursuant to Water Code Appendix, Section 43-6, and County Policy 12-17.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (John Tubbs II, Deputy County Counsel, Sophie A. Curtis, Deputy County Counsel, and Jason M. Searles, Supervising Deputy County Counsel, 387-5455) on October 24, 2023; Flood Control District (Grant Mann, Deputy Director, 387-7918) on October 16, 2023; Purchasing (Ariel Gill, Supervising Buyer, 387-2070) on October 20, 2023; Finance (Carl Lofton, Administrative Analyst, 387-5404, and Garrett Baker, Administrative Analyst, 387-3077) on November 28, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on November 29, 2023.

(NA: 501-6726)

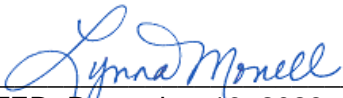
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Record of Action of the Board of Supervisors
San Bernardino County Flood Control District

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Col. Paul Cook (Ret.)
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: December 19, 2023



cc: w/Resolution
RESD - Thompson w/agree w/deed
Contractor - c/o RESD w/agree
File - w/agree
CCM 01/10/2024