

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
SITTING AS THE GOVERNING BODY OF THE FOLLOWING:  
SAN BERNARDINO COUNTY  
SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT  
AND RECORD OF ACTION**

February 27, 2024

**FROM**

**NOEL CASTILLO, Director, Flood Control District**

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

**MARK WARDLAW, Director, Land Use Services Department**

**SUBJECT**

Purchase and Sale Agreement for the Sale of Surplus Property in Bloomington and Affordable Housing Agreement and Declaration of Restrictive Covenants with Avila Collection, LLC

**RECOMMENDATION(S)**

1. Acting as the governing body of the San Bernardino County Flood Control District:
  - a. Adopt **Resolution No. 2024-26**:
    - i. Declaring that certain real property, consisting of a total of approximately three acres of land (Assessor's Parcel Numbers 0257-021-02 and 0257-012-12), located in the unincorporated area of Bloomington is no longer necessary for the uses and purposes of the San Bernardino County Flood Control District and is surplus and available for disposal pursuant to County Policy No. 12-17.
    - ii. Declaring that the land referenced in Recommendation No. 1.a.i. is exempt surplus pursuant to Government Code Section 54221(f)(1)(E).
    - iii. Finding that the sale of the land referenced in Recommendation No. 1.a.i. is an exempt project under the California Environmental Quality Act Guidelines, Section 15312 (Surplus Government Property Sales) and 15061(b)(3) (Common Sense Exemption).
    - iv. Authorizing the sale of the land, referenced in Recommendation No. 1.a.i., by quitclaim deed to Avila Collection, LLC pursuant to Water Code Appendix section 43-6 and County Policy No. 12-17 upon payment of \$475,000, plus reimbursement of incurred administration costs of approximately \$17,000.
  - b. Approve the **Purchase and Sale Agreement No. 24-164** and Escrow Instructions with Avila Collection, LLC to sell a total of approximately three acres of real property in the unincorporated area of Bloomington upon payment of \$475,000, plus reimbursement of incurred administration costs of approximately \$17,000.
  - c. Authorize the Chair of the Board of Supervisors to execute the following documents:
    - i. Purchase and Sale Agreement and Escrow Instructions with Avila Collection, LLC for the sale of the land referenced in Recommendation No. 1.a.i.
    - ii. Quitclaim Deed to convey San Bernardino County Flood Control District's interest in the land referenced in Recommendation No. 1.a.i. to Avila Collection, LLC, subject to the close of escrow.

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- d. Authorize the Director of Real Estate Services Department to execute additional Escrow Instructions and any other documents necessary to complete this transaction, subject to County Counsel review.
- e. Direct the Real Estate Services Department to file the Notice of Exemption in accordance with the California Environmental Quality Act.
- 2. Acting as the governing body of San Bernardino County, approve the Affordable Housing **Agreement No. 24-165** and Declaration of Restrictive Covenants with Avila Collection, LLC to restrict eight housing units to any combination of lower income or very low income households, for a term of 55 years from the sale of each unit as part of a 181 multi-family condominium project proposed on a total of approximately 12.6 acres of land, comprising approximately three acres of San Bernardino County Flood District-owned land referenced in Recommendation No. 1.a.i. to be conveyed to Avila Collection, LLC, subject to close of escrow and approximately 9.6 acres of Avila Collection, LLC-owned land (Assessor's Parcel Numbers 0257-021-28 and 0257-031-35) in the unincorporated area of Bloomington.  
(Presenter: Terry W. Thompson, Director, 387-5000)

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

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**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). The San Bernardino County Flood Control District (FCD) is funded by property taxes, fees, and other local, state, and federal funding. FCD will receive revenue for Zone 2 (1920002522) in the amount of \$475,000, plus reimbursement totaling an estimated \$17,000 for administration costs for the sale of the land in Recommendation No. 1.a.i. San Bernardino County (County) will incur no cost for the approval of the Affordable Housing Agreement and Declaration of Restrictive Covenants (Affordable Housing Agreement) in Recommendation No. 2 as all cost for implementation are paid by the Avila Collection, LLC (Developer).

**BACKGROUND INFORMATION**

Recommendation No. 1 will declare that certain property in the unincorporated area of Bloomington, consisting of a total of approximately three acres (Assessor's Parcel Numbers 0257-021-02 and 0257-012-12) (FCD Property), is no longer necessary for the uses and purposes of FCD and is surplus and available for disposal pursuant to County Policy No. 12-17 – Surplus Real Property (Policy No. 12-17), declare that the land is exempt surplus pursuant to Government Code Section 54221(f)(1)(E), and authorize its sale to the Developer. Recommendation No. 2 will approve an Affordable Housing Agreement with the Developer.

The FCD Property, which is located between Linden Avenue and Cedar Avenue, and from Slover Avenue to Santa Ana Avenue in the unincorporated area of Bloomington, was conveyed to FCD by quitclaim deed and accepted by resolution of FCD's Board of Supervisors (FCD Board) on September 25, 1961, for use as a right of way. FCD does not currently utilize the FCD Property for flood control purposes.

In April 2022, the Developer's affiliate, All-Era Properties, LLC (All-Era), contacted FCD to inquire about purchasing the FCD Property for inclusion in its proposed residential development on property located adjacent to and west of the FCD Property (Developer Property). At the

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time, All-Era had an option to purchase the Developer Property and was proposing a residential development consisting of the construction of 181 multi-family condominium units (Project) to be located on the Developer Property, and subject to the close of escrow of the FCD Property.

On May 23, 2023 (Item No. 107), the FCD Board and the County's Board of Supervisors (County Board) each approved an Agreement for the Provision of Affordable Housing (Contract No. 23-446), which was entered into among FCD, the County, and All-Era (Negotiating Agreement). During the same meeting (Item No. 112), the County Board approved the Project. The Negotiating Agreement provided a timeline for entering into the Affordable Housing Agreement either before or concurrently with the sale of the FCD Property. After the County Board approved the Project, the Developer exercised the option held by All-Era to purchase the Developer Property and, as the landowner and holder of the approved entitlement, is entering into the Affordable Housing Agreement to satisfy the obligations of All-Era. The Affordable Housing Agreement in Recommendation No. 2 commits the Developer to sell eight of the 181 units within the Project to any combination of lower-income or very low-income households, subject to acquiring the FCD Property. The Affordable Housing Agreement will be recorded against the Developer's Property following execution but will not be recorded against the FCD Property until escrow closes, and the Developer has ownership of the FCD property.

FCD requested that the Real Estate Services Department (RESO) assist with the proposed disposition at fair market value. The Developer provided an appraisal of the FCD Property. RESO staff reviewed the appraisal and accepted the appraised fair market value for the FCD Property of \$475,000, using a commonly used and acceptable method of valuation. The Developer will pay the fair market value of the FCD Property and FCD's administrative costs. Since the FCD Property was acquired by quitclaim, FCD will similarly provide a quitclaim deed to transfer any and all rights held by FCD for the FCD Property.

Policy No. 12-17 provides that if property is no longer needed, the governing Board (FCD Board) may declare it surplus and authorize the disposition of the property. Because there is no flood control purpose for the FCD Property, FCD requests that the FCD Board declare the FCD Property surplus. The sale of the FCD Property was reviewed pursuant to the Surplus Land Act, and because the FCD Property is a former right of way that is being conveyed to the property owner of adjacent land, RESO staff has determined that the FCD Property is exempt surplus pursuant to Government Code Section 54221(f)(1)(E). In accordance with California Department of Housing and Community Development (HCD) Surplus Land Act Guidelines Section 400(e), RESO will provide a copy of the Resolution to HCD for review and concurrence, which is a closing condition for the sale.

The sale of the FCD Property was reviewed pursuant to the California Environmental Quality Act (CEQA) and was determined to be categorically exempt from further environmental review under California Code of Regulations Sections 15312 (Surplus Government Property Sales) and 15061(b)(3) (Common Sense Exemption) of the CEQA Guidelines. The FCD Property is not located in an area of statewide, regional, or area-wide concern as identified in Section 15206(b)(4) and no significant values for biological or cultural resources have been identified on the FCD Property. Additionally, the Common Sense Exemption applies when it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. FCD will have fulfilled its obligation under CEQA for this FCD Property with the posting of the Notice of Exemption by RESO. The approval of the Affordable Housing Agreement is not a project subject to CEQA. The Affordable Housing Agreement does not have

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the potential to result in either a direct physical change in the environment, or a reasonably indirect physical change in the environment, since it does not alter the development capacity of the Project previously approved by the County Board.

**PROCUREMENT**

FCD is authorized to declare the FCD Property surplus pursuant to County Policy No. 12-17, declare the FCD Property exempt surplus pursuant to Government Code Section 54221(f)(1)(E), and to sell the FCD Property to the Developer pursuant to Water Code Appendix section 43-6 and County Policy No. 12-17.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Agnes Cheng, and Sophie A. Curtis, Deputies County Counsel, and Jason Searles, Supervising Deputy Counsel, 387-5455) on January 18, 2024; Flood Control District (Grant Mann, Deputy Director, 387-7918) on October 19, 2023; Purchasing (Ariel Gill, Supervising Buyer, 386-8046) on October 19, 2023; Finance (Carl Lofton, 387-5404, and Garrett Baker, 387-3077, Administrative Analysts) on February 5, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on February 7, 2024

(BF: 361-8976)


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

**APPROVED (CONSENT CALENDAR)**

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

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: February 27, 2024



cc: LUSD - Wardlaw w/ agree  
RESO - Thompson w/ agree  
Contractor c/o LUSD w/ agree  
File w/ agree  
JLL 02/28/2024