

RESOLUTION NO. 2024-132

RESOLUTION OF THE BOARD OF SUPERVISORS ACTING AS THE GOVERNING BODY OF THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RESCINDING AN ORIGINAL EASEMENT DEED TO THE CITY OF FONTANA FOR SEWER PIPELINE PURPOSES OVER A PORTION OF DISTRICT-OWNED PROPERTY LOCATED WITHIN THE HAWKER CRAWFORD CHANNEL IN THE CITY OF FONTANA, TOTALING APPROXIMATELY 7,720 SQUARE FEET (A PORTION OF ASSESSOR'S PARCEL NUMBER 0226-075-62) AND DECLARING THAT THE CONVEYANCE OF A NEW EASEMENT DEED TO THE CITY OF FONTANA FOR THE SAME EASEMENT AREA WITH NON-SUBSTANTIVE CHANGES IN THE TERMS OF THE EASEMENT DEED IS IN THE PUBLIC INTEREST, THE NEW EASEMENT INTEREST CONVEYED WILL NOT SUBSTANTIALLY CONFLICT NOR INTERFERE WITH THE USE OF PROPERTY BY THE DISTRICT, WILL NOT IMPACT NOR INTERFERE WITH REGIONAL FLOOD CONTROL PROTECTION, AND AUTHORIZING THE CONVEYANCE OF SAID NEW EASEMENT INTEREST TO THE CITY OF FONTANA.

On Tuesday, August 20, 2024, on motion of Supervisor Hagman, duly seconded by Supervisor Baca, Jr., and carried, the following resolution is adopted by the Board of Supervisors (Board), acting as the governing body of the San Bernardino County Flood Control District, State of California.

WHEREAS, the San Bernardino County Flood Control District (District) owns the real property forming part of the Hawker Crawford Channel (Channel) including Assessor's Parcel Number 0226-075-62, in the city of Fontana, which is part of a regional flood control system; and

WHEREAS, the District entered into a Memorandum of Understanding, Agreement No. 21-610 (MOU), with Arroyo Cap II-6, LLC, as successor developer (Land Owner) of the Nara Hills Project (Project), which is located near the Channel; and

WHEREAS, Section 7(g) of the MOU provides that the District will convey a sewer easement to the City of Fontana (City); and

WHEREAS, the Board adopted Resolution No. 2023-58 and approved an Easement Deed (Original Easement Deed) to the City on May 9, 2023, for the conveyance of an approximately 7,720 square foot easement for sewer pipeline purposes; and

WHEREAS, after the Board's approval and execution of the Original Easement Deed, but before the City executed it, the City requested additional non-substantive; and

WHEREAS, the Original Easement Deed prohibited the City from parking vehicles within or obstructing the easement area except temporarily for construction and/or maintenance of the sewer pipeline, as approved by the District in its sole discretion, which was renegotiated to provide that the District's approval for temporary closures shall be at District's sole discretion during any storm or emergency events but shall otherwise not be unreasonably withheld, which was incorporated into a new easement deed that did not change the easement area, location, or purpose (New Easement Deed); and

WHEREAS, the City executed the New Easement Deed on February 14, 2024 and returned the Original Easement Deed, which was neither executed nor recorded; and

WHEREAS, the District determined that the conveyance of the New Easement Deed for the installation, operation, and maintenance of one public subterranean sewer pipeline and necessary surface appurtenances is in the public interest, the new easement interest conveyed will not substantially conflict or interfere with the use of the property by the District, and will have no impact nor interfere with regional flood control protection; and

WHEREAS, the consideration for an easement, totaling approximately 7,720 square feet, is included in the value of the Channel improvements provided by the Land Owner and, therefore, the new easement will be conveyed at no additional cost; and

WHEREAS, the District may convey the New Easement Deed to the City, pursuant to Water Code Appendix section 43-6 and Government Code Section 25526.6.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors acting as the governing body of the District hereby finds, determines and orders as follows:

1. The above recitals constitute findings of the Board and are incorporated herein.
2. The Original Easement Deed to the City that was approved on May 9, 2023 is rescinded.
3. The conveyance of the New Easement Deed to the City for sewer pipeline purposes over District-owned property located within the Channel in the City of Fontana totaling approximately 7,720 square feet (a portion of APN 0226-075-62) is in the public interest, the new easement interest conveyed will not substantially conflict or interfere with the use of the property by the District, will have no impact nor interfere with regional flood control protection; and authorize the conveyance of said new easement interest to the City in accordance with Water Code Appendix Section 43-6 and Government Code section 25526.6, at no cost.
3. This Resolution shall take effect upon its adoption.

PASSED AND ADOPTED by the Board of Supervisors, acting as the governing body of the District, by the following vote:

AYES: SUPERVISORS: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

STATE OF CALIFORNIA)
) ss.
SAN BERNARDINO COUNTY)

I, **LYNNA MONELL**, Clerk of the Board of Supervisors, acting as the governing body of the San Bernardino County Flood Control District, State of California, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of August 20, 2024. #95 CCM

LYNNA MONELL
 Clerk of the Board of Supervisors
 By _____
 Deputy

