

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

February 8, 2022

FROM

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

SUBJECT

Conveyance of Easement Interests over Cucamonga Channel to the City of Ontario and Acceptance of Fee Dedications to Maintain Access to the Channel

RECOMMENDATION(S)

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

1. Adopt **Resolution No. 2022-36** declaring the conveyance of easement interests for road and utility purposes over portions of District owned property (Assessor Parcel Numbers 1073-111-20 and 0218-231-04) located in Cucamonga Channel in the City of Ontario, totaling approximately 23,656 square feet, is in the public interest, the easement interests conveyed will not substantially conflict or interfere with the use of the property by the District, and will have no impact nor interfere with flood protection in the region, and authorize the conveyance of said easement interests to the City of Ontario pursuant to Water Code Appendix section 43-6 and Government Code section 25526.6 upon payment of \$181,560 to the District, plus reimbursement of incurred administration costs.
2. Approve the following Easement Deeds from the San Bernardino County Flood Control District to the City of Ontario and authorize the Chairman of the Board of Supervisors to execute said documents after the District's receipt of \$181,560 for both easements:
 - a. Easement Deed from the San Bernardino County Flood Control District to the City of Ontario for street, highway, road and/or bridge purposes over a portion of fee-owned property (portion of Assessor Parcel Numbers 1073-111-20 and 0218-231-04) (Parcel 597).
 - b. Easement Deed from the San Bernardino County Flood Control District to the City of Ontario for street, highway, road and/or bridge purposes over a portion of fee-owned property (portion of Assessor Parcel Number 0218-231-04) (Parcel 602).
3. Approve the acceptance of various fee dedications with no purchase price totaling 26,070 square feet from six locations east and west of Cucamonga Channel in the City of Ontario south of Ontario Ranch Road, and north and south of Eucalyptus Avenue, dedicated by three developers at these locations, by way of the following Grant Deeds and Quitclaims in accordance with the Water Code Appendix section 43-6:
 - a. Grant Deed from Ontario Land Ventures, LLC to the San Bernardino County Flood Control District regarding a portion of Assessor Parcel Number 1073-111-25 (Parcel 591).
 - b. Grant Deed from Ontario Land Ventures, LLC to the San Bernardino County Flood Control District regarding a portion of Assessor Parcel Number 1073-111-25 (Parcel 592).

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- c. Grant Deed from Arroyo Cap VII, LLC to the San Bernardino County Flood Control District regarding a portion of Assessor Parcel Number 1073-402-49 (Parcel 593a).
 - d. Quitclaim from Arroyo Cap VII, LLC to the San Bernardino County Flood Control District regarding all rights, title, and interest in the open space easement reserved to Arroyo Cap VII, LLC within a portion of Lot B on Tract Map 18929 (portion of Assessor Parcel Number 1073-402-49) (Parcel 593b).
 - e. Grant Deed from SC Ontario Development Company, LLC to the San Bernardino County Flood Control District regarding a portion of Assessor Parcel Number 0218-982-08 (Parcel 595).
 - f. Grant Deed from SC Ontario Development Company, LLC to the San Bernardino County Flood Control District regarding a portion of Assessor Parcel Number 0218-231-08 (Parcel 596).
 - g. Grant Deed from SC Ontario Development Company, LLC to the San Bernardino County Flood Control District regarding portions of Assessor Parcel Numbers 0218-231-06, 09, and 38 (Parcels 598a, 600a and 601a).
 - h. Quitclaim from SC Ontario Development Company, LLC to the San Bernardino County Flood Control District regarding all rights, title, and interest in the landscape rights reserved by SC Ontario Development Company, LLC within a portion of Lot P on Tract Map 18048 (portions of Assessor Parcel Numbers 0218-231-06, 09, and 38) (Parcels 598b, 600b and 601b).
 - i. Grant Deed from SC Ontario Development Company, LLC to the San Bernardino County Flood Control District regarding a portion of Assessor Parcel Number 0218-231-23 (Parcel 599a).
 - j. Grant Deed from SC Ontario Development Company, LLC to the San Bernardino County Flood Control District regarding a portion of Assessor Parcel Number 0218-982-08 (Parcel 603a).
 - k. Quitclaim from SC Ontario Development Company, LLC to the San Bernardino County Flood Control District regarding all rights, title, and interest in the landscape interest reserved by SC Ontario Development Company, LLC within a portion of Lot M on Tract Map 18048 (a portion of Assessor Parcel Number 0218-982-08) (Parcel 603b).
4. Authorize the Director of the Real Estate Services Department to execute any documents necessary to complete this transaction referenced in Recommendation Nos. 1 through 3, subject to County Counsel review.
 5. Find the transactions described in Recommendation Nos. 1 through 4 are exempt under the California Environmental Quality Act Guidelines, Title 14 of the California Code of Regulations, sections 15301 and 15061(b)(3).
 6. Direct the Clerk of the Board of Supervisors to file and post the Notices of Exemption for the project described in Recommendation Nos. 1 through 4.
(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). The San Bernardino County Flood Control District (District) will receive revenue for Zone 1 (19100002518) in the amount of \$181,560, plus reimbursement totaling an estimated \$107,000 for administration costs related to this request. Further, the District will receive fee

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dedications to allow for development of access ramps to both sides of Cucamonga Channel in the vicinity of the road easements.

BACKGROUND INFORMATION

The recommended actions will authorize the conveyance of two road and utility easements over portions of the District's real property totaling approximately 23,656 square feet [portions of Assessor Parcel Numbers (APN) 1073-111-20 and 0218-231-04] associated with Cucamonga Channel within the Cucamonga Creek flood control system, to the City of Ontario upon payment of \$181,560 to the District as compensation for the easement interests. In addition, the recommended actions will authorize the acceptance of dedicated fee parcels to the District from the developers involved [Lewis Management Company, ARROYO CAP VII LLC, and Real Estate Development Associates (Developers)], totaling approximately 26,070 square feet to maintain access to the Cucamonga Channel in the vicinity of the road and utility easements.

The District owns fee simple interest in APNs 1073-111-20 and 0218-231-04 (District Property), totaling over 24 acres, as part of the Cucamonga Creek flood control system, that extends from Prado Basin to the east through portions of Riverside County and north past the Lower Cucamonga Spreading Grounds in the City of Ontario and continuing into the City of Rancho Cucamonga.

The District received requests on behalf of several planned tracts and development projects in the Ontario area that require acquisition of road rights for a new bridge across Cucamonga Channel at Eucalyptus Avenue and widened bridge at Ontario Ranch Road (currently Edison Avenue), two distinct projects. Conveyance of road easements across the Channel at these locations to the City of Ontario is required as conditions of development within the Parkside Specific Plan, Subarea 29 Specific Plan, and West Ontario Commerce Center Specific Plan.

The District reviewed the initial requests for the easements and determined that the proposed easements can be conveyed pursuant to Water Code Appendix section 43-6, Government Code section 25526.6, and County Policy 12-17, upon payment of fair market value, subject to the road and bridge design incorporating access by the District to the existing channel. As a result, each project design was revised to incorporate fee dedications to the District from each of the development properties to maintain the District's access.

Although fee title is being conveyed by the Developers to the District through fee simple grant deeds, title to some of the properties is currently encumbered by easements reserved on prior recorded tract maps and/or easements conveyed by the City of Ontario to the District. In addition, one property is encumbered by Declarations of Covenants, Conditions and Restrictions (CC&Rs). In order to clear title, the parties conveying the fee interest to the District are concurrently quitclaiming any easement rights previously created. Further, the District has requested that Ontario Land Ventures, LLC assist in the removal of the CC&Rs encumbering a portion of APN 1073-111-25 (Parcel 591). The CC&Rs require each property owner to share in the proportional costs of common area maintenance and restrict certain uses. If the CC&Rs are not removed, the District will be subject to these requirements, in addition to any applicable costs, fees and assessments.

In addition, one of the tract maps recorded on a portion of the developer property (Tract Map 20316) creates a "Public Access Easement" held in favor of the City north of, but not adjoining,

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road right of way for Eucalyptus Avenue. District staff will be employing the City of Ontario to vacate its rights or, in the alternative, grant them to the District to these parcels, as necessary.

The proposed easements were also reviewed pursuant to the Surplus Land Act and, given the nature of the easement interests, with the District retaining significant rights within Cucamonga Channel, it was determined the conveyance of easement interests for road and utility purposes to the City of Ontario is not subject to the Surplus Land Act.

The District requested the Real Estate Services Department (RESA) assist with conveyance of the easements at fair market value and determining fair market value of the dedications. The Developers had previously provided appraisals of various parcels. RESA staff reviewed the appraisals and concluded fair market value for the two road easements to collectively be \$181,560, using a commonly used and acceptable method of valuation, as presented in the table below:

<u>Portion of APN</u>	<u>District Parcel #</u>	<u>Size (square feet)</u>	<u>Fair Market Value</u>
0218-231-04 and 1073-111-20	597	21,530	\$171,403
0218-231-04	602	<u>2,126</u>	<u>\$ 10,157</u>
Total		23,656	\$181,560

In addition, the dedications were reviewed and valued by RESA at a total value of \$299,304 using the same method of valuation, as presented in the table below:

<u>Portion of APN</u>	<u>District Parcel #</u>	<u>Size (square feet)</u>	<u>Fair Market Value</u>
1073-111-25	591	930	\$ 32,550
1073-111-25	592	857	\$ 29,995
1073-402-49	593a and b	3,282	\$ 32,000
0218-982-08	595	1,802	\$ 17,570
0218-231-08	596	3,140	\$ 30,615
0218-231-06	598a and b	9,799	\$ 95,540
0218-231-23	599a	3,223	\$ 31,424
0218-231-09	600a and b	1,663	\$ 16,214
0218-231-38	601a and b	127	\$ 1,238
0218-982-08	603a and b	<u>1,247</u>	<u>\$ 12,158</u>
Total		26,070	\$299,304

Approval of this item will authorize the acceptance of the fee dedication parcels, by way of Grant Deed and Quitclaim, with no purchase price by the District to maintain access to Cucamonga Channel from Eucalyptus Avenue and Ontario Ranch Road.

Further, the Developers have agreed to reimburse the District for incurred fees totaling an estimated \$107,000 for administration costs related to these transactions.

The proposed transactions were reviewed pursuant to the California Environmental Quality Act (CEQA) and determined to be categorically exempt from further environmental review in accordance with the CEQA Guidelines, Title 14 of the California Code of Regulations Section 15301 (Existing Facilities). Additionally, the Common-Sense Exemption [Section 15061(b)(3) of the CEQA Guidelines] applies as it can be seen with certainty that there is no possibility that the

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activity may have a significant effect on the environment. The Notices of Exemption will be posted by the Clerk of the Board of Supervisors. Accordingly, no further action is required under CEQA.

PROCUREMENT

The District's conveyance of the road and utility easements to the City of Ontario is made pursuant to Water Code Appendix section 43-6, Government Code section 25526.6, and County Policy 12-17. The District's acceptance of the fee dedications is made pursuant to Water Code Appendix section 43-6.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Scott Runyan, Supervising Deputy County Counsel, 387-5455) on January 31, 2022; Flood Control District (Grant Mann, Deputy Director, 387-8186) on December 1, 2021; Purchasing Department (Bruce Cole, Supervising Buyer, 387-2148) on November 23, 2021; Finance (Jessica Trillo, Administrative Analyst, 387-4222 and Carl Lofton, Administrative Analyst, 387-5404) on January 21, 2022; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-4376) on January 24, 2022.

(NS: 677-8388)

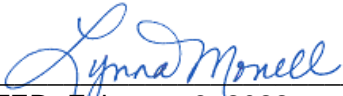
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Record of Action of the Board of Supervisors
San Bernardino County Flood Control District

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: February 8, 2022



cc: w/Resolution
Flood - Biggs w/Easement Deed w/CEQA & receipt
File - Flood Control Operations w/Easement Deed w/attach
w/map w/CEQA & receipt

CCM 02/9/2022