

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

October 22, 2024

FROM

NOEL CASTILLO, Chief Flood Control Engineer, Flood Control District

TERRY W. THOMPSON, Director, Real Estate Services Department

SUBJECT

Resolution to Declare San Bernardino County Flood Control District Property in the City of Rancho Cucamonga is Exempt Surplus Land

RECOMMENDATION(S)

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

1. Find that the adoption of the Resolution in Recommendation No. 2 is exempt under the California Environmental Quality Act Guidelines, Title 14 of the California Code of Regulations Section 15061(b)(3) (Common Sense Exemption).
2. Adopt **Resolution No. 2024-154**:
 - a. Rescinding Resolution No. 2020-221, which declared that the vacant land owned by the San Bernardino County Flood Control District, identified as approximately 1,253 acres within the Etiwanda Heights Neighborhood and Conservation Plan Area, in the City of Rancho Cucamonga, is no longer necessary for the uses and purposes for which it was acquired and is surplus land in accordance with County Policy 12-17 and Water Code Appendix Section 43-6.
 - b. Declaring vacant land owned by the San Bernardino County Flood Control District, identified as approximately 1,253 acres within the Etiwanda Heights Neighborhood and Conservation Plan Area, in the City of Rancho Cucamonga, is no longer necessary for the uses and purposes for which it was acquired and is exempt surplus land, in accordance with County Policy 12-17, Water Code Appendix Section 43-6, and Government Code section 54221(f)(1)(N).
 - c. Determining that none of the characteristics listed under Government Code section 54221(f)(2) apply to the land identified in Recommendation No. 2.b.
 - d. Finding the disposition of the land identified in Recommendation No. 2.b. will generate revenue, which will directly further the express purpose of the San Bernardino County Flood Control District's work or operations, including the development, maintenance, and operation of the San Bernardino County Flood Control District's flood control and water conservation improvements, as provided in Government Code section 54221(f)(1)(N).
 - e. Directing the Clerk of the Board of Supervisors to certify the adoption of this Resolution and send a copy of this Resolution to the State of California Department of Housing and Community Development in accordance with Sections 104(c) and 400(e) of the Surplus Land Act Guidelines.
3. Direct the Chief Flood Control Engineer to file the Notice of Exemption in accordance with the California Environmental Quality Act.

(Presenter: Terry W. Thompson, Director, 387-5000)

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COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.
Provide for the Safety, Health and Social Service Needs of County Residents.**

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). There is no cost associated with adopting the Resolution. In addition, finding the San Bernardino County Flood Control District-owned (FCD) property identified in Recommendation No. 2.b. as “exempt surplus land” significantly increases the value of this property.

BACKGROUND INFORMATION

The Surplus Land Act (Government Code sections 54220-54234) aims to make “surplus land” that is no longer needed for government purposes available for building affordable homes. Pursuant to the Surplus Land Act, land must be declared either “surplus land” or “exempt surplus land,” as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures. A local agency that determines that property is exempt from the Surplus Land Act shall support such a determination with written findings and shall provide a copy of the written determination to State Department of Housing and Community Development (HCD) at least 30 days prior to disposition.

The recommended action will adopt the Resolution that rescinds Resolution No. 2020-221 and declares approximately 1,253 acres of FCD-owned property north of Interstate 210, east of Deer Creek Channel and west of Day Creek Channel [list of Assessor's Parcel Numbers (APNs) and a map of the area is provided in Exhibits A and B, respectively, to the Resolution] (Property) as no longer necessary for the uses and purposes for which it was acquired and is exempt surplus land pursuant to County Policy 12-17, Water Code Appendix Section 43-6, and Government Code section 54221(f)(1)(N). The Resolution also determines that none of the characteristics listed under Government Code section 54221(f)(2) apply to the Property and finds the disposition of the Property will generate revenue, which will directly further the express purpose of FCD's work or operations, including the development, maintenance, and operation of FCD's flood control and water conservation improvements. The Resolution directs the Clerk of the Board of Supervisors to certify the adoption of the Resolution and send a copy of the Resolution to HCD.

The Property was used historically by FCD to manage stormwater runoff from the San Gabriel Mountains flowing south into both the Day Creek and Deer Creek streams. Over the past four decades, improvements made by FCD, including the Day Creek and Deer Creek Debris Dam, spreading grounds, and channels, have rendered the Property unnecessary for flood management and surplus to FCD needs. Approximately 159 acres of the Property is subject to an open space easement that was approved by the Board of Supervisors (Board) on September 8, 1986 (Item No. 48) and granted to the County as mitigation for the Day Creek Water Project. The open space easement that is held by the County will remain on the Property if FCD sells the Property.

Consequently, by request of FCD, the Board declared an approximately 1,200-acre portion of the Property surplus on February 24, 2009 (Item No. 63). However, due to economic difficulties associated with the recession, the disposition process was unable to be completed and was placed on hold.

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On November 9, 2020, the Etiwanda Heights Neighborhood and Conservation Plan Area, within which the Property is situated, was annexed into the City of Rancho Cucamonga (LAFCO 3241). Around this time period, the boundaries of the Property were refined, and the total area of the Property was determined to be approximately 1,253 acres.

On December 15, 2020 (Item No. 76), the Board adopted Resolution No. 2020-221 declaring that the Property is no longer necessary for the uses and purposes for which it was acquired and is surplus land pursuant to Government Code section 54221(b)(1). Thereafter, the Real Estate Services Department (RESA) released Notices of Availability (NOA) and proceeded with extended good faith negotiations, with a responder to the NOA, over a period of more than two years. However, no deal was able to be completed and the parties' ended negotiations.

By letter dated, August 30, 2023, HCD determined that FCD met all the requirements under the Surplus Land Act for the purposes of disposing of the Property and permitted FCD to proceed with the sale of the Property. However, FCD would still need to record a restrictive covenant against the Property pursuant to Government Code section 54233, requiring that if 10 or more residential units are developed on the Property, not less than 15 percent of the total number of residential units developed on the Property shall be sold or rented at an affordable housing cost.

Pursuant to Section 400(e) of the Surplus Land Act Guidelines, RESA, on behalf of FCD, requested HCD review the draft resolution and confirm whether the Property is "exempt surplus land." On October 15, 2024, HCD informed RESA by email that the draft resolution complies with and qualifies for the exempt surplus land designation under Government Code section 54221(f)(1)(N). This section provides that real property that is used by a district for an agency's use is considered exempt surplus land under the Surplus Land Act. Agency's use may include the disposition of the district property for the generation of revenue if the revenue will directly further the express purpose of the district's work or operations. Also, the Board must take action in a public meeting declaring that the use of the site meets this requirement.

This exemption, provided in Government Code section 54221(f)(1)(N), eliminates the need for the restrictive covenant, thereby increasing the value of the Property. Therefore, if FCD proceeds with a disposition of the Property, more disposition proceeds will be dedicated to flood protection in the region.

FCD and RESA staff reevaluated the Property for its potential to be used for flood protection in the region and determined that the Property remains surplus to its needs and is no longer necessary for the uses and purposes for which it was acquired.

FCD staff has determined that the designation of the Property as exempt surplus land does not have the potential for creating a significant effect on the environment. Therefore, this action is covered by the common-sense exemption and exempt from further review under California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3). Further CEQA review will be required prior to Board approval of a future conveyance of the Property, and RESA will request confirmation of the findings in a subsequent item.

PROCUREMENT

The Board may determine that any real property held by FCD is no longer necessary to be retained for the uses and purposes of FCD pursuant to Water Code Appendix Section 43-6 and County Policy 12-17.

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Agnes Cheng, and Sophie A. Curtis, Deputies County Counsel, and Scott Runyan, Principal Assistant County Counsel, 387-5455) on September 27, 2024; Flood Control District (Noel Castillo, Director, 387-7906) on September 26, 2024; Public Works (Arlene Chun, Engineering Manager, 387-8110) on September 27, 2024; Finance (Jessica Trillo, 387-4222, and Garrett Baker, 387-3077, Administrative Analysts) on October 4, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on October 4, 2024.
(BJO: 387-5000)

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

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: October 22, 2024



cc: File - Flood Control District w/ attachments
JLL 10/30/2024