

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

June 8, 2021

FROM

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

SUBJECT

Second Land Conveyance and Escrow Agreement with the City of Yucaipa

RECOMMENDATION(S)

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

1. Adopt **Resolution No. 2021-74** making responsible agency findings pursuant to the California Environmental Quality Act and declaring the conveyance of fee simple title of District property [portions of Assessor Parcel Numbers (APNs) 0303-151-23, 0303-151-36, and 0303-191-35], consisting of approximately 7.80 acres in the City of Yucaipa, is in the public interest; the interest in the property conveyed is no longer necessary for the uses and purposes of the District; and authorize the conveyance of said fee title to the City of Yucaipa in accordance with the San Bernardino County Flood Control Act, California Water Code Appendix, Chapter 43, Section 43-6, Government Code Section 25365, and County Policy 12-17 (Four votes required).
2. Approve the Second Land Conveyance and Escrow **Agreement (Amendment No. 1 to Agreement No. 20-914)** by and between the City of Yucaipa and the District and authorize the Chairman of the Board of Supervisors to execute the Grant Deed to convey the District-owned property to the City of Yucaipa (Four votes required).
3. Approve the **First Amendment** to Construction Escrow Account **Agreement, No. 20-915**, by and between the City of Yucaipa and the District.
4. Authorize the Director of the Real Estate Services Department to execute escrow instructions and any other documents and take any actions necessary to complete this transaction.

(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.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The District is funded by property taxes, fees, and other local, state, and federal funding. The City of Yucaipa (City) and District agree the fair market value of the 7.80 acre portion of APNs 0303-151-23, 0303-151-36, and 0303-191-35 is \$1,371,304. The proceeds from the sale of this property will be deposited into an escrow account to fund improvements associated with

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Wilson III Basin Improvement Project (Basin Project). The District will not be responsible for any ongoing maintenance associated with the property once conveyed to the City.

BACKGROUND INFORMATION

The recommended actions will convey fee simple title of a 7.80 acre portion of District-owned property (Property) (portions of APNs 0303-151-23, 0303-151-36, and 0303-191-35) to the City.

The Yucaipa City Council approved the Oak Glen Creek Specific Plan (Plan), which is a long-term guide for development of approximately 115.6 acres in northern-central Yucaipa, south of Oak Glen Road and west of Bryant Street in the City of Yucaipa. The Plan provides for the development of three separate areas, which include a residential district, open space district and an innovation district (City Project). To accommodate the new development, the proposed project would require the construction of a retention/detention basin and appurtenant channel improvements at the confluence of Wilson Creek and Oak Glen Creek, referenced as the Basin Project.

On June 4, 2013 (Item No. 76), the Board of Supervisors (Board) approved Memorandum of Understanding No. 13-378 (MOU) between the District and the City for development of the Basin Project, which consists of the development of a detention basin and channel to be located at the confluence of Wilson Creek and Oak Glen Creek in the City of Yucaipa, respectively. The MOU and subsequent amendment provides a mechanism by which the District can identify surplus property within its ownership adjacent to Wilson Creek and explore selling such property to the City at fair market value. Some portion of the proceeds realized from the sale will be contributed toward the construction of a detention basin and channel.

On April 7, 2020 (Item No. 50), the Board approved the first amendment to the MOU to more specifically identify the property that would be sold as surplus by the District to the City and confirm funding the District is committing to the Basin Project. The District identified portions of APNs 0303-151-23, 0303-151-36, 0303-181-19, 0303-191-01 and 0303-191-04 as the properties to be sold to help fund the Basin Project that will provide enhanced flood control improvements.

On August 11, 2020 (Item No. 54), the Board approved Construction Agreement No. 20-660 with the City under which the District shall pay the City \$350,000 and contribute to the City the proceeds of the sale of the District surplus property, the fair market value of which is currently estimated and based on appraisals prepared by the Real Estate Services Department (RESA) at \$7,588,489, for construction of the Basin Project. The estimated total cost of the Basin Project is \$17,400,000.

On September 29, 2020 (Item No. 77), the Board approved Land Conveyance and Escrow Agreement No. 20-914 and Construction Escrow Account Agreement No. 20-915 with the City and two Grant Deeds to convey a 36.78 acre portion of District-owned property (the first conveyance) to the City with an allocated fair market value of \$6,217,185. Further, as part of Item No. 77 and pursuant to Section 15096 of the California Environmental Quality Act (CEQA) Guidelines, the Board found that an Environmental Impact Report (EIR) adopted by the City as the CEQA Lead Agency for the Basin Project, is adequate for use by the District to take action on the conveyance of the Property involved. Furthermore, the District finds that no significant adverse impacts will occur as a result of the conveyance. The District will have fulfilled its obligations under CEQA upon making the findings in the Resolution.

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Approval of this item will convey to the City 7.80 acres of District-owned land [portions of APNs 0303-151-23, 0303-151-36, and 0303-191-35 (formerly part of APN 0303-191-04)] originally identified in Construction Agreement No. 20-660 (as a second land conveyance for the Basin Project). In addition, approval of this item will amend the Construction Escrow Account Agreement to allow the deposit of proceeds if the City subsequently sells the Property. Such proceeds must be used to pay the costs of constructing the Basin Project. The District will have no further liability or obligations with regard to the property rights to be conveyed.

Additionally, approval of this item will authorize the Director of RESD to execute escrow documents, such as amended escrow instructions, property disclosures, notices (such as an election to proceed), contingency waivers, and settlement statements. The Director of RESD will not be authorized to execute any documents that would bind the District to any actions not contemplated by, or arising from, the transaction which is the subject of these recommendations.

The conveyance of the Property was reviewed pursuant to the Surplus Land Act, and the Property was determined to be “exempt surplus land” as defined in Government Code Section 54221(f)(1)(D), because it is being conveyed by the District to the City for agency use. Specifically, the City and District will be using the Property for temporary stockpile of material during the construction phase of the Basin Project, access to the downstream channel and well site, and a utility corridor throughout the existing Second Street alignment. Once the Basin Project is complete and if any part of the Property is no longer needed, the City will sell the Property in compliance with the Surplus Land Act. The District has no other obligations related to the Surplus Land Act.

The District is authorized to complete the conveyance of the Property to the City pursuant to Water Code Appendix Section 43-6, Government Code Section 25365 and County Policy 12-17.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Robert F. Messinger, Chief Assistant County Counsel and Sophie A. Akins, Deputy County Counsel, 387-5455) on April 23, 2021; Flood Control District (David Doublet, Assistant Director, 387-7918) on April 14, 2021; Finance (Jessica Trillo, Administrative Analyst, 387-4222 and Carl Lofton, Administrative Analyst, 387-5404) on May 24, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on May 24, 2021.

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: June 8, 2021



cc: W/RESOLUTION
SDD/SBCFCD- Thompson w/agree w/grant deed
Contractor- C/O SDD/SBCFCD w/agree
File- w/agree w/grant deed
File- SDD/Flood Control District
LA 06/9/2021