

**RESOLUTION NO. 2022-\_\_\_\_\_**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT MAKING FINDINGS IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND DECLARING THE FEE SIMPLE INTEREST IN DISTRICT-OWNED PROPERTY [3.50 ACRE PORTION OF ASSESSOR'S PARCEL NUMBER 0229-291-57], IN THE CITY OF FONTANA SPHERE OF INFLUENCE, IS NO LONGER NECESSARY FOR THE USES AND PURPOSES OF THE DISTRICT AND THE CONVEYANCE OF THE REAL PROPERTY INTEREST IS IN THE PUBLIC INTEREST AND WOULD NOT CONFLICT WITH REGIONAL FLOOD CONTROL OPERATIONS; THAT PURSUANT TO GOVERNMENT CODE SECTION 54221(f)(1)(C), THE DISTRICT-OWNED LAND IS EXEMPT SURPLUS LAND; AND AUTHORIZING THE CONVEYANCE OF SAID FEE INTEREST TO SPEEDWAY SBC DEVELOPMENT, LLC IN EXCHANGE FOR ASSESSOR'S PARCEL NUMBER 0229-291-45 FROM SPEEDWAY COMMERCE CENTER DEVELOPMENT, LLC, AN AFFILIATE OF SPEEDWAY SBC DEVELOPMENT, LLC.**

On Tuesday November 15, 2022, on motion of Supervisor \_\_\_\_\_, duly seconded by Supervisor \_\_\_\_\_ and carried, the following resolution is adopted by the Board of Supervisors of the San Bernardino County Flood Control District (District), State of California.

WHEREAS, the District is the owner in fee simple of that certain real property known as Assessor's Parcel Number (APN) 0229-291-57, a portion of which is utilized and known as "VIP Road," in the City of Fontana Sphere of Influence; and

WHEREAS, Speedway Commerce Center Development, LLC, an affiliate of Speedway SBC Development, LLC (Developer), owns the fee interest in the adjacent APN 0229-291-45, land improved as part of the San Sevaine Channel (Developer Property); and

WHEREAS, Developer proposes to acquire an approximate 3.50-acre (152,460 square foot) portion of the District-owned APN 0229-291-57 (District Property) in fee and, in exchange, to convey the fee interest in the Developer Property to the District; and

WHEREAS, the District has reviewed this request and determined it can accommodate the real property exchange, as the approximately 3.50-acre District Property is no longer necessary to be retained for the specific uses and purposes of the District and that conveyance of said land in fee is in the public interest and would not conflict with regional flood control operations; and

WHEREAS, the Real Estate Services Department reviewed and accepted the appraisals, prepared by CBRE – Valuation and Advisory Services for the Developer, and found that fair market value of the private real property to be received exceeds the value of the District property offered in exchange; and

WHEREAS, the District intends to convey the District Property to Developer pursuant to and in accordance with Water Code Appendix section 43-6, County Policy 12-17, and Government Code section 25365(b), upon grant of the fee simple interest in the Developer Property to the District; and

WHEREAS, under the Surplus Land Act, Government Code sections 54220-54234 (Act), surplus land is land owned in fee simple by the District for which the Board of Supervisors takes formal action in a regular public meeting declaring the land is surplus and not necessary for the District's use, and the land must be declared either surplus land or exempt surplus land as supported by written findings; and

WHEREAS, conveyance of the District Property was reviewed pursuant to the Act, and it was determined to be considered "exempt surplus land" as defined in Government Code section 54221(f)(1)(C) because it is surplus land that the District is exchanging for another property necessary for the District's use. The District has no other obligations related to the Surplus Land Act; and

WHEREAS, Water Code Appendix section 43-6 provides, in pertinent part, that the Board of Supervisors may determine, by resolution duly entered in its minutes, that any real property held by the District is no longer necessary to be retained for the uses and purposes of the District, and may thereafter sell the property; and

WHEREAS, County Policy 12-17 (Surplus Real Property) provides that the District may, by Resolution of the Board of Supervisors, authorize the disposition of property; and

WHEREAS, the District generally follows the surplus procedures applicable to counties; and

WHEREAS, Government Code section 25365(b) provides, in pertinent part, that the County the Board of Supervisors may, by a four-fifths vote, exchange real property with any person, firm, or corporation, for the purpose of removing defects in the title to real property owned by the county, or where the real property to be exchanged is not required for county use and the property to be acquired is required for county use. If the real properties to be exchanged are not of equal value, either party to the exchange may contribute cash or other real property assets, acceptable to the other party, to balance the transaction. The value of any private real property exchanged shall be equal to, or greater than, 75 percent of the value of the county property offered in exchange; and

WHEREAS, the conveyance of the Property was reviewed pursuant to the California Environmental Quality Act (CEQA) and was determined to be categorically exempt from further environmental review under Title 14 of the California Code of Regulations (CEQA Guidelines), sections 15312 (Surplus Government Property Sales) and 15061(b) (Common Sense Exemption). The District Property is of no public use, is surplus government property, and is not located in an area of statewide, regional, or area-wide concern as identified in Section 15206(b)(4) of the CEQA Guidelines. Also, pursuant to Section 15061(b) of the CEQA Guidelines, it can be seen with certainty that there is no possibility that the exchange may have a significant effect on the environment. The District will have fulfilled its obligation under CEQA for this Property with the posting of the Notice of Exemption by the Clerk of the Board; and

WHEREAS, the Board of Supervisors has considered the staff report presented at its meeting of November 15, 2022, relating to exchange of the District Property to Developer.

NOW, THEREFORE, the Board of Supervisors of the San Bernardino County Flood Control District hereby finds, declares, and resolves as follows:

SECTION 1. The above recitals, including the findings, are true and correct and are a substantive part of this Resolution.

SECTION 2. The Board of Supervisors of the San Bernardino County Flood Control District hereby declares that the District Property is exempt surplus land pursuant to Government Code section 54221(f)(1)(C), as it is surplus land that the District is exchanging for another property necessary for the District's use.

SECTION 3. The fee simple interest of District Property (portion of APN 0229-291-57), consisting of approximately 3.50 acres (152,460 square feet) in the City of Fontana Sphere of Influence is surplus and no longer necessary for the uses and purposes of the District.

SECTION 4. Conveyance of the District Property is in the public interest and the property conveyed will not substantially conflict or interfere with the use of the remaining property retained by the San Bernardino County Flood Control District and will have no impact nor interfere with regional flood control operations.

SECTION 5. The Board of Supervisors of the San Bernardino County Flood Control District authorizes the conveyance of said 3.50-acres of District Property in exchange for the 3.85-acre Developer Property, in accordance with Water Code Appendix section 43-6, County Policy 12-17, and Government Code section 25365(b).

SECTION 6. The Clerk of the Board of Supervisors of the San Bernardino County Flood Control District is directed to file a Notice Exemption.

PASSED AND ADOPTED by the Board of Supervisors of the San Bernardino County Flood Control District, by the following vote:

AYES: SUPERVISORS:

NOES: SUPERVISORS:

ABSENT: SUPERVISORS:

\* \* \* \* \*

STATE OF CALIFORNIA                    )  
  )       ss.  
SAN BERNARDINO COUNTY            )

I, **LYNNA MONELL**, Clerk of the Board of Supervisors 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 \_\_\_\_\_, 2022.

LYNNA MONELL  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy