

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

March 14, 2023

FROM

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

SUBJECT

Agreement for Possession and Use with the City of Eastvale for the Limonite Gap Closure Capital Improvement Project

RECOMMENDATION(S)

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

1. Adopt a **Resolution No. 2023-31** making findings of fact as a responsible agency pursuant to the California Environmental Quality Act in connection with the approval of the Agreement for Possession and Use with the City of Eastvale, and directing the Clerk of the Board of Supervisors to post the Notice of Determination as required under the California Environmental Quality Act.
2. Approve **Agreement No. 23-184** for Possession and Use with the City of Eastvale granting to the City of Eastvale possession and use of an area of District property, totaling approximately 38,725 square feet, for the Limonite Gap Closure Capital Improvement Project.
3. Authorize the Director of the Real Estate Services Department to execute any other documents and take any actions necessary to complete this transaction, subject to County Counsel review.

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

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

There is no cost associated with the Agreement for Possession and Use. The San Bernardino County Flood Control District (District) will receive fair market value, to be determined, for conveying a future permanent easement over the same property area set forth in the Agreement for Possession and Use (Agreement).

BACKGROUND INFORMATION

The City of Eastvale (City) is undertaking the Limonite Gap Closure Capital Improvement Project (Project) to improve the connectivity for vehicles, bicycles, and pedestrians between the neighboring City of Chino to the west and Interstate 15 to the east. The City proposes to improve Limonite Avenue, an east-west principal arterial, by extending the street with 0.6 miles

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of new roadway and bridge over the Cucamonga Creek. When completed, the extension will span from Archibald Avenue to 2,450 feet east of Hellman Avenue.

The District owns and controls the Cucamonga Creek Channel, a concrete-lined flood control corridor, that spans many miles north-south, part of which extends into the City of Eastvale in Riverside County, and through the Project area. The City's Project requires a permanent bridge easement over approximately 38,725 square feet of District-owned property (Assessor's Parcel Number 144-010-010).

The City has requested the bridge easement from the District but valuation discussions, as well as review of an Acquisition Agreement, are still pending. Nevertheless, the City's deadline for right-of-way certification submission to the California Department of Transportation (Caltrans) is March 15, 2023. As such, the District and City desire to enter into the Agreement, to allow the City to submit its certification package to Caltrans, while the discussions regarding the permanent easement and acquisition continue. The Agreement is effective upon execution by all parties and will automatically terminate upon the recording of the permanent easement, but shall not exceed a maximum term of four years. In the Agreement, the District grants the City an irrevocable right to possession and use of the property for the Project. The Agreement defers other matters related to the permanent bridge easement conveyance, so the appraisal discussions and Acquisition Agreement review can continue and, ultimately, agreeable terms and provisions for the permanent bridge easement conveyance will be completed.

As a public project, the City's Project and associated requests for possession and ultimate easement conveyance are made subject to the inherent threat of condemnation. By entering the Agreement, the District waives its right to challenge the City's exercise of its authority to condemn the property under Title 7 of the Code of Civil Procedure. The District would thus not be able to challenge the City if it resorts to condemnation proceedings to acquire the property. The District has considered these issues and agrees to proceed. When the parties have come to terms for the permanent easement conveyance, the District will return to the Board to request approval of the conveyance.

As the California Environmental Quality Act (CEQA) Lead Agency for the Project, the City adopted an Initial Study/Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP), for the Project on September 9, 2020. The MND and MMRP reflect the independent judgment of the Lead Agency, copies of which are on file with the Department of Public Works Environmental Management Division. The District has a more limited approval and implementing authority related to the Project by approving the Agreement, and, therefore, serves only as a Responsible Agency pursuant to CEQA. As the Responsible Agency, District staff has verified that the City-adopted Project MND and MMRP adequately analyze the potential environmental impacts and concurs in the analysis and conclusions set forth in said MND and MMRP. Upon adoption, the Resolution, making findings of fact as a Responsible Agency pursuant to CEQA, will authorize and direct that a Notice of Determination be filed with the Clerk of the Board of Supervisors within five County business days of the date of the adoption of the Resolution. Such filing will fulfill the District's obligation under CEQA with respect to the Agreement.

PROCUREMENT

Not applicable.

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Mitchell L. Norton, Deputy County Counsel, and Sophie A. Curtis, Deputy County Counsel, 387-5455) on March 10, 2023; San Bernardino County Flood Control District (Brendon Biggs, Director, 387-7906) on March 10, 2023; Finance (Garrett Baker, Administrative Analyst, 387-5423) on March 10, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-3076) on March 10, 2023.

(BJO: 387-5000)

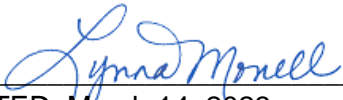
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Record of Action of the Board of Supervisors
San Bernardino County Flood Control District

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: March 14, 2023



cc: W/RESOLUTION
SDD/SBCFCD- Thompson w/agree w/CEQA & Receipt
Contractor- C/O SBCFCD w/agree
File- w/agree w/CEQA & Receipt
LA 03/15/2023