

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

August 10, 2021

FROM

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

SUBJECT

Memorandum of Understanding with EPC Holdings 823, LLC; EPC Holdings 944, LLC; Roseville Investments, LLC; American Superior Land, LLC; and RMC Inland Investors, LLC for Realignment and Improvement of Hawker Crawford Channel in the City of Fontana

RECOMMENDATION(S)

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

1. Adopt **Resolution No. 2021-151** making responsible agency findings pursuant to the California Environmental Quality Act and making certain findings in accordance with the Surplus Land Act and declaring the fee simple interest in San Bernardino County Flood Control District property (Assessor Parcel No.0226-075-36), consisting of approximately 10.1 acres, is no longer necessary for the uses and purposes of the San Bernardino County Flood Control District and conveyance of the real property interests is in the public interest and will have no impact nor interfere with flood protection in the region; and authorizing the conveyance of said fee interest to EPC Holdings 883, LLC; EPC Holdings 994, LLC; Roseville Investments, LLC; America Superior Land, LLC; and RMD Inland Investors, LLC in exchange for the re-alignment and improvement of Hawker Crawford Channel.
2. Approve **Memorandum of Understanding No. 21-610** with EPC Holdings 883, LLC; EPC Holdings 994, LLC; Roseville Investments, LLC; America Superior Land, LLC; and RMD Inland Investors, LLC for the re-alignment and improvement of Hawker Crawford Channel in the City of Fontana and authorize the Chairman of the Board of Supervisors to execute the Grant Deed to convey the San Bernardino County Flood Control District-owned property to EPC Holdings 883, LLC; EPC Holdings 994, LLC; Roseville Investments, LLC; America Superior Land, LLC; and RMD Inland Investors, LLC.
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: Brendon Biggs, Chief Flood Control Engineer, 387-7906)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

**Pursue County Goals and Objectives by Working with Other Governmental Agencies.
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). The re-alignment and improvement of the San Bernardino County Flood Control District

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(District)'s Hawker Crawford Channel Improvement will be funded (1910002518 – F02757, Zone 1) in part through the City of Fontana's (City) formation of a Community Facilities District (CFD). City shall be solely responsible for the formation of the CFD, the levy and collection of taxes, the issuance of bonds, and the provision of disclosure pertaining to the special taxes.

BACKGROUND INFORMATION

The recommended action will adopt a Resolution making responsible agency findings under the California Environmental Quality Act (CEQA) and findings under the Surplus Land Act, as well as approve a Memorandum of Understanding (MOU) with EPC Holdings 883, LLC; EPC Holdings 994, LLC; Roseville Investments, LLC; America Superior Land, LLC; and RMD Inland Investors, LLC (Land Owner) for the re-alignment and improvement of Hawker Crawford Channel for the development of the Monarch Hills project (Project), a planned community in the City. The MOU approves the fee conveyance of 10.1-acre portion of District-owned property in the Hawker Crawford Channel area (Assessor Parcel No. 0226-075-36) (Property) to the Land Owner in exchange for Land Owner's realignment and improvement of the Hawker Crawford Channel. The proposed Project is located along the Land Owner's Project frontage and connects to existing inlet structure north of Duncan Canyon Road.

The Land Owner requested to acquire the Property necessary to complete the Land Owner's Project and to re-align and improve the Hawker Crawford Channel. The Project is a planned residential community that consists of five, privately gated residential neighborhoods, two private parks, a private recreation facility and pool, trails and a water quality basin. Adjacent properties consist of a mix of vacant land, low density single-family residential properties and natural areas. The Project site is surrounded by the San Bernardino National Forest and San Gabriel Mountains to the north, Interstate 15 is due south and southeast and a community of single-family homes is located west of the Project site.

The District has determined that it can transfer the requested Property under the conditions that the Land Owner (1) complete the construction of Project, and (2) convey to District the Property upon which the Project is located following completion of the improvements. Approval of this item will allow the Land Owner to expedite the channel improvements prior to the upcoming storm season. Avoiding potential wet weather delays will keep the residential Project on its overall delivery schedule.

County Policy 12-17, Surplus Real Property (Policy 12-17) provides that the District may, by resolution of the Board of Supervisors (Board), authorize the disposition of property at fair market value. The initial estimated value of the Project is \$10,058,221. It is understood the value of improvements may change based on final plans and specifications. The District shall not be responsible to pay any costs to the Land Owner to construct the Project in accordance with the District approved Plans. In light of the estimated value of the improvements to the Hawker Crawford Channel to be constructed by Land Owner, the District has agreed to transfer the Property to the Land Owner in exchange for the construction of the Project and the contemplated future conveyance of property from the Land Owner to the District.

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)(C), because it is being conveyed by the District for another property necessary for the District's use upon the relocation of the Hawker Crawford Channel.

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As part of the proposed MOU, the Land Owner agrees to be solely responsible for constructing the Project, including but not limited to the flood control facility/channel and/or flows, in accordance with applicable law. In addition, the Land Owner agrees to indemnify, defend and hold harmless both the District and San Bernardino County from any and all claims, actions, losses, damages, and/or liability arising out of the MOU.

The City, as Lead Agency for the Project under CEQA, adopted the Final Environmental Impact Report (State Clearing House Number 2016101065) for the Project (Resolution No. 2019-031) on February 26, 2019, certifying the Project Environmental Impact Report (EIR) as adequate and complete. A Notice of Determination was filed with the Clerk of the Board and the Office of Planning and Research on February 28, 2019. The District has a more limited approval and implementing authority related to the conveyance of property required to relocate the Hawker Crawford Channel and the proposed MOU, and, therefore, serves only as a Responsible Agency pursuant to CEQA. As the Responsible Agency, District staff has verified that the City-adopted Project EIR adequately analyze the potential environmental impacts and concurs in the analysis and conclusions set forth in said EIR. The proposed MOU contemplates that the District will enter into a Joint Community Facilities Agreement (JCFA) with the City and Land Owner. The JCFA is required for the CFD to fund the channel improvements. The District will only be required to acknowledge and concur with the City's formation of the CFD to allow for payment for the Project. The City is responsible for the formation, the levy and collection of special taxes, the issuance of bonds, and the provision of disclosure pertaining to the special taxes. The goals and policies of the proposed CFD must be consistent with the District's goals and policies. A future item to approve the JCFA will be brought to the Board for consideration.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Sophie A. Akins, Deputy County Counsel, 387-5455) on July 12, 2021; Finance (Carl Lofton, Administrative Analyst, 387-4222) on July 9, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on July 12, 2021.


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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: August 10, 2021



cc: W/RESOLUTION
SDD/SBCFCD- Drake w/agree
Contractor- C/O SDD/SBCFCD w/agree
File- w/agree w/map
LA 08/12/2021