

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

May 9, 2023

FROM

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

SUBJECT

Conveyance of Easement for Sewer Pipeline Purposes to the City of Fontana

RECOMMENDATION(S)

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

1. Adopt **Resolution No. 2023-58** declaring the conveyance of an Easement to the City of Fontana for sewer pipeline purposes over San Bernardino County Flood Control District-owned property located within the Hawker Crawford Channel in the City of Fontana, totaling approximately 7,720 square feet (a portion of Assessor's Parcel Number 0226-075-62), is in the public interest, the easement interest conveyed will not substantially conflict or interfere with the use of the property by the District, will have no impact nor interfere with regional flood control protection, and authorizing the conveyance of the easement interest to the City of Fontana in accordance with Water Code Appendix Section 43-6 and Government Code Section 25526.6 at no cost.
2. Approve the Easement Deed to the City of Fontana for approximately 7,720 square feet of San Bernardino County Flood Control District-owned property located within the Hawker Crawford Channel in the City of Fontana (a portion of Assessor's Parcel Number 0226-075-62) for sewer pipeline purposes at no cost.
3. Authorize the Chair of the Board of Supervisors to execute the Easement Deed referenced in Recommendation No. 2 to convey easement interest to the City of Fontana.
4. Authorize the Director of the Real Estate Services Department to execute any other documents necessary to complete the conveyance of the Easement, subject to County Counsel review.

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

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). The San Bernardino County Flood Control District (District) is funded by property tax revenue, fee revenue, and other local, state, and federal funding. The easement will be conveyed to the City of Fontana (City) at no cost.

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BACKGROUND INFORMATION

On August 10, 2021 (Item No. 38), the Board of Supervisors (Board) approved a Memorandum of Understanding (MOU) No. 21-610, for the realignment and improvement of Hawker Crawford Channel for the development of the Narra Hills (formerly Monarch Hills) Project (Project), a planned community in the City. The MOU approved the fee conveyance of a 10.1-acre portion of District-owned property in the Hawker Crawford Channel area [Assessor's Parcel Number (APN) 0226-075-62] (Property) to EPC Holdings 823, LLC; EPC Holding 944, LLC; Roseville Investments, LLC; America Superior Land, LLC; and RMD Inland Investors, LLC (collectively, "Landowner") in exchange for Landowner's realignment and improvement of the Hawker Crawford Channel. On December 7, 2021 (Item No. 71), pursuant to Section 21 of the MOU, the Board approved the Assignment and Consent to Assignment in which Arroyo Capital II-6, LLC agreed to accept all of Landowner's obligations, responsibilities, and duties under the MOU (Amendment No. 1 to MOU No. 21-610).

The improvements are located along the Project frontage and connect to an existing inlet structure north of Duncan Canyon Road. 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.

On June 14, 2022 (Item No. 93), the Board adopted Resolution No. 2022-101, finding that the proposed Joint Community Facilities Agreement (JCFA) with the City of Fontana and City of Fontana Community Facilities District No. 109 (Narra Hills) is beneficial to the District and San Bernardino County (County) residents, and approved and authorized the execution of the following agreements for the Realignment and Improvement of Hawker Crawford Channel in the City of Fontana: 1) the JCFA with the City of Fontana and City of Fontana Community Facilities District (CFD) No. 109 (Narra Hills) Agreement No. 22-445; and 2) the Acquisition and Funding Agreement with LS-Fontana LLC and Arroyo Capital II-6, LLC, Agreement No. 22-446. The realignment and improvements will be financed through the CFD pursuant to the JCFA and constructed pursuant to the Acquisition and Funding Agreement with LS-Fontana LLC and Arroyo Capital II-6, LLC. Upon satisfaction of the conditions of the Acquisition and Funding Agreement, the District will acquire and take title to the improvements.

On September 27, 2022 (Item No. 77), the Board approved Amendment No. 1 to the Acquisition and Funding Agreement No. 22-446 with LS-Fontana LLC and Arroyo Cap II-6, LLC, that corrects the name of Arroyo Cap II-6, LLC (from Arroyo Capital II-6, LLC to Arroyo Cap II-6, LLC), as well as Section 6.13 of the Acquisition and Funding Agreement to reflect that Arroyo Cap II-6, LLC retains the right under MOU No. 21-610 to receive the 10.1-acre portion of District-owned property in the Hawker Crawford Channel area (APN 0226-075-62) in exchange for the re-alignment and improvement of Hawker Crawford Channel.

Section 7(g) of MOU No. 21-610 states that the District will grant an easement to the City for sewer. The District determined that the conveyance of the easement, totaling approximately 7,720 square feet, to the City for the installation, operation, and maintenance of one public subterranean sewer pipeline and necessary surface appurtenances is in the public interest and will not substantially conflict nor interfere with regional flood protection. The consideration for

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the sewer easement is included in the value of the improvements provided by the Landowner and, therefore, will be conveyed at no additional cost.

Additionally, approval of this item will authorize the Director of RESD to execute any other incidental documents as necessary to complete this transaction, subject to County Counsel review. 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 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 of Supervisors and the Office of Planning and Research on February 28, 2019. The Board made Responsible Agency findings as part of its consideration and approval of MOU No. 21-610 on August 10, 2021 (Item No. 38). No challenges to such findings were timely filed.

PROCUREMENT

The District may convey the easements to the City in accordance with Water Code Appendix Section 43-6 and Section 25526.6 of the Government Code.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel, and Sophie A. Curtis, Deputy County Counsel, 387-5455) on April 10, 2023; Flood Control District (Grant Mann, Deputy Director, 387-7918) on March 30, 2023; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on March 30, 2023; Finance (Carl Lofton, Administrative Analyst, 387-5404, and Garrett Baker, Administrative Analyst, 387-5423) on April 21, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on April 21, 2023.

(NA: 501-6726)

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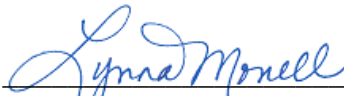
Record of Action of the Board of Supervisors
San Bernardino County Flood Control District

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: May 9, 2023



cc: RESD-Thompson w/ attachments
File - Flood Control District w/ attachments
JLL 05/19/2023