

RESOLUTION NO. 2023- 70

RESOLUTION OF THE BOARD OF SUPERVISORS ACTING AS THE GOVERNING BODY OF THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT MAKING CERTAIN RESPONSIBLE AGENCY FINDINGS IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND DECLARING THAT THE CONVEYANCE OF ROAD, UTILITY, ACCESS AND MAINTENANCE, AND TEMPORARY CONSTRUCTION EASEMENTS OVER DISTRICT-OWNED PROPERTY TOTALING APPROXIMATELY 130,271 SQUARE FEET (PORTIONS OF ASSESSOR PARCEL NUMBERS 0444-121-18) IS IN THE PUBLIC INTEREST, THE EASEMENT INTERESTS CONVEYED WILL NOT SUBSTANTIALLY CONFLICT OR INTERFERE WITH THE USE OF THE PROPERTY BY THE DISTRICT, AND WILL HAVE NO IMPACT NOR INTERFERE WITH FLOOD PROTECTION IN THE REGION, AND AUTHORIZE THE CONVEYANCE OF SAID EASEMENT INTERESTS TO THE TOWN OF APPLE VALLEY, SOUTHERN CALIFORNIA EDISON COMPANY AND COUNTY SERVICE AREA 64 (SPRING VALLEY LAKE)

On Tuesday, May 23, 2023, on motion of Supervisor Baca, Jr., duly seconded by Supervisor Hagman and carried, the following resolution is adopted by the Board of Supervisors of the San Bernardino County Flood Control District (District).

WHEREAS, the District owns fee title to approximately 104 acres commonly known as APNs 0444-121-18 in the Town of Apple Valley (Town) that make up a portion of the Mojave River flood zone 4 (District Property); and

WHEREAS, the Town of Apple Valley seeks to acquire several easements which include road, utility, access and maintenance easements, and Southern California Edison Company (SCE) seeks to acquire a utility easement, as part of the Bear Valley Road Bridge over the Mojave River Rehabilitation Project (Project); and

WHEREAS, a waterline utility easement conveyed to County Service Area 64 (CSA 64) is also necessary for the Project; 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 at fair market value; and

WHEREAS, Government Code section 25365 provides, in pertinent part, that the Board of Supervisors may, by a four-fifths vote, grant, convey, quitclaim, assign, or otherwise transfer to a city within the County any real property belonging to the County upon the terms and conditions as are agreed upon and without complying with any other provisions of the Government Code; and

WHEREAS, Water Code Appendix, Section 43-3 states, in part, that the District's Board of Supervisors is vested with the same powers and shall perform the same duties for and on behalf of the District "and the government thereof, to carry out the objects and purposes of this act that the Board of Supervisors of San Bernardino County now have or may hereafter have by law for said San Bernardino County, and shall also have such other or additional powers for said district as may be necessary to carry out any of the objects or purposes of this act, or to exercise any of the said powers of said district; provided, that such powers and duties are not in conflict with the express terms of this act"; and

WHEREAS, the District intends to convey the Property to the Town, SCE and CSA 64 pursuant to and in accordance with the Water Code Appendix Section 43-6, County Policy 12-17, and Government Code section 25365; and

WHEREAS, the fair market value of all the easement interests was determined to total \$2,000; and

WHEREAS, the Town has agreed to pay fair market value to acquire two utility easements, road easement, access and maintenance easement and temporary construction easement totaling approximately 130,271 square feet; and

WHEREAS, the District reviewed the request and determined that the conveyance of the easement interests is in the public interest and the easement interests conveyed will not substantially conflict or interfere with the use of the land by the District and will have no impact nor interfere with flood protection in the region; and

WHEREAS, the Town as CEQA Lead Agency prepared an Initial Study for this project and has determined from this study that the proposed Project would not have a significant effect on the environment for the following reasons: 1) the proposed project would have no impacts on agriculture and forest resources, and mineral resources; 2) the project would have less than significant impact on land use and planning, population and housing, utilities and service systems, and recreation; and 3) the project would have less than significant impact with mitigation incorporated on aesthetics, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, public services, transportation/traffic, and mandatory findings of significance; and

WHEREAS, the Town prepared and adopted a Mitigated Negative Declaration (MND) on March 2, 2017 pursuant to CEQA with a Notice of Determination and adopted written environmental findings; and

WHEREAS, the District as a CEQA Responsible Agency must make certain findings pursuant to Section 15096(h) of the CEQA Guidelines in order to take action on the conveyance of the Property; and

WHEREAS, the District, as the Responsible Agency, has verified that the Town-adopted MND adequately analyze the potential environmental impacts and concurs in the analysis and conclusions set forth in said MND; and

WHEREAS, the District reviewed the request pursuant to the Surplus Land Act and given the nature of the easement interests, the conveyance of easement interests for road and utility purposes to the Town of Apple Valley, SCE and CSA 64 is not subject to the Surplus Land Act; and

WHEREAS, the District and the Town propose to enter into a proposed Purchase and Sale Agreement (Agreement) to memorialize the terms of the easements conveyance; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the San Bernardino County Flood Control District hereby finds and declares 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's easement interests in a portion of the Project property are no longer necessary to be retained for the uses and purposes of the District.

SECTION 3. The conveyance of two utility easements, road easement, access and maintenance easement and temporary construction easement over District-owned land consisting of approximately 130,271 square feet (portions of APN 0444-121-18) is in the public interest, the easement interests conveyed will not substantially conflict or interfere with the use of the property by the District, and will have no impact nor interfere with flood protection in the region.

SECTION 4. The Board of Supervisors of the San Bernardino County Flood Control District authorizes the conveyance of said easement interests to the Town, SCE and CSA 64 in accordance with Water Code Appendix section 43-6, Government Code section 25526.6, and County Policy 12-17 upon payment of \$2,000 from the Town, the fair market value of the easement interests, plus reimbursement of administrative processing costs to the District.

SECTION 5. The Mitigated Negative Declaration for the Project is, by reference, incorporated into this Resolution as it is fully set forth herein.

SECTION 6. The District hereby certifies that, acting as the Responsible Agency for the Project pursuant to Section 15096 of the CEQA Guidelines, it has independently reviewed and analyzed the Environmental Impact Report (EIR), and other information in the record and has considered the information contained therein, prior to acting upon or approving the portion of the Project before the Board for consideration.

SECTION 7. Based on this review, the District finds that, as to those potential environmental impacts within the District's powers and authorities as Responsible Agency, that the Mitigated Negative Declaration contains a complete, objective, and accurate reporting of the potential impacts and represents the independent judgment and analysis of the San Bernardino County Flood Control District as the Responsible Agency.

SECTION 8. The District, in its capacity as Responsible Agency, considered the EIR prepared for the Project, and independently finds that the Mitigated Negative Declaration is adequate for use by the District to take action on the easements conveyance and execution of the Agreement. Furthermore, the District finds that no significant adverse impacts will occur as a result of the easements conveyance and execution of the Agreement and that no further CEQA analysis is required.

SECTION 9. the Clerk of the Board of Supervisors is directed to file and post the Notice of Determination for the conveyance of the easements.

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

AYES: SUPERVISORS: Jesse Armendarez, Dawn Rowe, Curt Hagman,
Joe Baca, Jr.

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: Col. Paul Cook (Ret.)

* * * * *

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, **LYNNA MONELL**, Clerk of the Board of Supervisors of the San Bernardino County Flood Control District, 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 Tuesday, May 23, 2023. #103 CCM

LYNNA MONELL
Clerk of the Board of Supervisors

By _____

