

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

May 23, 2023

FROM

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

SUBJECT

Easement Exchange with Lennar Homes of California, LLC in the City of Rialto

RECOMMENDATION(S)

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

1. Adopt **Resolution No. 2023-76** for the following actions:
 - a. Making Responsible Agency findings pursuant to the California Environmental Quality Act.
 - b. Declaring the easement interests held by the San Bernardino County Flood Control District in approximately 54,565 square feet of vacant land owned by Lennar Homes of California, LLC (portions of Assessor's Parcel Numbers 0264-792-07, 0264-792-08, 0264-792-20, 0264-792-21, 0264-792-41, 0264-792-42, 0264-792-49, 0264-792-50, 0264-792-51, 0264-793-26, 0264-793-27, 0264-793-28, 0264-112-30, 0264-112-31, 0264-112-46, 0264-112-51 and 0264-112-52, within Tract 20092 Map Book 362/21-41, Tract 20204 Map Book 364/7-12, and Tract 20205 Map Book 362/71-77) are no longer necessary to be retained for the uses and purposes of the San Bernardino County Flood Control District.
 - c. Finding the quitclaim of easement interests is in the public interest and would not conflict or interfere with flood control operations in the region.
 - d. Authorizing the quitclaim of San Bernardino County Flood Control District easement interests, located west of the northern reach of the Lytle Creek Island Levee in the City of Rialto, to Lennar Homes of California, LLC.
 - e. Authorizing in exchange for San Bernardino County Flood Control District quitclaim of easement interests the acceptance of two replacement easement interests from Lennar Homes of California, LLC, consisting of approximately 41,444 square feet located in the same general location but with different configurations, for access purposes, pursuant to Water Code Appendix Section 43-6.
2. Approve Easement Exchange **Agreement No. 23-492** with Lennar Homes of California, LLC for the quitclaim of the San Bernardino County Flood Control District easement interests and acceptance of the replacement easement interests.
3. Authorize the Chair of the Board of Supervisors to execute the Quitclaim Deeds to convey the easement interests to Lennar Homes of California, LLC.
4. Authorize the Director of the Real Estate Services Department to execute any other documents, subject to County Counsel review, necessary to complete the easement exchange.
5. Direct the Clerk of the Board of Supervisors to file and post the Notice of Determination for the easement exchange.

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

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

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

Provide for the Safety, Health, and Social Services Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost) as there is no cost associated with this easement exchange. The San Bernardino County Flood Control District (FCD) is funded by property taxes, fees, and other local, state, and federal funding. The value of the replacement easements being conveyed to FCD by Lennar Homes of California, LLC (Developer) is equivalent to the value of the FCD easement interests being conveyed to the Developer and no cash will be paid for the exchange. In addition, FCD will receive reimbursement of incurred fees of approximately \$98,950 for administration costs related to this request.

BACKGROUND INFORMATION

FCD owns and uses two access easements in the Developer-owned property located west of the northern reach of the Lytle Creek Island Levee in the City of Rialto (City). The purpose of the easements is for FCD to access their fee-owned facilities located nearby. The Developer, which owns Assessor's Parcel Number (APN) 0264-842-03 in fee, along with other parcels in the surrounding areas, desires to complete a residential subdivision development project, formerly known as Lytle Creek Ranch, and now referred to as River Ranch (Project) in the City. However, the existing FCD easements are in conflict with the proposed development.

The Developer has requested the FCD quitclaim an approximate 48,565 square foot portion of one of the access easements containing approximately 125,035 square feet total, as well as quitclaim the entirety of another easement containing approximately 6,000 square feet. In exchange, the Developer has proposed to convey two replacement easements, containing approximately 35,724 and 5,720 square feet respectively, which will remove the conflict with their development and serve FCD's access needs. Therefore, approximately 54,565 square feet of FCD's easement area will be relinquished in exchange for approximately 41,444 square feet of replacement easement area, which has been deemed to be equivalent in value and utility.

On February 8, 2022 (Item No. 63), the Board of Supervisors (Board) approved Participation Agreement No. 22-101 (Participation Agreement). Under the terms of the Participation Agreement, FCD is required to negotiate with the Developer in good faith, and subject to the Board's approval, complete the easement exchange to serve both the needs of FCD and Developer. Additionally, the Participation Agreement also required the Developer to make a \$200,000 refundable good faith deposit to be applied towards FCD's easement relocation costs associated with the development and all related FCD administrative costs. The Participation Agreement also made clear that the Board will consider, at its sole discretion, the proposed exchange of easements in a future item brought to the Board for approval.

FCD has requested the Real Estate Services Department (RESA) carry out the easement exchange. RESA reviewed the proposed exchange and determined the value of the easement areas to be quitclaimed are substantially equivalent to the value of the proposed replacement

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easements. The completion of the easement exchange will satisfy most of the intent of the Participation Agreement. However, of the total 125,035 square feet easement area referenced above, approximately 76,470 square feet (Remainder Easement) will still be in place and in conflict with the Project. That Remainder Easement is being appraised and a recommendation to sell it at fair market value to the Developer will be brought to the Board in a future item by RESD.

The City, as Lead Agency for the Project under the California Environmental Quality Act (CEQA), adopted the Final Environmental Impact Report (EIR) (State Clearing House No. 20090611113) for the Project (Resolution No. 5862) on July 13, 2010, certifying the EIR. A Notice of Determination was filed with the Clerk of the Board and the State Office of Planning and Research on September 12, 2019. FCD, in its capacity as the Responsible Agency, considered the EIR prepared for the Project, and independently finds that the EIR is adequate for use by FCD to take action on the easement exchange and execution of the Easement Exchange Agreement. Furthermore, FCD finds that no significant adverse impacts will occur as a result of the easement exchange, and other than the Notice of Determination referenced in Recommendation No. 5 finding that adequate mitigation has been provided to avoid direct and/or indirect environmental effects of the exchange of easements, no further CEQA analysis is required.

PROCUREMENT

This exchange in property interests between FCD and the Developer will be made pursuant to Water Code Appendix, Section 43-6. Since the easement rights being exchanged have equal value, no cash will be contributed to the exchange.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (John Tubbs II, Deputy County Counsel, and Sophie A. Curtis, Deputy County Counsel, 387-5455) on March 22, 2023; Flood Control District (Grant Mann, Deputy Director, 387-7918) on February 16, 2023; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on February 16, 2023; Finance (Carl Lofton, Administrative Analyst, and Garrett Baker, Administrative Analyst, 387-5423) on April 28, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on May 4, 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: Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.
Absent: Col. Paul Cook (Ret.)

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: May 23, 2023



cc: RESD - Thompson w/ agree, Deeds, NOD & Rec.
Contractor c/o RESD w/ agree
File w/ agree
JLL 06/5/2023