

ORANGE COUNTY BOARD OF SUPERVISORS

A g e n d a R e v i s i o n s a n d S u p p l e m e n t a l s

Note: *This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified.*

No new supplemental items will be added to the agenda following close of business on Friday.

January 12, 2021

CONSENT

- 3. Deleted
- 7. Deleted

DISCUSSION

- 39. Revised Title to read:
County Executive Office - Approve recommended positions on introduced or amended legislation and consider other legislative subject matters; *and approve 2021 Legislative Priorities and Proposals* - All Districts
- 40. Revised Title to read:
County Executive Office - Approve grant applications/awards submitted by *Health Care Agency, Social Services Agency, County Executive Office, OC Community Resources and Sheriff-Coroner* and ratify grant applications/awards submitted by *Social Services Agency* in 1/12/21 grant report and other actions as recommended; *adopt resolution authorizing Sheriff-Coroner or designee to accept \$50,000 grant funding and execute related documents from California Department of Parks and Recreation, Division of Boating and Waterways for abandoned watercraft abatement; and adopt resolution authorizing Sheriff-Coroner or designee to execute and submit application and grant assurance to California Office of Emergency Services for FY 2020 Homeland Security Grant Program (\$3,380,749); and approving related actions under certain conditions* - All Districts

PUBLIC HEARINGS

- 43. Deleted

THE FOLLOWING AGENDA ITEMS HAVE HAD CHANGES TO THEIR RECOMMENDED ACTIONS SINCE RELEASE OF THE AGENDA TO THE PUBLIC:

Item: 40

S u p p l e m e n t a l I t e m (s)

- S42A. **Vice Chairman Do** - In accordance with Section 1-2-10, subdivision (a)(1), of the Codified Ordinances of Orange County, ratify decision of the Vice Chairman of the Board of Supervisors to call a special election to fill the vacancy in the Office of County Supervisor, Second District and setting March 9, 2021 as the date of the special election

REVISIONS AND SUPPLEMENTALS TO JANUARY 12, 2021 AGENDA - PAGE 1 OF 2

ORANGE COUNTY BOARD OF SUPERVISORS

A g e n d a R e v i s i o n s a n d S u p p l e m e n t a l s

Note: *This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified.*

No new supplemental items will be added to the agenda following close of business on Friday.

- S42B. Revised Title to read:
Supervisor Wagner - Direct Airport Director to amend and execute revised Fixed Base Operator (FBO) lease leases with ~~ACI Jet Aviation Consultants, Inc. dba ACI Jet, Clay Lacy Aviation, Inc. and Jay's Aircraft Maintenance, Inc.~~ deleting following language: "LESSEE shall not permit the operation of a Regularly Scheduled Commercial User as defined in section 2.40 of John Wayne Airport's Phase 2 Commercial Airline Access Plan and Regulation, as may be amended from time to time"
- S42C. **Supervisor Wagner** - Orange County Workforce Development Board - Appoint Carlos Oregon, Aliso Viejo, for term ending 12/31/23
- S42D. **Supervisor Wagner** - Approve addition of Canyon Mudslide Protection events to County Events Calendar and make related findings per Government Code Section 26227
- S42E. **County Counsel** - Approve amendment to Rule 46 of Board of Supervisors Rules of Procedure and related items - All Districts
- S42F. **Vice Chairman Do and Supervisor Chaffee** - Adopt resolution recognizing January as National Trafficking and Modern Slavery Prevention Month culminating in observance of National Freedom Day on February 1, 2021
- S42G. Revised Title to read:
Supervisor Wagner - Adopt 2020 Bond Fire Site Development Permit Waiver Policy; and direct OC Public Works, Development Services and Neighborhood Preservation Services to waive Site Development Permit requirements, under Orange County Codified Ordinances Section 7-9-1157.5(a), through 7/31/21
- S45A. **County Executive Office - Acting as the Orange County Flood Control District** - Public Hearing to consider adopting Resolutions of Necessity acquiring by eminent domain real property for Santa Ana River Mainstem/Prado Dam Project located in Riverside and San Bernardino Counties; authorizing County Counsel and/or outside eminent domain counsel to take steps to initiate and facilitate the condemnation action; directing and authorizing Auditor-Controller to make related payments; and considering application of Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report 583 and other findings - All Districts (2/3 vote of membership)
- SCS1. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: P.E.O.P.L.E., et al., v. Todd Spitzer, et al. OCS
C Case No. 30-2018-00983799-CU-CR-CXC
- SCS2. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: Delux Public Charter, LLC et al., v. County of Orange Case No. 20-cv-02344

REVISIONS AND SUPPLEMENTALS TO JANUARY 12, 2021 AGENDA - PAGE 2 OF 2



MEMORANDUM

To: Robin Stieler, Clerk of the Board

From: Vice Chairman Andrew Do, First District

Date: January 11, 2021

**RE: Delete Item 3 from Jan. 12, 2021 Agenda –
Re-Appointment of Donald Dobmeier to the OC Historical Commission**

Please delete Item 3 from the Board of Supervisors meeting January 12, 2021 meeting:

- Re-Appointment of Donald Dobmeier to the OC Historical Commission.

Thank you.

cc: Valerie Sanchez
Maria Lopez
Chris Wangsaporn

RECEIVED
2021 JAN 11 AM 10:31
CLERK OF THE BOARD
BOARD OF SUPERVISORS



Continuation or Deletion Request

Date: December 30, 2020
To: Clerk of the Board of Supervisors
From: Frank Davies, Auditor-Controller ^B
Re: ASR Control #: 20-000939, Meeting Date 01/12/21 Agenda Item No. # 7
Subject: Upgrade Equipment for CAPS+ Storage Area Network System

Request to continue Agenda Item No. # _____ to the _____ Board Meeting.

Comments:

Request deletion of Agenda Item No. # 7

Comments:

RECEIVED
2020 DEC 30 AM 10:42
CLERK OF BOARD OF SUPERVISORS
ORANGE COUNTY
BOARD OF SUPERVISORS



Legislative Bulletin

DRAFT

A Publication of the County Executive Office/Legislative Affairs

January 12, 2021
Item No. 39

County of Orange Positions on Proposed Legislation

The Legislative Bulletin provides the Board of Supervisors with analyses of measures pending in Sacramento and Washington that are of interest to the County. Staff provides recommended positions that fall within the range of policies established by the Board. According to the County of Orange Legislative Affairs Procedures adopted by the Board of Supervisors on December 10, 2019, staff recommendations for formal County positions on legislation will be agendaized and presented in this document for Board action at regular Board of Supervisors meetings. When the Board takes formal action on a piece of legislation, the CEO will direct the County's legislative advocates to promote the individual bills as approved by the Board. The Legislative Bulletin also provides the Board of Supervisors with informative updates on State and Federal issues.

The 2021-2022 Legislative Platform was adopted by the Board of Supervisors' on December 15, 2020.

On January 12, 2021, the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

1. **APPROVE: 2021 Legislative Priorities (Attachment A)**
2. **APPROVE: 2021 Legislative Proposal – State Flood Subvention Funding (Attachment B)**
3. **APPROVE: 2021 Legislative Proposal – Recording of Real Property Liens on Child Support Cases (Attachment C)**
4. **APPROVE: 2021 Legislative Proposal – Mental Health Services Act: County Jails (Attachment D)**
5. **DEFER TO BOARD: 2021 Legislative Proposal – Funding Equity (Attachment E)**
6. **Receive and File Legislative Bulletin**

RECOMMENDED ACTIONS

1. APPROVE – 2021 Legislative Priorities (Attachment A)

SUMMARY

Approving the 2021 Orange County Legislative Priorities will allow the County to pursue critical policy initiatives in Sacramento and Washington DC.

BACKGROUND INFORMATION:

The Orange County Board of Supervisors recognizes the need to protect its interests in Sacramento and Washington, DC. To be effective in this mission, the County develops its Legislative Platform with the County Executive Office of Legislative Affairs in advance of each two-year legislative session, in conjunction with the Board, County departments, and the County's state and federal legislative advocates. In addition to the Legislative Platform the Orange County Board of Supervisors annually adopts the County Legislative Priorities. The County Legislative Priorities provide goals, which help to focus the legislative and advocacy activities for the year.

On December 15, 2020, your Board approved the 2021-22 County of Orange Legislative Platform.

2021 COUNTY LEGISLATIVE PRIORITIES:

There are five proposed State 2021 County Legislative Priorities and five proposed Federal 2021 County Legislative Priorities for Board consideration and approval. The list of priorities summarizes the direction received from individual meetings with Board members and reflects issues of greatest importance to your Board for 2021. The proposed 2021 County Legislative Priorities are listed below, and a full write-up of each can be found in Attachment A.

State:

- COVID-19 Response and Recovery
- Homelessness & Housing
- Behavioral Health/Criminal Justice
- In-Home Support Services (IHSS)
- California Advancing and Innovating Medi-Cal (CalAIM)

Federal:

- COVID-19 Response & Recovery
- Homelessness & Housing
- Infrastructure Funding
- Homeland Security and Public Safety Funding
- Nuclear Fuel Storage

2. APPROVE – 2021 Legislative Proposal(s) (Attachments B-E)

SUMMARY:

Four state legislative proposal are presented for your consideration. Proposals approved by your Board will officially be designated as an "Orange County-Sponsored Bill" and CEO-LA will work with Precision Advocacy to identify a member(s) of the Orange County legislative delegation to author the proposal(s). The proposed 2021 County-sponsored legislative proposals are listed below, and write-ups can be found in Attachments B-E.

BACKGROUND:

The deadline for new bill introductions is February 19, 2021.

2021 COUNTY LEGISLATIVE PROPOSALS:

- *State Flood Subvention Funding* (Attachment B): Amend the state Water Code to add the Westminster-East Garden Grove project allowing the project to be eligible to receive State Flood Subvention Funding
- *Recording of Real Property Liens on Child Support Cases* (Attachment C): Raise the statutory threshold for filing government child support property liens from 'one month's support' to \$5,000 in arrears.
- *Mental Health Services Act: County Jails* (Attachment D): Provide counties with the authority to use Mental Health Services Act (MHSA) funds to provide mental health services to persons incarcerated in a county jail.
- *Funding Equity* (Attachment E): Provide a state General Fund augmentation to supplement the County's property tax allocation

INFORMATIONAL ITEMS

1. Sacramento Legislative Report

Prepared by Precision Advocacy Group LLC

The Legislature delayed reconvening for the 2021-22 session until January 11, due to concerns around the COVID-19 surge. In the meantime, the governor is scheduled to release his 2021-22 budget proposal on Friday January 8. Although details of his budget are not yet available, he has previewed a couple of his Administration's proposals which are outlined below. Other miscellaneous budget items that have been referenced over the last couple of weeks include:

- An estimated \$15.5 billion windfall in the budget year, with a projected operating deficit to follow.
- \$300 million for COVID-19 vaccine distribution to build out the vaccine management system, bulk up transportation and storage supplies, and expand a public education campaign.
- \$2 billion to phase-in the reopening of schools beginning in February.

The Assembly Budget Committee is scheduled to meet January 11 for an overview of the proposal and the Senate Budget Committee will follow suit shortly thereafter. We anticipate budget subcommittees to begin examining their respective issue areas in February.

Equitable Recovery for California's Businesses and Jobs

As part of his 2021 budget, the governor will propose a \$4.5 billion initiative to address the small business impacts of the pandemic, some of which he is requesting the Legislature act on immediately. The package is divided into seven categories – small business grants, California Jobs Initiative, workforce development, fee waivers, deferred maintenance, housing, and zero-emission vehicles and vehicle infrastructure, which are described below.

Small Business Grants: \$575 million for California Small Business COVID-19 Relief Grants, in addition to the \$500 million allocated in November 2020. The program provides grants between

\$5,000 and \$25,000 to micro and small businesses impacted by the pandemic. \$25 million of this funding is designated for small cultural institutions such as museums and art galleries.

California Jobs Initiative: \$777.5 million focusing on job creation and retention, regional development, small businesses, and climate innovation.

- \$430 million for the California Competes Tax Credit (CalCompetes) incentivizing businesses to locate in California.
- \$100 million for the Expanded Main Street Small Business Tax Credit to encourage hiring new employees and rehiring former employees.
- \$100 million for sales tax exclusions through the Treasurer's Office to reduce the cost of manufacturing equipment.
- \$50 million for the California Infrastructure and Economic Development Bank's (IBank) Small Business Finance Center to provide small business loans and disaster loan guarantees, which will be leveraged to provide a total of \$250 million in loans.
- \$50 million for the California Rebuilding Fund to support \$125 million low-interest loans to underserved businesses. The \$777.5 million includes \$12.5 million allocated in late 2020.
- \$35 million for the California Dream Fund to seed entrepreneurship and small business creation in underserved communities.

Workforce Development: \$353 million to support California's workers as they adapt to changes in the economy brought about by COVID-19, including apprenticeships, greater collaboration and coordination among institutions of higher learning and local workforce partners, and training programs in key sectors such as health care and technology.

Fee Waivers: \$70.6 million for fee waivers to individuals and businesses most impacted by the pandemic, including barbers, cosmetologists, manicurists, bars, and restaurants. The governor estimates this will include nearly 60,000 restaurants and bars and more than 53,000 personal care establishments.

Deferred Maintenance: \$300 million is allocated for statewide deferred maintenance in numerous state departments including the Department of Water Resources, Parks & Recreation, General Services, State Hospitals, Forestry and Fire Protection, Housing and Community Development, Corrections and Rehabilitation, the judicial branch, Office of Emergency Services, and Network of California Fairs.

Housing: \$500 million through the Infill Infrastructure Grant (IIG) Program to local governments and developers to defray the infrastructure costs of sewers, roads, and site preparation, paving the way for 7,500 affordable housing units. \$250 million of these funds are proposed for early action by the Legislature.

Zero-Emission Vehicles and Zero-Emission Vehicle Infrastructure: \$1.5 billion to support lower-income Californians' purchase of cleaner vehicles and the construction of electric charging and hydrogen fueling stations necessary to accelerate zero-emission vehicle adoption.

Golden State Stimulus, Renter Relief, and Eviction Moratorium

The governor proposed three additional items for early action by the Legislature on January 6 – direct funds to low-income Californians, renter relief, and the extension of the eviction moratorium.

The governor's Golden State Stimulus program would provide \$600 to roughly four million low-income Californians. The funds would be distributed to all 2019 taxpayers who received a California Earned Income Tax Credit (CalEITC) in 2020, as well as to 2020 taxpayers with Individual Taxpayer Identification Numbers (ITINs) who are eligible for and receive the CalEITC in 2021. Payments would

begin rolling out in February 2021 for individuals who filed in 2020 and later for those who won't file their taxes until this year.

\$2.6 billion in federal renter relief is proposed to be allocated as quickly as possible to assist struggling renters and stabilize small property owners. Finally, the governor is requesting that the State's eviction moratorium which expires on January 31, is extended. [AB 3088](#) (Chiu) Tenancy: rental payment default: mortgage forbearance: state of emergency: COVID-19, established a moratorium on evictions for non-payment of rent due to COVID-19 financial hardship, however did not forgive any payment obligations that a tenant has under a lease. The Administration is proposing that the eviction moratorium be extended provided a renter is able to pay 25% of their rent obligation.

Governor's Press Releases

Below is a list of the governor's press releases as well as links to other relevant information linked in those press releases beginning December 14.

January 6: [Governor Newsom Announces Golden State Stimulus, a Budget Proposal to Help Low-Income Californians through \\$600 Rapid Cash Payments, and Calls for Extension of Eviction Moratorium](#)

January 5: [Governor Newsom Announces Appointments](#) - Senior Advisor to the Director at the Financial Information System for California (FI\$Cal), California Victim Compensation Board, and the Podiatric Medical Board of California

January 5: [Governor Newsom to Propose \\$4.5 Billion for Equitable Recovery for California's Businesses and Jobs in 2021 Budget](#)

December 31: [Legal Affairs Secretary Catherine Lhamon to Depart, New Legal Affairs Secretary Ann Patterson Appointed](#)

December 30: [Governor Newsom Statement on Death of Fresno Police Officer](#)

December 30: [Governor Newsom Announces Appointments](#) - Director of the Office of Tax Appeals, Chief Deputy Director of the Office of Tax Appeals, Chief Deputy Director at the California Department of Tax and Fee Administration, President of the California Public Utilities Commission, Chief Deputy Executive Director at the California Infrastructure and Economic Development Bank (IBank), Senior Deputy Commissioner of the Division of Corporations and Financial Institutions at the California Department of Financial Protection and Innovation, the State Bar of California Exam Committee, and the Occupational Safety and Health Standards Board

December 30: [Governor Newsom Issues Executive Order to Support Communities Recovering from Wildfires](#)

[Executive Order N-85-20](#)

December 30: [Governor Newsom Appoints Rita Saenz Director of the Employment Development Department](#)

December 30: [Governor Newsom Unveils California's Safe Schools for All Plan](#)

December 29: [Governor Newsom Announces Appointments](#) - Deputy Secretary for Information Technology and Agency Information Officer at the California Health and Human Services Agency, Chief Counsel at the California Department of Child Support Services, Chief Operating Officer at the California Department of Social Services, Chief of Data Analytics and Strategy at the California Department of Developmental Services, Deputy Director of the Community Services Division at the California Department of Developmental Services, Deputy Director of Communications and Planning at the California Department of Managed Health Care, Chief Counsel at the California Department of Managed Health Care, Deputy Director of Legislative Affairs at the California Department of Managed Health Care, the Fair Employment and Housing Council, the Dental Hygiene Board of California, and the California Board of Occupational Therapy

December 29: [Governor Newsom Announces Major Homekey Milestone: All 94 Sites Closing Escrow Ahead of Deadline](#)

December 28: [Governor Newsom Announces Partnership with CVS and Walgreens to Provide Pfizer Vaccines to Residents and Staff in Long-Term Care Facilities](#)

December 24: [Governor Newsom Announces Appointments](#) - Chief Deputy Director at the California Department of General Services and Deputy Secretary and Chief Counsel at the California Department of Food and Agriculture

December 22: [Governor Newsom to Submit Assemblymember Dr. Shirley Weber's Nomination for Secretary of State to State Legislature](#)

December 22: [Governor Gavin Newsom Selects Secretary of State Alex Padilla as California's Next United States Senator](#)

December 21: [Governor Newsom Announces Executive Staff Transition with Appointment of Jim DeBoo as Executive Secretary](#)

December 20: [Western States Scientific Safety Review Workgroup Recommends Moderna Vaccine, Confirms it is Safe and Efficacious](#)

December 18: [Governor Newsom Announces FEMA Reimbursement Update for Local Governments Participating in Project Roomkey](#)

December 17: [Governor Newsom Issues Proclamation Declaring Special Election for 30th Senate District](#)

December 14: [Governor Newsom Signs Executive Order on Actions in Response to COVID-19 Executive Order N-84-20](#)

December 14: [Governor Newsom Launches "Vaccinate All 58" Campaign based on Safety and Equity as First Vaccines Arrive to California](#)

2. Washington DC Legislative Report

Prepared by Van Scoyoc Associates

House and Senate Convene for 117th Congress

The House and Senate convened this week to begin the 117th Congress. There was little legislative activity except for essential organizational activities. In the House, Nancy Pelosi was elected Speaker by a 216-209 vote, with eight members not voting or voting for other individuals. It was a very slim vote that will likely portend many of Pelosi's struggles in the coming years. In fact, several credible reports suggest Pelosi is considering stepping down as Speaker sometime within the year to transfer control to a new generation of Democrats.

Violent Insurrection Quashed

Following a rally to show support for President Trump, a mob of several thousand marched to the US Capitol during the counting of the electoral college ballots. Congress was evacuated for their safety. The insurrectionists overran the Capitol Police and gained access to the Senate and House chambers, as well as personal offices. The event included armed standoffs with insurrectionists, leading to at least four deaths.

When Congress reconvened, party leaders condemned the attack and promised to continue the people's work. Many lawmakers seemed to express this seminal moment will lead to a sea-change in federal politics and how Congress functions. Though it is not clear how that change will manifest itself and how long it may last.

Joint Session of Congress to Affirm Electoral College

The Senate and House this week met in a joint session of Congress to affirm the results of the electoral college. Normally a formality, over 100 House Republicans and more than 10 Senate Republican objected to the results of Arizona, Georgia, and Pennsylvania. As of this report, the two chambers continue to separately debate the objections. However, it is highly unlikely the objections will thwart the outcome of the election.

Georgia Senate Races Flip Control of Senate to Democrats

Two United States Senate seats were up for grabs this week in Georgia. Republicans entered the week holding a 50-48 advantage. If Democrats were to win both seats, the sitting vice president

would cast tie breaking votes, meaning on January 20th Democrats would take control. Most major media organizations have called Democrat Raphael Warnock and Democrat John Ossoff the winners of the two races. The change in party control means a considerably larger amount of incoming President Joe Biden's agenda will be possible to enact, though Republicans will retain the power to filibuster most legislative priorities.

The party change in control of the Senate was a surprise, as Republicans were expected to win both races, albeit in close contests. With unified Democratic control of Congress and the White House, the outlook of the 117th Congress will change substantially.

EXECUTIVE BRANCH

Treasury Released Information on Local Government Rental Assistance Program

The [US Treasury Department released its first batch of information](#) pertaining to the Emergency Rental Assistance Program created by the recent Consolidated Appropriations Act. The program provides \$25 billion in direct payments to states governments and local governments of more than 200,000 residents. The announcement requires a certification of acceptance of the funds by January 12th, and includes many of the eligible uses of the funds, as well as restrictions related to the program.

If you or your staff have any questions or require additional information on any of the items in this bulletin, please contact Peter DeMarco at 714-834-5777.

2021 COUNTY LEGISLATIVE PRIORITIES



STATE LEGISLATIVE PRIORITIES

The County of Orange supports programs that improve outcomes while reducing the financial burden on taxpayers. As the sixth most densely populated county in the nation, Orange County is responsible for implementing a variety of state, federal and local programs for a diverse population. To meet the needs our residents and ensure the health and stability of our communities, the County strives to provide a strong safety net system, while remaining fiscally prudent and accountable to county taxpayers. Accordingly, the County has identified the following state policy priorities to help focus our legislative and advocacy activities for 2021.

COVID-19 Response & Recovery

Orange County must continue responding to the COVID-19 pandemic while simultaneously working toward recovery for the health of our residents and our economy. The County will strenuously advocate for its fair share of resources whether it be for personal protective equipment, vaccinations, or economic stimulus. Additionally, the County will continue to state the need for direct funding and local control.

Homelessness & Housing

Orange County has endeavored to comprehensively prevent and address homelessness, while working with limited funding. The County will continue to support additional funding, a streamlined funding process, and resource flexibility to address homelessness most effectively within our community.

Behavioral Health/Criminal Justice

The County's Integrated Services Strategy (IS) remains a high priority to address individuals with behavioral health issues interacting with Orange County's criminal justice system. The IS invests in a system-of-care with programs to reduce crime and incarceration outside of institutional settings, and resources are needed to assist in this important work. In addition, the realignment of the Division of Juvenile Justice to counties will require careful attention and advocacy to ensure a smooth transition.

In-Home Support Services (IHSS)

A significant and growing gap between In-Home Support Services (IHSS) costs and available revenues continues to put extraordinary cost pressures on the County's budget and other core services and mandated programs, including public health, behavioral health and public safety. The County will work with impacted stakeholders to pursue a long-term solution to alleviate IHSS cost pressures.

California Advancing and Innovating Medi-Cal (CalAIM)

CalAIM is a multi-year initiative by Department of Health Care Services to restructure and reform the Medi-Cal program. While this initiative was postponed due to COVID 19 this initiative will provide opportunities for the County to obtain additional resources for a variety of programs including payment reform, system integration, and data sharing and collection efforts. The County will continue to advocate for reducing administrative burdens, revenue loss and mitigating any potential workforce impacts.



2021 COUNTY LEGISLATIVE PRIORITIES

FEDERAL LEGISLATIVE PRIORITIES

The County of Orange supports programs that improve outcomes while reducing the financial burden on taxpayers. As the sixth most densely populated county in the nation, Orange County is responsible for implementing a variety of state, federal and local programs for a diverse population. To meet the needs our residents and ensure the health and stability of our communities, the County strives to provide a strong safety net system, while remaining fiscally prudent and accountable to county taxpayers. Accordingly, the County has identified the following federal policy priorities to help focus our legislative and advocacy activities for 2021.

COVID-19 Response & Recovery

Orange County must continue responding to the COVID-19 pandemic while simultaneously working toward recovery for the health of our residents and our economy. The County will strenuously advocate for our fair share of resources whether it be for personal protective equipment, vaccinations, or economic stimulus. Additionally, the County will continue advocating for direct, federal funding to local governments to offset lost general fund revenues.

Homelessness & Housing

Orange County has endeavored to comprehensively prevent and address homelessness, while working with limited funding. The County will seek increased federal appropriations for key housing and homeless assistance grant programs. The County will also advocate for legislative initiatives to combat homelessness that authorize funding for comprehensive services and care coordination for individuals and families experiencing homelessness, including housing stabilization services funding paired with housing subsidies. The County also supports increased funding for the Housing Choice Voucher program and Community Planning and Development Programs, including increased funding for Community Block Grant, HOME Investment Partnership and Emergency Solutions Grants. The County will advocate for an increase in federal funding to serve the increasing demand for disability compensation, health care related claims, and housing needs of its growing veteran population.

Infrastructure Funding

The County will identify and advocate for major infrastructure investment needs including two critical flood control protection projects: the Santa Ana River Mainstem Project and the Westminster-East Garden Grove Flood Risk Management Project.

Homeland Security and Public Safety Funding

The County will advocate for continued or increased federal funding for critical public safety programs, including the Orange County Intelligence Assessment Center, the Urban Area Security Initiative and the State Homeland Security Grant Program. The County will also support measures that promote and advance federal, state, and local partnerships to provide evidence-based treatment services to those in custody with mental illness and substance use disorders.

Nuclear Fuel Storage

Since the official shut down of the San Onofre Nuclear Generating Station (SONGS) in 2013, efforts have begun to transfer the used nuclear fuel into on-site storage and to eventually remove and dispose of radioactive components and material. The County will continue to advocate for and make progress on interim storage options to enhance safety and security and pursue longer term off-site fuel storage for SONGS.



County of Orange

County Executive Office

LEGISLATIVE PROPOSAL REQUEST

2021-22 Legislative Session

AGENCY/DEPARTMENT: Orange County Public Works (OCPW)

SUBJECT: State Flood Subvention Funding

STAFF RECOMMENDATION: Approve sponsoring a bill for the 2021-22 State Legislative session

PROPOSAL SUMMARY: Federal authorization for the Westminster-East Garden Grove project (Project) is included in the Water Resources Development Act (WRDA) of 2020. With this authorization, the project is now eligible to receive State Flood Subvention Funding, requiring state legislation.

PROBLEM: As authorized, the Project has a current estimated cost of \$1.2B, with a total Federal cost share of \$315M and a local share of \$910M. The County's current 20 Year Plan has identified \$443M in revenue to go toward the local share, leaving a gap of approximately \$467M needed to bring the Project to completion.

BACKGROUND: In 2003, the United State Corps of Engineers (USACE) and the County of Orange/Orange County Flood Control District (County) entered into a 50/50 cost share agreement to develop feasible alternatives through a flood risk management study aimed at reducing risks to life, safety, and property due to deficiencies in the East Garden Grove-Wintersburg Watershed.

The study was completed and received a signed Chief's Report on July 9, 2020. This led to its inclusion in WRDA 2020, recommending federal authorization, which was given when the legislation was signed into law. Once completed, the proposed Project will lead to increased flood protection for 6 cities, provide flood control improvements estimated at \$1.2B, prevent approximately \$4B in damaged from a 100-year flood event, and alleviate home and business owners in the affected communities from paying flood insurance premiums totaling over \$13M annually.

The State Subvention Fund is a tool used by the State to partner with local agencies and share in the costs for federally authorized projects. If the Project is entered into the program, the State would contribute between 50%-70% of the County's cost share for the National Economic Development (NED) components. This is done through legislation.



County of Orange

County Executive Office

LEGISLATIVE PROPOSAL REQUEST

2021-22 Legislative Session

AGENCY/DEPARTMENT: OC Child Support Services (OC CSS)

SUBJECT: Recording of Real Property Liens on Child Support Cases

STAFF RECOMMENDATION: Approve sponsoring a bill for the 2021-22 State Legislative session.

PROPOSAL SUMMARY: Raise the statutory threshold for filing government child support property liens from 'one month's support' to \$5,000 in arrears.

County child support agencies are required by statute to record liens against real or personal property any time a child support debtor owes more than one month's worth of child support. However, in most cases the recordation and eventual release of liens produces no collection. Raising the threshold for recording of liens from the current 'one month' to \$5,000 in arrears would eliminate over 70% of these liens being filed. The cost savings to the county agencies and imposition on otherwise-paying support customers would be substantial while the impact to collections is expected to be minimal.

PROBLEM: Current state law requires the recordation of a lien against real or personal property any time a child support obligor, in a case enforced by the county child support agency, has an arrears balance of more than one month's support. (FC 17523(c)(2)).

Most parents paying support stay in substantial compliance with their support orders, meaning they are treated as if they were not going to pay their obligation from the time the order is established. They also face a financial burden when they need to clear the lien for a property transaction or credit report review.

That lien is in most cases electronically recorded without fee to the government agency. When a person against whom a lien is filed wishes to conduct a property transaction, they are required by lenders or escrow agents to clear the lien or show they are current on their ongoing obligation. That requires effort by the local agency to issue a 'Release of Lien' (no moneys owing), 'Matured Installment' (ongoing obligation, but obligor is current), or Demand (moneys owing on the obligation). Each year Orange County Child Support (OC CSS) records approximately 7,000 new liens in Orange County. Every year OC CSS receives over 7,000 requests to release liens. Of those releases, over 90% are for a 'Release of Lien' or 'Matured Installment', meaning there was no money owing on the obligation.

Each lien document must contain the notarized signature of a CSS employee attesting to the accuracy of the release/demand. That means that in one year OC CSS asked for no money on 7,000 lien inquiries. That costs OC CSS over \$104,000 per year in unnecessary expense. Statewide that wasted effort would be an estimated \$1.8 million annually.

The data shows that the majority of lien collections occurs in cases in excess of \$10,000 in arrears.



County of Orange

County Executive Office

LEGISLATIVE PROPOSAL REQUEST

2021-22 Legislative Session

AGENCY/DEPARTMENT: County Executive Office (CEO)

SUBJECT: Mental Health Services Act: County Jails

STAFF RECOMMENDATION: Approve sponsoring a bill for the 2021-22 State Legislative session.

PROPOSAL SUMMARY: Provide counties with the authority to use Mental Health Services Act (MHSA) funds to provide mental health services to persons incarcerated in a county jail.

PROBLEM: In Orange County, 21% of the incarcerated population have a mental illness. According to 2018 data from the Board of State and Community Corrections, approximately one fifth of county jail inmates throughout the state are taking psychotropic medications, a 25% increase since 2013.

With the number of those incarcerated who are suffering with a mental health issue on the rise, and funding sources to pay for treatment remain limited, it is critical to explore the flexibility of existing mental health funding sources.

BACKGROUND: The County sponsored SB 665 by Senator Tom Umberg in the 2019-20 legislative session to make the proposed change to current law. The measure gained unanimous, bipartisan support in the Senate Health and Appropriations Committees, the full Senate, and the Assembly Health Committee. Unfortunately, during the final week of the 2020 Legislative Session Assembly Appropriations Committee Chair Lorena Gonzalez held in the Assembly Appropriations Committee suspense file without a recorded vote.



County of Orange

County Executive Office

LEGISLATIVE PROPOSAL REQUEST

2021-22 Legislative Session

AGENCY/DEPARTMENT: County Executive Office (CEO)

SUBJECT: Funding Equity

STAFF RECOMMENDATION: Defer to the Board.

PROPOSAL SUMMARY: Provide a state General Fund augmentation to supplement the County's property tax allocation.

PROBLEM: In 1978, Assembly Bill 8 set the formula for each California County's property tax allocation based on population. Since then, Orange County's population has nearly doubled, but the County's property tax allocation remains unchanged. Property tax revenue is Orange County's largest source of income for funding mandated and discretionary programs for its residents. As of 2020, Orange County receives five cents of every property tax dollar, the lowest amount of all its peers. While Orange County faces one of its greatest economic challenges in 2021 and beyond, this structural inequity continues to put both the County and its residents at a disadvantage in receiving and providing critical services.

BACKGROUND: Since 1996, there have been twelve failed attempts and one successful attempt to address funding equity on a large-scale. The successful attempt unfortunately ended up being reversed in subsequent budget negotiations.

In 2018, AB 2711, authored by Assemblymember Phil Chen, would have increased the amount of property tax allocated to the County of Orange, decreasing the amount of property tax allocated to the Educational Revenue Augmentation Fund, which would be replaced by State General Fund. The measure successfully passed in the Assembly Local Government Committee and was then held in the Assembly Appropriations Committee due to the cost of the measure.

In 2020, Assemblymember Cottie Petrie-Norris introduced AB 2769, a spot bill eventually intended to be amended to address funding equity by increasing the County's share of ad valorem property tax in years where assessed property value grows by 3% over the previous year. This County equity amount would then be allocated to the County's system of care to be used to support homeless individuals and those at risk of homelessness. AB 2769 did not move forward.



AGENDA STAFF REPORT

Agenda Item

40

ASR Control 20-000840

MEETING DATE: 01/12/21
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S): Peter DeMarco (714) 834-5777
 Cynthia Shintaku (714) 834-7086

SUBJECT: Grant Applications/Awards Report

CEO CONCUR Concur	COUNTY COUNSEL REVIEW Approved Resolution to Form	CLERK OF THE BOARD Discussion 3 Votes Board Majority
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Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A
Staffing Impact: No **# of Positions:** **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A **County Audit in last 3 years:** No

Prior Board Action: N/A

RECOMMENDED ACTION(S):

Approve grant applications/awards as proposed and other actions as recommended.

1. Approve Grant Award – Health Care Agency – CalOptima Intergovernmental Transfer Funds – \$2,500,000.
2. Approve Ratified Grant Application and Award – Social Services Agency – Project Roomkey and Rehousing Strategy – \$2,286,707.
3. Approve Grant Award – Social Services Agency – Transitional Housing Program –\$208,000.
4. Approve Grant Award – County Executive Office – County Victim Services (XC) Program– \$842,126.
5. Approve Grant Award – OC Community Resources – 2020 Family Self-Sufficiency Coordinators Grant Award – \$288,000.
6. Approve Grant Application – OC Community Resources – Sustaining Cultural Heritage Collections Grant – \$350,000.

7. Approve Grant Award and Adopt Resolution – Sheriff Coroner’s Department – Surrendered and Abandoned Vessel Exchange (SAVE) Grant – \$50,000.
8. Approve Grant Application – Sheriff Coroner’s Department – Selective Traffic Enforcement Program (STEP) Grant – \$800,000.
9. Approve Grant Application and Adopt Resolution – Sheriff Coroner’s Department – Homeland Security Grant Program – \$3,380,749.
10. Approve Grant Application – Sheriff Coroner’s Department – Drug Prevalence in DUI Drivers – \$476,000.
11. Receive and File Grants Report.

SUMMARY:

See the attached Grants Report.

BACKGROUND INFORMATION:

See the attached Grants Report.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

- Attachment A - Grants Report
- Attachment B - OCSD SAVE Resolution
- Attachment B- OCSD HSGP Resolution



Grants Report

DRAFT

County Executive Office/Legislative Affairs

January 12, 2021
Item No : 40

County of Orange Report on Grant Applications/Awards

The Grants Report is a condensed list of grant requests by County Agencies/Departments that allows the Board of Supervisors to discuss and approve grant submittals in one motion at a Board meeting. County policy dictates that the Board of Supervisors must approve all grant applications prior to submittal to the grantor. This applies to grants of all amounts, as well as to new grants and those that have been received by the County for many years as part of an ongoing grant. Receipt of grants \$50,000 or less is delegated to the County Executive Officer. Grant awards greater than \$50,000 must be presented to the Board of Supervisors for receipt of funds. This report allows for better tracking of county grant requests, the success rate of our grants, and monitoring of County's grants activities. It also serves to inform Orange County's Sacramento and Washington, D.C. advocates of County grant activities involving the State or Federal Governments.

On January 12, 2021 the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

Approve grant applications/awards as proposed and other actions as recommended.

ACTION ITEMS:

1. Approve Grant Award – Health Care Agency – CalOptima Intergovernmental Transfer Funds – \$2,500,000.
2. Approve Ratified Grant Application and Award – Social Services Agency – Project Roomkey and Rehousing Strategy – \$2,286,707.
3. Approve Grant Award – Social Services Agency – Transitional Housing Program – \$208,000.
4. Approve Grant Award – County Executive Office – County Victim Services (XC) Program – \$842,126.
5. Approve Grant Award – OC Community Resources – 2020 Family Self-Sufficiency Coordinators Grant Award – \$288,000.
6. Approve Grant Application – OC Community Resources – Sustaining Cultural Heritage Collections Grant – \$350,000.
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8. Approve Grant Application – Sheriff Coroner's Department – Selective Traffic Enforcement Program (STEP) Grant – \$800,000.

9. Approve Grant Application and Adopt Resolution – Sheriff Coroner’s Department – Homeland Security Grant Program – \$3,380,749.
10. Approve Grant Application – Sheriff Coroner’s Department – Drug Prevalence in DUI Drivers – \$476,000.
11. Receive and File Grants Report.

If you or your staff have any questions or require additional information on any of the items in this report, please contact Cynthia Shintaku at 714-834-7086.



**CEO-Legislative Affairs Office
Grant Authorization eForm**

GRANT APPLICATION / GRANT AWARD

Today's Date:	December 14, 2020
Requesting Agency/Department:	OC Health Care Agency Office of Care Coordination
Grant Name and Project Title:	CalOptima Intergovernmental Transfer Funds
Sponsoring Organization/Grant Source: <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	CalOptima
Application Amount Requested:	\$2,500,000
Application Due Date:	
Board Date when Board Approved this Application:	Not Applicable.
Awarded Funding Amount:	\$2,500,000
Notification Date of Funding Award:	Letter of commitment received on November 10, 2020
Is this an Authorized Retroactive Grant Application/Award? No <small>(If yes, attach memo to CEO)</small>	
Recurrence of Grant	New <input checked="" type="checkbox"/> Recurrent <input type="checkbox"/> Other <input type="checkbox"/> Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	Not applicable
Does this grant require CEQA findings?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
What Type of Grant is this?	Competitive <input type="checkbox"/> Other Type <input checked="" type="checkbox"/> Explain: See Below
County Match?	Yes <input type="checkbox"/> Amount ____ or ____ % No <input checked="" type="checkbox"/>
How will the County Match be Fulfilled? <small>(Please include the specific budget)</small>	Not Applicable.
Will the grant/program create new part or full-time positions?	No
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
<p>In response to COVID-19, the County of Orange established Project Roomkey in March 2020. Project Roomkey is a State initiative that provides non-congregate shelter to individuals experiencing homelessness who are sick or symptomatic with COVID-19 illness and those that are at high risk for severe COVID-19 illness. On June 30, 2020, Governor Gavin Newsom announced Homekey Program as the successor to Project Roomkey. Under the Homekey Program, local entities will partner with the state to acquire and rehabilitate a variety of housing types, including (but not limited to) hotels, motels, vacant apartment buildings, and residential care facilities in order to serve people experiencing homelessness or who are also at risk of serious illness from COVID-19.</p> <p>On July 28, 2020, and September 15, 2020, your Honorable Board of Supervisors (Board) passed resolutions to apply and submit applications for the Homekey Program with Jamboree Housing Corporation listed as co-applicant. The funds awarded through the Homekey Program application process with the State, provided funds for the acquisition of the sites. On November</p>	



3, 2020, the Board authorized the Health Care Agency (HCA) to enter into a Master Agreement with Jamboree Housing Corporation for Homekey Program operating services. The Orange County Homekey Program has been designed to operate as temporary interim housing for vulnerable individuals and adult households experiencing homelessness who are impacted by COVID-19 pandemic. The Homekey Program is to operate as interim housing until the site conversion into permanent housing within five years of its current operations. Once converted to permanent housing, the Homekey Program will provide a housing option to persons experiencing homeless and wrap around supportive services and connections to essential community resources to enhance their daily lives.

In support of the Homekey Program, the CalOptima Board of Directors approved a \$2.5 million grant to be used as funding for operations and services on November 5, 2020. CalOptima provided HCA a letter of commitment on November 10, 2020, to support the operating service cost and related outlined activities. As a follow up to the letter of commitment, CalOptima has detailed the grant application process HCA must complete. CalOptima Intergovernmental Transfer Funds (IGT) are transfers of public funds between eligible government entities which are used to draw down matching federal funds for the Medi-Cal program.

The operating and supportive services provided through the Homekey Program will assist participants in developing and enhancing skills that will promote self-sufficiency and assist participants as they work towards permanent housing exit destinations. Homekey Program participants will receive services such as daily life skills groups and educational workshops on topics including community resources, self-sufficiency, housing support, engagement with the community and other skill building groups. Lastly, all participants without health insurance will be encouraged to enroll and get connected to a health provider as well as be screened for behavioral health.

<p>Board Resolution Required? (Please attach document to eForm)</p> <p>Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>
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Recommended Action/Special Instructions
(Please specify below)

1. Authorize Health Care Agency Director or designee to apply for the CalOptima Intergovernmental Transfer Funds in the amount of \$2,500,000 from CalOptima.
2. Authorize the Health Care Agency or designee to accept the grant funds in the amount of \$2,500,000 if awarded and to execute an agreement with CalOptima to use the CalOptima Intergovernmental Transfer Fund in support of Homekey Program operations.

<p>Department Contact:</p> <p>Jason Austin Director of Care Coordination 714-834-5000 jaustin@ochca.com</p>	<p>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</p>
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<p>Name of the individual attending the Board Meeting:</p> <p>Jason Austin</p>	<p>List the name of the individual who will be attending the Board Meeting for this Grant Item:</p>
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**CEO-Legislative Affairs Office
Grant Authorization eForm**

GRANT APPLICATION / GRANT AWARD

Today's Date:	December 7, 2020
Requesting Agency/Department:	Social Services Agency
Grant Name and Project Title:	Project Roomkey and Rehousing Strategy
Sponsoring Organization/Grant Source: <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	State of California Department of Social Services Project Roomkey and Rehousing Strategy
Application Amount Requested:	\$2,286,707
Application Due Date:	November 30, 2020
Board Date when Board Approved this Application:	Not Available
Awarded Funding Amount:	\$2,286,707
Notification Date of Funding Award:	December 1, 2020
Is this an Authorized Retroactive Grant Application/Award? Yes. Retroactive Memo not required per COVID19 Grants Policy. <small>(If yes, attach memo to CEO)</small>	
Recurrence of Grant	New <input checked="" type="checkbox"/> Recurrent <input type="checkbox"/> Other <input type="checkbox"/> Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	Not Applicable
Does this grant require CEQA findings?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
What Type of Grant is this?	Competitive <input type="checkbox"/> Other Type <input checked="" type="checkbox"/> Explain: One-time block grant program.
County Match?	Yes <input type="checkbox"/> Amount: No <input checked="" type="checkbox"/>
How will the County Match be Fulfilled? <small>(Please include the specific budget)</small>	Not Applicable.
Will the grant/program create new part or full-time positions?	No.
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
<p>On June 1, 2020, the State of California Department of Social Services (CDSS) issued an All County Welfare Director Letter (ACWDL) to provide information and guidance regarding the Project Roomkey initiative.</p> <p>On November 16, 2020, Governor Newsom announced \$62 million in one-time State General Fund (GF) from the State's Disaster Response Emergency Operations Account to allow Project Roomkey operations to continue while transitioning participants to permanent housing and for technical assistance. The goal of these funds is to ensure the safety of participants during the ongoing public health emergency and to increase the rate and speed of rehousing placements out of Project Roomkey sites.</p> <p>On November 18, 2020, CDSS issued an ACWDL to inform County Welfare Directors of this funding opportunity. The letter includes a description of emergency funding made available to support both ongoing operations of the statewide Project Roomkey initiative and urgent rehousing services for participants, as well as the allocation to each jurisdiction and application process for the funding. The application process required that County Welfare Directors wishing to accept the fund allocated to their county should complete a Project Roomkey and Rehousing Strategy Certification by November 30, 2020. The County of Orange (County) received an allocation of</p>	



**CEO-Legislative Affairs Office
Grant Authorization eForm**

\$2,286,707 for Fiscal Year 2020-21.

The OC Health Care Agency (HCA) Office of Care Coordination is currently overseeing the implementation of Project Roomkey in Orange County. As such, HCA Office of Care Coordination is coordinating and collaborating with the Social Services Agency (SSA), as the State establishes SSA as the eligible entity to apply for and administer the funding. A Memorandum of Understanding between HCA and SSA will establish the collaborative efforts in meeting the funding objectives in ensuring the safety of individuals experiencing homelessness who are high risk for severe COVID-19 illness and/or COVID-19 positive or symptomatic and to comply with the State obligations.

Given the short timeframe to complete the Project Roomkey and Rehousing Strategy Certification, SSA did not have an opportunity to submit the grant authorization eForm to the Board of Supervisors for approval prior to submitting the required documentation to the State to apply for and accept the funds.

On December 1, 2020, SSA received notice from CDSS that the County's request for Project Roomkey and Rehousing Strategy funding was approved in the amount of \$2,286,707. These funds are available to draw down effective 12/1/20 through June 30, 2021 and must be used to support continued Project Roomkey operations as described in the ACWDL dated June 1, 2020.

Approval of this award for funds will allow for continuity provision of Project Roomkey services and provide a needed resource to the System of Care as the County continues to address homelessness during the COVID-19 pandemic.

Board Resolution Required?

(Please attach document to eForm)

Yes

No

Deputy County Counsel Name:

(Please list the Deputy County Counsel that approved the Resolution)

Recommended Action/Special Instructions

(Please specify below)

1. Authorize the Social Services Agency Director or designee to retroactively apply for the Project Roomkey and Rehousing Strategy allocation in the amount of \$2,286,707 from the State of California Department of Social Services.

2. Authorize the Social Services Agency Director or designee to retroactively accept the grant funds in an allocation amount of \$2,286,707 and to retroactively execute an agreement with the State of California Department of Social Services to administer the Project Roomkey and Rehousing Strategy.

Department Contact:

List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Debra J. Baetz
(714) 541-7773
Debra.Baetz@ssa.ocgov.com

Name of the individual attending the Board Meeting:

List the name of the individual who will be attending the Board Meeting for this Grant Item:

Debra J. Baetz



**CEO-Legislative Affairs Office
Grant Authorization eForm**

GRANT APPLICATION / GRANT AWARD

Today's Date:	December 24, 2020
Requesting Agency/Department:	Social Services Agency
Grant Name and Project Title:	Transitional Housing Program (THP)
Sponsoring Organization/Grant Source: <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	California Department of Housing and Community Development (HCD)
Application Amount Requested:	\$208,000
Application Due Date:	March 31, 2020
Board Date when Board Approved this Application:	March 24, 2020
Awarded Funding Amount:	\$208,000
Notification Date of Funding Award:	December 21, 2020
Is this an Authorized Retroactive Grant Application/Award? No <small>(If yes, attach memo to CEO)</small>	
Recurrence of Grant	New <input checked="" type="checkbox"/> Recurrent <input type="checkbox"/> Other <input type="checkbox"/> Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	N/A
Does this grant require CEQA findings?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
What Type of Grant is this?	Competitive <input type="checkbox"/> Other Type <input checked="" type="checkbox"/> Explain: Allocated funds defined by HCD.
County Match?	Yes <input type="checkbox"/> Amount _____ or ___100___ % No <input checked="" type="checkbox"/>
How will the County Match be Fulfilled? <small>(Please include the specific budget)</small>	N/A
Will the grant/program create new part or full-time positions?	No.
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
<p>Pursuant to item 2240-102-0001 of Section 2.00 of the Budget Act of 2019 (Chapter 23 of the Statutes of 2019) and Chapter 11.7 (commencing with Section 50807) of Part 2 of Division 31 of the Health and Safety Code (HSC), the Department of Housing and Community Development (HCD) shall allocate \$8 million in funding to counties for the purpose of housing stability to help young adults 18 to 25 years secure and maintain housing, with priority given to young adults formerly in the foster care or probation systems.</p> <p>Pursuant to Section 50807(b) of the HSC, HCD consulted with the Department of Social Services, the Department of Finance, and the County Welfare Directors Association to develop a formula allocation schedule for the purpose of distributing these funds to counties. The allocation is based on each county's percentage of the total statewide number of young adults aged 18 to 25 years in foster care. The allocation excludes Alpine and Sierra county because their calculation did not demonstrate a need for young adults aged 18 to 25. Orange County's estimated allocation is \$208,000, which could increase if other counties choose not to apply for their allocation which would then be distributed to applying counties based on the established allocation methodology.</p>	



**CEO-Legislative Affairs Office
Grant Authorization eForm**

Funds shall be used to help young adults who are 18 to 25 years of age secure and maintain housing.

Use of funds may include, but are not limited to:

- 1) Identify and assist housing services for this population in your community;
- 2) Assist this population to secure and maintain housing (with priority given to those in the state's foster care or probation system);
- 3) Improve coordination of services and linkages to community resources within the child welfare system and the Homeless Continuum of Care; and
- 4) Provide engagement in outreach and targeting to serve those with the most severe needs.

Board Resolution Required?

(Please attach document to eForm)

Yes

No

Deputy County Counsel Name:

(Please list the Deputy County Counsel that approved the Resolution)

Recommended Action/Special Instructions

(Please specify below)

Authorize the Social Services Agency Director or designee to accept the grant funds for the Transitional Housing Program allocation in the estimated amount of \$208,000 and to execute an Agreement with the State of California Department of Housing and Community Development to administer the THP funds, including augmentations to the estimated allocation amount of \$208,000.

Department Contact:

List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Ken Santini, (714) 245-6109, Ken.Santini@ssa.ocgov.com

Name of the individual attending the Board Meeting:

List the name of the individual who will be attending the Board Meeting for this Grant Item:

Debra J. Baetz



**CEO-Legislative Affairs Office
Grant Authorization eForm**

GRANT APPLICATION / GRANT AWARD

Today's Date:	12/31/2020
Requesting Agency/Department:	County Executive Office/Budget Office
Grant Name and Project Title:	County Victim Services (XC) Program
Sponsoring Organization/Grant Source: <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	California Governor's Office of Emergency Services (Cal-OES)
Application Amount Requested:	\$842,126
Application Due Date:	October 1, 2020
Board Date when Board Approved this Application:	September 15, 2020
Awarded Funding Amount:	\$842,126
Notification Date of Funding Award:	December 31, 2020
Is this an Authorized Retroactive Grant Application/Award? <small>(If yes, attach memo to CEO)</small>	
Recurrence of Grant	New <input type="checkbox"/> Recurrent <input checked="" type="checkbox"/> Other <input type="checkbox"/> Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	Explain: The amount is pre-determined by Cal-OES for each County. Prior awards include: \$2,262,560 (7/1/16-6/30/18); \$1,643,487 (7/1/18- 12/31/19); \$827,772 (1/1/20-12/31/20)
Does this grant require CEQA findings?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
What Type of Grant is this?	Competitive <input type="checkbox"/> Other Type <input checked="" type="checkbox"/> Explain: Non-competitive.
County Match?	Yes <input checked="" type="checkbox"/> Amount \$210,532 or __20__ % No <input type="checkbox"/>
How will the County Match be Fulfilled? <small>(Please include the specific budget)</small>	The match totaling \$210,532 will be met with the use of in-kind services provided by volunteers through the contracted providers.
Will the grant/program create new part or full-time positions?	No new positions are needed.
Purpose of Grant Funds:	Provide a summary and brief background on why the Board of Supervisors should accept this grant application/award, and how the grant will be implemented.
<p>Grant funds will be used to continue to address the gaps or needs of the victims of crimes as identified by the mandated steering committee, which met in September 2020. The main purpose is to support eligible crime victim assistance programs that 1) respond to the emotional and physical needs of crime victims; 2) help primary and secondary victims of crimes to stabilize their lives after a victimization; 3) help victims to understand and participate in the criminal justice system; and 4) provide victim with a measure of safety and security.</p> <p>Grant funds will be allocated to contract community-based organizations and qualified expenditures in the Social Services Agency and Health Care Agency to address the gaps identified in the following areas: 1) Supporting Survivors; 2) Increased access to supporting services; 3) Increased access for advocacy services; and 4) Emergency Housing Assistance.</p> <p>Volunteers and in-kind services will fulfill the match requirement.</p>	



CEO-Legislative Affairs Office Grant Authorization eForm

Board Resolution Required? (Please attach document to eForm)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)		
Recommended Action/Special Instructions (Please specify below)		
Authorize the CFO, or her designee, to accept any additional funds from this grant should they become available.		
Department Contact :	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.	
Kim Engelby kimberly.engelby@ocgov.com (714) 834-7487		
Name of the individual attending the Board Meeting:	List the name of the individual who will be attending the Board Meeting for this Grant Item:	
Kim Engelby, 834-7487 kimberly.engelby@ocgov.com		



**CEO-Legislative Affairs Office
Grant Authorization eForm**

GRANT APPLICATION / GRANT AWARD

Today's Date:	December 23, 2020																		
Requesting Agency/Department:	OC Community Resources/Orange County Housing Authority																		
Grant Name and Project Title:	2020 Family Self-Sufficiency Coordinators Grant Award																		
Sponsoring Organization/Grant Source: <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	United States Department of Housing and Urban Development																		
Application Amount Requested:	\$288,000																		
Application Due Date:	August 20, 2020																		
Board Date when Board Approved this Application:	May 5, 2020																		
Awarded Funding Amount:	\$288,000																		
Notification Date of Funding Award:	December 21, 2020																		
Is this an Authorized Retroactive Grant Application/Award? No <small>(If yes, attach memo to CEO)</small>																			
Recurrence of Grant	New <input type="checkbox"/> Recurrent <input checked="" type="checkbox"/> Other <input type="checkbox"/> Explain:																		
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	<table border="1"> <thead> <tr> <th>Amount Applied</th> <th>Amount Awarded</th> <th>Year Awarded</th> </tr> </thead> <tbody> <tr> <td align="center">\$288,000</td> <td align="center">\$288,000</td> <td align="center">2019</td> </tr> <tr> <td align="center">\$263,507</td> <td align="center">\$263,507</td> <td align="center">2018</td> </tr> <tr> <td align="center">\$288,000</td> <td align="center">\$263,507</td> <td align="center">2017</td> </tr> <tr> <td align="center">\$259,960</td> <td align="center">\$259,960</td> <td align="center">2016</td> </tr> <tr> <td align="center">\$454,930</td> <td align="center">\$259,960</td> <td align="center">2015</td> </tr> </tbody> </table>	Amount Applied	Amount Awarded	Year Awarded	\$288,000	\$288,000	2019	\$263,507	\$263,507	2018	\$288,000	\$263,507	2017	\$259,960	\$259,960	2016	\$454,930	\$259,960	2015
	Amount Applied	Amount Awarded	Year Awarded																
	\$288,000	\$288,000	2019																
	\$263,507	\$263,507	2018																
	\$288,000	\$263,507	2017																
\$259,960	\$259,960	2016																	
\$454,930	\$259,960	2015																	
Does this grant require CEQA findings?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>																		
What Type of Grant is this?	Competitive <input checked="" type="checkbox"/> Other Type <input type="checkbox"/> Explain:																		
County Match?	Yes <input type="checkbox"/> Amount _____ or _____ % No <input checked="" type="checkbox"/>																		
How will the County Match be Fulfilled? <small>(Please include the specific budget)</small>	Not applicable																		
Will the grant/program create new part or full-time positions?	No New Positions																		
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.																		

On December 21, 2020, Orange County Housing Authority (OCHA) received notification of funding from the United States Department of Housing and Urban Development (HUD) in the amount of \$288,000 for the Family Self-Sufficiency (FSS) Program. The funds provided by HUD under the FSS Program are restricted to paying the salary and benefits for FSS Coordinators.

OCHA's FSS Coordinators provide critical tools that are utilized by Housing Choice Voucher FSS participants to access services and training needed to help increase their income, build assets through an escrow savings account and prepare for homeownership. Their achievements are intended to lead to self-sufficiency and eliminate dependency on public assistance.

In calendar year 2020, 118 of 193 FSS participant households had escrow savings accounts (61%). 13 households graduated from the FSS Program working full-time and received escrow from their escrow savings accounts totaling \$181,140. Authorizing acceptance of these funds will provide OCHA the funding necessary to continue to administer the FSS Program.



**CEO-Legislative Affairs Office
Grant Authorization eForm**

Board Resolution Required? (Please attach document to eForm)		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)		N/A	
Recommended Action/Special Instructions (Please specify below)			
Authorize the OC Community Resources Director or designee to sign documents applicable to this award accept the grant funds and administer the FSS Program utilizing said funds. No Board Resolution is required to accept the grant award.			
Department Contact:		List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.	
Julia Bidwell - (714) 480-2991 julia.bidwell@occr.ocgov.com			
Name of the individual attending the Board Meeting:		List the name of the individual who will be attending the Board Meeting for this Grant Item:	
Julia Bidwell - (714) 480-2991 julia.bidwell@occr.ocgov.com			



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Grant Authorization eForm**

Board Resolution Required? (Please attach document to eForm)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)	N/A	
Recommended Action/Special Instructions (Please specify below)		
1. Authorize the OC Community Director or designee to apply for the National Endowment for the Humanities (NEH) Sustaining Cultural Heritage Collections Grant and to sign all documents required for participation in the program including the Grant Agreement as reviewed and approved as to form by County Counsel.		
Department Contact :	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.	
Sue McIntire, OC Parks Grants Manager- (714) 478-3421; sue.mcintire@ocparks.com		
Name of the individual attending the Board Meeting:	List the name of the individual who will be attending the Board Meeting for this Grant Item:	
Stacy Blackwood, OC Parks Director or designee		



**CEO-Legislative Affairs Office
Grant Authorization eForm**

GRANT APPLICATION / GRANT AWARD

Today's Date:	December 9, 2020
Requesting Agency/Department:	Sheriff-Coroner Department
Grant Name and Project Title:	Surrendered and Abandoned Vessel Exchange (SAVE) Grant
Sponsoring Organization/Grant Source: <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	State of California, Division of Boating and Waterways
Application Amount Requested:	\$50,000
Application Due Date:	April 30, 2020
Board Date when Board Approved this Application:	March 24, 2020
Awarded Funding Amount:	\$50,000
Notification Date of Funding Award:	October 10, 2020
Is this an Authorized Retroactive Grant Application/Award? No <small>(If yes, attach memo to CEO)</small>	
Recurrence of Grant	New <input type="checkbox"/> Recurrent <input checked="" type="checkbox"/> Other <input type="checkbox"/> Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	The Sheriff-Coroner Department (Sheriff), Harbor Patrol unit was awarded Vessel Turn-In Program (VTIP) Grant funds and Abandoned Watercraft Abatement Fund Grant funds by the State of California Department of Parks and Recreation, Boating and Waterways Division in 2014, in the amount of \$5,000 and \$25,000, respectively. Now, two grants (VTIP and the Abandoned Watercraft Abatement Fund) have been combined into one (SAVE). Sheriff was awarded \$40,000 in FY 2018-19 for a two-year cycle.
Does this grant require CEQA findings?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
What Type of Grant is this?	Competitive <input checked="" type="checkbox"/> Other Type <input type="checkbox"/> Explain:
County Match?	Yes <input checked="" type="checkbox"/> 10% or \$ 5,000 (Cash or in-kind) No <input type="checkbox"/>
How will the County Match be Fulfilled? <small>(Please include the specific budget)</small>	The contribution may be rendered in cash or through in-kind contributions. The contributions may include the following: · Personnel hours (verifiable base net hourly rates only) · Excess expenses above and beyond the grant amount (\$50,000) such as storage, removal, etc.
Will the grant/program create new part or full-time positions?	N/A
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
The Surrendered and Abandoned Vessel Exchange (SAVE) program combines the Abandoned Watercraft Abatement Fund (AWAF) and the Vessel Turn-In Program (VTIP) grants into one. The AWAF and VTIP are grant programs designed to remove, reduce and prevent abandoned recreational vessels and marine debris. Administered by the California State Parks Division of Boating and	



CEO-Legislative Affairs Office Grant Authorization eForm

Waterways, grants are awarded annually to qualified public agencies statewide. The AWAFF and VTIP, enacted in 1998 and 2010 respectively, have provided millions of dollars in grants statewide, and have enabled the removal of thousands of vessels and marine debris.

The proactive VTIP grant was created as a solution to prevent abandoned vessels before they happen. By providing an easy and free alternative for boat owners to surrender an unwanted vessel to a participating agency in lieu of abandonment, this program eliminates the expensive, difficult and time consuming adjudication and removal process that abandoned vessels often require. The VTIP also works to safeguard public and boater safety by preventing the risk of harmful water hazards, and provides for the protection of the environment by preventing discharges of oils, gas, sewage and other toxic pollutants that may leak from an abandoned vessel into the waterways and fragile habitats.

The City of Newport has been covering the cost of abandoned vessels, but has recently taken on more responsibility. With that, the City of Newport requires more of its available funding to cover its current responsibilities and that the County will need funding to cover the cost of removing some of the abandoned vessels. The \$50,000, in SAVE grant funding from the Division of Boating and Waterways will cover the County's cost for removing abandoned vessels. An in-kind or cash match of 10% is required for this grant. The Sheriff-Coroner Department (Sheriff) plans to use 060 funding and/or in-kind activities for the required match. Successful applicants will be funded for a two-year cycle, with the first year commencing October 1, 2020, and ending on September 30, 2022. There will be no change in net General Fund cost and no additional staff.

Board Resolution Required?

(Please attach document to eForm)

Yes

No

Deputy County Counsel Name:

(Please list the Deputy County Counsel that approved the Resolution)

Wendy J. Phillips, Senior Deputy County Counsel, approved the resolution.

Recommended Action/Special Instructions

(Please specify below)

Authorize the Sheriff-Coroner, or designee, to sign all necessary application documents required for the acceptance of the application and supporting documentation to the Division of Boating and Waterways. Sheriff also requests approval of a grant resolution addressing the requirements of the grant.

Department Contact :

List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Karla Lazaridis, Administrative Manager II
Financial Operations Manager
KLazaridis@ocsd.org
714-834-6675

Name of the individual attending the Board Meeting:

List the name of the individual who will be attending the Board Meeting for this Grant Item:

Karla Lazaridis

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

January 12, 2021

Resolution NO. -

A RESOLUTION TO ACCEPT GRANT FUNDS FROM THE
CALIFORNIA DEPARTMENT OF PARKS AND RECREATION,
DIVISION OF BOATING AND WATERWAYS, FOR BOATING
SAFETY AND ENFORCEMENT EQUIPMENT

WHEREAS, the County of Orange, Sheriff-Coroner, applied to the California Department of Parks and Recreation, Division of Boating and Waterways, for abandoned watercraft abatement funds for the **Sheriff-Coroner of the County of Orange**; and

WHEREAS, the California Department of Parks and Recreation, Division of Boating and Waterways, has approved **Sheriff-Coroner of the County of Orange** to receive **\$50,000** in abandoned watercraft abatement funds and now requires a resolution accepting these grant funds.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the **County of Orange** as follows:

Sheriff-Coroner Don Barnes is hereby authorized to accept a California Department of Parks and Recreation, Division of Boating and Waterways, grant in the amount of \$50,000 for abandoned watercraft abatement funds on behalf of the **Sheriff-Coroner of the County of Orange**, a public entity established under the laws of the State of California.

BE IT FURTHER RESOLVED, the following positions are authorized to execute, on behalf of the County of Orange, all documents necessary to accept the grant:

- Sheriff-Coroner
- Undersheriff
- Assistant Sheriff
- Executive Director
- Captain
- Administrative Manager

BE IT FURTHER RESOLVED, to Authorize the positions mentioned above to execute, on behalf of the County of Orange, any future documents with the California Department of Parks and Recreation, Division of Boating and Waterways, if those actions do not materially change the terms or amounts of the County's commitment as it is reflected in all above-referenced grant application and assurances.

BE IT FURTHER RESOLVED that this Board will not provide matching grant funds.



**CEO-Legislative Affairs Office
Grant Authorization eForm**

GRANT APPLICATION / **GRANT AWARD**

Today's Date:	December 09, 2020		
Requesting Agency/Department:	Orange County Sheriff-Coroner Department		
Grant Name and Project Title:	Selective Traffic Enforcement Program (STEP) Grant (CFDA#20.600, CFDA#20.616, CFDA#20.608)		
Sponsoring Organization/Grant Source: <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	State of California Office of Traffic Safety		
Application Amount Requested:	\$800,000		
Application Due Date:	January 31, 2021		
Board Date when Board Approved this Application:			
Awarded Funding Amount:			
Notification Date of Funding Award:			
Is this an Authorized Retroactive Grant Application/Award? <small>(If yes, attach memo to CEO)</small>			
Recurrence of Grant	New <input type="checkbox"/>	Recurrent <input checked="" type="checkbox"/>	Other <input type="checkbox"/> Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	Grant Term		Amount
	10/01/14 – 09/30/15		\$330,620
	10/01/15 – 09/30/16		\$424,328
	10/01/16 – 09/30/17		\$510,000
	10/01/17 – 09/30/18		\$521,000
	10/01/18 – 09/30/19		\$350,000
	10/01/19 – 09/30/20		\$394,000
	10/01/20 – 09/30/21		\$450,370
Does this grant require CEQA findings?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
What Type of Grant is this?	Competitive <input checked="" type="checkbox"/>	Other Type <input type="checkbox"/> Explain:	
County Match?	Yes <input type="checkbox"/> Amount _____ or _____ %	No <input checked="" type="checkbox"/>	
How will the County Match be Fulfilled? <small>(Please include the specific budget)</small>	N/A		
Will the grant/program create new part or full-time positions?	No		
Purpose of Grant Funds:	Provide a summary and brief background on why the Board of Supervisors should accept this grant application/award, and how the grant will be implemented.		
<p>The Selective Traffic Enforcement Program grant are funds intended to reduce the number of persons killed and injured in crashes involving alcohol, speed, red light running, and other primary collision factors. "Best practice" strategies, such as DUI saturation patrols to apprehend drunk drivers, warrant service operations targeting DUI violators who failed to appear in court or who violate probation, stakeouts, and court stings, may be utilized. Efforts may also target reducing speed, aggressive driving, seat belt enforcement, intersection operations with disproportionate numbers of traffic crashes, and special enforcement operations encouraging motorcycle safety. Increased DUI enforcement and an intensive media campaign will be conducted on a county-wide basis. Participating law enforcement agencies throughout the county, including the Alcohol Beverage Control and the California Highway Patrol, will conduct DUI enforcement activities during both summer and winter holidays, Memorial Day, Fourth of July weekend, and other special events with identified DUI problems. Activities include DUI checkpoints, DUI situational patrols, multi-agency DUI task force operations, warrant/probation sweeps and court sting operations for repeat DUI offenders. These strategies enhance media attention to provide an overall deterrent effect. These grant-funded program activities will work in concert to assist law enforcement in their ongoing efforts to increase public</p>			



**CEO-Legislative Affairs Office
Grant Authorization eForm**

<p>safety.</p> <p>The grant period is October 1, 2021 through September 30, 2022.</p> <p>The Sheriff plans to return to the Board with a request to accept funding, if the grant application is accepted.</p>	
<p>Board Resolution Required? (Please attach document to eForm)</p> <p>Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>
<p>Recommended Action/Special Instructions (Please specify below)</p> <p>Authorize the Sheriff-Coroner, or designee, to sign all necessary application documents required for the submission of the application and supporting documentation to the State of California Office of Traffic Safety.</p> <p>Nicole Sims, Supervising Deputy County Counsel, has reviewed and approved the application.</p>	
<p>Department Contact :</p>	<p>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</p>
<p>Karla Lazaridis, Administrative Manager II Financial Operations Manager KLazaridis@ocsd.org 714-834-6675</p>	
<p>Name of the individual attending the Board Meeting:</p>	<p>List the name of the individual who will be attending the Board Meeting for this Grant Item:</p>
<p>Sergeant Brent Jasper</p>	



**CEO-Legislative Affairs Office
Grant Authorization eForm**

GRANT APPLICATION / **GRANT AWARD**

Today's Date:	1/5/2021
Requesting Agency/Department:	Sheriff-Coroner Department
Grant Name and Project Title:	Homeland Security Grant Program, CDFA 97.067
Sponsoring Organization/Grant Source: <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	Department of Homeland Security; California Office of Emergency Services
Application Amount Requested:	\$3,380,749
Application Due Date:	January 31, 2021
Board Date when Board Approved this Application:	
Awarded Funding Amount:	\$3,380,749
Notification Date of Funding Award:	
Is this an Authorized Retroactive Grant Application/Award? No <small>(If yes, attach memo to CEO)</small>	
Recurrence of Grant	New <input type="checkbox"/> Recurrent <input checked="" type="checkbox"/> Other <input type="checkbox"/> Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	See below.
Does this grant require CEQA findings?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
What Type of Grant is this?	Competitive <input checked="" type="checkbox"/> Other Type <input type="checkbox"/> Explain:
County Match?	Yes <input type="checkbox"/> Amount _____ or % No <input checked="" type="checkbox"/>
How will the County Match be Fulfilled? <small>(Please include the specific budget)</small>	N/A
Will the grant/program create new part or full-time positions?	N/A
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
<p>The Homeland Security Grant Program includes the State Homeland Security Program (SHSP) and the Urban Area Security Initiative (UASI), and is intended to provide grant funding to assist state and local governments in obtaining the resources required to support the National Preparedness Goal's. This grant funding supports the implementation of State Homeland Security Strategies to address the identified planning, organization, equipment, training, and exercise needs in order to prevent, protect against, mitigate, respond to, and recover from acts of terrorism.</p> <p>The Homeland Security Grant Program supports the implementation of risk driven, capabilities-based strategies to address capability targets documented in the Threat and Hazard Identification and Risk Assessments (THIRA). The capability targets are established during the THIRA process, and assessed in the State Preparedness Report (SPR). The SPR identifies gaps in planning, organization, equipment, training and exercises, needed to prevent, protect against, mitigate, respond to, and recover from acts of terrorism.</p>	



**CEO-Legislative Affairs Office
Grant Authorization eForm**

A Board of Supervisors Resolution is required to appoint an agent authorized to execute any actions necessary for the submission of the application and supporting documentation. Wendy Phillips, County Counsel, has reviewed and approved the attached draft Board Resolution.

Department Contact :

List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Lieutenant Charlie Walters
714-349-9118
clwaters@ocsd.org

Name of the individual attending the Board Meeting:

List the name of the individual who will be attending the Board Meeting for this Grant Item:

Luis Ramirez, Administrative Manager I
714-834-6795
luramirez@ocsd.org

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

January 12, 2021

WHEREAS, the United States Department of Homeland Security, through the California Office of Emergency Services, is providing FY2020 Homeland Security Grant Program funding to local Operational Areas to prevent, protect against, mitigate, respond to, and recover from acts of terrorism and other catastrophic events;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby:

1. Authorize the following positions to execute, on behalf of the County of Orange, all documents necessary for the FY20 Homeland Security Grant Program Administration and grant assurances;
 - Sheriff-Coroner
 - Undersheriff
 - Assistant Sheriff
 - Executive Director
2. Authorize the day to day administration of the FY20 Homeland Security Grant Program which includes the State Homeland Security Program (SHSP) in the amount of \$3,380,749;
3. Authorize the positions mentioned above to execute, on behalf of the County of Orange, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining federal financial assistance provided by the United States Department of Homeland Security and sub-granted through the State of California, if those actions do not materially change the terms or amounts of the County's commitment as it is reflected in the above-referenced grant application and assurances.

BE IT FURTHER RESOLVED that this Board will not provide specific matching funds



CEO-Legislative Affairs Office Grant Authorization eForm

Attachment A

Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)	Nicole Sims, Supervising Deputy County Counsel, reviewed the grant requirements.
Recommended Action/Special Instructions (Please specify below)	
Request authorization to apply for the Drug Prevalence in DUI Drivers Grant in the amount of \$476,000 Resolution not required for this grant.	
Department Contact :	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.
Matthew Nixt, mnixt@occl.ocgov.com , 714-834-6341	
Name of the individual attending the Board Meeting:	List the name of the individual who will be attending the Board Meeting for this Grant Item:
Bruce Houlihan, Director	



Continuation or Deletion Request

Date: January 6, 2021
To: Clerk of the Board of Supervisors
From: Executive Director Brian Wayt *BW*
Re: ASR Control #: 20-000713, Meeting Date 01/12/21 Agenda Item No. # 43
Subject: Approve New Business License Fees

Request to continue Agenda Item No. # _____ to the _____ Board Meeting.

Comments:

Request deletion of Agenda Item No. # 43

Comments: Please delete ASR Number 20-000713 for approval of new business license fees.

RECEIVED
2021 JAN -6 PM 2:45
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS



MEMORANDUM

RECEIVED
2021 JAN -4 PM 12:15
BOARD OF SUPERVISORS

Date: January 4, 2021
To: Robin Stieler, Clerk of the Board
From: Vice Chairman Andrew Do, Supervisor 1st District
Subject: Board Ratification of Special Election to Fill Vacancy in Office of County Supervisor, Second District

S42A

On January 3, 2021, the Office of the Second District Supervisor became vacant. Section 1-2-10, subdivision (a)(1), of the Codified Ordinances of Orange County requires Board ratification of the Chair, or in the event of the Chair's unavailability, Vice-Chair's decision to call a special election. Accordingly, please add a supplemental item of business to the January 12, 2021 Board meeting agenda.

The title of the supplemental agenda item should read:

Vice Chairman Do – In accordance with Section 1-2-10, subdivision (a)(1), of the Codified Ordinances of Orange County, ratify decision of the Vice Chairman of the Board of Supervisors to call a special election to fill the vacancy in the Office of County Supervisor, Second District and setting March 9, 2021 as the date of the special election.

Cc: Members of the Board of Supervisors
Frank Kim, CEO
Leon J. Page, County Counsel



542B

MEMORANDUM

Date: January 7, 2021
To: Robin Stieler, Clerk of the Board
From: Don Wagner, Supervisor 3rd District *In April for DW*
Subject: [REVISED] Direction to Airport Director to amend and execute amended *Fixed Base Operator (FBO) leases* ~~a revised lease with ACI Jet~~

On January 3, 2021, the United States District Court, Judge Josephine L. Staton, issued a Temporary Restraining Order (TRO) stating, in pertinent part:

“Defendants [County of Orange and Airport Director Barry Rondinella] are enjoined and prohibited from enforcing the lease restriction in the ACI Jet FBO lease effective January 1, 2021, specifically: “LESSEE shall not permit the operation of a Regularly Scheduled Commercial User as defined in section 2.40 of John Wayne Airport’s Phase 2 Commercial Airline Access Plan and Regulation, as may be amended from time to time.” Defendants shall promptly take such further actions to ensure their employees, agents, and all other concerned be provided with a copy of this Order and informed that the aforementioned FBO lease provision shall not be enforced with respect to ACI Jet.”

A copy of the TRO is attached. In light of the TRO, please add a supplemental item to the January 12, 2021, Board meeting agenda. The title of the item should read:

“Direct Airport Director to amend and execute a revised Fixed Base Operator (FBO) ~~lease leases with ACI Jet and the County of Orange Aviation Consultants, Inc. doing business as ACI Jet, Clay Lacy Aviation, Inc., and Jay’s Aircraft Maintenance, Inc.,~~ deleting the following language: “LESSEE shall not permit the operation of a Regularly Scheduled Commercial User as defined in section 2.40 of John Wayne Airport’s Phase 2 Commercial Airline Access Plan and Regulation, as may be amended from time to time.”

Thank you.

Cc: Members of the Board of Supervisors
Frank Kim, CEO
Leon J. Page, County Counsel

RECEIVED
2021 JAN - 7 AM 10:53
CLERK OF SUPERVISORS
BOARD OF SUPERVISORS



RECEIVED
MEMORANDUM

2021 JAN -5 PM 12:53

Date: January 5, 2021
To: Robin Stieler, Clerk of the Board
From: Don Wagner, Supervisor 3rd District
Subject: Direction to Airport Director to amend and execute a revised lease with ACI Jet

On January 3, 2021, the United States District Court, Judge Josephine L. Staton, issued a Temporary Restraining Order (TRO) stating, in pertinent part:

“Defendants [County of Orange and Airport Director Barry Rondinella] are enjoined and prohibited from enforcing the lease restriction in the ACI Jet FBO lease effective January 1, 2021, specifically: “LESSEE shall not permit the operation of a Regularly Scheduled Commercial User as defined in section 2.40 of John Wayne Airport’s Phase 2 Commercial Airline Access Plan and Regulation, as may be amended from time to time.” Defendants shall promptly take such further actions to ensure their employees, agents, and all other concerned be provided with a copy of this Order and informed that the aforementioned FBO lease provision shall not be enforced with respect to ACI Jet.”

A copy of the TRO is attached. In light of the TRO, please add a supplemental item to the January 12, 2021, Board meeting agenda. The title of the item should read:

“Direct Airport Director to amend and execute a revised Fixed Base Operator (FBO) lease with ACI Jet and the County of Orange deleting the following language: “LESSEE shall not permit the operation of a Regularly Scheduled Commercial User as defined in section 2.40 of John Wayne Airport’s Phase 2 Commercial Airline Access Plan and Regulation, as may be amended from time to time.”

Thank you.

Cc: Members of the Board of Supervisors
 Frank Kim, CEO
 Leon J. Page, County Counsel

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

DELUX PUBLIC CHARTER LLC D/B/A
JSX AIR AND JETSUITEX, INC.,

Plaintiffs,

v.

COUNTY OF ORANGE, CALIFORNIA, a
charter county; BARRY RONDINELLA in his
official capacity as Airport Director of John
Wayne Airport,

Defendants.

Case No. 8:20-cv-2344-JLS-KES

**TEMPORARY RESTRAINING
ORDER; FINDINGS OF FACT AND
CONCLUSIONS OF LAW RE SAME**

Honorable Josephine L. Staton

Upon consideration of Plaintiffs’ Application for Temporary Restraining Order (Doc. 6) and the entire record herein, including the hearing held on December 23, 2020, it is hereby ORDERED that Plaintiffs’ Application for a Temporary Restraining Order is GRANTED and a TEMPORARY RESTRAINING ORDER IS ISSUED AS FOLLOWS:

1 Defendants are enjoined and prohibited from enforcing the lease
2 restriction in the ACI Jet FBO lease effective January 1, 2021,
3 specifically: “LESSEE shall not permit the operation of a Regularly
4 Scheduled Commercial User as defined in section 2.40 of John Wayne
5 Airport’s Phase 2 Commercial Airline Access Plan and Regulation, as
6 may be amended from time to time.” Defendants shall promptly take
7 such further actions to ensure their employees, agents, and all other
concerned be provided with a copy of this Order and informed that the
aforementioned FBO lease provision shall not be enforced with respect
to ACI Jet.

8 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

9 The Court carefully considered the standard applicable to temporary
10 restraining orders, which is the same as required for a preliminary injunction. *See*
11 *Stuhlberg Intern. Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th
12 Cir. 2001). The standard requires Plaintiffs to demonstrate: (1) a likelihood of
13 success on the merits; (2) irreparable harm; (3) that injunctive relief is in the public
14 interest; and (4) that a balance of the equities support injunctive relief. *Winter v. Nat.*
15 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Here, the third and fourth factors
16 combine because the County is a defendant. *Drakes Bay Oyster Co. v. Jewell*, 747
17 F.3d 1073, 1092 (9th Cir. 2014).

18 **1. Likelihood of Success on the Merits.**

19 JSX argues that (1) the County’s Lease Restriction is preempted by federal law
20 because it violates the Airline Deregulation Act (“ADA”) and Airport Noise and
21 Capacity Act (“ANCA”), and (2) the Restriction violates the Equal Protection
22 Clause.¹

23 Under ANCA, an “airport noise or access restriction on the operation of stage
24 3 aircraft” (which is what JSX operates) can be implemented “only if the restriction
25 has been agreed to by the airport proprietor and all aircraft operators or has been
26 submitted to and approved by the Secretary of Transportation after an airport or
27

28 ¹ Because the Court finds that JSX’s claims under the ADA and ANCA have merit, it declines to
address the Equal Protection claim.

1 aircraft operator's request for approval as provided by the program established under
2 this section." 49 U.S.C. § 47524(c)(1). And under the ADA, "a State [or a] political
3 subdivision of a State . . . may not enact or enforce a law, regulation, or other
4 provision having the force and effect of law related to a price, route, or service of an
5 air carrier[.]" 49 U.S.C. § 41713(b)(1).

6 As to JSX's ANCA claim, the County does not refute that it did not follow the
7 procedures established by ANCA. Rather, it argues that the County did not violate
8 ANCA because "the County did not adopt any rule or restriction affecting JSX's
9 access to JWA"—it "merely memorializ[ed] the wishes and proposal of the FBO in
10 the lease." (Opp'n at 9, Doc. 12, citing 49 U.S.C. § 47524(c)(1). The County makes
11 a similar argument in opposition to JSX's ADA claim: "the County has not enacted
12 a ban or moratorium on passenger service . . . [n]or did the County attempt to interfere
13 with JSX's ability to serve its customers or maintain its current routes. Instead, the
14 County honored the decision of [the FBO] to cease providing space and amenities to
15 JSX." (Opp'n at 13). In other words, the County's opposition to both claims rests
16 primarily on its argument that Aviation Consultants, Inc. ("ACI Jet"), not the County,
17 made the decision to stop providing space for JSX's operation.²

18 However, for reasons stated more fully on the record, the Court is unpersuaded
19 that the Lease Restriction was not an action by the County aimed at restricting JSX's
20 access to John Wayne Airport. Specifically, based on the facts presented in both

21
22 ² When directly asked whether the County had any other argument in opposition to the
23 merits of JSX's claims under the *law*—were the Court to disagree with the County's
24 factual argument that the lease restriction was the business decision of a third party—the
25 County reiterated its position that the County merely memorialized ACI Jet's proposal.
26 When pressed further, counsel for the County argued that "under ANCA, I do not think
27 there is any evidence that [the lease restriction] . . . [is] aimed at regulating noise in the
28 airport." But ANCA applies to both "noise *and* access restrictions"; the term "restriction"
under ANCA includes not only noise restrictions, but also "any other restriction on stage 3
aircraft." 49 U.S.C.A. § 47524(c)(1). The Court is therefore unpersuaded that the Lease
Restriction is not subject to ANCA's procedures. Moreover, the County made no
additional legal argument in opposition to Defendant's ADA claim other than what was
presented in its papers. (*See id.*)

1 parties' submissions and through witness testimony during the hearing, the Court
2 makes the following factual findings:

- 3 a. It was the County's decision, not ACI Jet's, to include the restrictive term
4 in the 35-year fixed base operator ("FBO") lease between ACI Jet and the
5 County.
- 6 b. The effect of this restriction is to foreclose JSX's access to John Wayne
7 Airport because the routes that it flies today include airports that do not
8 have a Security Identification Display Area ("SIDA") site.
- 9 c. Defendants have not proffered a valid nondiscriminatory reason for the
10 decision to exclude JSX from continuing its operations at John Wayne
11 Airport.
- 12 d. ACI Jet's "business decision" to exclude JSX was made because it
13 believed that it would lose the bid process for a 35-year FBO lease if it
14 indicated that it wanted to serve Plaintiffs.
- 15 e. At the hearing, ACI Jet's President, William Borgsmiller, was called to
16 testify. The Court watched his demeanor while testifying, considered his
17 responses, listened to the manner in which he testified, reviewed all three
18 of his declarations, and reviewed the video clip in which he explained to
19 his own colleagues why he removed JSX from the proposal during the bid
20 process with the County when ACI Jet was trying to win the lease at John
21 Wayne Airport. The Court finds, based on the foregoing, that
22 Mr. Borgsmiller believed that ACI Jet would not be awarded the lease by
23 the County if he indicated that he planned to serve JSX in 2021 or beyond.
24 This led Mr. Borgsmiller to change his answer to Question 3 in the lease
25 application.
- 26 f. The Court finds most credible those recorded statements made by
27 Mr. Borgsmiller outside of the context of this litigation, when he explained
28 at an ACI Jet board meeting that "there is no way we [ACI Jet] were going

1 to win if they [JSX] was in the proposal.” “Winning” in that context clearly
2 meant getting County approval.

3 g. The Court finds that Mr. Borgsmiller’s later-stated reasons for changing
4 ACI Jet’s answer to Question 3 were both vague and lacking in credibility.

5 Based on the foregoing, the Court concludes that Plaintiffs are likely to
6 succeed in showing that the County failed to comply with ANCA and the ADA when
7 it inserted a “non-negotiable” Lease Restriction into ACI Jet’s lease, effectively
8 foreclosing JSX’s access to John Wayne Airport.

9 **2. Irreparable Harm**

10 Based on the entire record, the Court finds that Plaintiffs will suffer irreparable
11 harm if the County’s mandatory lease term (found in Section 5.01 of the ACI Jet FBO
12 lease) prohibiting JSX’s operations at the ACI Jet FBO is not enjoined.

13 a. The Court finds that the Lease Restriction would have a severe impact
14 on Plaintiffs’ business, including negatively affecting its goodwill and
15 business relationships.

16 b. The County argued that JSX should have mitigated its injury by ceasing
17 the sale of tickets for flights after January 1, 2021. However, that action
18 would not mitigate the business harm to JSX. The loss of ticket sales is
19 the harm JSX seeks to avoid.

20 c. The Court further finds that it does not currently have sufficient
21 information to know whether Martin Aviation is a viable alternative
22 FBO for JSX. Testimony demonstrated that Martin Aviation is not
23 subject to the new, mandatory lease restriction. But it is unknown
24 whether a different term in Martin Aviation’s lease would foreclose it
25 from being an alternative at John Wayne Airport.

26 d. The Parties are instructed to investigate and have more information
27 about Martin Aviation at the time of the preliminary injunction hearing
28

1 to determine whether Martin Aviation's availability as an FBO alters the
2 equation on irreparable harm.

3 **3. Public Interest and Balance of the Equities**

4 These factors combine because the County is a defendant.

- 5 a. For the reasons above, JSX has established that the restriction likely
6 violates federal law.
- 7 b. Granting a temporary restraining order maintains the status quo and allows
8 JSX to operate at John Wayne Airport as it has done, without incident, for
9 the past two years.
- 10 c. It is undisputed that JSX has had no safety incidents or safety concerns.
- 11 d. The County indicated no other objection to JSX operating at John Wayne
12 Airport.

13 **4. Preliminary Injunction Hearing**

14 The Court orders a preliminary injunction hearing on **Wednesday, February**
15 **24, 2021 at 10:00 a.m.**, via Zoom.

16 Plaintiffs' Opening Brief shall be due on Monday, January 25, 2021.

17 Defendants' Opposition shall be due on February 3, 2021.

18 Plaintiffs' Reply shall be due on February 10, 2021.

19 The Temporary Restraining Order shall remain in effect until further order of
20 the Court. To the extent any discovery issues arise, they should be addressed to the
21 assigned Magistrate Judge, the Honorable Karen Scott, in conformity with her rules
22 and procedures.

23
24 Date: January 3, 2021



25
26

Honorable Josephine L. Staton
United States District Judge



MEMORANDUM

To: Clerk of the Board

From: Donald P. Wagner, Third District Supervisor

Jim Agell for DW

Date: January 5, 2021

RE: Supplemental Item for January 12, 2021 Board of Supervisors Meeting

I would like to add a supplemental item to the January 12, 2021 Board of Supervisors meeting. I will be appointing Carlos Oregon to the Workforce Development Board for a term of January 1, 2021 through December 30, 2023.

RECEIVED
2021 JAN -6 AM 11:03
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS



Written Concurrence for Out-of-District Appointment to
Board, Commission, or Committee

Supervisor Proposing Appointment: Donald Wagner, Third District Date: 12/30/2020

Board, Commission, or Committee: Workforce Development Board

Proposed Appointee's Name: Carlos Oregon

Proposed Appointee's City of Residence: Aliso Viejo

Concurring Supervisor's Signature: _____

Concurring Supervisor: Lisa Bartlett, Fifth District



APPLICATION FOR COUNTY OF ORANGE BOARD, COMMISSION OR COMMITTEE

(FOR COUNTY USE ONLY)

Return to: Clerk of the Board of Supervisors 333 West Santa Ana Blvd, Suite 465 Santa Ana, California 92701 Website: www.ocgov.com/gov/cob/

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance please contact the Clerk of the Board of Supervisor's Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BCC/CONTACT): Workforce Development Board

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: [] First [] Second [] Third [] Fourth [X] Fifth

APPLICANT NAME AND RESIDENCE ADDRESS

Form fields for applicant name (Carlos Manuel Oregon), address (Aliso Viejo CA), zip code, cell phone number, and email address.

Form fields for current employer (Thinkbox Technology Group), occupation/job title (CEO/President), business address (3333 Michelson Dr), and business phone number (9494075116).

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES: [X] YES [] NO IF NO, NAME OF COUNTRY OF CITIZENSHIP:

ARE YOU A REGISTERED VOTER? [X] YES [] NO Orange County IF YES, NAME COUNTY YOU ARE REGISTERED IN:

LIST ALL CURRENT PROFESSIONAL OR COMMUNITY ORGANIZATIONS AND SOCIETIES OF WHICH YOU ARE A MEMBER

ORGANIZATION SOCIETY	FROM (MO/YR.)	TO (MO/YR.)
Greater Irvine Chamber	May/2016	Present
Elks Lodge	Oct/2020	Present
Infragard	Nov/2008	Jan/2010

WITHIN THE LAST FIVE YEARS, HAVE YOU BEEN AFFILIATED WITH ANY BUSINESS OR NONPROFIT AGENCY(IES)? YES NO

DO YOU OWN REAL OR PERSONAL PROPERTY OR HAVE FINANCIAL HOLDING WHICH MIGHT PRESENT A POTENTIAL CONFLICT OF INTEREST? YES NO

HAVE YOU BEEN CONVICTED OF A FELONY OR MISDEMEANOR CRIME SINCE YOUR 18TH BIRTHDAY? YOU ARE NOT REQUIRED TO DISCLOSE ANY OF THE FOLLOWING: ARRESTS OR DETENTIONS THAT DID NOT RESULT IN A CONVICTION; CONVICTIONS THAT HAVE BEEN JUDICIALLY DISMISSED, EXPUNGED OR ORDERED SEALED; INFORMATION CONCERNING REFERRAL TO AND PARTICIPATION IN ANY PRETRIAL OR POSTTRIAL DIVERSION PROGRAM; AND CERTAIN DRUG RELATED CONVICTIONS THAT ARE OLDER THAN TWO YEARS, AS LISTED IN CALIFORNIA LABOR CODE § 432.8 (INCLUDING VIOLATIONS OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 11367(B) AND (C), 11360(C) 11364, 11365 AND 11550 – AS THEY RELATE TO MARIJUANA)?

YES NO

IF YES, PLEASE EXPLAIN AND ATTACH ADDITIONAL SHEETS, IF NECESSARY.

PLEASE BRIEFLY EXPLAIN WHY YOU WISH TO SERVE ON THIS BOARD, COMMITTEE, OR COMMISSION. ATTACH ADDITIONAL SHEETS, IF NECESSARY.

I would like to continue to learn about the needs of the community and make a difference where it matters

DATE: 24 Dec 2020

APPLICANTS SIGNATURE: 

CLERK OF THE BOARD OF SUPERVISORS USE ONLY – DO NOT WRITE BELOW THIS LINE

Date Received _____	Received by _____
Date referred _____	Deputy Clerk of the Board of Supervisors
To	<input type="checkbox"/> BOS District 1 <input type="checkbox"/> BOS District 2 <input type="checkbox"/> BOS District 3 <input type="checkbox"/> BOS District 4 <input type="checkbox"/> BOS District 5 <input type="checkbox"/> All BOS <input type="checkbox"/> BCC Contact Person Name _____

CARLOS M. OREGON, JR.

Business and Technology Executive

Global Business Operations • Enterprise IT Strategy • Portfolio Management • Operational Transformation • Business Development • Team Development • Corporate Social Responsibility Champion

Experienced operations and technology expert with 20 years of global leadership in business strategy and project management. Oversee value engineering exercises and provide project cost control for new construction in accordance with approved budgets. Provides feasibility studies and site analysis, project scope, budget estimates and schedules. Outstanding relationship builder, skilled at quickly gaining and maintaining the trust and respect of C-level executives, staff, strategic partners, and international clientele. Impeccable integrity and work ethic.

KEY QUALIFICATIONS

Executive Leadership • Program & Project Management • IT Strategy and Assessment • Global Operations Management • Technology Evaluation & Deployment • Security & Intelligence Expert

CAREER EXPERIENCE

Thinkbox Technology Group, Irvine CA 2009 – Pres
CEO-PRESIDENT (JAN 2020- PRESENT)
VP OPERATIONS (JUN 2011-JAN 2020)
INTERIM CHIEF INFORMATION OFFICER CITY OF PLANO (CONTRACTED JUN 2015-APRIL 2016)
PRINCIPAL CONSULTANT/PROGRAM MANAGER (JUL 2009-JUN 2011)

United States Air Force, Various Locations, US and Overseas 1995 – 2016
SPACE INTELLIGENCE ANALYST/INCOIC VAULT INTEL ANALYSIS *USAF Reserves (2011-2016)*
AIR TO AIR FIGHTER AND SPECIAL OPERATIONS INTELLIGENCE ANALYST *USAF ACTIVE DUTY (1999-2005)*
COMMUNICATION/NAVIGATION AVIONICS JOURNEYMAN *USAF ACTIVE DUTY (1995 – 1999)*

Promoted to utilize intelligence expertise in leading the training and mission planning for 120 military personnel including air crew and combat rescue teams. Leveraged extensive knowledge of personnel recovery, weapons of mass destruction (WMD), asymmetric warfare, ground units, anti-aircraft artillery, missile systems, and aircrafts. Lauded as tactical intelligence expert; 16 lives saved in Afghanistan.

Wet Design, Sun Valley, CA 2008 – 2009
PROJECT MANAGER

Leveraged extensive project management experience to lead a project engineering team through the concept, design, and test phases of a state-of-the-art free-floating sea water fountain system as part of a multiple multi-million dollar contracts to design, engineer, and install luxury water features throughout the UAE. Using clear and attainable project objectives, successfully managed the triple constraint for projects of cost, time, and scope.

PlanNet Consulting, Brea, CA 2005 – 2008
CONSULTANT/PROJECT MANAGER

Successfully transitioned from defense sector to lead technology projects for numerous clients including the Americana at Brand, Toyota Financial Services and Herbalife. Managed projects based on client needs, including low voltage systems, data center migrations, and enterprise-wide fax system migration. Worked closely with client stakeholders to ensure projects were delivered on-time and according to client specifications.

EDUCATION & PROFESSIONAL DEVELOPMENT

MBA, 2012, Florida Institute of Technology
Bachelor of Science, Organizational Security and Management, 2008, University of Phoenix
AAS, Communications Technology, 2003, Community College of the Air Force
AAS, Electronic Avionics Technology, 2003, Community College of the Air Force
Graduate, Airman Leadership School, 1998, US Air Force
Board of Directors, 2016- Present, City of Irvine Chamber of Commerce



MEMORANDUM

To: Clerk of the Board

From: Donald P. Wagner, Third District Supervisor

Date: January 6, 2021

*In Cyell for DW
D.P. Wagner A.D.*

RE: Supplemental Item for January 12, 2021 Board of Supervisors Meeting

I would like to include in the agenda for the January 12, 2021 Board of Supervisors meeting an item to add Canyon Mudslide Protection to the County Events Calendar with the following recommended actions:

1. Approve the addition of Canyon Mudslide Protection to the County Events Calendar.
2. Find under Government Code section 26227 that Canyon Mudslide Protection will serve a public purpose of the County of Orange and will meet the social needs of the population of the County, including but not limited to, the areas of health, law enforcement, public safety, rehabilitation, welfare, education and legal services, and the needs of physically, mentally and financially handicapped persons and aged persons; that County staff and resources may be used in furtherance of such events; and that County staff may solicit donations of funds and services for such events.

RECEIVED
 2021 JAN -6 PM 1:01
 CLERK OF THE BOARD
 CLAYTON G. GILBERT
 BOARD OF SUPERVISORS



**SUPPLEMENTAL AGENDA ITEM
 AGENDA STAFF REPORT**

RECEIVED
 JAN 11 - 6 PM 1:01
 COUNTY CLERK'S OFFICE

MEETING DATE: 01/12/21
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: Supervisor Donald P. Wagner
DEPARTMENT CONTACT PERSON(S): Tara Campbell (714) 834-3330
 Martin Gardner (714) 834-3330

SUBJECT: Addition of Canyon Mudslide Protection to County Events Calendar

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
	<i>Action</i>	Discussion
		3 Votes Board Majority
<i>CEO Signature</i>	<i>County Counsel Signature</i>	

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A
Staffing Impact: N/A **# of Positions:** **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A **County Audit in last 3 years:** N/A

Prior Board Action: 09/15/20 #21

RECOMMENDED ACTION(S)

1. Approve the addition of Canyon Mudslide Protection to the County Events Calendar.
2. Find under Government Code section 26227 that Canyon Mudslide Protection will serve a public purpose of the County of Orange and will meet the social needs of the population of the County, including but not limited to, the areas of health, law enforcement, public safety, rehabilitation, welfare, education and legal services, and the needs of physically, mentally and financially handicapped persons and aged persons; that County staff and resources may be used in furtherance of such events; and that County staff may solicit donations of funds and services for such events.

SUMMARY:

Addition of the Canyon Mudslide Protection to the County Events Calendar will allow the County to sponsor and use County resources to provide additional mudslide protection efforts to County residents.

BACKGROUND INFORMATION:

The December 2020 Bond Fire burned thousands of acres in the Third District canyons of Orange County, leaving their residents and businesses at increased risk of further damage through mudslides. Supervisor Donald P. Wagner is working with community partners, including East OC Canyon Communities, on measures to address the mudslide threat. Approving the recommended actions will allow the use of additional County resources to support the Supervisor's efforts, including the purchase of rice bales for distribution to residents and businesses for their protection.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):



County Executive Office

Memorandum

January 6, 2021

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

Digitally signed by Frank Kim
 DN: cn=Frank Kim, o=County of
 Orange, ou=CEO,
 email=frank.kim@ocgov.com,
 c=US
 Date: 2021.01.06 13:56:42
 -08'00'

RECEIVED
 2021 JAN -6 PM 3:31
 CLERK OF THE BOARD OF SUPERVISORS
 BOARD OF SUPERVISORS

The County Executive Office is requesting a Supplemental Agenda Staff Report (ASR) for the January 12, 2021, Board Hearing Meeting.

Agency: County Counsel
Subject: Amendment to the Board of Supervisors Rules of Procedure
Districts: All Districts

Reason for supplemental: The proposed amendment to the Board of Supervisors Rules of Procedure will align the language of Rule 46 with the Board's long-standing practice of encouraging robust public participation in Board meetings, including commenting on, questioning, or criticizing County officials and/or County policies. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:

Vice Chairman Andrew Do, Supervisor, First District

cc: Board of Supervisors
 County Executive Office
 County Counsel



**SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT**

MEETING DATE: 01/12/21
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Counsel
DEPARTMENT HEAD REVIEW: Leon Page
Department Head Signature
DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3300
James C. Harman (714) 834-5257

RECEIVED
2021 JAN -6 PM 3:31
CLERK OF THE BOARD
COUNTY OF ORANGE
BOARD OF SUPERVISORS

SUBJECT: Amendments to the Board of Supervisors Rules of Procedure

CEO CONCUR


Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of
Orange, ou=CEO,
email=frank.kim@ocgov.com,
c=US
Date: 2021.01.06 13:55:22 -0800

CEO Signature

COUNTY COUNSEL REVIEW

No Legal Objection
Action

County Counsel Signature

CLERK OF THE BOARD

Discussion

3 Votes Board Majority

Budgeted: N/A

Current Year Cost: N/A

Annual Cost: N/A

Staffing Impact: N/A

of Positions:

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years N/A

Prior Board Action: 02/06/2018 #S29C

RECOMMENDED ACTION(S)

Approve amendment to Rule 46 the Board of Supervisors Rules of Procedure and related items.

SUMMARY:

The proposed amendment to the Board of Supervisors Rules of Procedure will align the language of Rule 46 with the Board's long-standing practice of encouraging robust public participation in Board meetings, including commenting on, questioning, or criticizing County officials and/or County policies.

BACKGROUND INFORMATION:

Concurrent with the election of officers, the Board of Supervisors periodically reviews and revises its Rules of Procedure as needed to efficiently manage its meetings. It last revised its rules on February 6, 2018, to

clarify the process for adding supplemental items to the Board's agenda and to make various process changes for members of the public to speak at Board meetings.

The proposed updates to Rule 46 incorporate the Board's practice of encouraging robust public participation in Board meetings, including commenting on, questioning, or criticizing County officials and/or County policies. Consistent with this approach, the proposed revisions also remove vestigial (and never enforced) procedural language to ensure there is no confusion regarding Board's commitment to promoting vigorous public participation.

Materials supporting the proposed revision to Rule 46 are also included for the Board's approval. Attachments C, D, and E are proposed changes to the materials presented or distributed to the public (i.e. Speaker Request Form, instructions on the County's website, and Power Point slides displayed at Board meetings) that expressly state, consistent with current practice, that a member of the public may use a pseudonym when completing a speaker request form and addressing the Board.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

- Attachment A – Rules of Procedure, Rule 46 (Proposed)
- Attachment B – Rules of Procedure, Rule 46 (Redlined)
- Attachment C – Speaker Request Form
- Attachment D County website instructions
- Attachment E – Power Point Slides

Rule 46 Addressing the Board

At the appropriate time, the Chair or the Clerk will call the names of members of the public desiring to address the Board. In order to facilitate the orderly conduct of the meeting, the speaker, after approaching the lectern, is requested to announce his or her name and city of residence for the record.

All remarks and questions shall be addressed to the Board. However, nothing herein shall preclude a member of the public from commenting on, questioning, or criticizing the policies, procedures, programs, or services of the County, the acts or omissions of the Board, or the positions, statements, votes, actions or omissions of individual members of the Board. However, each person who addresses the Board shall refrain from making personal, impertinent, slanderous or profane remarks to any member of the Board, staff or the general public. Any person who makes such remarks, or who utters loud, threatening, personal, or abusive language, or who engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any Board meeting shall, at the discretion of the Chair, or a majority of the members, be ruled “out of order” and directed to end his or her remarks and be seated. If such conduct thereafter continues so as to disrupt the orderly conduct of the public’s business, the Chair shall order the person removed from the meeting room. Aggravated cases may be prosecuted on appropriate complaint signed by the Chair, a member of the Board or any other County representative. It is the policy of the Board to encourage free speech at its meetings in accordance with these rules. No sanction will issue under this rule based on the content of a person’s speech; rather, a speaker may be sanctioned as described herein only if a speaker’s conduct actually disrupts the orderly conduct of the meeting or interferes with the Board’s ability to accomplish its business.

For purposes of this Rule, “disruption” of a Board meeting may include, but is not limited to, speaking beyond the time limits set by these Rules or the Chair, by being unduly repetitious, by engaging in an extended discussion of irrelevancies, by violating the requirements of Rule 44, or by failing to yield to the Chair.

Rule 46 Addressing the Board

At the appropriate time, the Chair or the Clerk will call the names of members of the public desiring to address the Board. In order to facilitate the orderly conduct of the meeting, the speaker, after approaching the lectern, is requested to announce his or her name and city of residence for the record.

All remarks and questions shall be addressed to the Board. ~~However, nothing herein shall preclude as a whole and not to any member of the public from commenting on, questioning, or criticizing the policies, procedures, programs, or services of the County, the acts or omissions of the Board, or the positions, statements, votes, actions or omissions of individual Board member. No question shall be asked of any members of the Board or staff member without first obtaining permission of the Chair. However,~~

~~E~~ach person who addresses the Board shall refrain from making personal, impertinent, slanderous or profane remarks to any member of the Board, staff or the general public.

Any person who makes such remarks, or who utters loud, threatening, personal, or abusive language, or who engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any Board meeting shall, at the discretion of the Chair, or a majority of the members, be ruled “out of order” and directed to end his or her remarks and be seated. If such conduct thereafter continues so as to disrupt the orderly conduct of the public’s business, the Chair shall order the person removed from the meeting room. Aggravated cases may be prosecuted on appropriate complaint signed by the Chair, a member of the Board or any other County representative.

It is the policy of the Board to encourage free speech at its meetings in accordance with these rules. No sanction will issue under this rule based on the content of a person’s speech; rather, a speaker may be sanctioned as described herein only if a speaker’s conduct actually disrupts the orderly conduct of the meeting or interferes with the Board’s ability to accomplish its business.

For purposes of this Rule, “disruption” of a Board meeting may include, but is not limited to, speaking beyond the time limits set by these Rules or the Chair, by being unduly repetitious, by engaging in an extended discussion of irrelevancies, by violating the requirements of Rule 44, or by failing to yield to the Chair.



ORANGE COUNTY BOARD OF SUPERVISORS SPEAKER REQUEST FORM

Date: _____

Agenda Item No: _____ Non-Agenda Public Comments: _____

Name: _____ Organization: _____
(Optional – Alias/Pseudonym May Be Used) (Optional)

Disclosure of the information below is optional but would enable the Supervisors or County Staff to reach you, if necessary.

Address: _____ City/St/Zip: _____
(Optional) (Optional)

Phone Number: _____ E-Mail Address: _____
(Optional) (Optional)

Updated 1/12/21

The Orange County Board of Supervisors welcomes your comments.

- Completed speaker request form must be deposited prior to the Board's consideration of the Consent Calendar, the Clerk's reading of the agenda item, the opening of the public hearing, or prior to the start of the public comments portion of the meeting.
- Member of the public may address the Board on up to three occasions, with three minutes allotted to the speaker per occasion.
- When you are called to speak, please step up to the podium. It is requested that you clearly state your name and city of residence for the record. You may provide a pseudonym or alias instead of your real name.
- Please note the light on the podium. The colored lights on the podium indicate:
 - **Green** – Your time has begun; you are limited to three (3) minutes (unless different time limits are set by the Chair).
 - **Yellow** – You have 1 minute to summarize your comments.
 - **Red** – Your time is up.
- Please address your comments to the Board. However, you may comment on, question, or criticize the actions of the Board as a whole, as well as those of individual members of the Board. See Board of Supervisors Rules of Procedure, Rule 46.
- Keep your comments brief, to the point, and do not repeat prior testimony so all persons who wish to speak have an opportunity to do so.
- Power Point and video presentations must be arranged in advance of the meeting by contacting the Clerk of the Board at 714-834-2206.

Addressing the Board

The Orange County Board of Supervisors welcomes your comments.

To share your comments at a Board of Supervisors meeting, follow the steps below:

1. Check the calendar of Board of Supervisors meetings [here](#).
2. Get directions to the Hall of Administration [here](#), where Board of Supervisors meetings are held.
3. Park in one of the available lots in the Orange County Civic Center area, posted [here](#).



4. Enter the Hall of Administration building and proceed to the Board Hearing Room on the first floor.
 - You will go through a security screening that includes a metal detector.
 - You will need to dispose of any liquids before entering the Board Hearing Room.

5. Take a speaker request form located by the agendas in the Board Hearing Room, and fill it out. You may use an alias or pseudonym when filling out the form.
6. Deposit your completed form in the box adjacent to the podium prior to the beginning of the Consent Calendar, the reading of the individual agenda items, the opening of the public hearing and/or the beginning of Public Comments.
7. Each member of the public may address the Board on up to three occasions during each regular or special meeting. Three minutes are allowed per occasion, unless otherwise indicated by the Clerk.
8. When you are called to speak, please step up to the podium. Please clearly state your name and city of residence for the record. An alias or pseudonym may be used.
9. Please note the light on the podium. The colored lights on the podium indicate:
 - Green - Your time has begun; you are limited to three minutes (unless different time limits are set by the Chair).
 - Yellow - You have one minute to summarize your comments.
 - Red - Your time is up.
10. Please address your comments to the Board. However, you may comment on, question, or criticize the actions of the Board as a whole, as well as those of individual members of the Board. See Board of Supervisors Rules of Procedure, Rule 46.
11. Keep your comments brief, to the point, and do not repeat prior testimony so all persons who wish to speak have an opportunity to do so.
12. If you have documents for the Board, please bring 10 copies and hand them to the Clerk of the Board staff when you approach the podium. Power Point and video presentations must be arranged in advance of the meeting by contacting the Clerk of the Board at 714-834-2206.
13. If you have special needs, the Clerk of the Board can assist you. If you have questions or to make requests for accommodation, please call the Board Services Division 72 hours prior to the meeting at 714-834-2206.



WELCOME TO TODAY'S MEETING

**Orange County
Board of Supervisors**



GENERAL INFORMATION

- **Please turn off or silence your mobile phone.**
- **Signs, posters, banners or other hazardous objects that actually disrupt the meeting shall be prohibited in the Board Room.**
- **Any large object/container that may be deemed hazardous object which could impair the safety of individuals in the event of an emergency will be prohibited in the Board Room.**



GENERAL INFORMATION

- **Standing in the aisles is not allowed. If needed, additional seating in the Commission Room will be opened.**
- **Please exit the Boardroom by the same side door where you entered. All other doors are emergency exits and have alarms.**
- **Please see the Clerk of the Board or the Deputy Clerk, seated next to the podium, if you have any questions or need assistance.**



BOARD AGENDA

- **Copies of today's agenda and a listing of any changes to the agenda are available on both side walls and at the back of the room.**
- **The agenda provides brief descriptions of all items.**
- **Agenda staff reports & supporting documents can be viewed in the office of the Clerk of the Board, Hall of Administration, 4th Floor, Room 465, and are available online at www.ocgov.com/gov/bos/agenda.**
- **The Chair can change the order of items on the agenda.**



CONSENT CALENDAR

- **Matters on the Consent Calendar are routine and will all be approved by one motion.**
- **A Board member may ask that a specific agenda item be “pulled” from the Consent Calendar in order to be heard for separate action.**
- **No action may be taken by the Board on off-agenda items unless authorized by law.**



IF YOU WISH TO SPEAK

- **Complete a Speaker Request Form and deposit it in the box to the left of the podium. Blank forms are located with the agendas on both sides and the rear of the room.**
- **We request that you provide your name (or alias/pseudonym) on your Speaker Request Form as it facilitates calling speakers to the podium.**
- **Speaker Request Forms must be deposited prior to the Board's consideration of the Consent Calendar, the Clerk's reading of the agenda item, the opening of the public hearing, or prior to the start of the public comments portion of the meeting.**



IF YOU WISH TO SPEAK

On Speaker Request Form:

- **Check ‘Public Comments’ to address the Board of Supervisors on any matter that is within the subject matter jurisdiction of the Board.**
- **Check ‘Public Hearing Item No.’ and identify the item (by agenda item) to address the Board on a Public Hearing item.**



TIME LIMITS

- **Member of the public may address the Board on up to three occasions, with three minutes allotted to the speaker per occasion.**
- **The Chair retains the authority, in his or her discretion, to further reduce time allotted for each individual speaker if the number of persons desiring to speak would prevent the Board from accomplishing its business in a reasonably efficient manner.**
- **Please step up to the podium when you are called to speak and state your name and city of residence. You may provide a pseudonym or alias instead of your real name. Speak clearly into the microphone and watch the timer so you know how much time you have remaining.**



TIME LIMITS

- **The timer on the podium will indicate how much time you have to speak.**
- **A 'green' light will come on when you come to the podium.**
 - **Green light indicates your time has begun.**
 - **Yellow indicates you have one (1) minute to summarize your comments.**
 - **Red light means your time is up.**



WHEN YOU ARE CALLED TO SPEAK

- **No action may be taken by the Board on off-agenda items unless authorized by law.**
- **Please address your comments to the Board. However, you may comment on, question, or criticize the actions of the Board as a whole, as well as those of individual members of the Board. See Board of Supervisors Rules of Procedure, Rule 46.**
- **If you have any documents to be distributed to the Board, please hand them to the Deputy Clerk sitting next to the podium at the time you are called to speak.**



WHEN YOU ARE CALLED TO SPEAK

- **Please be courteous to all attending and speaking at today's meeting.**
- **See the Clerk of the Board or the Deputy Clerk, seated next to the podium, if you have any questions or need assistance.**

Thank you for attending today's meeting.



RECEIVED

2021 JAN -8 AM 10:01

MEMORANDUM

To: Clerk of the Board

From: Doug Chaffee, Fourth District Supervisor
Andrew Do, First District Supervisor

Date: January 8, 2021

CLERK OF THE BOARD
BOARD OF SUPERVISORS

Doug Chaffee
Agent for A.D.

RE: Supplemental Item for the January 12, 2021 Board of Supervisors Meeting – National Trafficking and Modern Slavery Prevention Month

542F

Supervisor Doug Chaffee and Acting Chairman Andrew Do respectfully requests the Clerk of the Board to add a supplemental item to the agenda for the January 12, 2021 Board of Supervisors meeting. The title should read:

Acting Chairman Do and Supervisor Chaffee – Adopt resolution recognizing National Trafficking and Modern Slavery Prevention Month during the period beginning on January 1, 2021, and ending on February 1, 2021, culminating in the observance on February 1, 2021, of National Freedom Day

NATIONAL TRAFFICKING AND MODERN SLAVERY PREVENTION MONTH

By the authority of the Orange County Board of Supervisors, the following resolution is hereby issued:

WHEREAS, this year marks the 20th anniversary of the passing of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.), the people of the County of Orange remain committed to eliminating human trafficking and modern slavery, which is commonly considered to mean: (1) the recruitment, harboring, transportation, provision, or obtaining of an individual through the use of force, fraud, or coercion for the purpose of subjecting that individual to involuntary servitude, peonage, debt bondage, or slavery; or (2) the inducement of a commercial sex act by force, fraud, or coercion, or in which the individual induced to perform that act is younger than 18-years-of-age; and

WHEREAS, to combat human trafficking in the County of Orange and globally, Federal Government, and State and local governments must be: (1) aware of the realities of human trafficking and modern slavery; and (2) dedicated to stopping the horrific enterprise of human trafficking and modern slavery, placing equal value on the identification and stabilization of victims, as well as the investigation and prosecution of traffickers; and

WHEREAS, human trafficking happens all over the world, including Orange County, and the Orange County Human Trafficking Task Force (OCHTTF) was established in 2004 when a small group of leaders from different organizations came together and held a meeting to talk about a newly identified crime: human trafficking, which was in part due to the first victim identified in Orange County in 2002, a 10-year-old Egyptian girl who was a victim of labor trafficking; and

WHEREAS, according to an OCHTTF report in 2016, 13 new victims of human trafficking are identified in Orange County every month; of the total 284 victims assisted, 15% were labor trafficking and 82% were sex trafficking; 88% of labor trafficking victims were foreign nationals, 94% of sex trafficking victims were U.S. nationals, and 32% of sex trafficking victims were minors; and

WHEREAS, laws to prosecute perpetrators of human trafficking and to assist and protect victims of human trafficking and modern slavery have been enacted in the United States and Orange County, and it is essential to increase public awareness, particularly among individuals who are most likely to come into contact with victims of human trafficking and modern slavery, and through education, the County of Orange must also work to end human trafficking and modern slavery in all forms: now, therefore be it

RESOLVED, that the Orange County Board of Supervisors does hereby recognize National Trafficking and Modern Slavery Prevention Month during the period beginning on January 1, 2021, and ending on February 1, 2021, culminating in the observance on February 1, 2021, of National Freedom Day; and supports all other efforts to prevent, eradicate, and raise awareness of, and opposition to, human trafficking and modern slavery.

MEMORANDUM

RECEIVED
2021 JAN -8 PM 2:55
CLERK OF THE BOARD
BOARD OF SUPERVISORS
January 8, 2021

TO: Robin Stieler, Clerk of the Board
FROM: Supervisor Donald Wagner *In April for DW*
SUBJECT: [REVISED] Waiver of Site Development Permit Requirements for those Affected by Bond Fire

Please revise the first recommended action in the subject Agenda Staff Report for 1/26/21, Item S42G, as follows:

1. Through July 31, 2021, direct Orange County Orange County Public Works, Development Services and Neighborhood Preservation Services, to waive the Site Development Permit requirements, under Orange County Codified Ordinances Section 7-9-1157.5(a), including the requirement that the temporary mobilehome only be utilized once construction begins, to allow for the immediate use of temporary mobilehome residences for those affected by the 2020 Bond Fire.

Thank you.

Attachments: Agenda Staff Report and Attachments

Cc: Members of the Board of Supervisors
Frank Kim, CEO
Leon J. Page, County Counsel
James Treadaway, Director, OC Public Works



MEMORANDUM

To: Clerk of the Board

From: Donald P. Wagner, Third District Supervisor

Date: January 8, 2021

*In Accord for DW
Clear for A.D.*

RE: Supplemental Item for January 12, 2021 Board of Supervisors Meeting

S42G

I would like to add a supplemental item to the January 12, 2021 to waive the site development permit requirements for those effected by the Bond Fire.

2021 JAN -8 11:10:26
CLERK OF THE BOARD
COUNTY OF ORANGE



AGENDA STAFF REPORT

MEETING DATE: 01/12/21
 LEGAL ENTITY TAKING ACTION: Board of Supervisors
 BOARD OF SUPERVISORS DISTRICT(S): All Districts
 SUBMITTING AGENCY/DEPARTMENT: Supervisor Donald Wagner
 DEPARTMENT CONTACT PERSON(S): Tara Campbell (714) 834-3330
 Martin Gardner (714) 834-3330

DONALD WAGNER
 2021 JAN -01 PM 10:26
 1000000000

SUBJECT: Waiver of Site Development Permit Requirements for those Affected by Bond Fire

CEO CONCUR	COUNTY COUNSEL REVIEW No Legal Objection	CLERK OF THE BOARD Discussion 3 Votes Board Majority
------------	---	--

Budgeted: N/A Current Year Cost: N/A Annual Cost: N/A

Staffing Impact: N/A # of Positions: Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years No

Prior Board Action:

RECOMMENDED ACTION(S)

1. Through July 31, 2021, direct Orange County Orange County Public Works, Development Services and Neighborhood Preservation Services, to waive the Site Development Permit requirements, under Orange County Codified Ordinances Section 7-9-115.5(a), including the requirement that the temporary mobilehome only be utilized once construction begins, to allow for the immediate use of temporary mobilehome residences for those affected by the 2020 Bond Fire.
2. Adopt 2020 Bond Fire Site Development Permit Waiver Policy attached hereto as Attachment A.

SUMMARY:

Allowing for the establishment of a temporary mobilehome residence for property owners with residences damaged or destroyed by the 2020 Bond Fire without having to obtain a Site Development Permit or begin reconstruction of the damaged or destroyed home, will help lessen the burden on those affected by the fire to find temporary housing prior to the reconstruction of their homes.

BACKGROUND INFORMATION:

The recent Bond Fire resulted in significant property destruction and damage. According to mapping from CALFire over 30 structures damaged or destroyed, which includes both residences and other ancillary structures.

According to Orange County Codified Ordinances section 7-9-117.5(a), temporary mobilehomes are allowed during construction of a dwelling subject to approval of a Site Development Permit. Specifically, Orange County Codified Ordinances section 7-9-117.5(a), states:

- (a) Temporary mobilehome during construction of dwelling. In all residential districts and similar areas of planned communities and specific plans, a temporary mobilehome is permitted during the construction of a permanent dwelling subject to the approval of a Site Development Permit application per section 7-9-125 and the following additional requirements:
 - (1) Such temporary mobilehome shall be located on the same building site and concurrent with the construction of a permanent dwelling.
 - (2) Such temporary mobilehome shall be permitted for a period of time not to exceed one (1) year, or until the issuance of a Certificate of Use and Occupancy for the main building, whichever occurs first. Extensions of time may be granted per section 7-9-125.

The proposal to waive the Site Development Permit requirements for those affected by the 2020 Bond Fire, will allow for the immediate use of temporary mobilehomes without requiring those affected to go through the permit process and pay fees.

To qualify for the waiver the homeowner must demonstrate: (1) proof of property ownership; (2) that the resident was destroyed or damaged to an extent that the structure is no longer habitable by the 2020 Bond Fire.

The estimated cost to waive the Site Development Permit for all damaged and destroyed residences is based upon an estimate of available information is would be approximately \$40,000 in FY2020-21.

CEQA COMPLIANCE:

The proposed waiver of permit fees and 6-month extension for a temporary mobilehome residence is exempt from CEQA pursuant to Section 15061(b)(3).

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – 2020 Bond Fire Site Development Permit Waiver Policy

2020 Bond Fire
Site Development Permit Waiver Policy

In an effort to help fire victims to find temporary housing, it is the intent of the County to allow for temporary mobilehome residences prior to reconstruction of residences damaged or destroyed by the 2020 Bond Fire and to waive Orange County Codified Ordinances Section 7-9-117.5(a) Site Development Permit requirements to expedite the establishment of temporary housing and reduce cost in accordance with the following requirements and policies:

Criteria:

1. Homeowner must show proof of property ownership
2. Residence must have been destroyed or damaged to an extent that the structure is no longer habitable by the 2020 Bond Fire

Policy:

1. Temporary mobilehome residences shall be allowed on the subject property prior to reconstruction of the damaged or destroyed residence for a total maximum period of 6-months.
2. Waiver of the Site Development Permit shall only apply to establishment of a mobilehome residence for a total maximum period of 6-months prior to the reconstruction of the damaged or destroyed residence.
3. This policy does not exempt the establishment of a temporary mobilehome residence from any other Federal, State or Local regulations.



Revision to ASR and/or Attachments

Date: January 11, 2021
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Frank Kim, County Executive Officer Michelle Aguirre
Re: ASR Control #: N/A, Meeting Date 1/12/21, Item No. # S45A
Subject: Condemnation Action, Riverside & San Bernardino Counties, Prado Dam Project

Digitally signed by Michelle Aguirre
 DN: cn=Michelle Aguirre, o=County Executive Office, ou=Chief Financial Officer,
 email=Michelle.Aguirre@coorange.ca.gov, c=US
 Date: 2021.01.11 14:26:41 -0800 for

2021 JAN 11 PM 2:34
 COUNTY OF ORANGE
 CLERK OF THE BOARD OF SUPERVISORS

Explanation:

It has come to the County's attention after the publishing of this Agenda Staff Report (ASR) that a party involved in the Condemnation Action, Riverside & San Bernardino Counties, Prado Dam Project had moved and the Notice of Intent to Consider the Adoption of a Resolution of Necessity was sent to the party's previous address, therefore the party did not receive proper notice of the County's intention to consider a Resolution of Necessity to acquire her property as part of this ASR. Related attachments will be deleted from this ASR and will be added to a future ASR.

Additionally, another two related parties have raised several issues related to the Condemnation process and additional issues including complications in responding, due to COVID. Outside counsel feels it best serves the District and the parties to reschedule this hearing to a later date.

Revised Recommended Action(s)

- At the conclusion of the hearing, adopt the Resolutions of Necessity attached as Attachments ~~E-G~~ through ~~P-Q~~ to this Agenda Staff Report, which include the above-described CEQA findings and also the findings required by the California Eminent Domain Law for adoption of a Resolution of Necessity, and which direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the interests in real property as described in the attached Resolutions of Necessity.

Make modifications to the:

- Subject Background Information Summary Financial Impact

BACKGROUND INFORMATION: Edit made to the fourth paragraph

Accordingly, County Counsel and OC Public Works/Infrastructure Programs/Flood Programs request your Board, acting in its capacity as the governing Board of the District, to adopt the proposed Resolutions to authorize and direct County Counsel and/or outside eminent domain counsel, the law firms of Bergman Dacey Goldsmith, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to file and pursue proceedings to condemn and acquire the Subject Property Interests, which are more particularly described in the proposed Resolutions of Necessity attached as Exhibits E Attachments G through P-O.

FINANCIAL IMPACT:

Appropriations are included in the Flood Fund 404 FY 2020-21 Budget for issuance of a one-time cost of \$1,707,900 in the amounts as listed below to be made upon Board approval of the proposed recommended actions.

	<u>Property Owner Name</u>	<u>Amount</u>	<u>JCN</u>	<u>Account Coding</u>
1	<u>Cruz Henry & Joe</u>	<u>\$182,000</u>	<u>ESP2134</u>	<u>404-080-404-LS43-4100-ESP2134</u>
2	<u>Cruz Henry & Virginia</u>	<u>\$50,500</u>	<u>ESP2134</u>	<u>404-080-404-LS43-4100-ESP2134</u>
3	<u>Kelsoe</u>	<u>\$315,000</u>	<u>ESP2157</u>	<u>404-080-404-LS73-4100-ESP2157</u>
4	<u>Tupker</u>	<u>\$167,000</u>	<u>ESP2147</u>	<u>404-080-404-LS56-4100-ESP2147</u>
5	<u>Martinez</u>	<u>\$222,000</u>	<u>ESP2133</u>	<u>404-080-404-LS42-4100-ESP2133</u>
6	<u>Dixon</u>	<u>\$241,000</u>	<u>ESP2144</u>	<u>404-080-404-LS53-4100-ESP2144</u>
7	<u>15780 El Prado</u>	<u>\$21,300</u>	<u>ESP2152</u>	<u>404-080-404-LS68-4100-ESP2152</u>
8	<u>Wilson</u>	<u>\$167,000</u>	<u>ESP2145</u>	<u>404-080-404-LS54-4100-ESP2145</u>
9	<u>Riverside County</u>	<u>\$105,100</u>	<u>ESP2143</u>	<u>404-080-404-LS52-4100-ESP2143</u>
10	<u>Bleck</u>	<u>\$237,000</u>	<u>ESP2129</u>	<u>404-080-404-LS38-4100-ESP2129</u>
11	<u>Pine Sterling \$5,701,495 Funds already deposited</u>	<u>\$0</u>	<u>ESP2107</u>	<u>404-080-404-LS16-4100-ESP2107</u>
12	<u>Vargas \$1,320,000 Funds already deposited</u>	<u>\$0</u>	<u>ESP2101</u>	<u>404-080-404-LS09-4100-ESP2101</u>
	<u>Grand Total</u>	<u>\$1,707,900</u> <u>\$1,475,400</u>		

January 11, 2021

Revised Attachments (attach revised attachment(s) and redlined copy(s))

Revised Attachment B - OC Public Works Memorandums

Please delete the following attachments from this ASR:

Attachment E - Resolution of Necessity (E01PD-24-009 Cruz)

Attachment F - Resolution of Necessity (E01PD-24-011 Cruz)

Attachment P - Amended Resolution of Necessity (E01PD-40-028 and E01PD-40-032 Vargas)

Attachment Q - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-24-009 Cruz)

Attachment R - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-24-011 Cruz)

Attachment AB- Notice of Intent to Consider Adoption of an Amended Resolution of Necessity (E01PD-40-028 and E01PD-40-032 Vargas)



ORANGE COUNTY
OC Public Works
MEMORANDUM

County Administration South
601 North Ross Street
Santa Ana, CA 92701
P.O. Box 4048
Santa Ana, CA 92702
(714) 667-8800
info@ocpw.ocgov.com
OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 45-001, 1028-202-26.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project").

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by 15780 El Prado L.P., a California limited partnership ("Owner"), which real property is located at 15780 El Prado Road in the City of Chino in San Bernardino County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (49,766 square feet) is referred to by the District as Project Parcel No. E01PD-45-001, and which covers San Bernardino County Assessor's Parcel No. 1028-202-26 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

- Administrative Services
OC Development Services
OC Facilities Design & Construction Management
OC Facilities Maintenance & CUF
OC Fleet Services
OC Construction
OC Environmental Resources
OC Operations & Maintenance
OC Infrastructure Programs
OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 45-001, 1028-20226.

January 7, 2021

Page 2 of 4

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 45-001, 1028-202-26.

January 7, 2021

Page 3 of 4

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on November 25, 2020, and continue. Real Estate staff followed up November 30, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Chino ("City") as required by the Code. The City responded on November 29, 2017, that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 45-001, 1028-202-26.

January 7, 2021

Page 4 of 4

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$21,300, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS68-4100, Job No ESP2152.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

- 1. Make the required Findings described above and stated therein;**
- 2. Direct County Counsel and/or previously approved special litigation counsel, Murphy & Evertz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and**
- 3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.**

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY Public Works MEMORANDUM

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 21-007.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project").

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Kenneth C. Bleck and Sylvia A Bleck as Trustees of the K&S Bleck 2013 Family Trust dated 6/3/13, ("Owner"), which real property is located at 4047 Bluff Street in the City of Norco in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (20,319 square feet) is referred to by the District as Project Parcel No. E01PD-21-007, and which covers Riverside County Assessor's Parcel No. 121-060-005 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

- Administrative Services
OC Development Services
OC Facilities Design & Construction Management
OC Facilities Maintenance & CUF
OC Fleet Services
OC Construction
OC Environmental Resources
OC Operations & Maintenance
OC Infrastructure Programs
OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 21-007

January 7, 2021

Page 2 of 4

requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the

spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on December 21, 2020 and will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request your Board to consider the adoption of a Resolution to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 21-007

January 7, 2021
Page 4 of 4

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on November 17, 2016, that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$237,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS38-4100, Job No ESP2129.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel, Burke Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY Public Works MEMORANDUM

County Administration South
601 North Ross Street
Santa Ana, CA 92701
P.O. Box 4048
Santa Ana, CA 92702
(714) 667-8800
info@ocpw.ocgov.com
OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. Eo1PD 21-006.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project").

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Carlos Richard Martinez, an unmarried man and Veronica Nicole Rico, a single woman, as joint tenants ("Owner"), which real property is located at 4033 Bluff Street in the City of Norco in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately 12,501 Square Feet is referred to by the District as Project Parcel No. Eo1PD-21-006, and which covers Riverside County Assessor's Parcel No. 121-060-004 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

- Administrative Services
OC Development Services
OC Facilities Design & Construction Management
OC Facilities Maintenance & CUF
OC Fleet Services
OC Construction
OC Environmental Resources
OC Operations & Maintenance
OC Infrastructure Programs
OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-006.

January 7, 2021

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requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-006.

January 7, 2021

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4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on December 16, 2020, and continue. Real Estate staff followed up December 28, 2020, and January 4, 2021. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Norco ("City") as required by the Code. The City responded on November 17, 2016 that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-006.

January 7, 2021

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2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$222,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS42-4100, Job No ESP2133.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel, Burke, Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY
OC Public Works
MEMORANDUM

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director 

Date: January 7, 2021

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-105.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Robert T. Kelsoe and Lisa A. Kelsoe, Trustee or their successor in Trust under the Robert and Lisa Kelsoe Revocable Trust dated January 16, 2002 and any amendments thereto ("Owner"), which real property is located at 8754 Kendra Lane in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (1.60 acres) is referred to by the District as Project Parcel No. E01PD-27-105, and which covers Riverside County Assessor's Parcel No. 130-671-010 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

-  Administrative Services
-  OC Development Services
-  OC Facilities Design & Construction Management
-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-105

January 7, 2021

Page 3 of 4

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on December 18, 2020, and continue. Real Estate staff followed up December 29, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested on August 25, 2020, for the City of Eastvale ("City") as required by the Code. No response by the City's has been received, indicating whether the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-105

January 7, 2021

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2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$315,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS73-4100, Job No ESP2157.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

- 1.** Make the required Findings described above and stated therein;
- 2.** Direct County Counsel and/or previously approved special litigation counsel, Burke, Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
- 3.** Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY Public Works MEMORANDUM

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- Administrative Services
OC Development Services
OC Facilities Design & Construction Management
OC Facilities Maintenance & CUF
OC Fleet Services
OC Construction
OC Environmental Resources
OC Operations & Maintenance
OC Infrastructure Programs
OC Survey

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-004.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project").

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Scott W Dixon and Monica V Dixon, ("Owner"), which real property is located at 4001 Bluff St. in the City of Norco in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.33 acres) is referred to by the District as Project Parcel No. E01PD-21-004, and which covers Riverside County Assessor's Parcel No. 121-060-002 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings: As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-004

January 7, 2021

Page 2 of 4

requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-004

January 7, 2021

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4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on November 23, 2020, and continue. Real Estate staff followed up December 2, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- A.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- B.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- C.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on November 17, 2016, that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-004

January 7, 2021

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2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$241,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS53-4100, Job No ESP2144.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

- 1.** Make the required Findings described above and stated therein;
- 2.** Direct County Counsel and/or previously approved special litigation counsel, Murphy & Evertz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
- 3.** Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



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ORANGE COUNTY
Public Works
MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director 

Date: January 7, 2021

Subject: Public Hearing on the Proposed Adoption of an Amended Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 46-996.

Synopsis:

On January 12, 2020, County Counsel, on behalf of the Orange County Flood Control District (“District”), will present an agenda item requesting that the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing Board of the District, consider for adoption a proposed Amended Resolution of Necessity (“Resolution”), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the “Subject Property Interests”) for the Prado Dam Project (“Project”). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project’s flood control purposes. A previous Resolution of Necessity for this property was adopted by the Board of Supervisors on November 17, 2020. This Amended Resolution of Necessity is being sought to clarify the District’s need to acquire the entire property because portions of the property are above the inundation line.

At the direction of the Army Corps of Engineers, when acquisition of the portion of the Subject Properties that are necessary for the Project will leave the remainder in such size, shape, or condition as to be of little market value, the remnants are being acquired in accordance with Article 5 of the Eminent Domain Law (commencing with Section 1240.410 of the Code of Civil Procedure). Thus, the portion of the Subject Property above the elevation line of 566 feet is being acquired pursuant to Code of Civil Procedure section 1240.410, et. seq., as uneconomic remnants.

The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project’s flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Amended Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Frank Jude Lizarraga, Jr., an unmarried man as to undivided 50% interest and Charles Thomas Braden, a Widower as to undivided 50% interest as tenant in common, (collectively “Owner”), which real property is located at 7310 Pine Avenue in the City of Chino in San Bernardino County and which Subject Property Interests are described as follows:

-  Administrative Services
-  OC Development Services
-  OC Facilities Design & Construction Management
-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 46-996.

January 7, 2021

Page 2 of 4

The fee simple interest in and to the real property that is legally described and depicted by Exhibits A and B attached to the proposed Amended Resolution, which real property containing approximately 9.719 acres is referred to by the District as Project Parcel No. E01PD-46-996, and which covers San Bernardino County Assessor's Parcel No[s]. 1056-271-01 & 1056-271-02 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Amended Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

In order to cooperate with the Corps and to carry out the Project, in 1989 your Board approved the SAR Project Local Cooperation Agreement ("LCA") between the Corps, the District, and the flood control districts of Riverside and San Bernardino counties, as well as the PCA in 2003. Both the LCA and PCA require the District to acquire real property rights for inundation and construction of flood protection structures (E.G., dikes, bank protection, and floodwalls), if the Project is to be completed. Unless all property rights (including the Subject Property Interests) are acquired by the District in the areas subject to inundation, the Project may not be completed or may not be entirely effective. If the Project is not completed, the risks and perils identified by the Corps, as described above, may impact Orange County residents and properties. Thus, the Project is necessary to protect the health, safety, and welfare of the residents of the County of Orange.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks.

In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the Owner initially commenced on January 28, 2020, and continue. Real Estate staff followed up and has remained in constant communications on multiple occasions with the Owner. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request your Board to consider the adoption of a Resolution to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989, and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 46-996.

January 7, 2021

Page 4 of 4

EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Chino ("City") as required by the Code. The City responded on April 14, 2016, that the Project is inconsistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A request to update an existing Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An updated HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board previously authorized counsel to obtain an Order of Possession for the Parcel. Your Board is also previously authorized counsel to make a deposit of estimated just compensation in the amount of \$5,701,495, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS16-4100, Job No ESP2107. No additional funding is required at this time.

3. Relocation Assistance.

The District anticipates that the acquisition of this Parcel will displace Lizzie Custom Processing, Inc. and possibly a residential tenant. A relocation consultant has been hired to interview the tenant(s) and determine their eligibility for benefits. The relocation consultant will explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution and take the following actions:

- 1.** Make the required Findings described above and stated therein;
- 2.** Direct County Counsel and/or previously approved special litigation counsel, Burke, Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
- 3.** Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY
Public Works
MEMORANDUM

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To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director 
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. EO1PD 27-099.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Tara Wilson and Sean Wilson ("Owner"), which real property is located at 8642 Kendra Lane in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (13,636 square feet) is referred to by the District as Project Parcel No. 27-099, and which covers Riverside County Assessor's Parcel No. 130-671-002 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

 Administrative Services

 OC Development Services

 OC Facilities Design & Construction Management

 OC Facilities Maintenance & CUF

 OC Fleet Services

 OC Construction

 OC Environmental Resources

 OC Operations & Maintenance

 OC Infrastructure Programs

 OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 27-099

January 7, 2021

Page 2 of 4

requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 27-099

January 7, 2021

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4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on November 25, 2020 and will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City did not respond and on November 18, 2016, the Project was deemed consistent with the City's General Plan.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 27-099

January 7, 2021

Page 4 of 4

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$167,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS54-4100, Job No ESP2145.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution and take the following actions:

- 1. Make the required Findings described above and stated therein;**
- 2. Direct County Counsel and/or previously approved special litigation counsel, Burke Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and**
- 3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.**

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY
Public Works
MEMORANDUM

County Administration South
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P.O. Box 4048
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OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director 
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. Eo1PD 26-004.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Riverside County Regional Park and Open Space District, C/O Dept Building Services Real Property Division, ("Owner"), which real property is located at Adjacent southeast to 14634 River Road in the City of Corona in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (3.31 acres) is referred to by the District as Project Parcel No. Eo1PD-26-004, and which covers Riverside County Assessor's Parcel No. 130-040-006 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

-  Administrative Services
-  OC Development Services
-  OC Facilities Design & Construction Management
-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 26-004

January 7, 2021

Page 2 of 4

requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 26-004

January 7, 2021

Page 3 of 4

spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on December 16, 2020 and will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on February 13, 2017 that the Project is consistent with the City's General Plan.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 26-004

January 7, 2021

Page 4 of 4

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$105,100, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS52-4100, Job No ESP2143.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution and take the following actions:

- 1. Make the required Findings described above and stated therein;**
- 2. Direct County Counsel and/or previously approved special litigation counsel, Burke Williams & Sorenson, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and**
- 3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.**

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY
OC Public Works
MEMORANDUM

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director 
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. Eo1PD 27-100.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by The Dale M. Tupker Living Trust of 2018 dated February 21, 2018, ("Owner"), which real property is located at 8656 Kendra Lane in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.31 acres) is referred to by the District as Project Parcel No. Eo1PD-27-100, and which covers Riverside County Assessor's Parcel No. 130-671-003 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

-  Administrative Services
-  OC Development Services
-  OC Facilities Design & Construction Management
-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-100.

January 7, 2021

Page 2 of 4

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-100.

January 7, 2021

Page 3 of 4

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on December 21, 2020 and continue. Real Estate staff followed up via email and phone calls several times in December 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City did not respond so the Project is deemed to be consistent with the City's General Plan.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-100.

January 7, 2021

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D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$167,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS56-4100, Job No ESP2147.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel, Murphy & Evertz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



Patrick A. Hennessey
Direct Dial: (949) 851-7204
E-mail: phennessey@palmierilawgroup.com

File No.: TBD

January 11, 2021

VIA E-MAIL

Robin Stieler
Clerk of the Board
Orange County Board of Supervisors
333 W. Santa Ana Blvd., 10 Civic Center Plaza
Santa Ana, CA 92701
Response@ocgov.com

Re: Objection to Proposed Adoption of Resolution of Necessity for Acquisition of a Portion of Real Property by Eminent Domain Located at 8656 Kendra Lane, Eastvale, California 92880; Assessor Parcel No. 130-671-003 Supplemental Agenda Item No. S45A

Dear Board of Supervisors of the Orange County Board of Supervisors:

This firm represents Dale M. Tupker, Trustee of The Dale M. Tupker Living Trust of 2018, dated February 21, 2018, owner of residential real property and improvements located at 8656 Kendra Lane, Eastvale, County of Riverside, California (“Home” or “Tupker Home”).

Our Client received notice that the County of Orange, acting as the governing board of the Orange County Flood Control District (“District”) intends to consider the adoption of a resolution of necessity authorizing the condemnation of portions of the Home for a flowage easement for the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The hearing on the resolution of necessity is set for January 12, 2021, at 9:30 a.m. The purpose of this letter is to provide the Mr. Tupker’s written objections to the adoption of the resolution of necessity in lieu of personally appearing at the hearing. Accordingly, it is requested that this letter be included as part of the formal record on Supplemental Agenda Item No. S45A.

Mr. Tupker contends that the adoption of the resolution of necessity is improper at this time, and objects to its adoption on each of the following specific grounds as described in further detail below.

Mr. Tupker and his late wife purchased their new home in 2007. Thereafter, the Tupkers invested over \$400,000.00 in installing improvements, upgrades, and landscaping which transformed their new residence into their dream home. The Tupkers and their family spend most of their time outdoors, in their backyard. The Tupkers took great care in creating a welcoming backyard for the enjoyment of their children, grandchildren, and friends by installing manicured landscaping, walkways, stairways with lampposts, a basketball court, a tetherball

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pole, and a dirt track for their ATVs. Mr. Tupker and his family have continued to utilize and enjoy the backyard he and his wife created after his wife's passing. The proposed Project would drastically reduce the usable size of the Tupker Home and destroy and/or diminish many of the installed improvements and upgrades to the Tupker Home. The District seeks to condemn over 40% of the lot for its Project, drastically reducing the usable portions of the Tupker Home. Additionally, there are significant health impacts that standing water may create, including mosquito infestations and waterborne diseases. Further, water intrusion and flooding may threaten and damage the structural integrity of the residence and create issues of subsidence and erosion. The District's overbroad and wide-ranging limitations imposed on the owner's use of the easement area is akin to a fee taking. The District's proposed taking renders a significant portion of the Tupker Home unusable.

The District's environmental documents were prepared years before the Tupker Home was built. The Final EIR was certified in 1989 and the Final Supplemental EIR was certified in 2001 – six years before the Tupker Home was built. The District cannot properly rely on these environmental documents and analyses. A multitude of circumstances have drastically changed since 1989 and 2001 requiring further CEQA review.

The District's noncompliant appraisal prevents the District from fulfilling its mandatory statutory requirements to proceed with its proposed acquisition. The appraisal ignores the residence and improvements on the Tupker Home, and values the property as vacant land. The appraisal ignores severance damages to the remaining property. To proceed with its proposed acquisition, the District must re-appraise the entire Tupker Home, including the residence and all of the improvements thereon, in both the before condition and the after condition in order to make an appropriate revised precondemnation offer based upon a current date of value before commencing this acquisition process. The lack of a compliant appraisal prevents the District from negotiating with Mr. Tupker in good faith, another statutory requirement necessary to proceed with the District's proposed acquisition. The District's lack of good faith negotiation is further evidenced by the time frame in which it sent Mr. Tupker its offer to acquire the easement and notice of intention to consider adoption of this resolution of necessity – specifically, the District's offer and notice were sent merely days apart, on December 21st and 24th respectively. The hearing for adoption of the resolution of necessity is scheduled for a few short weeks after the District sent its offer and notice to Mr. Tupker. The District is not negotiating in good faith by providing such minimal time for Mr. Tupker to review and consider, especially during the holiday season.

Finally, the District ignores viable Project alternatives that will be less disruptive and damaging to the Tupker Home. These viable Project alternatives would substantially reduce or eliminate the need to acquire private property, including the Tupker Home. Despite the multiple

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fatal flaws affecting the proposed adoption of the resolution of necessity, the District is moving forward as it has pre-committed itself to the proposed acquisition.

1. The District has failed to extend a legitimate precondemnation offer pursuant to Government Code section 7267.2. This is not a vacant land parcel.

California law requires the District to make a legitimate offer of just compensation based upon its approved appraisal prior to initiating a condemnation proceeding. Compliance with Government Code section 7267.2 is a *mandatory* prerequisite to adopting a resolution of necessity and initiating an eminent domain action. (Code Civ. Proc., §§ 1240.040, 1245.230, subd. (c)(4); *City of San Jose v. Great Oaks Water Co.* (1987) 192 Cal.App.3d 1005.) Failure to strictly comply with the requirements of this Section are grounds for dismissing the entire proceeding.

The Tupker Home is improved with a four-bedroom, four-bathroom, 3,785 square foot residence recently built in 2007. The lot size of the Tupker Home is 33,541 square feet, or 0.77 acres. The District ignores the substantial improvements located on-site in its appraisal and values the property as vacant land.

In any part-take eminent domain proceeding such as this one, the real estate appraiser is required to value the entire larger parcel (all of the land and all of the improvements) in the so-called "before" (or no Project) and the "after" (or Project-impacted) conditions, and to assess any impacts occurring to the remainder property (all of the remaining land and improvements) relating to either or both the parts taken and/or the construction and use of the project in the manner proposed in order to properly assess severance damages. This appraisal fails because the required analysis was not done. The law does not permit the District to "short cut" the appraisal process.

Aside from the District's failure to assess severance damages, it likewise failed to analyze sales of improved real property. Even a cursory review of recent sales of comparable properties in the surrounding area indicates a unit rate far in excess of the per square foot rate relied upon by the District in its precondemnation offer. This is because the District only considered sales of vacant land. As such, the District's precondemnation offer is invalid and cannot support the adoption of a resolution of necessity for the proposed acquisition. The District is improperly rushing through the process to adopt the resolution of necessity.

The District pretends that its appraisal of the Tupker Home complies with mandatory statutory requirements. It does not. To proceed with its proposed acquisition, the District must re-appraise the entire Tupker Home including the residence and all of the improvements thereon,

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in both the before condition and the after condition in order to make an appropriate revised precondemnation offer based upon a current date of value before commencing this acquisition process.

It is inappropriate to attempt to condemn first, and then suggest that an error can be corrected by a subsequent offer or subsequent appraisal *after* the adoption of a resolution of necessity. (See *City of Stockton v. Marina Towers* (2009) 171 Cal.App.4th 93.) The District cannot correct its error by simply reappraising *after* adopting a resolution of necessity to retroactively confer itself with the authority to do that which it has already done.

California's Eminent Domain Law mandates *strict compliance* with its statutory requirements *before* a public entity may confer itself with the awesome power of eminent domain to condemn private property for a public purpose. "The proceeding to condemn land for a public use is special and statutory and the prescribed method in such cases must be strictly pursued especially if those methods benefit the [property] owner." (*City of Needles v. Griswold* (1992) 6 Cal.App.4th 1881, 1895, quoting *Harrington v. Superior Court* (1924) 194 Cal. 185, 191 and *City of Los Angeles v. Glassell* (1928) 203 Cal. 44, 46 [emphasis added].)

2. The District has failed to negotiate in good faith pursuant to Government Code section 7267.1.

The District is paying lip service to its statutory mandate to seek to acquire the Tupker Home by negotiation prior to condemnation. The District's appraisal ignores the four-bedroom, four-bathroom, 3,785 square foot residence located on the Tupker Home and values the land as if vacant. Without an appraisal that complies with mandatory statutory requirements, the District cannot negotiate in good faith to acquire the Tupker Home.

Further, the District sent its offer to acquire the easement to Mr. Tupker on December 21, 2020, which Mr. Tupker did not receive until December 24th. On December 24th, the District sent its notice of intention to consider adoption of a resolution of necessity for the Tupker Home, which Mr. Tupker received on December 26th. The hearing for adoption of the resolution of necessity is scheduled for a few short weeks after the District sent its offer and notice to Mr. Tupker. The District is not negotiating in good faith by providing such minimal time for Mr. Tupker to review and consider, especially during the holiday season.

Government Code section 7267.1 imposes an affirmative obligation on a public entity seeking to condemn property to attempt **to acquire that property first by negotiation**. (*Johnston v. Sonoma County Agricultural Preservation & Open Space Dist.* (2002) 100 Cal.App.4th 973.) "The public entity shall make every reasonable effort to acquire expeditiously

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real property by negotiation." (Gov. Code, § 7267.1, subd. (a).) The duty to negotiate is designed to *avoid* litigation, but not to avoid the recognition of the improved property. "In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the public programs, and to promote public confidence in public land acquisition practices, public entities shall, to the greatest extent practicable" make every reasonable effort to acquire property by negotiation. (Gov. Code, § 7267; see also 8 Witkin, Summary of Cal. Law (11th ed. 2020) Const. Law, § 1321.)

The fundamental precept of any good faith negotiation is that it be predicated on a *legitimate* precondemnation offer that complies with the Government Code. Here, the District's appraiser ignored the improved residential structure and related improvements and, instead, valued the larger parcel as unimproved land. The offer as proposed cannot be accepted. It fails to account for the substantial damages accruing to the remainder property and its component improvements due to the construction and use of the Project as proposed.

Instead of analyzing the Project's true impacts including valuation of the entire Tupker Home, the District is prematurely moving forward with this condemnation action and demanding that the owner either "blindly" accept its precondemnation offer "as is" (without first providing the property owner with an opportunity to assess the adequacy of the offer) or be named as defendant in a condemnation action.

The power of eminent domain is the most coercive power granted to the government under the Constitution relating directly to the ownership of private property. However, with such coercive power comes the responsibility to exercise it appropriately and to seek impartial justice for both the government and private property owner. (See *City of Los Angeles v. Decker* (1977) 18 Cal.3d 860, 871.) Here, the District is ignoring its *affirmative* obligation under the Government Code. Rather, the District seeks to force the property owner to accept a knowingly inadequate offer or be involved in a lawsuit.

In this instance, the District's conduct falls below its affirmative duty imposed under the Government Code and higher ethical duty to seek impartial justice. (See *Decker, supra*, 18 Cal.3d at p. 871; see also Gov. Code, §§ 7267.1, *et seq.*)

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3. **Based on information currently known, the District's proposed Project is not planned or located in the manner that will be most compatible with the greatest public good and the least private injury.**

The District's consideration and adoption of a resolution of necessity requires a finding that the Project as proposed is planned and located in the manner that will be most compatible with the greatest public good and the least private injury. (Code Civ. Proc., § 1245.340, subd. (c)(2).)

In this case, however, the District has not provided any information to the property owner concerning any viable Project alternatives that may exist which would enable the District to obtain all of the amenities of the Project as proposed. As far as we can tell, based upon the scant information provided, there may be other viable project alternatives that will be less disruptive and damaging to the Tupker Home, the specifics of which, however, have not been disclosed to the property owner.

The District must consider all alternatives before an informed determination can be made as to whether the Project as proposed is "most compatible with the greatest public good and the least private injury."

In this case, however, the owner is informed and believes and based thereon alleges that several viable project alternatives exist that would enable the District to obtain all of the amenities of the Project as proposed but at a substantially reduced cost and with less private property. The owner is further informed and believes that the District has failed and refused to consider viable Project alternatives that would reduce the damaging impacts to the Tupker Home while maintaining (or improving) any claimed beneficial aspects of the Project. Because each alternative would enable the District to achieve its Project objectives at a greatly reduced private injury, the District must consider those alternatives before an informed determination can be made as to whether the Project as proposed is "most compatible with the greatest public good and the least private injury."

Here, the lot size of the Tupker Home is 33,541 square feet, or 0.77 acres. The District seeks to condemn over 40% of the lot for its Project, drastically reducing the usable portions of the Tupker Home and damaging its value. As an alternative to condemning a substantial portion of the Tupker Home for flowage and flooding purposes, the District could condemn a significantly smaller portion of the Tupker Home and construct a deeper detention basin to hold the same volume of water. This kind of smaller-footprint development has been approved and utilized recently by the City of Chino. Alternatively, the District can use a portion of the

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federally-owned land behind the Tupker Home to construct a detention basin to hold the same volume of water, disposing of the need to acquire any private property for the Project.

The Tupkers purchased their new home in 2007. Thereafter, the Tupkers invested over \$400,000.00 in installing improvements, upgrades, and landscaping which transformed their new residence into their dream home. The Tupkers and their family spend most of their time outdoors, in their backyard. The Tupkers took great care in creating a welcoming backyard for the enjoyment of their children, grandchildren, and friends by installing manicured landscaping, walkways, stairways with lampposts, a basketball court, a tetherball pole, and a dirt track for their ATVs. Mr. Tupker and his family have continued to utilize and enjoy the backyard he and his wife created after his wife's passing. The proposed Project would drastically reduce the usable size of the Tupker Home and destroy and/or diminish many of the installed improvements and upgrades to the Tupker Home. The District seeks to condemn over 40% of the lot for its Project, drastically reducing the usable portions of the Tupker Home. Additionally, the health impacts of water intrusion and flooding are significant. Standing water may create dangerous health impacts to the owner, including but not limited to mosquito infestations and waterborne diseases. Further, water intrusion and flooding of the Tupker Home may threaten and damage the structural integrity of the residential structure located on the Tupker Home, including the home's foundation. It may also create issues of subsidence and erosion. While the District claims it is acquiring an easement, in effect, the significant, broad, and wide-ranging limitations imposed on the owner's use of the easement area is akin to a fee taking. The District's proposed taking renders a significant portion of the Tupker Home unusable.

Other project alternatives are more compatible with the greatest public good and least private injury. The District should consider available alternatives.

4. Based upon information currently known, the property sought to be acquired is not necessary for the Project.

One of the mandatory components to the necessity determination is that the property sought to be acquired must be necessary for the project. (Code Civ. Proc. § 1240.030, subd. (c).) The Eminent Domain Law defines "property" to include real and personal property and any interest thereon. (Code Civ. Proc., § 1235.170.) Thus, the District must not only consider whether the Tupker Home is necessary for the Project but also whether the particular interest in the Tupker Home that the District seeks to take is necessary. In the absence of substantial evidence supporting such a determination, the resolution of necessity will be invalid.

The owner is informed and believes that viable Project alternatives exist that would provide all of the amenities of the proposed Project but at a substantially reduced cost and with

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less private property, as described above. Those alternatives would materially reduce the need to acquire any private property for construction of the proposed Project, including the Tupker Home.

Barring such consideration, the District cannot make an informed determination as to whether the Tupker Home is actually necessary for the Project.

5. The taking and proposed Project violate the precepts of the California Environmental Quality Act (CEQA). The stale EIR And Supplemental EIR cannot show that the District has adequately addressed the environmental impacts likely to be caused by the Project.

Though the District is attempting to acquire portions of the Tupker Home for its Project, the owner is informed and believes that the District has ignored the fundamental precepts of CEQA by failing to conduct a proper environmental analysis. The owner is informed and believes that the District's CEQA analysis is inadequate.

Apparently, the District is prepared to recommend approval of the proposed taking and Project based upon an outdated Environmental Impact Report (EIR). Such a recommendation ignores the fact that significant changes have occurred in the area affected by the Project that would give rise to new or different impacts not addressed or adequately addressed in the 1989 Final EIR and 2001 Final Supplemental EIR. Without evaluation of whether a subsequent or further supplemental EIR is appropriate, the District cannot fairly and adequately find that it has complied with CEQA in adopting the proposed resolution of necessity.

The District is apparently relying on environmental documents and analyses created years and decades before the development of the Tupker Home. When the Final EIR and Final Supplemental EIR were certified, there was no residential structure on the Tupker Home. The District's position is that the "circumstances of the Project are substantially the same" as in 1989 and 2001. The District claims that "no substantial changes have occurred in the circumstances under which the Project is being undertaken" exist. The District also claims that there is "no new information of substantial importance to the Project that was not known ... when the [environmental documents] were certified has become known in relation to these proposed condemnation actions." The District's position and claims are disingenuous. It is clear that circumstances have drastically changed since 1989 and 2001 – the Tupker Home and neighboring parcels have been improved with single-family residential homes. These homes were built 18 years after the Final EIR was certified and 6 years after the Final Supplemental EIR was certified. Further, a multitude of circumstances have changed since 1989 and 2001, including but not limited to water quality, air quality, noise, land use, biological resources, and

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transportation. The significant, substantial changes in circumstances requires further CEQA review. (See Pub. Res. Code, § 21166, subs. (a)-(c) [requiring preparation of a subsequent or supplemental environmental impact report if that are substantial changes].) Adopting this resolution of necessity without first supplementing the environmental document for the Project would result in a violation of CEQA. Failure to comply with CEQA would result in invalid resolution of necessity preventing the District from condemning the Tupker Home.

6. The District is incapable of conducting a fair, legal, and impartial hearing on the proposed adoption of the resolution of necessity.

It is believed that the District has already committed itself to the proposed taking, so any hearing resulting in the adoption of the resolution by the District would be a predetermined result. The proposed resolution hearing is a pretense and artifice, and any resolution adopted under these circumstances would be voidable by a court of competent jurisdiction. (See *Redevelopment Agency v. Norm's Slauson* (1985) 173 Cal.App.3d 1121, 1127.)

As a condition precedent to the exercise of the power of eminent domain, a public agency "must hold a public hearing to determine whether a particular taking meets the [requirements of Civil Code section 1245.235, i.e., is for a public use, necessary, and designed in such a manner to cause the least private injury....]" (*Norm's Slauson, supra*, 173 Cal.App.3d at p. 1125 [emphasis added].) "Implicit in this requirement...is the concept that...the [a]gency engage in a good faith and judicious consideration of the pros and cons of the issue and that the decision to take be buttressed by substantial evidence...." (*Id.* at pp. 1125-1126.) "[A]n agency that would take private property...must...conduct a fair hearing and make its determination on the basis of evidence presented in a judicious and nonarbitrary fashion." (*Id.* at p. 1129.) In the absence of a fair and impartial hearing, the resolution of necessity is void.

If the condemning agency fails to conduct itself in this manner, then the resolution is not entitled to its ordinary conclusive effect and the burden of proving the elements for a taking rests on the government agency with the court being the final adjudicator. (*Norm's Slauson, supra*, 173 Cal.App.3d at pp. 1128-1129.) "The governmental agency in such a situation cannot act arbitrarily and then seek the benefit of having its decision afforded the deference to which it might otherwise be entitled." (*Id.* at p. 1129.)

In *Norm's Slauson*, the Court held that the condemning agency's approval of the resolution of necessity was invalid when the agency "simply 'rubber stamped' a predetermined result" because, prior to any hearing on the resolution, it (a) entered into an agreement with a developer by which the agency agreed to transfer a portion of defendant/property owner's restaurant, and the developer agreed to construct a condominium thereon; and (b) issued and sold

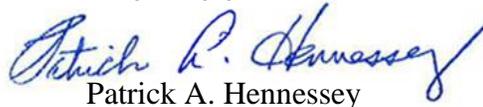
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tax exempt bonds to pay for the acquisition. (*Id.* at p. 1127.) "In short, the agency, without any notice to Norm's [the property owner], in effect sold the property and issued bonds to obtain the money to acquire the property all before taking any steps to condemn the property." (*Id.* at p. 1125.)

Here, the owner is informed and believes that the District has impermissibly committed itself to take portions of the Tupker Home. By having already committed to the Project, the District has left itself no discretion but to approve the resolution. (See *Norm's Slauson, supra*, 173 Cal.App.3d at pp. 1127-1130; Code Civ. Proc., § 1245.255, subd. (b).) Accordingly, if the resolution is adopted, the hearing which led to its adoption will have been a pretense and the District's policy-making board will simply be "rubber stamping" a pre-determined result. If the resolution is adopted under such circumstances, it will be voidable on that basis.

Based upon the foregoing objections, we respectfully request that the District not adopt the resolution or, at a minimum, continue the hearing on this agenda item until such time as the objections are addressed. If the District has any questions or comments concerning the content of this letter, it should contact the undersigned. Thank you.

Very truly yours,



Patrick A. Hennessey

PAH
cc: Client



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VIA FEDEX

January 8, 2021

Clerk of the Board of Supervisors
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, CA 92702

**Re: Orange County Board of Supervisors' January 12, 2021, Resolution of Necessity
Hearing: Demand (i) to Continue the Improper Hearing or, (ii) to Appear and Be Heard**

Dear Board Members:

This firm represents Joe Cruz, Virginia Cruz and the Estate of Henry Cruz (collectively, Owners), owners of the property referred to as San Bernardino County Assessor's Parcel Numbers 1057-263-04 and 1057-263-02, and identified by the County as Parcels E01PD-24-009 and E01PD-24-011 (Property).

This responds to the County's notice of intent to adopt a resolution of necessity (RON) authorizing the condemnation of the Property. For the reasons set forth in this letter, the Owners request that the County continue or postpone the improper RON hearing. If the County proceeds with the RON hearing, the Owners request (i) the opportunity to appear and be heard at the RON hearing, and (ii) this letter be made a part of the record.

Background

By way of background, Henry, Joe, and Virginia Cruz are siblings and have owned the Property since approximately 1974 -- over 45 years. Unfortunately, Henry Cruz was hospitalized with a severe case of COVID-19 on December 13, 2020. Henry was incapacitated, struggling to breathe, and suffering from early dementia from December 13, 2020 until his passing the morning of December 23, 2020. Family and Friends were not allowed to visit or have physical contact with him, and communication was impossible because of his loss of hearing, inability to breathe, weakness, and mental confusion.

On December 14, 2020, the County mailed its offers to Henry Cruz at his home address. Because Mr. Cruz was hospitalized, he never received the offers. Despite the Property also being owned by Joe Cruz and Virginia Cruz, neither Joe nor Virginia have ever lived at the address of Henry Cruz, and likewise therefore did not receive the offers until just recently.

Despite the situation, less than 10 days after the offers were mailed to Henry Cruz, the County mailed out its Notice of RON hearing on Christmas Eve, December 24, 2020 -- a day after Henry Cruz had

passed away. Mr. Cruz's family had been struggling with his illness during his hospitalization and has been in mourning since his passing. They are not in a mental state to deal with the County's moving extraordinarily rapidly to condemn their Property, with no regard or compassion for Mr. Cruz or his family.

The County's urgent rush to condemn the Property is particularly concerning since the Army Corps of Engineers has known of the need to raise the dam for decades. Given the circumstances, the Cruz family is requesting that the County postpone the RON hearing. This will allow the family time to retain an appraiser and negotiate in good faith with the County. Absent time to secure an appraisal, the Cruz family cannot engage in good faith negotiations with the County, and the County has never even contacted the Cruz family to discuss such negotiations.

We therefore respectfully request that the County postpone the hearing on the RON for the Property.

Objections

Should the County decide to proceed with the RON hearing, the Owners object to the RON hearing, and to the County's adoption of such a resolution, on the following grounds:

1. The County Did Not Properly Make an Offer to the Owners, and Is Instead Rushing This RON Hearing.

A public agency is required to make an offer to the property owner for the full amount of just compensation, and thereafter engage in good faith negotiations. (Gov. Code, §§ 7267.1, 7267.2.) California Code of Regulations, Title 25, section 6182, subdivision (i)(1) states:

Prior to commencement of an eminent domain proceeding the **public entity shall make reasonable efforts to discuss with the owner its offer to purchase the owner's real property.** The owner shall be given a reasonable opportunity to present material which he believes to be relevant as to the question of value and to suggest modification in the proposed terms and conditions of the purchase, and the public entity shall carefully consider the owner's presentation.

Subdivision (i)(1) states that if the evidence suggests a modification in the price, "an appropriate price adjustment shall be made and the new amount determined to be just compensation shall be promptly offered in writing to the owner." As one court explained: "**Government Code section 7267.1 imposes an affirmative obligation on a public entity seeking to condemn property to acquire that property by negotiation.**" (*Johnston v. Sonoma County Agricultural Preservation and Open Space Dist.* (2002) 100 Cal.App.4th 973, 988, emphasis added.)

Recently enacted changes to the Eminent Domain law make even more clear the need for a negotiation period between the time of the condemning agency's offer and the passage of a resolution of necessity. Under the law, the County was required to offer the Owners \$5,000 to obtain an independent appraisal in order to evaluate the County's offer. While the County's "offer" contains language concerning such an opportunity, the language is rendered meaningless by the fact that the County waited

until the eleventh hour before making any offer of compensation, and thereafter rushed to proceed with this RON hearing without giving the Owners an opportunity to obtain an independent appraisal. This clearly violates California law.

The Owners believe the County has also engaged in efforts to re-zone the Owners' Property to depress its value. Such zone changes are improper and must be disregarded as a project influence. (See *City of San Diego v. Rancho Penasquitos Partnership* (2003) 105 Cal.App.4th 1013.) The County is grossly abusing its powers, and has violated the law, as it is unlawful for the County to "take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property." (See Gov. Code, § 7267.5.) The County's proposed initiation of condemnation proceedings is not being done in good faith.

2. The County's Acquisition Will Render the Remainder Property an Uneconomic Remnant.

As indicated above, Government Code section 7267.2 requires that the County make a legitimate offer of compensation based upon an approved appraisal prior to initiating condemnation proceedings. To the extent a precondemnation offer was even made, the County failed to comply with this requirement as its appraisals and the offers based on those appraisals failed to analyze appropriately the damages that will be caused by the acquisition. In particular, the appraisals/offers dramatically underestimate the obvious detrimental impact on the portions of the Property not sought to be acquired. In particular, the County's proposed condemnation will encumber many portions of the Property, leaving orphaned, irregularly shaped remnants, and leaving the other pieces with likely no use or access, meaning no economically viable use of the remainder property exists. In these circumstances, Government Code section 7267.7 imposes a mandatory requirement that the County offer to purchase the entire Property. And, since the County's appraiser failed to recognize that the taking will render the remainder valueless, the purported offer fails to meet statutory requirements.

3. The County's Adoption of a Resolution of Necessity Will Violate CEQA.

California law is clear that a public agency must comply with the California Environmental Quality Act (CEQA) before adopting a resolution of necessity to condemn property. (*City of Stockton v. Marina Towers* (2009) 171 Cal.App.4th 93, 108 ["Compliance with CEQA is mandatory before a public entity may condemn property for a proposed project."].) Requiring CEQA-compliance before commencing condemnation proceedings makes perfect sense, as (i) an agency is prohibited from undertaking an action that would taint its consideration of project alternatives, and (ii) the acquisition of private property is considered a definite course of action which is prohibited prior to preparing, finalizing and considering an Environmental Impact Report (EIR). (See Cal. Code Regs., tit. 14, § 15004, subd. (b)(2); *City of San Jose v. Great Oaks Water Co.* (1987) 192 Cal.App.3d 1005, 1017 [compliance with CEQA is a precondition of the institution of eminent domain proceedings]; *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 140-142). CEQA is the "environmental full disclosure act" to assess the environmental impact of all proposed "projects."

Here, the County has undertaken no environmental analysis for decades. The County has not analyzed changes in property uses, impacts from its project due to the changes in land uses, or issues

pertaining to soil erosion or other impacts. Without such adequate consideration, the County will violate CEQA and its eminent domain action will be dismissed. (*Burbank-Glendale-Pasadena Airport v. Hensler* (1991) 233 Cal.App.3d 577, 599 [“[A] successful CEQA challenge to the adoption of a resolution of necessity would also constitute a defense to the eminent domain proceeding.”].)

4. The County Is Prohibited From Rubber-Stamping the Resolution of Necessity.

The County must arrive at any decision to take the Property by engaging in a “good faith and judicious consideration of the pros and cons of the issue.” (*Redevelopment Agency v. Norm’s Slauson* (1985) 173 Cal.App.3d 1121, 1125.) County Board members cannot simply “rubber-stamp” a predetermined result. (*Id.* at p. 1127.) Yet, rubber-stamping appears to be the County’s plan.

The County has, by virtue of its previous actions, irrevocably committed itself to take the Property, regardless of any evidence that might be presented at this hearing. (See *Norm’s Slauson, supra*, 173 Cal.App.3d at p. 1127.) This is evidenced by issuing an offer and sending out a RON notice less than 10 days later -- and on Christmas Eve. The County’s hearing on the resolution of necessity will therefore be affected by the prior elimination of any discretion whatsoever, which will deprive any approved resolution of its validity. (*Ibid.*)

Conclusion

For the reasons set forth in this letter, the County’s Board members cannot validly adopt the proposed resolution of necessity. The Owners therefore request that the Board members not proceed with the hearing on that resolution or, if they proceed, vote to reject said defective resolution.

Thank you for your consideration of this matter.

Regards,



Bradford B. Kuhn
Nossaman LLP



DHRUV M. SHARMA

T (949) 380-5915 F (949) 861-9913
dsharma@mcglinchey.com

McGlinchey Stafford LLP
18201 Von Karman Avenue, Suite 350
Irvine, California 92612

January 8, 2021

VIA E-Mail

Alan A. Sozio
Burke, Williams & Sorensen, LLP
444 South Flower St., Suite 2400
Los Angeles, CA 90071-2953
ASozio@bwslaw.com

Dora Guillen
Clerk of the Orange County Board of Supervisors
333 W. Santa Ana Blvd.
Santa Ana, California 92702
Dora.Guillen@ocgov.com

***RE: Notice of Intention of the Board of Supervisors of the County of Orange, California, Acting As the Governing Board of the Orange County Flood Control District, To Consider For Adoption A Resolution Determining the Necessity of Acquisition By Eminent Domain of Real Property Agenda Item S45A, January 12, 2021
Property: 14600 Baron Drive, Eastvale, California
Our matter 107895.0001***

Dear Mr. Sozio and Ms. Guillen,

This office represents Riverview Recreation Park, LLC ("Riverview") in connection with the Resolution of the Board of Supervisors of Orange County, California, acting as the governing board of the Orange County Flood Control District (the "County"), determining the necessity of acquisition by eminent domain of real property (the "Resolution") located at 14600 Baron Drive, Eastvale, California (the "Property"). It is our understanding that the Resolution is scheduled to be considered by the Orange County Board of Supervisors (the "Board") on January 12, 2021, as agenda item S45A.

Riverview has a leasehold interest in portions of the Property, identified by parcels numbered 130-080-033, 130-050-003 and 130-040-006, pursuant to a lease agreement that it entered with the Riverside County Park and Open-Space District dated April 23, 2002. Accordingly, pursuant to your instructions, we are writing to provide written comment on the Resolution, which we ask to be included in the record. A completed Request to be Heard is enclosed herein. Riverview did not receive notice of the Board's intent to consider the Resolution until it was advised by Riverside County on January 4, 2021, thereby delaying its ability to request an opportunity to be heard and to submit this written comment.

mcglinchey.com

Riverview's Concerns

For more than 20 years, parcels APN 130-050-003 and APN 130-040-006 have been used for the business purpose of serving as a special purpose recreation park (the "Park"). Parcel APN 130-040-006 specifically houses the only "built up" Renaissance Village in California and, for the past 20 years (with a few exceptions) has hosted an annual Renaissance Festival which attracts thousands of patrons. In the past few years (with the exception of the COVID-19 lockdown), the Park has attracted thousands of patrons attending various events including weddings, quinceaneras, graduation parties, reenactment events, as well as Halloween events and movie shoots. In short, the Resolution impacts land that is actively used by Riverview and the community for events and other business purposes.

Based on the limited information we have currently received, Riverview's initial concerns, include, but are not limited to, the following:

1. Easement is Broad and Overreaching: The Easement sought in the Resolution is broad, overreaching and inconsistent with the current use of the Park. Specifically, the Easement Area encompasses many fixtures and temporary structures that cannot be relocated to other areas (as there is no space). Rather, the Easement specifically seeks to prohibit the construction and maintenance of any structures within the Easement Area without written approval from Orange County, thus directly impacting Riverview's current structures and future business plans. The proposed Resolution and the current language of the Easement do not address these issues whatsoever and do not indicate that any compensation has been made to Riverview for these impacted leasehold interests.
2. Issue relating to Government Code 7267.2 - Appraisal Does Not Account for Leasehold Interest: The Resolution indicates that an offer of compensation has been made to the owner of record, but no offer of compensation has been made to Riverview for its aforementioned leasehold interests. Riverview has not received nor reviewed the appraisal which has been quoted in support of the proposed compensation to Riverside County of up to \$105,100, and does not believe that any such appraisal has taken into consideration the value of the ongoing business and/or the fixtures and structures on the Property.
3. Issue relating to Government Code 7267.7(a) - Appraisal Does Account for Entire Parcel: Government Code 7267(a) reads:
 - (a) If the acquisition of only a portion of a property would leave the remaining portion in such a shape or condition as to constitute an uneconomic remnant, the public entity shall offer to acquire the entire property if the owner so desires.

The easement over parcel APN 130-040-006 includes areas that are critical to the ongoing business of Riverview and include the residence of the caretaker, the office portable cabins of the business, a sand arena, along with several fixtures and, based on the maps provided, the only permanent bathroom facilities servicing the Park, the only accessible road to the parcel, and other important fixtures. Exercising this easement as it is currently worded would render the remaining portions of the Property inoperable from a business perspective, and as such, the appraisal must take into consideration the entirety of the affected parcels. As Riverview has not received a copy of the appraisal, it is not able to determine whether these issues have been accounted for.

Riverview's Requests

Having only received notice on January 4, 2021, and having not received sufficient information in order for Riverview to provide more substantive comment and/or objections, Riverview requests that the Board continue the hearing on this Resolution to a future date. In the meantime, Riverview requests that the County provide it with additional information and documentation supporting the Resolution, including the appraisals referenced therein, any other documents used to derive the amount of compensation proposed, and any studies or reports analyzing the impact of the Easement on the future use of the Easement Area.

Please feel free to let us know should you have any questions or concerns, and we look forward to further discussing the Resolution with you.

Sincerely,

McGlinchey Stafford

A handwritten signature in blue ink, appearing to read 'Dhruv M. Sharma', with a long horizontal stroke extending to the right.

Dhruv M. Sharma

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name Riverview Recreation Park, LLC

Address 14600 Baron Drive, Eastvale, California 92880

Telephone Number 951-809-1091

Dated: January 8, 2021

(Signature)  _____, Attorney for Riverview Recreation Park, LLC



County Executive Office

545A

Memorandum

January 6, 2021

To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Subject: Exception to Rule 21

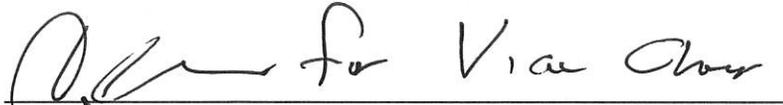
Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of
Orange, ou=CEO,
email=frank.kim@ocgov.com,
c=US
Date: 2021.01.06 13:53:57 -08'00'

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1350412520

The County Executive Office is requesting a Supplemental Agenda Staff Report for the January 12, 2021, Board Hearing.

Agency: County Executive Office
Subject: Condemnation Actions, San Bernardino County, Prado Dam Project
Districts: All Districts

Reason for supplemental: In late August 2020, the United States Army Corps of Engineers (Corps) informed the Orange County Flood Control District (OCFCD) that in order to meet an April 30, 2021, Corps deadline to award the construction contract for the Santa Ana River Mainstem/Prado Dam Project spillway, OCFCD in conjunction with CEO-Real Estate must acquire flowage easements or other property interests in more than 45 properties expeditiously. In order to obtain possession within the timeframe set by the Corps, properties for which offers have been made in accordance with the required notice, need to be considered by the Board as soon as they are ready. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:  1/6/2021
Vice Chairman Andrew Do, Supervisor, First District

cc: Board of Supervisors
County Executive Office
County Counsel

**SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT**



MEETING DATE: 1/12/21

LEGAL ENTITY TAKING ACTION: Orange County Flood Control District

BOARD OF SUPERVISORS DISTRICT(S): All Districts

SUBMITTING AGENCY/DEPARTMENT: County Executive Office

DEPARTMENT HEAD REVIEW: Thomas A. Miller
Department Head Signature

DEPARTMENT CONTACT PERSON(S): Thomas A. Miller (714) 834-6019
James Treadaway (714) 667-9700

SUBJECT: Condemnation Action, Riverside & San Bernardino Counties, Prado Dam Project

RECEIVED
 COUNTY CLERK - 7 PM 3:07
 JAN 13 2021

CEO CONCUR

Frank Kim
Digitally signed by Frank Kim
 DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US
 Date: 2021.01.06 13:53:19 -0800

CEO Signature

COUNTY COUNSEL REVIEW

Approve Resolutions to Form
Action
Debra M. Wash
 County Counsel Signature

CLERK OF THE BOARD

Public Hearing
2/3 Vote

Budgeted: Yes **Current Year Cost:** See Financial Impact Section **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: Fund 404: 100% **County Audit in last 3 years:** No

Prior Board Action: 10/06/2020 #4, 01/28/2003 #40, 12/07/1999 #49

RECOMMENDED ACTION(S):

Acting as the governing board of the Orange County Flood Control District:

1. Conduct public hearing.
2. At the conclusion of the hearing, make the following findings:
 - a) Final Environmental Impact Report No. 583 was previously certified by the Board of Supervisors on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 adequately addressed and fully analyzed

project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

- b) The circumstances of the Project are substantially the same as when Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 were certified, and Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.
 - c) Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.
 - d) All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.
3. At the conclusion of the hearing, adopt the Resolutions of Necessity attached as Attachments E through P to this Agenda Staff Report, which include the above-described CEQA findings and also the findings required by the California Eminent Domain Law for adoption of a Resolution of Necessity, and which direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the interests in real property as described in the attached Resolutions of Necessity.
4. At the conclusion of the hearing, direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber and transfer funds to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount as described in the Resolutions of Necessity; and to be made as one or more deposits of estimated compensation in the condemnation proceedings; and to encumber such additional funds, and to transfer funds as may be requested by County Counsel, and if necessary to satisfy any court orders for higher deposits or payment of greater compensation, or as necessary to pay for title insurance and other fees and costs in connection with the acquisition of the Subject Property Interests pursuant to each Resolution of Necessity.

SUMMARY:

Conducting a public hearing and considering adoption of Resolutions of Necessity that allow the Orange County Flood Control District to acquire property for the Santa Ana River Mainstem/Prado Dam Project will provide protection to the public from flood and storm waters from the potential effects of a 190-year flood/storm event.

BACKGROUND INFORMATION:

On December 7, 1999, the Board of Supervisors (Board) for the Orange County Flood Control District (District) authorized the initiation of the Prado Dam Project Real Property Acquisition Program. On January 28, 2003, your Board authorized the execution of a Project Cooperation Agreement and Second Modification to the Local Cooperation Agreement for the Santa Ana River Mainstem Project, and on October 6, 2020, your Board authorized Amendment Number 1 to the Project Cooperation Agreement with the Recommended Actions including authorizing the Director of OC Public Works or designee to execute ancillary documents or Relocation Agreements approved by County Counsel not to exceed \$1 million per utility or property owner relocation need per fiscal year. The Project Cooperation Agreement requires the local sponsors of the Santa Ana River Mainstem Project, including the District, to acquire real property interests and perform relocation/protection of utilities, streets and highways as necessary for construction and related revised flood control operations.

The recommended action, adoption of the proposed Resolutions of Necessity (Resolutions), would find and declare it to be necessary to institute eminent domain proceedings to acquire the real property interests described below, which are located in the Counties of Riverside and San Bernardino, for the District's Santa Ana River Mainstem/Prado Dam Project (Project), which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, and find and declare that the public interest and necessity require the Project for the purpose of controlling flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event. In particular, the recommended action would find and declare that it is necessary for the District to acquire interests in the remainder of certain parcels, all as described more fully in the Resolutions of Necessity (Subject Property Interests), in order to meet the deadline of the United States Army Corps of Engineers (Corps) to award the contract for construction of the Project's spillway in 2021. If the Corps' schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. The Subject Property Interests are necessary for the Project, in order to provide sufficient protection from storm events and flooding to those downstream from the Prado Dam and because the area of the Subject Property Interests will be exposed to greater risk or frequency of inundation as a result of the Prado Dam's increased reservoir capacity once the spillway is increased in height.

A more detailed description of the intended public use of, and necessity for, these acquisitions is contained in the accompanying OC Public Works Memoranda, attached hereto as Attachment B, which is incorporated herein by this reference and that provides substantial information supporting the requested findings contained in the proposed Resolutions. The information presented in this Agenda Staff Report and in that Memoranda are legally sufficient to show that the public interest and necessity require the Project for the purposes specified by the Orange County Flood Control Act (California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. sections 36-1 et seq.) (Act), including, but not limited to, the control of flood and storm waters. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses described herein and in the accompanying OC Public Works Memoranda under the California Constitution and the California Eminent Domain Law (Code

of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Sections 1240.110, 1240.410, and 1240.420), Government Code Section 25350.5 and the Act.

Accordingly, County Counsel and OC Public Works/Infrastructure Programs/Flood Programs request your Board, acting in its capacity as the governing Board of the District, to adopt the proposed Resolutions to authorize and direct County Counsel and/or outside eminent domain counsel, the law firms of Bergman Dacey Goldsmith, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to file and pursue proceedings to condemn and acquire the Subject Property Interests, which are more particularly described in the proposed Resolutions of Necessity attached as Exhibits E through P.

Although the Subject Property Interests are located in the Counties of Riverside and San Bernardino, they are within the reach of the District's extraterritorial power of eminent domain pursuant to Sections 2 and 16 of the Act.

To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the District's Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

To the extent the acquisition of the portion of the Subject Properties that are necessary for the Project will leave the remainder in such size, shape, or condition as to be of little market value, the remnants are being acquired in accordance with Article 5 of the Eminent Domain Law (commencing with Section 1240.410 of the Code of Civil Procedure). Thus, the portion of the Subject Properties above the elevation line of 566 feet are being acquired pursuant to Code of Civil Procedure section 1240.410, et. seq., as uneconomic remnants.

Compliance With CEQA:

The acquisition of property is a necessarily included element of the project considered in Final Environmental Impact Report (EIR) No. 583, certified by the Board on November 28, 1989, and Final Supplemental Environmental Impact Statement (EIS)/EIR No. 583, certified by the Orange County Planning Commission on December 19, 2001, which adequately addressed the effects of the proposed project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project which was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known; therefore no further environmental review is required.

FINANCIAL IMPACT:

Appropriations are included in the Flood Fund 404 FY 2020-21 Budget for issuance of a one-time cost of \$1,707,900 in the amounts as listed below to be made upon Board approval of the proposed recommended actions.

	<u>Property Owner Name</u>	<u>Amount</u>	<u>JCN</u>	<u>Account Coding</u>
1	<u>Cruz Henry & Joe</u>	<u>\$182,000</u>	<u>ESP2134</u>	<u>404-080-404-LS43-4100-ESP2134</u>
2	<u>Cruz Henry & Virginia</u>	<u>\$50,500</u>	<u>ESP2134</u>	<u>404-080-404-LS43-4100-ESP2134</u>
3	<u>Kelsoe</u>	<u>\$315,000</u>	<u>ESP2157</u>	<u>404-080-404-LS73-4100-ESP2157</u>
4	<u>Tupker</u>	<u>\$167,000</u>	<u>ESP2147</u>	<u>404-080-404-LS56-4100-ESP2147</u>
5	<u>Martinez</u>	<u>\$222,000</u>	<u>ESP2133</u>	<u>404-080-404-LS42-4100-ESP2133</u>
6	<u>Dixon</u>	<u>\$241,000</u>	<u>ESP2144</u>	<u>404-080-404-LS53-4100-ESP2144</u>
7	<u>15780 El Prado</u>	<u>\$21,300</u>	<u>ESP2152</u>	<u>404-080-404-LS68-4100-ESP2152</u>
8	<u>Wilson</u>	<u>\$167,000</u>	<u>ESP2145</u>	<u>404-080-404-LS54-4100-ESP2145</u>
9	<u>Riverside County</u>	<u>\$105,100</u>	<u>ESP2143</u>	<u>404-080-404-LS52-4100-ESP2143</u>
10	<u>Bleck</u>	<u>\$237,000</u>	<u>ESP2129</u>	<u>404-080-404-LS38-4100-ESP2129</u>
11	<u>Pine Sterling \$5,701,495 Funds already deposited</u>	<u>\$0</u>	<u>ESP2107</u>	<u>404-080-404-LS16-4100-ESP2107</u>
12	<u>Vargas \$1,320,000 Funds already deposited</u>	<u>\$0</u>	<u>ESP2101</u>	<u>404-080-404-LS09-4100-ESP2101</u>
	<u>Grand Total</u>	<u>\$1,707,900</u>		

Additional presently unknown costs may also include payments for title fees and other costs upon recordation, as well as the potential for other required payments that a court may order be deposited and/or paid in the condemnation actions. Any unknown costs will be absorbed within the existing appropriation of Flood Fund 404.

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

OC Public Works

ATTACHMENT(S):

Attachment A - Code Provisions

Attachment B - OC Public Works Memorandums

Attachment C - Real Estate Acquisition Questionnaire
Attachment D - Final Supplemental Environmental Impact Statement and Report No. 583
Attachment E - Resolution of Necessity (E01PD-24-009 Cruz)
Attachment F - Resolution of Necessity (E01PD-24-011 Cruz)
Attachment G - Resolution of Necessity (E01PD-27-105 Kelsoe)
Attachment H - Resolution of Necessity (E01PD-27-100 Tupker)
Attachment I - Resolution of Necessity (E01PD-21-006 Martinez)
Attachment J - Resolution of Necessity (E01PD-21-004 Dixon)
Attachment K - Resolution of Necessity (E01PD-45-001 15780 El Prado LLC)
Attachment L - Resolution of Necessity (E01PD-27-099 Wilson)
Attachment M - Resolution of Necessity (E01PD-26-004 Riverside County)
Attachment N - Resolution of Necessity (E01PD-21-007 Bleck)
Attachment O - Amended Resolution of Necessity (E01PD-46-996 Pine Sterling)
Attachment P - Amended Resolution of Necessity (E01PD-40-028 and E01PD-40-032 Vargas)
Attachment Q - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-24-009 Cruz)
Attachment R - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-24-011 Cruz)
Attachment S - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-27-105 Kelsoe)
Attachment T - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-27-100 Tupker)
Attachment U - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-21-006 Martinez)
Attachment V - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-21-004 Dixon)
Attachment W - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-45-001 15780 El Prado LLC)
Attachment X - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-27-099 Wilson)
Attachment Y - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-26-004 Riverside County)
Attachment Z - Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-21-007 Bleck)
Attachment AA - Notice of Intent to Consider Adoption of an Amended Resolution of Necessity (E01PD-46-996 Pine Sterling)
Attachment AB - Notice of Intent to Consider Adoption of an Amended Resolution of Necessity (E01PD-40-028 and E01PD-40-032 Vargas)

ATTACHMENT A

O.C. Flood Control Act provisions

WATER -- UNCODIFIED ACTS
Orange County Flood Control Act (1927 ch 723)

§ 2. Purposes of Act; Powers of district

(a) The purposes of this act are to provide for the control of the flood and storm waters of the district, and the flood and storm waters of streams that have their source outside of the district, but which flow into the district, and to conserve those waters for beneficial and useful purposes by spreading, storing, retaining, and causing them to percolate into the soil within the district, or outside the district, or to save or conserve in any manner all or any of those waters and protect from damage from those flood or storm waters, the harbors, waterways, public highways, and property in the district.

(b) The **Orange County Flood Control District** is hereby declared to be a body corporate and politic and has all of the following powers:

- (1)** To have perpetual succession.
- (2)** To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.
- (3)** To adopt a seal and alter it at pleasure.
- (4)** To take by grant, purchase, gift, devise, or lease, and to hold, use, enjoy, and to sell, lease, exchange, or dispose of real or personal property of every kind, within or outside the district, necessary to the full exercise of its powers.
- (5)** To acquire, or contract to acquire, lands, rights-of-way, easements, privileges and property of every kind, and to construct, maintain, and operate any and all works or improvements within or outside the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as authorized in this act.
- (6)** To exercise the right of **eminent domain**, either within or outside the district, to take any property necessary to carry out any of the objects or purposes of this act.
- (7)** To incur indebtedness, and to issue bonds in the manner provided in this act.
- (8)** To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district in the manner provided in this act.
- (9)** To make contracts, and to employ labor, and to do all acts necessary for the full exercise of the powers of the district, or any of the officers thereof, by this act.
- (10)** To grant or otherwise convey to counties, cities and counties, cities, or towns,

ATTACHMENT A

easements for street and highway purposes, over, along, in, through, across, or under any real property owned by the district.

(11) To remove, carry away, and dispose of any rubbish, trash, debris, or other inconvenient matter that may be dislodged, transported, conveyed, or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of the district or elsewhere.

(12) To sell or dispose of any property, or any interest therein, or lease or rent any property, or any interest therein, whenever, in the judgment of the board of supervisors, the property, or any interest therein or part thereof, is not required for the purposes of the district, or property may be leased, or included in community leases embracing adjoining lands, for any purpose, including leases for mining or extracting oil, gas, hydrocarbon substances, or other minerals, without interfering with the use of the property for the purposes of the district. If it appears that wells drilled upon private lands are draining or may drain oil, gas, or other hydrocarbon substances from lands owned by the district and operations for the production of oil, gas, or other hydrocarbons on land owned by the district might interfere with the use of that land for the purposes of the district, the district may enter into agreements with the owners or operators of the wells for the payment of compensation to the district for drainage in lieu of drilling offset wells upon the land owned by the district, and to pay any compensation received into the general fund of the district and use the compensation for the purposes of this act. However, nothing in this section authorizes the board of supervisors, or other governing body of the district, or any officer thereof, to sell, lease, or otherwise dispose of any water, water right, reservoir space, or storage capacity, or any interest or space therein, except as provided by Section 17. The district may also grant to the United States of America, or any agency thereof authorized to accept and pay for land which lies within any channel, dam, or reservoir site, improved or constructed, in whole or in part, with federal funds, upon the payment to the district of the actual cost thereof as determined by the board of supervisors of the district. The district, by and through its board of supervisors, may warrant and guarantee the title of all lands so transferred to the United States under this section.

(13) Pursuant to paragraph (12), to lease or rent any property, or any interest therein or part thereof, if the board adopts a resolution that meets all of the following requirements, as applicable:

(A) Includes all of the following findings, based on evidence set forth in the minutes of the meeting:

(i) The property, or any interest therein or part thereof, is no longer or not yet needed for district uses and purposes, including, but not limited to, flood protection and water conservation, and the lease or rental use will not conflict with the uses and purposes of the district.

(ii) The lease or rental is consistent with the city or county general plan, specific plan, or other plans or policies adopted for the area within which the property is located, including any plans and regulations adopted pursuant to Chapter 4 (commencing with [Section 8400](#)) of [Part 2 of Division 5 of the Water Code](#).

(iii) The lease or rental is consistent with city or county zoning ordinances, regulations, and policies adopted for the area within which the property is located.

ATTACHMENT A

(iv) The lease or rental is consistent with the city or county building regulations and policies adopted for the area within which the property is located.

(B) In the case of a rental, specifies the rental period and the approximate date on which the property will be needed for the uses and purposes of the district.

(C) For any property acquired by the district through **eminent domain**, declares that the property was acquired through **eminent domain** in accordance with Title 7 (commencing with [Section 1230.010](#)) of Part 3 of the Code of Civil Procedure.

(14) To monitor, test, or inspect drainage, flood, storm, or other waters within the district for the purpose of recording, determining, and reporting the quality of the waters to appropriate regional water quality control boards.

(15) To assist the County of Orange and any city within the county in emergency operations to control or mitigate the effect of tides, waves, and ocean currents on the Orange County shoreline.

(16) To carry on technical and other investigations, examinations, or tests of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, control of floods, use of water, water quality, nuisance, pollution, waste, and contamination of water, both within and outside the district.

(17) To regulate, prohibit, or control the discharge of pollutants, waste, or any other material into the district's facilities by requiring dischargers to obtain a permit from the district prior to any discharge and by prohibiting the discharge of pollutants or other material which does or may cause a nuisance into the district's facilities without first obtaining a permit from the district, but, if a federal permit has been issued for the discharge, a permit may be issued by the district at no fee to the discharger; except as provided in this act, to require a fee to be collected prior to the issuance of a discharge permit, if the amount of the fee does not exceed the cost of issuing the permit; to require all permitholders to indemnify the district from any and all damages, penalties, or other expenses imposed on or required of the district by state or federal agencies due to any discharge by the permitholders into the district facilities.

(18) To establish compliance with any federal, state, or local law, order, regulation, or rule relating to water pollution or the discharge of pollutants, waste, or any other material into the district's facilities. For this purpose, any authorized representative of the district, upon presentation of his or her credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with [Section 1822.50](#)) of Part 3 of the Code of Civil Procedure, has the right of entry to any premises on which a water pollution, waste, or contamination source is located for the purpose of inspecting the source, including securing samples of discharges therefrom, or any records required to be maintained in connection therewith by federal, state, or local law, order, regulation, or rule.

Code of Civil Procedure provisions

Code of Civil Procedure § 1230.010. Short title

This title shall be known and may be cited as the Eminent Domain Law.

Code of Civil Procedure § 1240.010. Exercise of power for public use

The power of eminent domain may be exercised to acquire property only for a public use. Where the Legislature provides by statute that a use, purpose, object, or function is one for which the power of eminent domain may be exercised, such action is deemed to be a declaration by the Legislature that such use, purpose, object, or function is a public use.

Code of Civil Procedure § 1240.110. Acquisition of certain interests in property; enumeration; restriction

(a) Except to the extent limited by statute, any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire any interest in property necessary for that use including, but not limited to, submerged lands, rights of any nature in water, subsurface rights, airspace rights, flowage or flooding easements, aircraft noise or operation easements, right of temporary occupancy, public utility facilities and franchises, and franchises to collect tolls on a bridge or highway.

(b) Where a statute authorizes the acquisition by eminent domain only of specified interests in or types of property, this section does not expand the scope of the authority so granted.

Code of Civil Procedure § 1240.510. Authority; reference in complaint and resolution

Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use property appropriated to public use if the proposed use will not unreasonably interfere with or impair the continuance of the public use as it then exists or may reasonably be expected to exist in the future. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.

ATTACHMENT A

Code of Civil Procedure § 1240.610. Authority; reference in complaint and resolution

Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use property appropriated to public use if the use for which the property is sought to be taken is a more necessary public use than the use to which the property is appropriated. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.

Code of Civil Procedure § 1245.235. Notice and hearing; contents; conduct

(a) The governing body of the public entity may adopt a resolution of necessity only after the governing body has given each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear and be heard on the matters referred to in [Section 1240.030](#).

(b) The notice required by subdivision (a) shall be sent by first-class mail to each person described in subdivision (a) and shall state all of the following:

- (1) The intent of the governing body to adopt the resolution.
- (2) The right of such person to appear and be heard on the matters referred to in [Section 1240.030](#).
- (3) Failure to file a written request to appear and be heard within 15 days after the notice was mailed will result in waiver of the right to appear and be heard.

(c) The governing body, or a committee of not less than 11 members thereof designated by the governing body if the governing body has more than 40 members, shall hold a hearing at which all persons described in subdivision (a) who filed a written request within the time specified in the notice may appear and be heard on the matters referred to in [Section 1240.030](#). Such a committee shall be reasonably representative of the various geographical areas within the public entity's jurisdiction. The governing body need not give an opportunity to appear and be heard to any person who fails to so file a written request within the time specified in the notice. If a committee is designated by the governing body pursuant to this subdivision to hold the hearing, the committee, subsequent to the hearing, shall provide the governing body and any person described in subdivision (a) who has appeared before the committee with a written summary of the hearing and a written recommendation

ATTACHMENT A

as to whether to adopt the resolution of necessity. Any person described in subdivision (a) who has appeared before the committee shall also be given an opportunity to appear and be heard before the governing body on the matters referred to in [Section 1240.030](#).

(d) Notwithstanding subdivision (b), the governing body may satisfy the requirements of this section through any other procedure that has given each person described in subdivision (a) reasonable written personal notice and a reasonable opportunity to appear and be heard on the matters referred to in [Section 1240.030](#).

Code of Civil Procedure § 1245.240. Vote required for adoption

Unless a greater vote is required by statute, charter, or ordinance, the resolution shall be adopted by a vote of two-thirds of all the members of the governing body of the public entity.

Government Code provisions

Government Code § 25350.5. Power of eminent domain

The board of supervisors of any county may acquire by eminent domain any property necessary to carry out any of the powers or functions of the county.

Government Code § 7267.1. Acquisition by negotiation; appraisal

(a) The public entity shall make every reasonable effort to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during his or her inspection of the property. However, the public entity may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value.

Government Code § 7267.2. Just compensation; property offered for sale by owner

(a)(1) Prior to adopting a resolution of necessity pursuant to [Section 1245.230 of the Code of Civil Procedure](#) and initiating negotiations for the acquisition of real property, the public entity shall establish an amount that it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established, unless the owner cannot be located with reasonable diligence. The offer may be conditioned upon the legislative body's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity or both. The amount shall not be less than the public entity's approved appraisal of the fair market value of the property. A decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, shall be disregarded in determining the compensation for the property.

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(2) At the time of making the offer described in paragraph (1), the public entity shall provide the property owner with an informational pamphlet detailing the process of eminent domain and the property owner's rights under the Eminent Domain Law.

(b) The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. The written statement and summary shall contain detail sufficient to indicate clearly the basis for the offer, including, but not limited to, all of the following information:

(1) The date of valuation, highest and best use, and applicable zoning of property.

(2) The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting the determination of value.

(3) If appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated and shall include the calculations and narrative explanation supporting the compensation, including any offsetting benefits.

(c) Where the property involved is owner-occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. The public entity may, but is not required to, satisfy the written statement, summary, and review requirements of this section by providing the owner a copy of the appraisal on which the offer is based.

(d) Notwithstanding subdivision (a), a public entity may make an offer to the owner or owners of record to acquire real property for less than an amount that it believes to be just compensation therefor if (1) the real property is offered for sale by the owner at a specified price less than the amount the public entity believes to be just compensation therefor, (2) the public entity offers a price that is equal to the specified price for which the property is being offered by the landowner, and (3) no federal funds are involved in the acquisition, construction, or project development.

(e) As used in subdivision (d), "offered for sale" means any of the following:

(1) Directly offered by the landowner to the public entity for a specified price in advance of negotiations by the public entity.

(2) Offered for sale to the general public at an advertised or published specified price, set no more than six months prior to, and still available at, the time the public entity initiates contact with the landowner regarding the public entity's possible acquisition of the property.

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Government Code § 65402. Acquisition or disposition of property; construction of buildings; requirements before action

(a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for

ATTACHMENT A

street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

(c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency.

Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include the state, or county, or a city.



ORANGE COUNTY
OC Public Works
MEMORANDUM

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To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director 

Date: January 7, 2021

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 45-001, 1028-202-26.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by 15780 El Prado L.P., a California limited partnership ("Owner"), which real property is located at 15780 El Prado Road in the City of Chino in San Bernardino County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (49,766 square feet) is referred to by the District as Project Parcel No. E01PD-45-001, and which covers San Bernardino County Assessor's Parcel No. 1028-202-26 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

-  Administrative Services
-  OC Development Services
-  OC Facilities Design & Construction Management
-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 45-001, 1028-202-26.

January 7, 2021

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4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on November 25, 2020, and continue. Real Estate staff followed up November 30, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Chino ("City") as required by the Code. The City responded on November 29, 2017, that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 45-001, 1028-202-26.

January 7, 2021

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A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$21,300, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS68-4100, Job No ESP2152.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

- 1. Make the required Findings described above and stated therein;**
- 2. Direct County Counsel and/or previously approved special litigation counsel, Murphy & Evertz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and**
- 3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.**

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY Public Works MEMORANDUM

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To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. Eo1PD 21-007.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project").

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Kenneth C. Bleck and Sylvia A Bleck as Trustees of the K&S Bleck 2013 Family Trust dated 6/3/13, ("Owner"), which real property is located at 4047 Bluff Street in the City of Norco in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (20,319 square feet) is referred to by the District as Project Parcel No. Eo1PD-21-007, and which covers Riverside County Assessor's Parcel No. 121-060-005 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

- Administrative Services
OC Development Services
OC Facilities Design & Construction Management
OC Facilities Maintenance & CUF
OC Fleet Services
OC Construction
OC Environmental Resources
OC Operations & Maintenance
OC Infrastructure Programs
OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 21-007

January 7, 2021

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requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 21-007

January 7, 2021

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spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on December 21, 2020 and will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request your Board to consider the adoption of a Resolution to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 21-007

January 7, 2021

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6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on November 17, 2016, that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$237,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS38-4100, Job No ESP2129.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel, Burke Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY Public Works MEMORANDUM

County Administration South
601 North Ross Street
Santa Ana, CA 92701
P.O. Box 4048
Santa Ana, CA 92702
(714) 667-8800
info@ocpw.ocgov.com
OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. Eo1PD 21-006.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project").

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Carlos Richard Martinez, an unmarried man and Veronica Nicole Rico, a single woman, as joint tenants ("Owner"), which real property is located at 4033 Bluff Street in the City of Norco in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately 12,501 Square Feet is referred to by the District as Project Parcel No. Eo1PD-21-006, and which covers Riverside County Assessor's Parcel No. 121-060-004 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

- Administrative Services
OC Development Services
OC Facilities Design & Construction Management
OC Facilities Maintenance & CUF
OC Fleet Services
OC Construction
OC Environmental Resources
OC Operations & Maintenance
OC Infrastructure Programs
OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-006.

January 7, 2021

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requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-006.

January 7, 2021

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4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on December 16, 2020, and continue. Real Estate staff followed up December 28, 2020, and January 4, 2021. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Norco ("City") as required by the Code. The City responded on November 17, 2016 that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-006.

January 7, 2021

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2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$222,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS42-4100, Job No ESP2133.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel, Burke, Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY
Public Works
MEMORANDUM

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director 

Date: January 7, 2021

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 24-009, 24-011.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Henry Cruz and Joe Cruz, as tenants in common for Parcel 24-009 and Henry Cruz, a single man and Virginia Cruz, a single woman, as tenants in common for Parcel 24-011. ("Owner"), which real property is located at Pomona Rincon Road & 71 in the City of Chino in San Bernadino County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately 266,243 square feet is referred to by the District as Project Parcel No. E01PD-24-009 & 24-011, and which covers San Bernardino County Assessor's Parcel No. 1057-263-02, 1057-263-04 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein."

-  Administrative Services
-  OC Development Services
-  OC Facilities Design & Construction Management
-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased

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Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 24-009, 24-011.

January 7, 2021

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reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on December 14, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- A.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- B.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- C.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Chino ("City") as required by the Code. The City did not respond within 40 days and therefore the Project is deemed to be in conformance per code section 65402.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 24-009, 24-011.

January 7, 2021

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D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was initiated by the District and a memo dated September 4, 2020 from North OC Watershed Management Area was received, recommending District proceed with the acquisition subject to the review of a Transfer Disclosure Statement (TDS) from the Owner. The Owner has yet to provide the TDS.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$232,500.00 which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS43-4100, Job No ESP2134.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel, Burke, Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY Public Works MEMORANDUM

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To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-105.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project").

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Robert T. Kelsoe and Lisa A. Kelsoe, Trustee or their successor in Trust under the Robert and Lisa Kelsoe Revocable Trust dated January 16, 2002 and any amendments thereto ("Owner"), which real property is located at 8754 Kendra Lane in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (1.60 acres) is referred to by the District as Project Parcel No. E01PD-27-105, and which covers Riverside County Assessor's Parcel No. 130-671-010 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

- Administrative Services
OC Development Services
OC Facilities Design & Construction Management
OC Facilities Maintenance & CUF
OC Fleet Services
OC Construction
OC Environmental Resources
OC Operations & Maintenance
OC Infrastructure Programs
OC Survey

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-105

January 7, 2021

Page 3 of 4

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on December 18, 2020, and continue. Real Estate staff followed up December 29, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested on August 25, 2020, for the City of Eastvale ("City") as required by the Code. No response by the City's has been received, indicating whether the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-105

January 7, 2021

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2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$315,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS73-4100, Job No ESP2157.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

- 1.** Make the required Findings described above and stated therein;
- 2.** Direct County Counsel and/or previously approved special litigation counsel, Burke, Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
- 3.** Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY
Public Works
MEMORANDUM

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- OC Development Services
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- OC Facilities Maintenance & CUF
- OC Fleet Services
- OC Construction
- OC Environmental Resources
- OC Operations & Maintenance
- OC Infrastructure Programs
- OC Survey

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: January 7, 2021

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-004.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Scott W Dixon and Monica V Dixon, ("Owner"), which real property is located at 4001 Bluff St. in the City of Norco in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.33 acres) is referred to by the District as Project Parcel No. E01PD-21-004, and which covers Riverside County Assessor's Parcel No. 121-060-002 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-004

January 7, 2021

Page 2 of 4

requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-004

January 7, 2021

Page 3 of 4

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on November 23, 2020, and continue. Real Estate staff followed up December 2, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- A.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- B.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- C.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on November 17, 2016, that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 21-004

January 7, 2021

Page 4 of 4

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$241,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS53-4100, Job No ESP2144.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

- 1.** Make the required Findings described above and stated therein;
- 2.** Direct County Counsel and/or previously approved special litigation counsel, Murphy & Evertz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
- 3.** Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



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OCPublicWorks.com

Attachment B

ORANGE COUNTY
Public Works
MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director 

Date: January 7, 2021

Subject: Public Hearing on the Proposed Adoption of an Amended Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 46-996.

Synopsis:

On January 12, 2020, County Counsel, on behalf of the Orange County Flood Control District (“District”), will present an agenda item requesting that the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing Board of the District, consider for adoption a proposed Amended Resolution of Necessity (“Resolution”), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the “Subject Property Interests”) for the Prado Dam Project (“Project”). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project’s flood control purposes. A previous Resolution of Necessity for this property was adopted by the Board of Supervisors on November 17, 2020. This Amended Resolution of Necessity is being sought to clarify the District’s need to acquire the entire property because portions of the property are above the inundation line.

At the direction of the Army Corps of Engineers, when acquisition of the portion of the Subject Properties that are necessary for the Project will leave the remainder in such size, shape, or condition as to be of little market value, the remnants are being acquired in accordance with Article 5 of the Eminent Domain Law (commencing with Section 1240.410 of the Code of Civil Procedure). Thus, the portion of the Subject Property above the elevation line of 566 feet is being acquired pursuant to Code of Civil Procedure section 1240.410, et. seq., as uneconomic remnants.

The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project’s flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Amended Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Frank Jude Lizarraga, Jr., an unmarried man as to undivided 50% interest and Charles Thomas Braden, a Widower as to undivided 50% interest as tenant in common, (collectively “Owner”), which real property is located at 7310 Pine Avenue in the City of Chino in San Bernardino County and which Subject Property Interests are described as follows:

-  Administrative Services
-  OC Development Services
-  OC Facilities Design & Construction Management
-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 46-996.

January 7, 2021

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The fee simple interest in and to the real property that is legally described and depicted by Exhibits A and B attached to the proposed Amended Resolution, which real property containing approximately 9.719 acres is referred to by the District as Project Parcel No. E01PD-46-996, and which covers San Bernardino County Assessor's Parcel No[s]. 1056-271-01 & 1056-271-02 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Amended Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

In order to cooperate with the Corps and to carry out the Project, in 1989 your Board approved the SAR Project Local Cooperation Agreement ("LCA") between the Corps, the District, and the flood control districts of Riverside and San Bernardino counties, as well as the PCA in 2003. Both the LCA and PCA require the District to acquire real property rights for inundation and construction of flood protection structures (E.G., dikes, bank protection, and floodwalls), if the Project is to be completed. Unless all property rights (including the Subject Property Interests) are acquired by the District in the areas subject to inundation, the Project may not be completed or may not be entirely effective. If the Project is not completed, the risks and perils identified by the Corps, as described above, may impact Orange County residents and properties. Thus, the Project is necessary to protect the health, safety, and welfare of the residents of the County of Orange.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks.

In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the Owner initially commenced on January 28, 2020, and continue. Real Estate staff followed up and has remained in constant communications on multiple occasions with the Owner. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request your Board to consider the adoption of a Resolution to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989, and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 46-996.

January 7, 2021

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EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Chino ("City") as required by the Code. The City responded on April 14, 2016, that the Project is inconsistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A request to update an existing Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An updated HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board previously authorized counsel to obtain an Order of Possession for the Parcel. Your Board is also previously authorized counsel to make a deposit of estimated just compensation in the amount of \$5,701,495, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS16-4100, Job No ESP2107. No additional funding is required at this time.

3. Relocation Assistance.

The District anticipates that the acquisition of this Parcel will displace Lizzie Custom Processing, Inc. and possibly a residential tenant. A relocation consultant has been hired to interview the tenant(s) and determine their eligibility for benefits. The relocation consultant will explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution and take the following actions:

- 1.** Make the required Findings described above and stated therein;
- 2.** Direct County Counsel and/or previously approved special litigation counsel, Burke, Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
- 3.** Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.

601 North Ross Street, Santa Ana, CA 92701
P.O. Box 4048, Santa Ana, CA 92702-4048



ORANGE COUNTY Public Works MEMORANDUM

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(714) 667-8800
info@ocpw.ocgov.com
OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of an Amended Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Orange County Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 40-028 & E01PD 40-032.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Amended Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). A previous Resolution of Necessity for this property was adopted by the Board of Supervisors on July 14, 2020. This Amended Resolution of Necessity is being sought to clarify the District's need to acquire the entire property because portions of the property are above the inundation line.

At the direction of the Army Corps of Engineers, when acquisition of the portion of the Subject Properties that are necessary for the Project will leave the remainder in such size, shape, or condition as to be of little market value, the remnants are being acquired in accordance with Article 5 of the Eminent Domain Law (commencing with Section 1240.410 of the Code of Civil Procedure). Thus, the portion of the Subject Property above the elevation line of 566 feet is being acquired pursuant to Code of Civil Procedure section 1240.410, et. seq., as uneconomic remnants.

The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Amended Resolution (provided as an attachment to the Agenda Staff Report) to authorize and direct County Counsel and/or special litigation counsel, Meyers Nave, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Parcel is owned by Maria Del Socorro Vargas, Trustee of the Maria Del Socorro Vargas Trust dated October 19, 1999 ("Owner"), which real property is located at 7673 Hall Ave., Eastvale, California, in the County of Riverside ("Parcel") and which Subject Property Interests are described as follows:

- Administrative Services
OC Development Services
OC Facilities Design & Construction Management
OC Facilities Maintenance & CUF
OC Fleet Services
OC Construction
OC Environmental Resources
OC Operations & Maintenance
OC Infrastructure Programs
OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 40-028 E01PD 40-032.

January 7, 2021

Page 2 of 4

The fee simple interest in and to the real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which real property contains approximately 6.84 acres, zoned A-1 "Light Agriculture", designated as a low density residential (currently being used as a single-family residences and agricultural-related uses), is as referred to by the District as Project Parcel No. E01PD-40-028 and E01PD-40-032, which covers Riverside County "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board of Supervisors prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board of Supervisors mailed to Owner a Notice of Intention notifying them of the public hearing and of the Board's intention to consider the adoption of the Amended Resolution and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. OC Public Works staff (Staff) have analyzed the Project and its objectives and the acquisitions proposed, with the required findings and legal requirements in mind. Staff hereby recommends your Board make each and all findings and Staff provide the following analysis and support for such findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution No. 67-612, an appraisal has been prepared by an independent appraiser who valued the fee interest to be acquired. An offer based on said appraisal was made to the Owner. A written Appraisal Summary Statement disclosing the appraised value of the Parcel and summarizing the basis of that value was provided to the Owner at the same time.

Negotiations with the Owner initially commenced on May 14, 2018, and continued. Some time had passed, and a new appraisal was ordered, and negotiations commenced a second time on January 28, 2019. The Owner provided their own appraisal on April 18, 2019. Based on the information in the Owners appraisal, the District updated its appraisal and presented an updated offer on November 20, 2019. Staff mailed a follow up letter on January 27, 2020, regarding our offer and left a follow up message via a phone call on February 18, 2020. The Owner has not responded to any attempted communications. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request your Board to consider the adoption of the Amended Resolution to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989, and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 40-028 E01PD 40-032.

January 7, 2021

Page 4 of 4

- c. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b) and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the Project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on November 12, 2015, that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

Assessment was initiated by the District and Environmental Resources and a memo dated October 12, 2017, (including the report) was received, recommending District proceed with the acquisition subject to the review of a Transfer Disclosure Statement (TDS) from the Owner. The Owner has yet to provide the TDS. A new request to update the HMA and TDS had been requested.

2. Funds.

Your Board previously authorized counsel to obtain an Order of Possession for this Parcel and to make a deposit of estimated just compensation in the amount of \$1,320,000, to be paid from Fund 404-080-404-LS09-4100, Job No ESP2101, based on the appraisal previously obtained. No additional funding is required at this time.

3. Relocation Assistance.

The District anticipates that the acquisition of this Parcel will displace several residential and business tenants. The District has employs Overland Pacific and Cutler, a professional relocation company (OPC) to interview the tenants and determine their eligibility for benefits. OPC has explained the Relocation Assistance Program to the tenants onsite ("Claimants") and provided the tenants with a General Information Notice and/ or Notice of Eligibility as applicable. County staff will coordinate with OPC to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or an acquisition by settlement and/or by court order is completed.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board of Supervisors, adopt, by at least a two-thirds vote of the Board, the proposed Amended Resolution and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel, Meyers Nave, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY
OC Public Works
MEMORANDUM

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director 

Date: January 7, 2021

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. EO1PD 27-099.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Tara Wilson and Sean Wilson ("Owner"), which real property is located at 8642 Kendra Lane in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (13,636 square feet) is referred to by the District as Project Parcel No. 27-099, and which covers Riverside County Assessor's Parcel No. 130-671-002 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

-  Administrative Services
-  OC Development Services
-  OC Facilities Design & Construction Management
-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 27-099

January 7, 2021

Page 2 of 4

requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 27-099

January 7, 2021

Page 3 of 4

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on November 25, 2020 and will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City did not respond and on November 18, 2016, the Project was deemed consistent with the City's General Plan.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 27-099

January 7, 2021

Page 4 of 4

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$167,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS54-4100, Job No ESP2145.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution and take the following actions:

- 1. Make the required Findings described above and stated therein;**
- 2. Direct County Counsel and/or previously approved special litigation counsel, Burke Williams & Sorensen, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and**
- 3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.**

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY
Public Works
MEMORANDUM

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

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To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director 
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. Eo1PD 26-004.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke Williams & Sorensen, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Riverside County Regional Park and Open Space District, C/O Dept Building Services Real Property Division, ("Owner"), which real property is located at Adjacent southeast to 14634 River Road in the City of Corona in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (3.31 acres) is referred to by the District as Project Parcel No. Eo1PD-26-004, and which covers Riverside County Assessor's Parcel No. 130-040-006 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

-  Administrative Services
-  OC Development Services
-  OC Facilities Design & Construction Management
-  OC Facilities Maintenance & CUF
-  OC Fleet Services
-  OC Construction
-  OC Environmental Resources
-  OC Operations & Maintenance
-  OC Infrastructure Programs
-  OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 26-004

January 7, 2021

Page 2 of 4

requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the

spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on December 16, 2020 and will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a.** The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b.** Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c.** All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on February 13, 2017 that the Project is consistent with the City's General Plan.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel No. E01PD 26-004

January 7, 2021

Page 4 of 4

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$105,100, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS52-4100, Job No ESP2143.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution and take the following actions:

- 1. Make the required Findings described above and stated therein;**
- 2. Direct County Counsel and/or previously approved special litigation counsel, Burke Williams & Sorenson, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and**
- 3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.**

Should you have further questions, please contact me at (714) 667-9700.



ORANGE COUNTY
OC Public Works
MEMORANDUM

County Administration South
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Santa Ana, CA 92701

P.O. Box 4048
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OCPublicWorks.com

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District
From: James Treadaway, Director 
Date: January 7, 2021
Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. Eo1PD 27-100.

Synopsis:

On January 12, 2021, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:

County Counsel, the OC Public Works Department, and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by The Dale M. Tupker Living Trust of 2018 dated February 21, 2018, ("Owner"), which real property is located at 8656 Kendra Lane in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.31 acres) is referred to by the District as Project Parcel No. Eo1PD-27-100, and which covers Riverside County Assessor's Parcel No. 130-671-003 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:

As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

 Administrative Services

 OC Development Services

 OC Facilities Design & Construction Management

 OC Facilities Maintenance & CUF

 OC Fleet Services

 OC Construction

 OC Environmental Resources

 OC Operations & Maintenance

 OC Infrastructure Programs

 OC Survey

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-100.

January 7, 2021

Page 2 of 4

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. Staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings, and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-100.

January 7, 2021

Page 3 of 4

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on December 21, 2020 and continue. Real Estate staff followed up via email and phone calls several times in December 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

- a. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.
- b. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.
- c. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City did not respond so the Project is deemed to be consistent with the City's General Plan.

Attachment B

Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: January 12, 2021) Parcel Nos. E01PD 27-100.

January 7, 2021

Page 4 of 4

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

A Hazardous Materials Assessment was requested but has not been completed due the property owner's unwillingness to grant access. An HMA will be prepared when access is obtained either through legal proceedings or upon execution of the contract by the property owner.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of \$167,000, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS56-4100, Job No ESP2147.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of this Parcel will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of this acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel, Murphy & Evertz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-9700.

Attachment C

Real Property Acquisition Questionnaire* for ASR (*Applies to property purchase, or acquisition lease, license or easement)

Instructions:

- This questionnaire was developed with input from Auditor Controller, Internal Auditor and CEO Real Estate to assure that County leadership is fully informed.
- Insert the complete answer after each question below.
- When completed, save and include as an Attachment to your ASR.
- In the body of the ASR focus on the considerations relevant to the decision.
- If you need assistance, please contact CEO Real Estate.

1. What property interest is being considered for acquisition (fee, lease, license, easement)?
 - a) Why is this property being considered for acquisition? **It is required for the Prado Dam Project**
 - b) How and who identified this property for a potential acquisition? **Army Corps of Engineers requires acquisition of all property below the 566-inundation line**
 - c) What factors are key in recommending this property for acquisition? **This property is below the 566-inundation line.**
 - d) How does the proposed acquisition fit into the County's/District's strategic or general plan? **It is part of the Prado Dam Project**
 - e) What are the short and long term anticipated uses of the property? **Open space for flowage of flood waters.**
 - f) Are there any limitations on the use of the property for its intended purposes? **No.**
2. What analysis has been performed as to whether to acquire the proposed real property interest?
 - a) Have there been any internally or externally prepared reports regarding this property acquisition? **Yes.**
 - b) Who performed the analysis? **Army Corps of Engineers and Flood Engineers.**
 - c) Provide details about the analysis and cost/benefit comparison. **The Project and required acquisition are necessary to avoid loss of property and/or life in the event of a major storm/flood event.**
3. How was the acquisition price, or lease/license rent, determined? **By an appraisal.**
 - a) Who performed the appraisal or market study and what certifications do they possess? **A third-party independent MAI appraiser. A second appraiser then performed a review of the appraisal.**
 - b) How does the price/rent compare with comparable properties? **It is comparable.**
 - c) Does the setting of the price/rent follow industry standards and best practices? **Yes.**
 - d) What are the specific maintenance requirements and other costs within the agreement and who is responsible? **The County will be responsible for maintenance of full fee acquisitions, primary consisting of weed control and fencing. The property owners will continue to maintain the property in instances where we obtain an easement. Provide an estimate of the costs to the County/District if applicable. Unknown.**
4. What additional post-acquisition remodeling or upgrade costs will be needed for the property to meet its intended use? **Some demolition may be required.**
 - a) Will any of the upgrades be required to meet County, ADA, or other standards and requirements? **N/A.**
 - b) Include estimates of the costs. **Unknown.**
 - c) What department will be responsible for the costs? **Flood.**
5. Can the County terminate the purchase/easement, lease/license? **Yes prior to conclusion of the lawsuit.**
 - a) What would be necessary to terminate the agreement, and when can it be terminated? **A dismissal through the court.**

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- b) Are there penalties to terminate the purchase/easement, or lease/license? **We may have to pay the owners legal fees if we decide not to proceed.**
6. What department will be responsible for the acquisition payments? **Flood.**
- a) Are the acquisition costs budgeted in the department's budget? **Yes.**
- b) What fund number will the funds for the acquisition ultimately be drawn from? **Fund 404.**
- c) Will any restricted funds be used for the acquisition? (Check with the Auditor Controller's General Accounting Unit and Counsel if you have questions about whether restricted funds are involved.) **N/A.**
- d) If restricted funds will be used, has County Counsel advised that this is an allowable use of the proposed restricted funds? **N/A.**
7. Does the proposed purchase/lease/license/easement agreement comply with the CEO Real Estate standard language? **Yes.**
- a) List any modified clauses and reasons for modification.

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8. If this is a lease, is it a straight lease, an operating lease, a lease with an option to purchase, or a capital lease (see details below)? *N/A*

Capital Lease Determination: At the inception of any *potential* capital lease, it is important to contact the Auditor-Controller's Capital Asset Unit for further guidance to ensure that proper classification and accounting for the lease occurs. There are specialized accounting rules and required forms for capital leases. See further details in the County's Accounting Manual, Policy No. FA-1: *Accounting for Lease Purchases (Capital Leases)*, located on the intranet. For accounting purposes only, a capital lease exists if ANY one (1) of the following four (4) criteria is met:

- i) Lease transfers ownership to the County by the end of the term.
- ii) Lease contains an option to purchase the property by the end of the term for a price lower than the expected fair market value of the property? (For example \$1 or \$1,000, and based on this option price, for accounting purposes only, the ultimate purchase of the property is deemed reasonably assured at the inception of the lease.)
- iii) Lease term is equal to 75% or more of the remaining estimated useful life of the leased property.*
- iv) Present value of the minimum lease payments is equal to 90% or more of the fair value of the property at the inception of the lease.*

*Criteria iii) and iv) don't apply if the lease term begins in the last 25% of a property's estimated useful life.

To validate whether a lease is a capital lease for accounting purposes, please contact the Auditor-Controller's Capital Asset Unit at capitalassets@ac.ocgov.com.

Final Supplemental Environmental Impact Statement and Report No. 583

<https://ocgov.box.com/s/f9a51iy16c9y25msu4b03ngxq13p4kng>

Attachment E

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

January 12, 2021

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by Henry Cruz and Joe Cruz, as tenants in common (“Owner”) and located Pomona Rincon Road and State Route 71 in the City of Chino, County of San Bernardino, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-24-009, which is a portion of San Bernardino County Assessor’s Parcel Number (“APN”) 1057-263-02, located at Pomona Rincon Road and State Highway 71, Chino, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement

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hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized San Bernardino County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021, hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

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thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021, Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):
 - a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.
 - b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.
 - c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.
 - d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

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2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen, LLP and Murphy and Evertz LLP, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-24-009, which covers portions of San Bernardino County Assessor's Parcel No[s]. 1057-263-02.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$182,000, Job No ESP2134; to be paid from Fund 404-080-404-LS43-4100-ESP2134.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in San Bernardino County and the District is exercising its power of eminent domain

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extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that

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will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen, LLP and Murphy and Evertz LLP, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, “District’s Counsel”), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District’s Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS43-4100, Job No. ESP2134) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$182,000, the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and

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to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$182,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

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EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin

Facility No: E01PD

Parcel No.: 24-009

PARCEL 1:

That portion of Fractional Section 7, Township 3 South, Range 7 West, San Bernardino Meridian, in the City of Chino Hills, County of San Bernardino, State of California, according to the United States Government Township Plat thereof, described in a Director's Deed recorded February 1, 1973 in Book 8112, Page 1042 of Official Records in the office of the County Recorder of said County described as follows:

BEGINNING at the northerly terminus of that certain course described in said Director's Deed as having a bearing of North 01°50'15" East and a length of 1529.69 feet in the East line of the Northwest Quarter of said Section 7, said east line being the easterly line of land described in said Director's Deed;

thence along said east line, South 01°49'47" West 148.37 feet;

thence leaving said east line, North 60°51'54" West 216.20 feet;

thence South 72°54'09" West 98.98 feet;

thence North 80°59'55" West 128.96 feet;

thence South 59°16'15" West 134.65 feet;

thence South 77°18'10" West 39.07 feet to a point on the westerly line of the land described in said Director's Deed, said point being the southerly terminus of a curve tangent to that certain course described in said Director's deed as having a bearing of "South 02°27'08" West 70.67 feet" from a point described as Point "A" in said Director's Deed, concave easterly and having a radius of 1500 feet, through a central angle of 01°43'11", a distance of 45.02 feet, a radial bearing to said point bears South 89°18'39" East;

thence along said curve northerly, having a radius of 1500 feet concave easterly, said curve also being the westerly line of land described in said Directors Deed, through a central angle of 01°43'11", a distance of 45.02 feet;

thence continuing along said westerly line North 02°24'32" East 52.41 feet to a point on the general northerly line of land described in said Director's Deed;

thence leaving said westerly line along the general northerly line of said Director's Deed the following eight (8) courses:

- 1) South 66°15'43" East 22.72 feet;
- 2) North 72°44'27" East 248.93 feet;

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- 3) North 22°23'37" East 167.56 feet;
- 4) North 46°20'57" East 63.49 feet;
- 5) North 71°35'47" East 82.54 feet;
- 6) South 51°15'33" East 51.82 feet;
- 7) South 04°13'17" West 156.17 feet;
- 8) South 52°31'43" East 114.00 feet to the **POINT OF BEGINNING**;

Containing an area of 91,526 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998800 TO OBTAIN A GROUND DISTANCE.

PARCEL 2:

That portion of Fractional Section 7. Township 3 South, Range 7 West, San Bernardino Meridian, in the City of Chino Hills, County of San Bernardino, State of California, according to the United States Government Township Plat thereof, described in a Director's Deed recorded February 1, 1973 in Book 8112, Page 1042 of Official Records in the office of the County Recorder of said County described as follows:

COMMENCING at the northerly terminus of that certain course described in said Director's Deed as having a bearing of North 01°50'15" East and a length of 1529.69 feet in the East line of the Northwest Quarter of said Section 7, said east line being the easterly line of land described in said Director's Deed;;

thence along said east line, South 01°49'47" West 237.11 feet to the **TRUE POINT OF BEGINNING**;

thence continuing along said east line, South 01°49'47" West 306.24 feet;

thence leaving said certain course South 88°52'50" West 67.13 feet;

thence North 77°58'46" West 73.40 feet;

thence North 57°58'19" West 101.56 feet;

thence North 19°04'59" West 46.19 feet;

thence North 52°05'30" East 316.72 feet to the **TRUE POINT OF BEGINNING**.

Containing an area of 45,390 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998800 TO OBTAIN A GROUND DISTANCE.

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PARCEL 3:

That portion of Fractional Section 7. Township 3 South, Range 7 West, San Bernardino Meridian, in the City of Chino Hills, County of San Bernardino, State of California, according to the United States Government Township Plat thereof, described in a Director's Deed recorded February 1, 1973 in Book 8112, Page 1042 of Official Records in the office of the County Recorder of said County described as follows:

COMMENCING at the northerly terminus of that certain course described in said Director's Deed as having a bearing of North 01°50'15" East and a length of 1529.69 feet in the East line of the Northwest Quarter of said Section 7, said east line being the easterly line of land described in said Director's Deed;

thence along said east line, South 01°49'47" West 595.71 feet to the **TRUE POINT OF BEGINNING**;

thence continuing along said east line, South 01°49'47" West 358.91 feet;

thence leaving said east line, South 45°26'34" West 48.10 feet;

thence South 74°55'43" West 62.91 feet;

thence North 70°24'16" West 63.02 feet;

thence North 21°05'17" West 39.51 feet;

thence North 03°54'09" West 161.46 feet;

thence North 45°11'51" East 269.26 feet to the **TRUE POINT OF BEGINNING**.

Containing an area of 53,005 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998800 TO OBTAIN A GROUND DISTANCE.

PARCEL 4:

That portion of Fractional Section 7. Township 3 South, Range 7 West, San Bernardino Meridian, in the City of Chino Hills, County of San Bernardino, State of California, according to the United States Government Township Plat thereof, described in a Director's Deed recorded February 1, 1973 in Book 8112, Page 1042 of Official Records in the office of the County Recorder of said County described as follows:

BEGINNING at the Southeasterly Corner of land described in said Director's Deed, said corner being the Southerly terminus of that certain course described in said Director's Deed as having a bearing of North 01°50'15" East and a length of 1529.69 feet in the East line of the Northwest Quarter of said Section 7, said east line being the easterly line of land described in said Director's Deed;

thence along said east line, North 01°49'47" East 66.75 feet;

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thence leaving said east line North 52°36'45" West 198.09 feet;

thence North 82°05'34" West 35.37 feet to a point on the westerly line of the land described in said Director's Deed, said point being measured along said westerly line a distance of 191.17 feet from the southerly terminus of that certain course described in said Director's Deed as having a bearing of South 19°28'45" East 922.43 feet;

thence along said westerly line South 19°31'25" East 191.17 feet to the southerly terminus of said certain course, said terminus being the southwestly corner of land described in said Director's Deed and a point on the general southerly line of the land described in said Director's Deed;

thence leaving said westerly line along the general southerly line of said Director's Deed North 53°05'03" East 19.27 feet;

thence continuing along the general southerly line of said Director's Deed South 78°09'54" East 113.40 feet to the **POINT OF BEGINNING**.

Containing an area of 18,469 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998800 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

Kevin Hills, County Surveyor, L.S. 6617

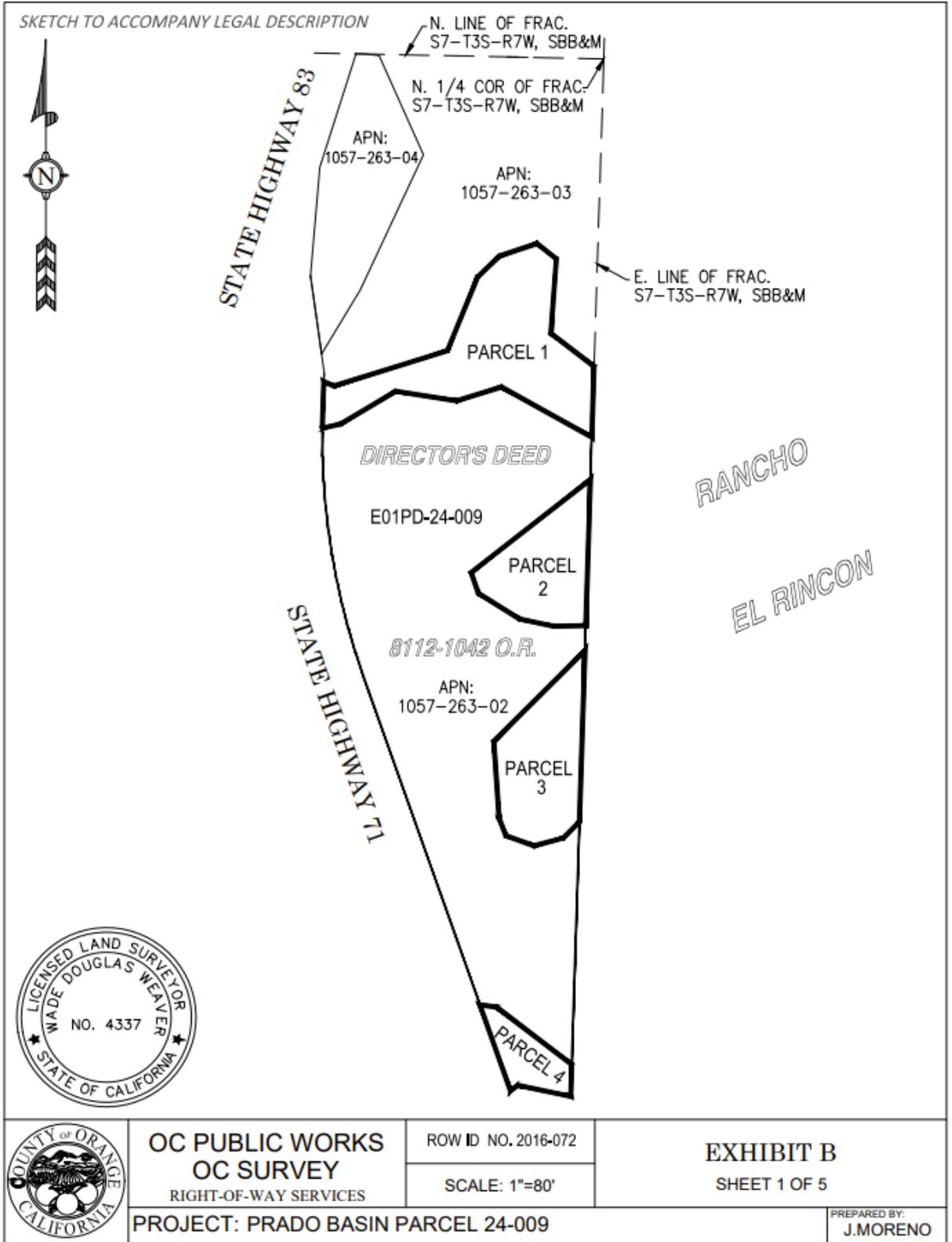
Wade Douglas Weaver

Date: 9-2-2020

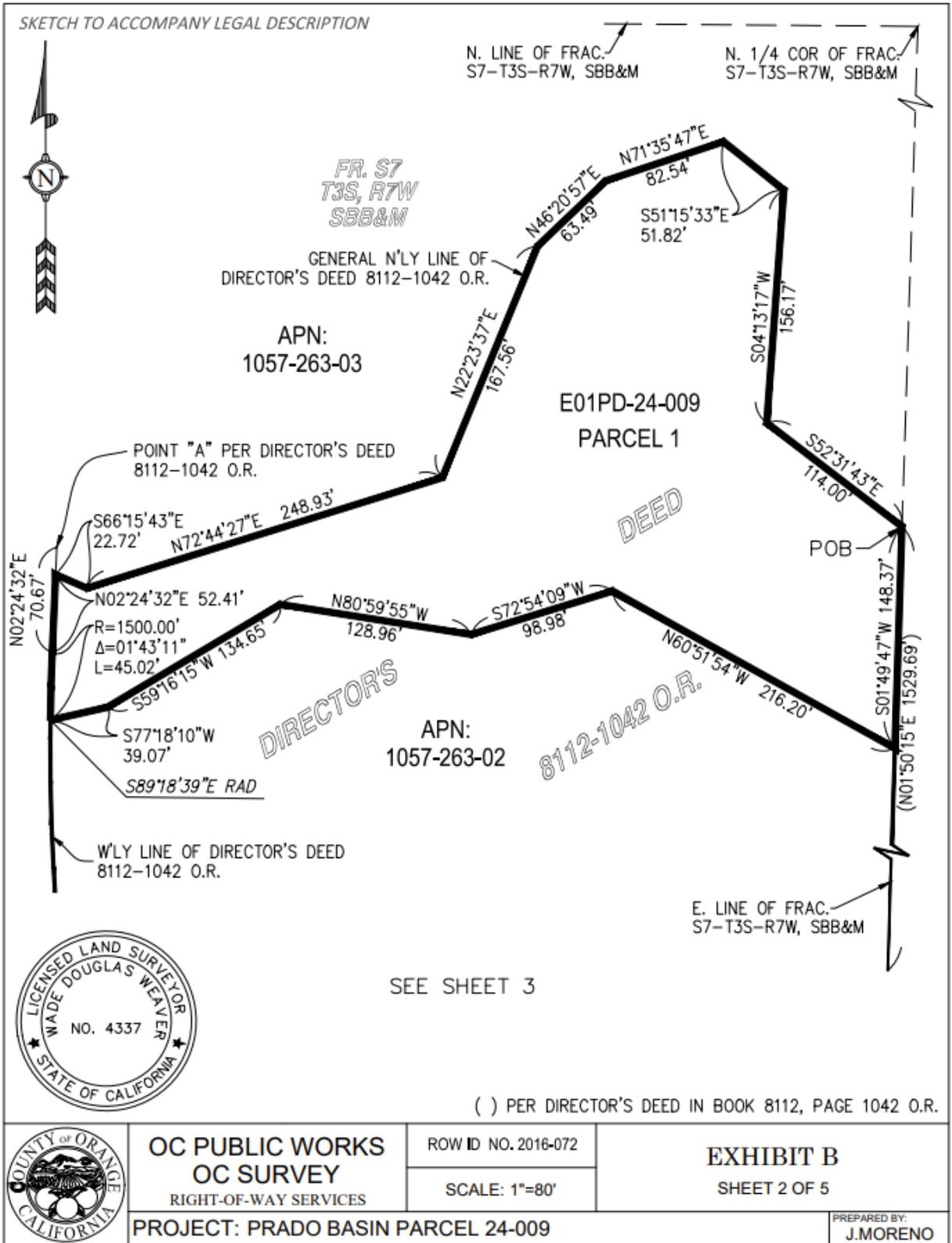
By: Wade Douglas Weaver, L.S. 4337



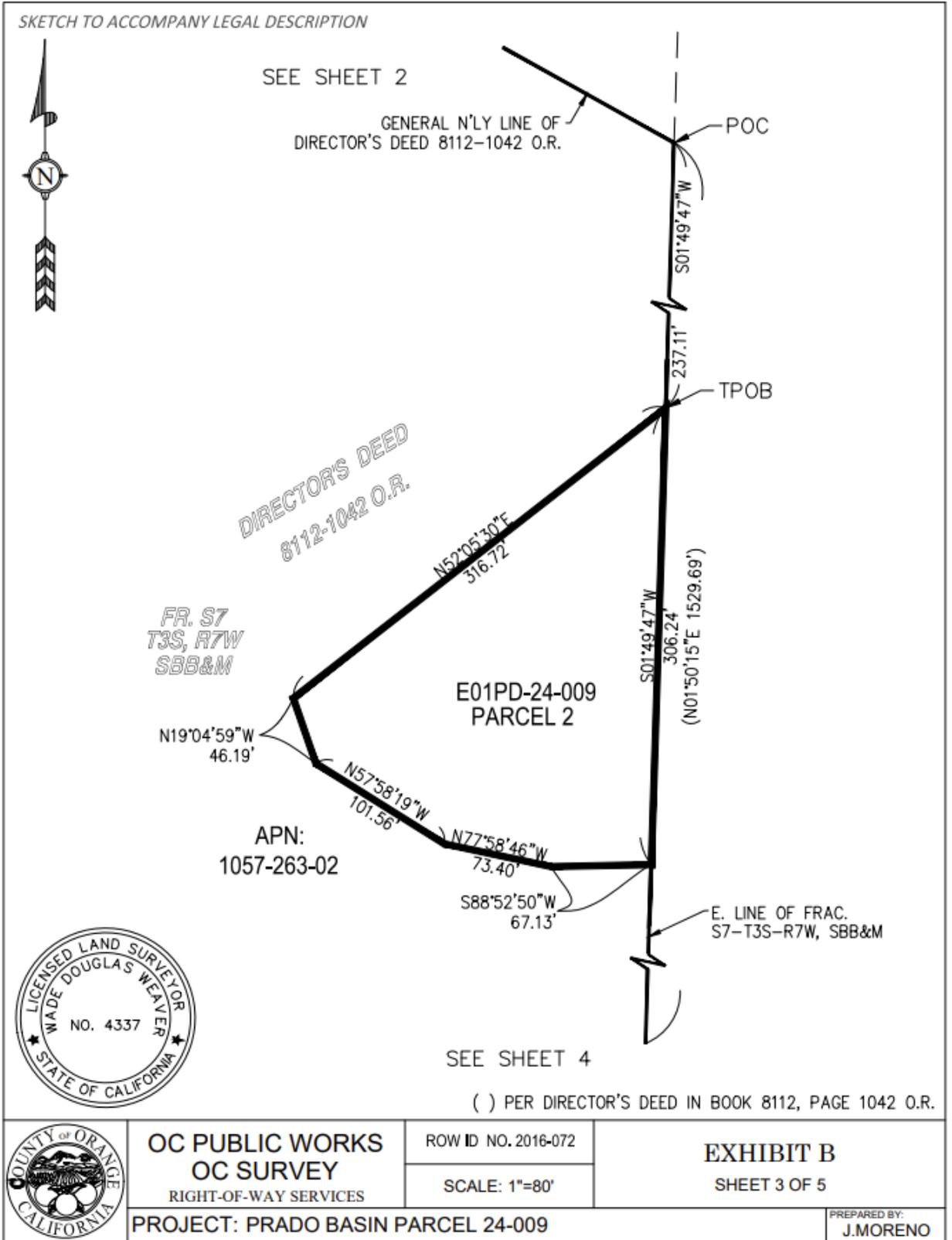
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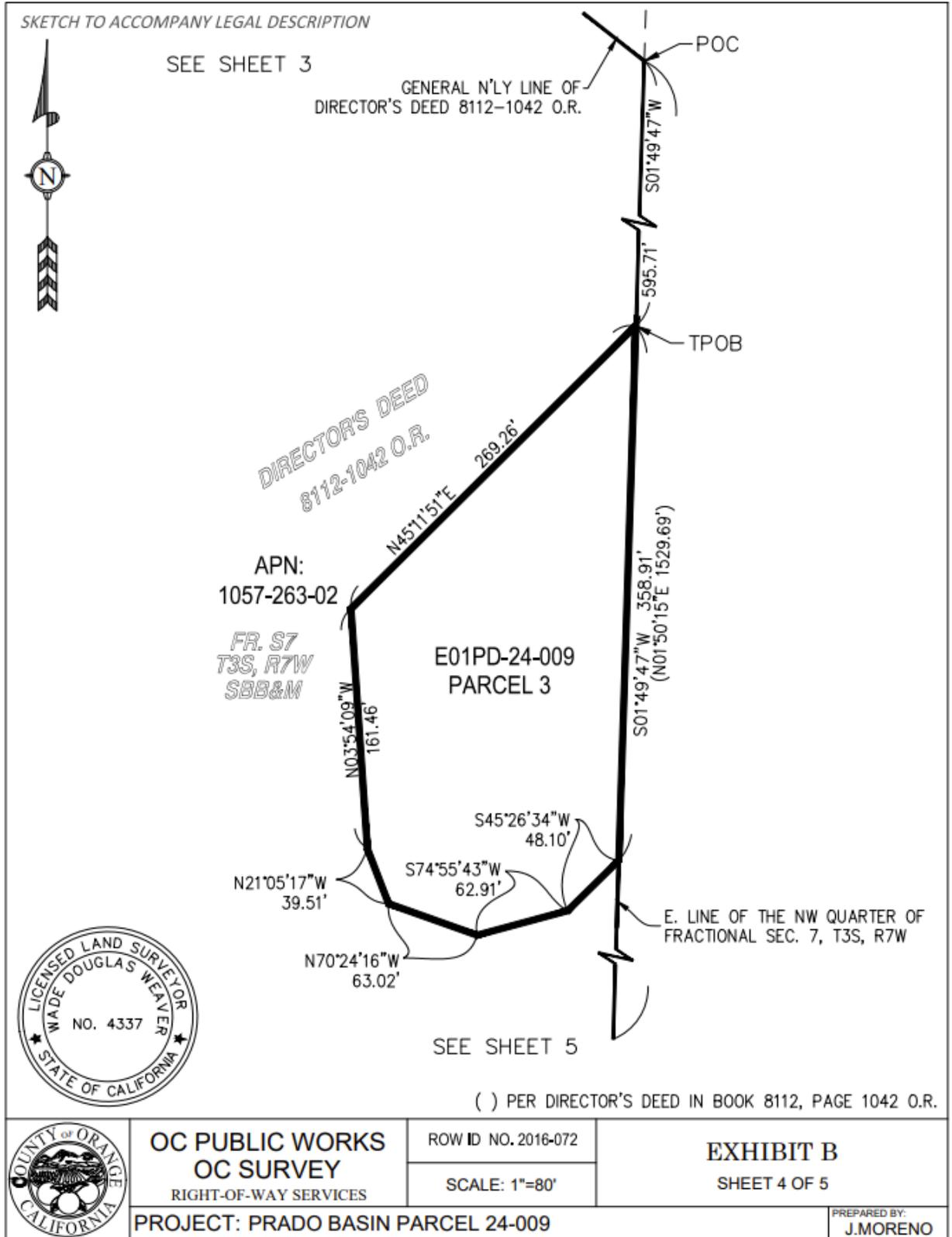
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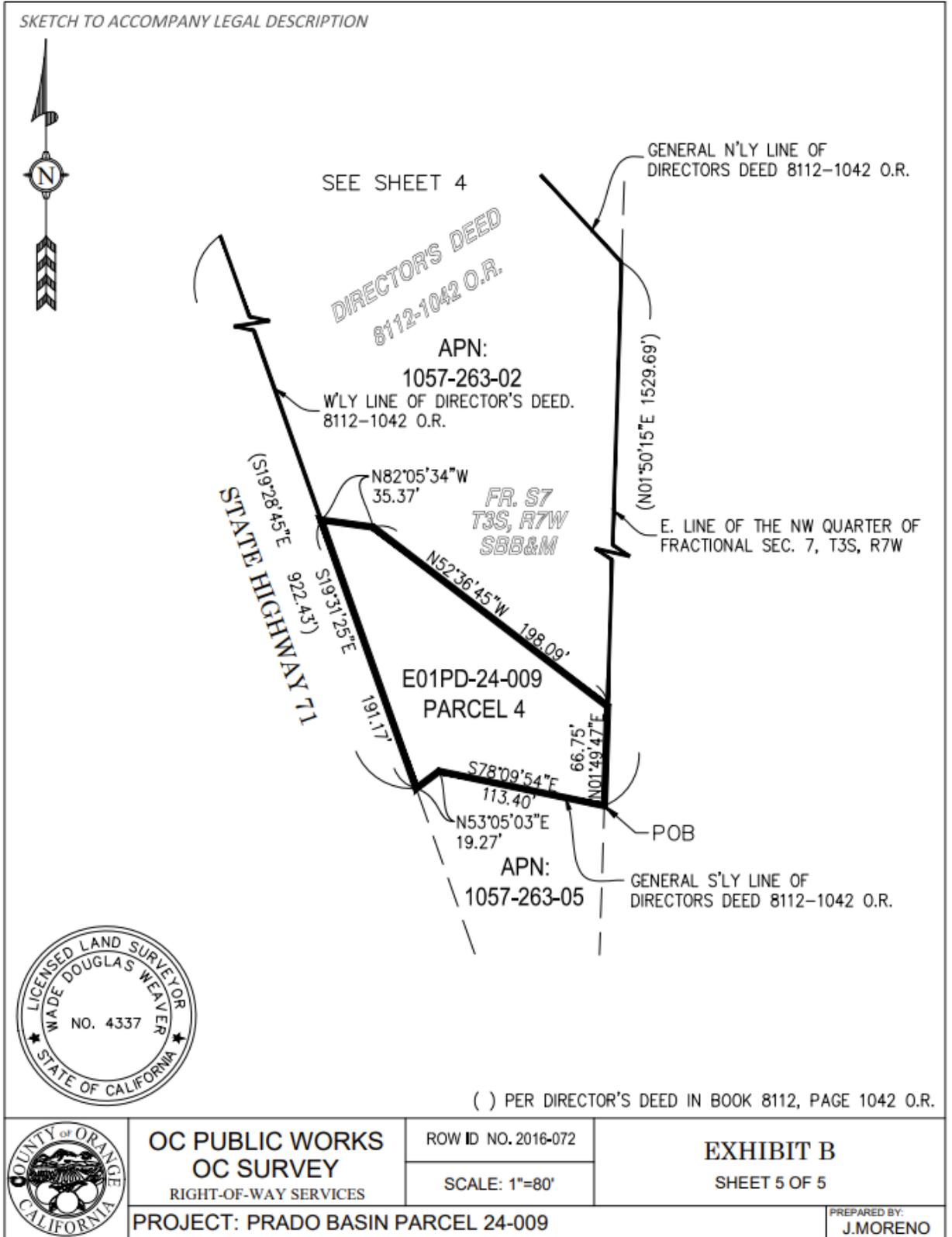
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Attachment E



Attachment E



**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

January 12, 2021

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by Henry Cruz and Virginia Cruz, as tenants in common (“Owner”) and located Pomona Rincon Road and State Route 71, in the City of Chino, County of San Bernardino, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-24-011, which is a portion of San Bernardino County Assessor’s Parcel Number (“APN”) 1057-263-04, located at Pomona Rincon Road and State Highway 71, Chino, California(the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement

hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized San Bernardino County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021, hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021, Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen, LLP and Murphy and Evertz LLP, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-24-011, which covers portions of San Bernardino County Assessor's Parcel No[s]. 1057-263-04.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$50,500, Job No ESP2134; to be paid from Fund 404-080-404-LS43-4100-ESP2134.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in San Bernardino County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not

unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen, LLP and Murphy and Evertz LLP, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, “District’s Counsel”), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District’s Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS43-4100, Job No. ESP2134) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$50,500, the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and

to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$50,500.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin

Facility No: E01PD

Parcel No.: 24-011

That portion of Fractional Section 7, Township 3 South, Range 7 West, San Bernardino Meridian, in the City of Chino Hills, County of San Bernardino, State of California, according to the United States Government Township Plat thereof, described in a Director's Deed recorded June 11, 1973 in Book 8201, Page 907 of Official Records in the office of the County Recorder of said County lying northeasterly, easterly and southeasterly of the follow described line:

BEGINNING at the northerly terminus of that certain course described as having a bearing of South 17°43'00" West and a length of 249.17 feet in the westerly line of said Director's Deed, said northerly terminus being a point in the North line of said Fractional Section 7, distant along said North line North 88°50'18" West 519.32 feet from the north quarter corner of said section, said point also being the Northeasterly corner of that certain parcel of land secondly described in Deed to the State of California, in Book 2417 of Official Records, Page 574, in the Office of the County Recorder of said county;

thence along said westerly line of Director's Deed, said line also being the easterly line of said parcel to the State of California, South 17°44'17" West 151.76 feet;

thence leaving said westerly line, South 35°56'23" East 90.17 feet;

thence South 04°04'02" West 95.90 feet;

thence South 19°11'27" West 164.84 feet;

thence South 36°13'20" West 57.44 feet to a point on the westerly line of the land described in said Director's Deed, said point being measured along said westerly line a distance of 114.48 feet from the most southerly corner of said land described in Director's Deed;

thence along said westerly line of the land described in said Director's Deed South 08°02'19" East 114.48 feet to the most southerly corner of said land described in Director's Deed;

thence along the southeasterly, northeasterly and northerly lines of said Director's Deed the following five (5) courses:

1) North 31°08'07" East 156.48 feet;

2) North 25°04'17" East 312.55 feet;

3) North 24°04'23" West 227.70 feet;

Attachment F

4) North 82°57'03" West 26.10 feet to a point on the north line of said section, said point being measured along said north line a distance of 22.34 feet from the northerly terminus of that certain course described as having a bearing of South 17°43'00" West and a length of 249.17 of said Director's Deed;

5) North 88°50'18" West 22.34 feet along said north section line to the **POINT OF BEGINNING**;

Containing an area of 57,853 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999880 TO OBTAIN A GROUND DISTANCE

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

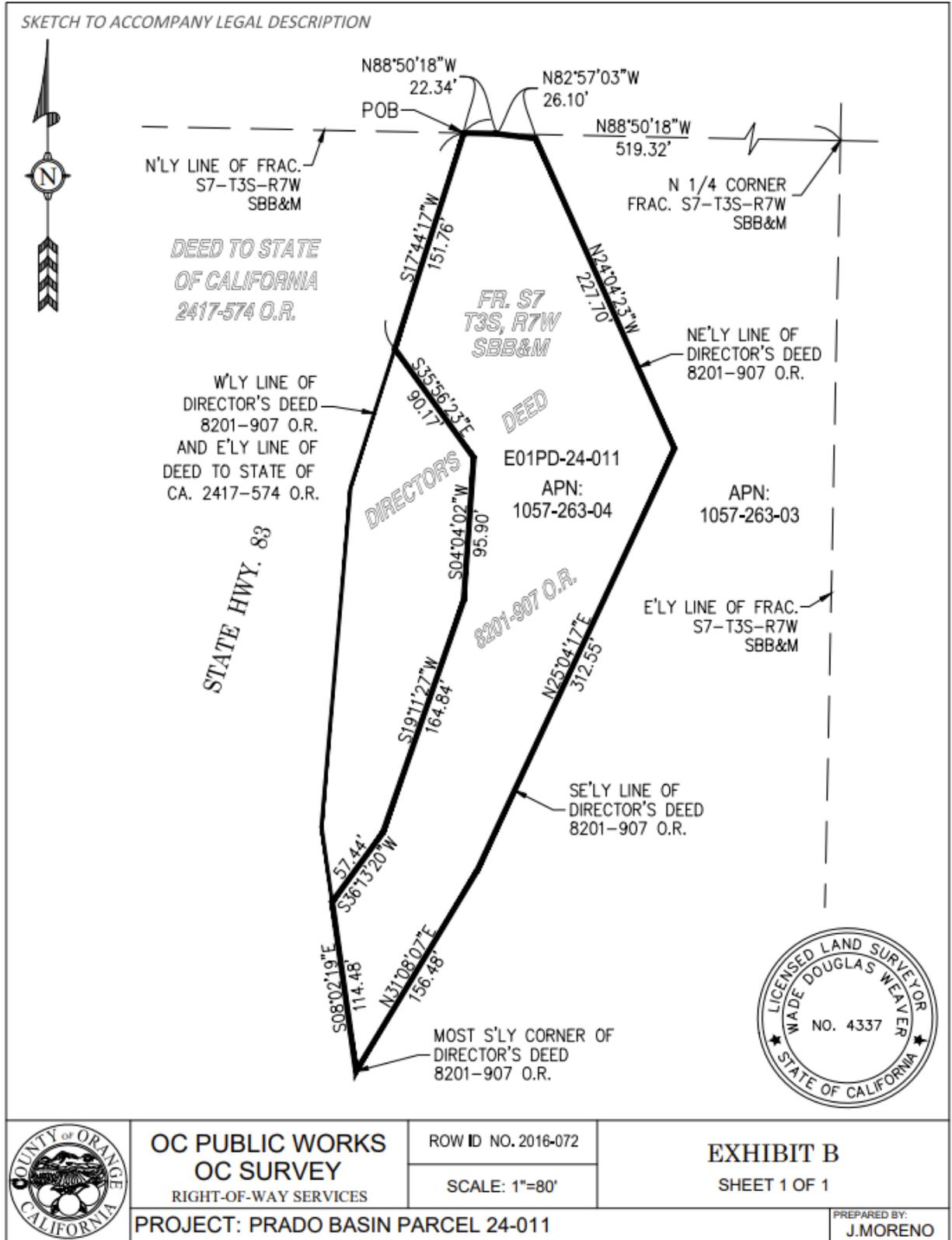
Kevin Hills, County Surveyor, L.S. 6617



Date: 9/2/2020

By: Wade Douglas Weaver, L.S. 4337





Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

January 12, 2021

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by Robert T. Kelsoe and Lisa A. Kelsoe, Trustees or their successors in Trust under the Robert and Lisa Kelsoe Revocable Trust dated January 16, 2002 and any amendments thereto (“Owners”) and located at 8754 Kendra Lane, in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-27-105, which covers Riverside County Assessor’s Parcel Number (“APN”) 130-671-010, (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner

all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021, Supplemental Agenda Staff Report.

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):
 - a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.
 - b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.
 - c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

Attachment G

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-27-105, which covers portions of Riverside County Assessor's Parcel No. 130-671-010.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$315,000 Job No ESP2157; to be paid from Fund 404-080-404-LS73-4100-ESP2157.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code

Attachment G

Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain extraterritorially pursuant to, inter alia, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (Job No. ESP2157); to be paid from Fund 404-080-404-LS73-4100-ESP2157 and to issue funds, as necessary and requested by County Counsel, in

Attachment G

the total amount of up to \$315,000 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$315,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin

Facility No: E01PD

Parcel No.: 27-105

That portion of Lot 35 of Tract No. 30825, in the City of Eastvale, County of Riverside, State of California, as per map filed in Book 408, Pages 93 through 98 of Maps, in the office of the County Recorder of said County described as follows:

BEGINNING at Southeasterly corner of said Lot 35;

thence along the southerly line of said Lot 35, North 89° 24' 22" West 120.40 feet;

thence leaving said southerly line, North 42° 44' 52" West 16.19 feet;

thence North 71° 41' 04" West 51.40 feet;

thence North 83° 10' 34" West 87.40 feet;

thence North 80° 52' 01" West 33.53 feet;

thence South 53° 12' 14" West 25.36 feet;

thence North 80° 25' 16" West 18.02 feet to a common point in the easterly line of Lot A of said Tract Map and the westerly line of said Lot 35, as shown on said Tract Map, said point being in a curve concave southeasterly, having a radius of 1121.98 feet, radial thereto bears North 68° 53' 19" West;

thence continuing along said easterly line of Lot A and westerly line of Lot 35 northeasterly 240.50 feet along said curve through a central angle of 12° 16' 53";

thence leaving said curve South 24° 03' 05" West 27.47 feet;

thence South 01° 05' 32" East 17.24 feet;

thence South 55° 42' 51" East 11.88 feet;

thence South 83° 50' 32" East 26.50 feet;

thence North 71° 32' 02" East 22.08 feet;

thence North 52° 52' 11" East 77.85 feet;

thence North 76° 26' 35" East 51.39 feet;

thence North 79° 23' 43" East 55.35 feet;

Attachment G

thence South 24° 25' 00" East 30.70 feet;

thence South 06° 30' 16" East 43.94 feet to a point on the easterly line of said Lot 35, said point measured along said easterly line 198.97 feet from the Southeasterly corner of said Lot 35;

thence along said easterly line, South 00° 36' 16" West 198.97 feet to the **POINT OF BEGINNING**.

Containing an area of 63439 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

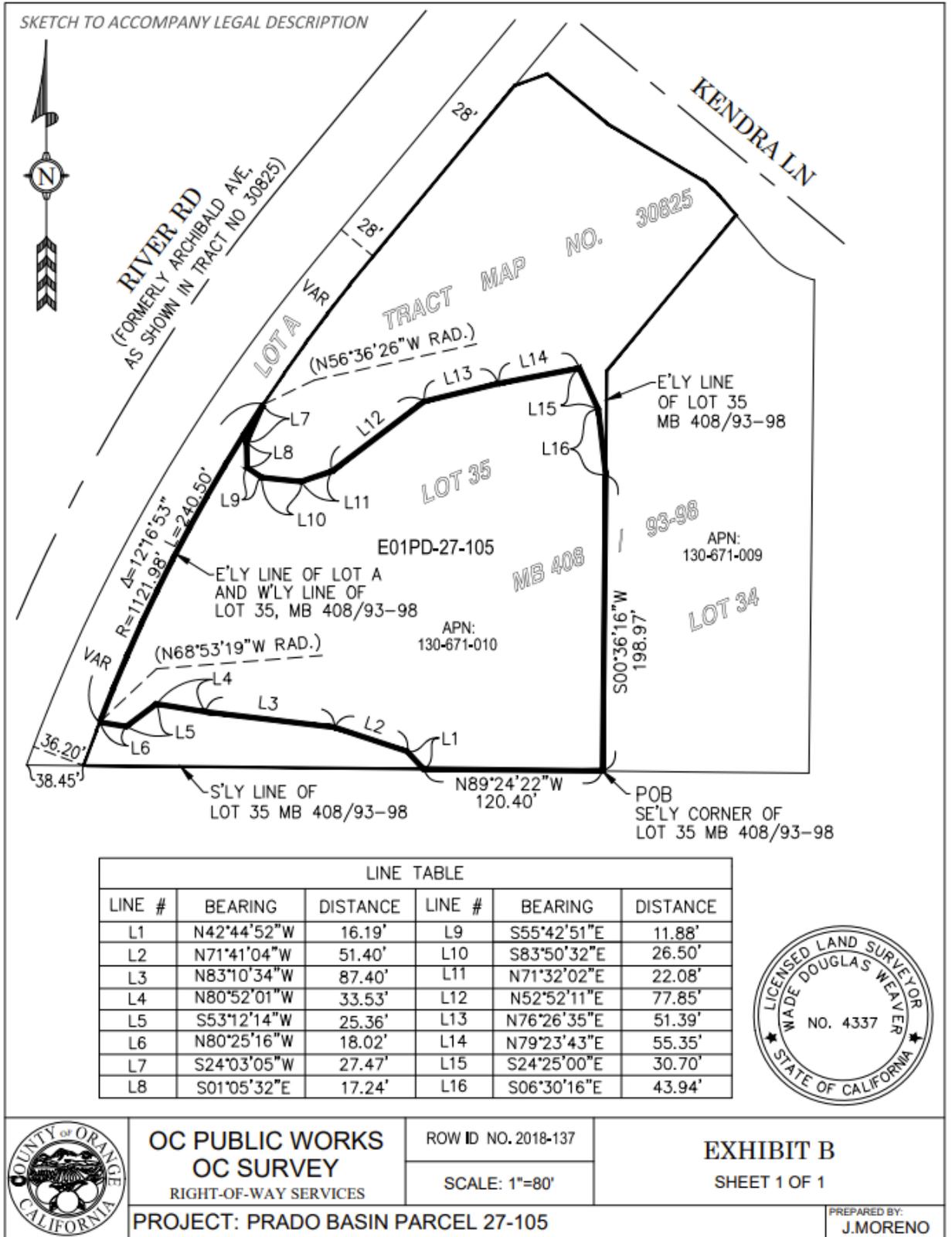
Kevin Hills, County Surveyor, L.S. 6617



Date: 9-14-2020

By: Wade Douglas Weaver, L.S. 4337





Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

January 12, 2021

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by Dale M. Tupker, as Trustee of The Dale M. Tupker Living Trust of 2018, dated February 21, 2018 (“Owner”) and located at 8656 Kendra Lane in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-27-100, which covers a portion of Riverside County Assessor’s Parcel Number (“APN”) 130-671-003, (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act (“CEQA”):
 - a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.
 - b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.
 - c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.
 - d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-27-100, which covers portions of Riverside County Assessor's Parcel No. 130-671-003.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$167,000, Job No ESP2147; to be paid from Fund 404-080-404-LS56-4100-ESP2147.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not

unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, “District’s Counsel”), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District’s Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS56-4100-ESP2147, Job No. ESP2147) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$167,000 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$167,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 27-100

That portion of Lot 28 of Tract No. 30825, in the City of Eastvale, County of Riverside, State of California, as per map filed in Book 408, Pages 93 through 98 of Maps, in the office of the County Recorder of said County described as follows:

BEGINNING at the most southerly corner of said Lot 28;
thence along the southwesterly line of said Lot 28, North 50° 13' 49" West 130.46 feet;
thence leaving said southwesterly line, North 05° 05' 00" East 6.81 feet;
thence North 23° 05' 49" East 17.32 feet;
thence North 30° 15' 54" East 19.27 feet;
thence North 34° 39' 00" East 17.48 feet;
thence North 22° 42' 49" East 17.16 feet;
thence North 51° 33' 27" West 18.65 feet;
thence North 35° 40' 43" East 25.49 feet to a point on the northeasterly line of said Lot 28, said point being measured along said northeasterly line 145.60 feet from the most easterly corner of said Lot 28;
thence along said northeasterly line South 50° 13' 49" East 145.60 feet to the most easterly corner of said Lot 28;
thence along the southeasterly line of said Lot 28, South 26° 18' 33" West 102.83 feet to the **POINT OF BEGINNING**.

Containing an area of 13610 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

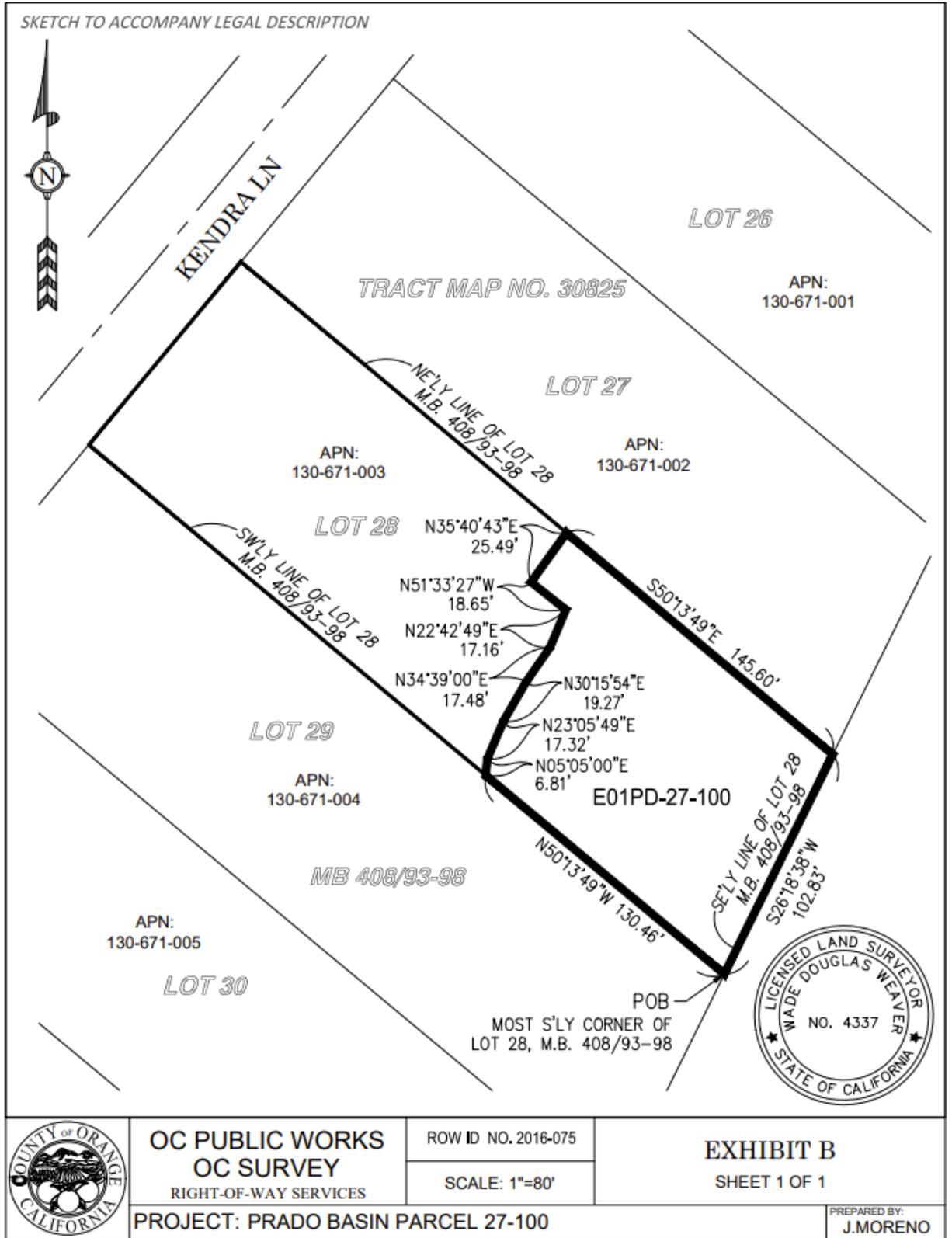
APPROVED

Kevin Hills, County Surveyor, L.S. 6617


Date: 9-14-2020

By: Wade Douglas Weaver, L.S. 4337





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 Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

January 12, 2021

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by CARLOS RICHARD MARTINEZ, an unmarried man and VERONICA NICOLE RICO, a single woman, as joint tenants (“Owner”) and located at 4033 Bluff Street in the City of Norco, County of Riverside, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-006, which covers Riverside County Assessor’s Parcel Number (“APN”) 121-060-004, (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-21-006, which covers portions of Riverside County Assessor's Parcel No. 121-060-004.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$222,000, Job No ESP2133; to be paid from Fund 404-080-404-LS42-4100.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that

will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS42-4100, Job No. ESP2133) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$222,000 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and

to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$222,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 21-006

That portion of Lot 1 and Lot 2, together with that portion of the southeasterly one-half of vacated Garden Street, 60 feet in width, in Block 71 of Auburndale Colony, in the City of Norco, County of Riverside, State of California, as per map filed in Book 6, Pages 20 and 21 of Maps, in the office of the County Recorder of San Bernardino and described in Grant Deed filed on March 13, 2014 as Document No. 2014-0094606 in the Office of the County Recorder of Riverside, described as follows:

BEGINNING at the most northerly corner of said Grant Deed, thence along the northeasterly line of said Grant Deed South 53° 43' 06" East 99.11 feet;
thence continuing along said northeasterly line South 46° 52' 09" East 23.25 feet;
thence leaving said northeasterly line, South 46° 40' 56" West 70.04 feet;
thence South 36° 04' 27" West 26.27 to a point the the southwesterly line of said Grant Deed, said point being measured 77.86 feet along said southwesterly line from the most southerly corner of said Grant Deed;
thence along said southwesterly line of said Grant Deed North 46° 51' 31" West 22.14 feet;
thence continuing along said southwesterly line North 55° 35' 33" West 117.64 feet to a point on the northwesterly line of said Grant Deed and centerline of said vacated Garden St, said point being the most westerly corner of said Grant Deed;
thence along northwesterly line North 53° 04' 08" East 103.55 feet to the **POINT OF BEGINNING**

Containing an area of 12501 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

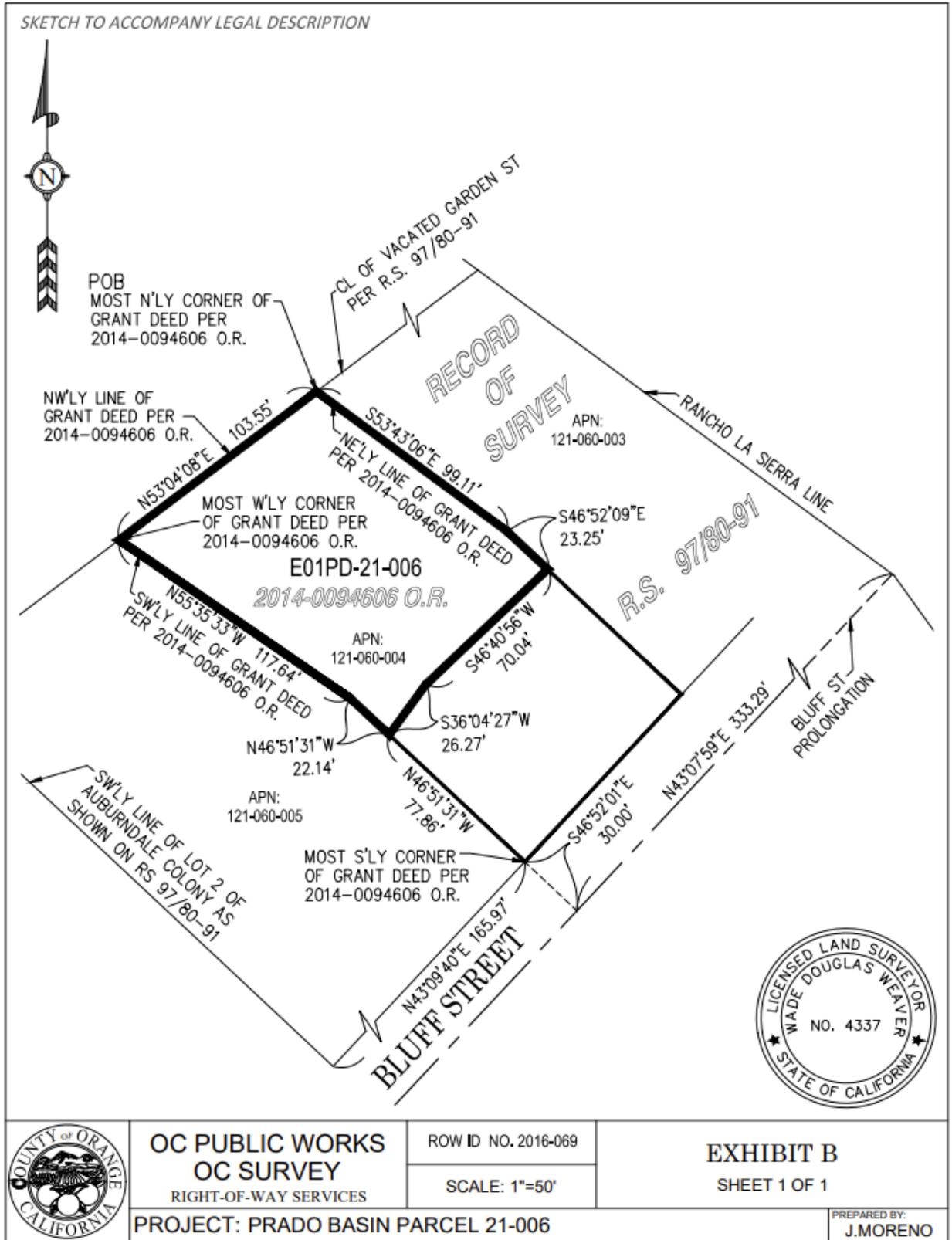
Kevin Hills, County Surveyor, L.S. 6617



Date: 10-5-2020

By: Wade Douglas Weaver, L.S. 4337





Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

January 12, 2021

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by Scott W. Dixon and Monica V. Dixon, husband and wife as joint tenants (“Owners”) and located at 4001 Bluff Street, in the City of Norco, County of Riverside, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-004, which covers Riverside County Assessor’s Parcel Number (“APN”) 121-060-002, (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021, Supplemental Agenda Staff Report.

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-21-004, which covers portions of Riverside County Assessor's Parcel No. 121-060-002.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$241,000. Job No ESP2144; to be paid from Fund 404-080-404-LS53-4100-ESP2144.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

extraterritorially pursuant to, inter alia, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not

unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, “District’s Counsel”), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District’s Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (Job No. ESP2144; to be paid from Fund 404-080-404-LS53-4100-ESP2144) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$241,000 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

to the owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$241,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 21-004

That portion of Lot 1, Block 71, together with that portion of the southeasterly half of vacated Garden Street, in the City of Norco, County of Riverside, State of California, as shown on the Map of Auburndale Colony and Townsite, filed in Book 6, Page 21 of Maps, in the office of the County Recorder of San Bernardino, and as described in Grant Deed recorded January 2, 1997 as Instrument No. 291 of Official Records of the County Recorder of said County of Riverside, more particularly described as follows:

BEGINNING at the most northerly corner of property described in said Grant Deed, said corner also being a point on the Rancho La Sierra Line as shown on Record of Survey filed in Book 97 Pages 80 through 91, inclusive, of Record of Surveys in the office of said County Recorder; thence along the northeasterly line of said property, and said Rancho Line, South 53°44'36" East 150.13 feet;

thence leaving said northeasterly line, and said Rancho Line, South 42°02'38" West 7.56 feet;

thence North 60°18'21" West 22.69 feet;

thence South 64°31'11" West 62.10 feet;

thence South 45°33'42" West 57.21 feet to a point on the southwesterly line of property described in said Grant Deed, said point being measured along said southwesterly line, 121.29 feet southeasterly from the most westerly corner of said property;

thence along said southwesterly line, North 46°51'29" West 121.29 feet to said most westerly corner, said point also being on the centerline of said vacated Garden Street as shown on said Record of Survey;

thence along the northwesterly line of said property and said centerline, North 53°04'08" East 111.50 feet to the **POINT OF BEGINNING**.

Containing an area of 14,170 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

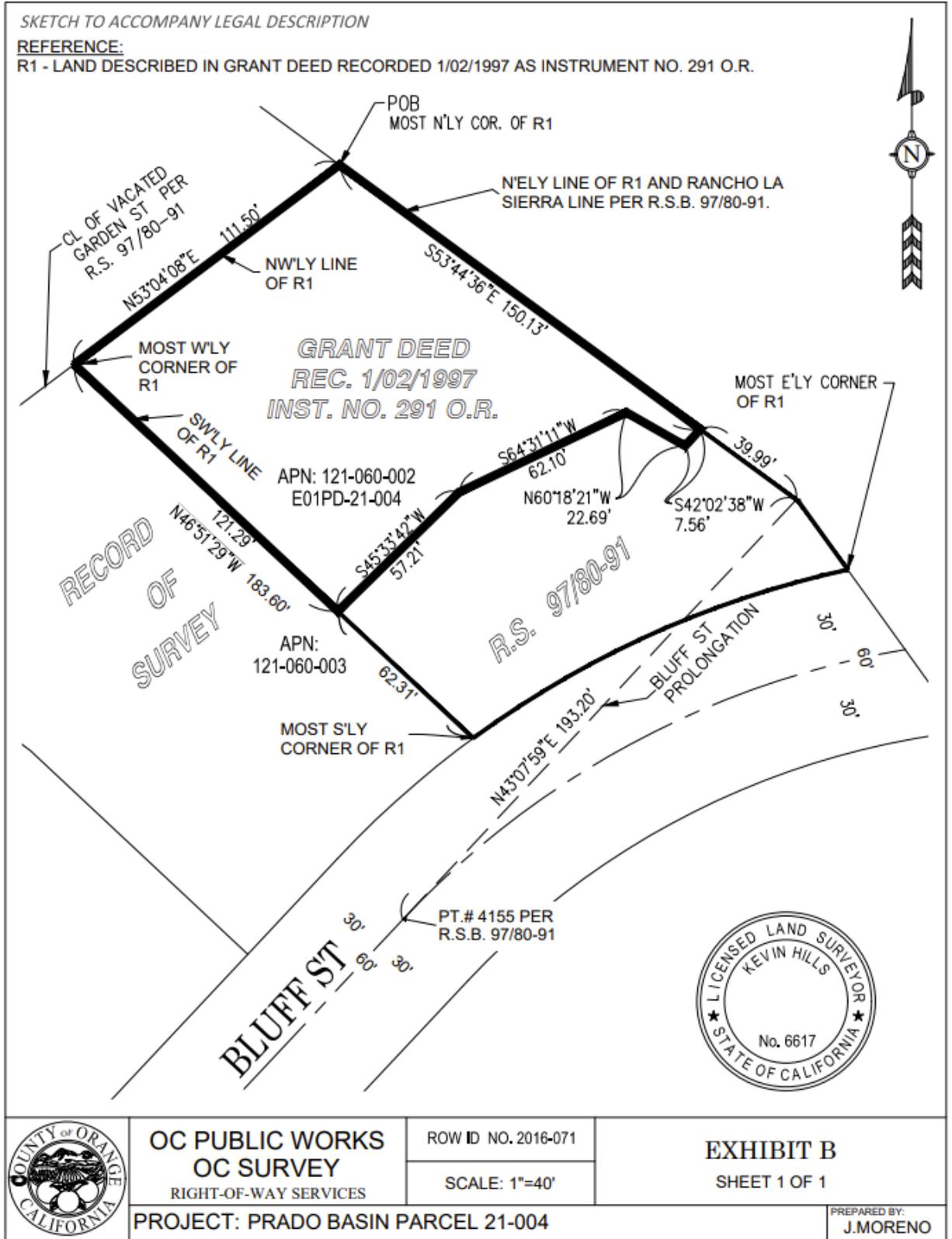
APPROVED



Date: 10/07/2020

Kevin R. Hills, County Surveyor, L.S. 6617





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Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

January 12, 2021

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by 15780 El Prado L.P., a California limited partnership (“Owner”) and located at 15780 El Prado Road, in the City of Chino, County of San Bernardino, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-45-001, which covers San Bernardino County Assessor’s Parcel Number (“APN”) 1028-202-26, (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized San Bernardino County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):
 - a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.
 - b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.
 - c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.
 - d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-45-001, which covers portions of San Bernardino County Assessor's Parcel No. 1028-202-26.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$21,300. Job No ESP2152; to be paid from Fund 404-080-404-LS68-4100-ESP2152.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in San Bernardino County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not

unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, “District’s Counsel”), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District’s Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund ESP2152, Job No.404-080-404-LS68-4100-ESP2152) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$21,300 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the

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Resolution No._____, Item No.____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes

owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$21,300.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 45-001

That portion of Parcel 1 of Parcel Map No. 16233, in the City of Chino, County of San Bernardino, State of California, as shown by map filed in the Office of the County Recorder of San Bernardino County, State of California, on September 2, 2004 In Book 2004, Pages 35 and 36 of Parcel Maps,

Described as follows:

COMMENCING at the most easterly corner of Parcel 1 of the above referenced Parcel Map No. 16233. Thence, along the southerly line of said Parcel 1, S 54° 31' 45 West 748.33 feet to the most southerly corner of said Parcel 1. Said point being the **TRUE POINT OF BEGINNING**;
Thence along the westerly line of said Parcel 1, North 05° 04' 10" East 114.90 feet;
Thence continuing along said westerly North 29° 40' 12" West, 388.33 feet to the northerly line of said Parcel 1;
Thence along the northerly line of said Parcel 1, North 54° 29' 39" East, 21.81 feet;
Thence leaving said northerly line, South 48 30' 07" East, 390.07 feet;
Thence South 38 18' 43" East, 93.77 feet to the southerly line of said Parcel 1;
Thence along said southerly line, 288.34 feet to the **TRUE POINT OF BEGINNING**.

Containing an area of 49,766 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

Kevin Hills, County Surveyor, L.S. 6617

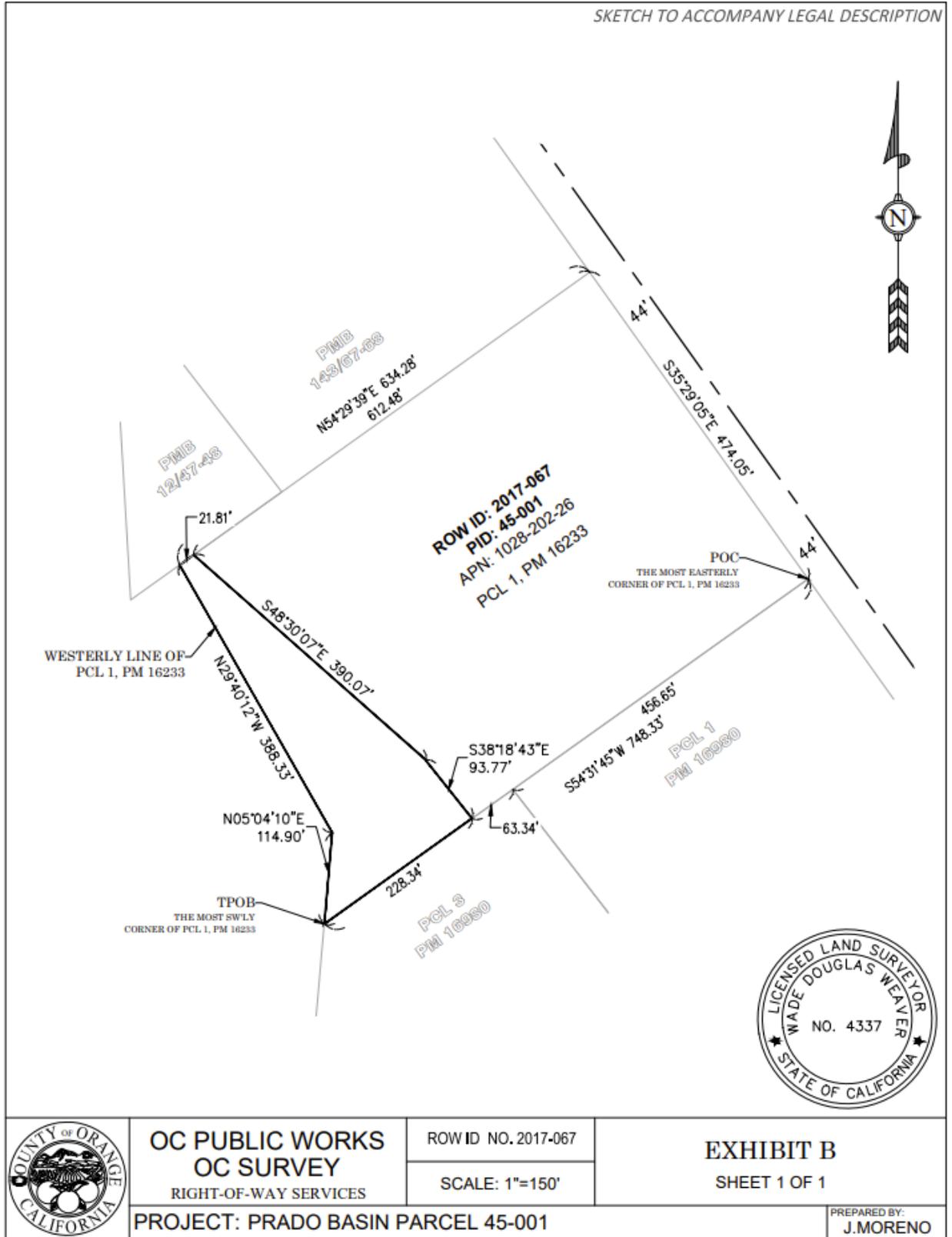


Date: 10-15-2020

By: Wade Douglas Weaver, L.S. 4337



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Resolution No. _____, Item No. ____
Santa Ana River Mainstem/Prado Dam Project
Acquisition by Eminent Domain of Real Property for Flood Control Purposes



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Resolution No. _____, Item No. ____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

January 12, 2021

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by TARA WILSON AND SEAN WILSON, wife and husband as joint tenants (“Owner”) and located at 8642 Kendra Lane in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-27-099, which covers Riverside County Assessor’s Parcel Number (“APN”) 130-671-002, (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):
 - a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.
 - b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.
 - c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.
 - d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-27-099, which covers portions of Riverside County Assessor's Parcel No. 130-671-002.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$167,000, Job No. ESP2145; to be paid from Fund 404-080-404-LS54-4100.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that

will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, “District’s Counsel”), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District’s Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS54-4100 Job No ESP2145) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$167,000 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and

to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$167,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 27-099

That portion of Lot 27 of Tract No. 30825, in the City of Eastvale, County of Riverside, State of California, as per map filed in Book 408, Pages 93 through 98 of Maps, in the office of the County Recorder of said County described as follows:

BEGINNING at the most southerly corner of said Lot 27;

thence along the southwesterly line of said Lot 27, North 50° 13' 49" West 145.60 feet;

thence leaving said southwesterly line, South 71° 45' 49" East 14.76 feet;

thence North 37° 39' 49" East 9.46 feet;

thence North 50° 16' 55" West 20.10 feet;

thence North 38° 30' 23" East 31.67 feet;

thence South 51° 07' 30" East 6.14 feet;

thence North 33° 57' 56" East 53.67 feet to a point on the northeasterly line of said Lot 27, said point being measured along said northeasterly line 128.38 feet from the most easterly corner of said Lot 27;

thence along said northeasterly line, South 50° 13' 49" East 128.38 feet to the most easterly corner of said Lot 27;

thence along the southeasterly line of said Lot 27, South 26° 18' 38" West 102.82 feet to the **POINT OF BEGINNING**.

Containing an area of 13636 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

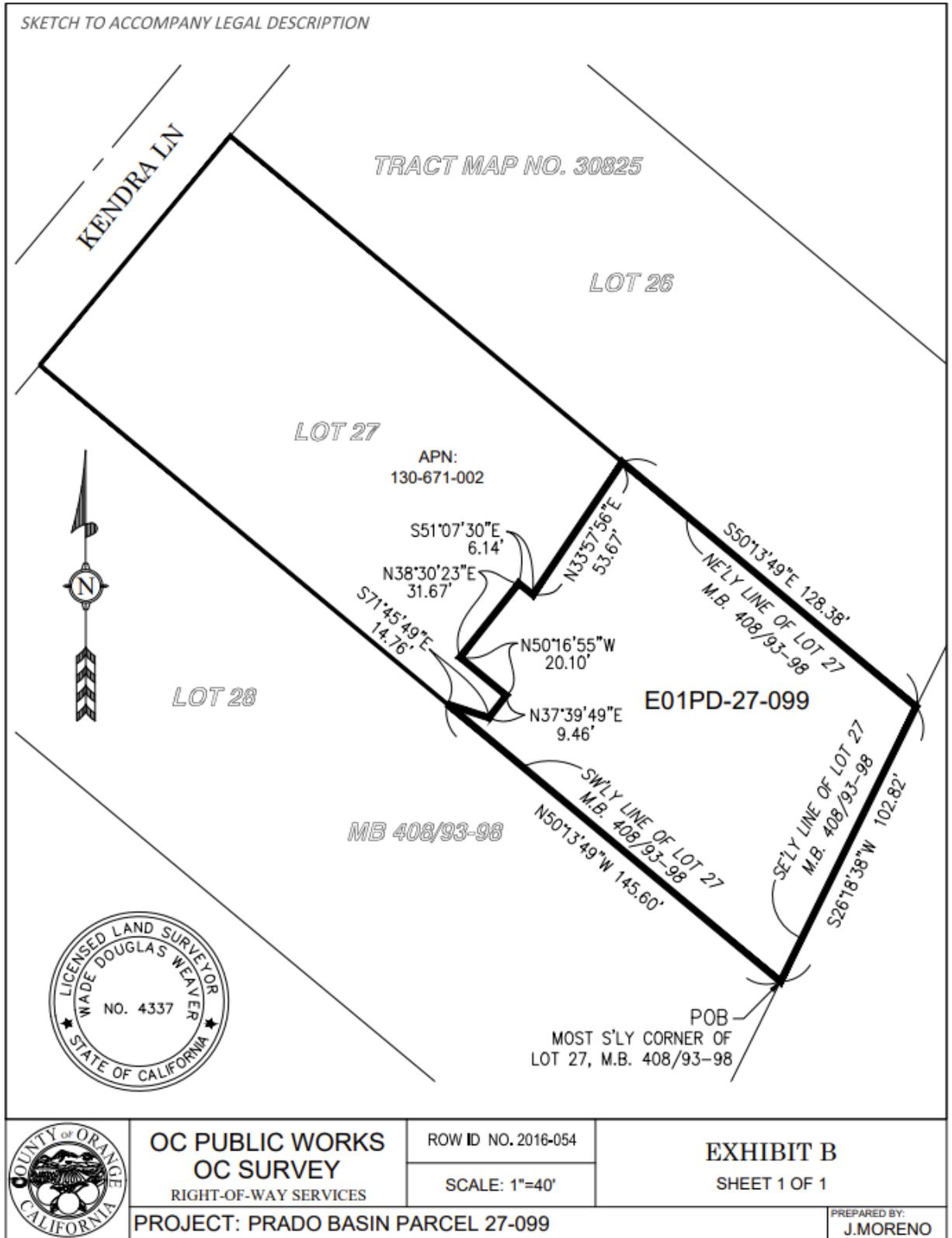
Kevin Hills, County Surveyor, L.S. 6617

Wade Douglas Weaver

Date: 9-14-2020

By: Wade Douglas Weaver, L.S. 4337





Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

January 12, 2021

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by the Riverside County Regional Park and Open-Space District (“Owner”) and located at or near 14600 Baron Drive, in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-26-004, which is a portion of Riverside County Assessor’s Parcel Number (“APN”) 130-040-006, located at or near 14600 Baron Drive, Eastvale, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021, hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021, Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen, LLP and Murphy and Evertz LLP, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-26-004, which covers portions of Riverside County Assessor's Parcel No. 130-040-006.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$105,100.00, Job No ESP2143; to be paid from Fund 404-080-404-LS52-4100-ESP2143.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that

will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen, LLP and Murphy and Evertz LLP, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, “District’s Counsel”), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District’s Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS52-4100, Job No. ESP2143) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$105,100.00, the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner;

and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$105,100.00.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No. 26-004 & 26-004.1

PARCEL No. 26-004

That portion of Lot "D" of Fuller Rancho, in the City of Corona, County of Riverside, State of California as shown on map recorded in Book 16, Pages 80 and 81 of Maps in the office of the County Recorder of said County, described as follows:

BEGINNING at the most southerly corner of that certain Quitclaim Deed Recorded October 5, 1998, as Instrument No. 1998-430251 of Official Records in said office of the County Recorder, thence along the southerly line of said deed, North 78° 42' 41" West 25.21 feet;

thence leaving said southerly line, North 23° 51' 54" East 417.56 feet;

thence North 07° 36' 29" East 231.77 feet;

thence North 00° 44' 48" East 250.39 feet;

thence North 32° 17' 14" West 141.42 feet;

thence North 86° 41' 04" West 112.66 feet to the westerly line of said Quitclaim Deed;

thence along the general westerly, northerly and easterly lines of said Quitclaim Deed the following eleven (11) courses;

- 1) North 00° 44' 28" East 100.35 feet;
- 2) North 89° 17' 07" West 194.57 feet;
- 3) North 62° 26' 21" East 162.30 feet;
- 4) North 49° 19' 26" East 275.97 feet;
- 5) South 65° 31' 29" East 69.63 feet;
- 6) South 15° 19' 20" West 146.18 feet;
- 7) South 37° 38' 17" East 93.46 feet;
- 8) South 09° 17' 41" West 109.64 feet;
- 9) South 03° 20' 59" East 140.74 feet;
- 10) South 08° 02' 19" West 479.92 feet; and
- 11) South 22° 04' 33" West 413.22 feet to the **POINT OF BEGINNING**.

Containing 2.390 Acres, more or less.

PARCEL No. 26-004.1

That portion of Lot "D" of Fuller Rancho, in the City of Corona, County of Riverside, State of California as shown on map recorded in Book 16, Pages 80 and 81 of Maps in the office of the County Recorder of said County, described as follows:

Attachment M

BEGINNING at the most westerly corner of that certain Quitclaim Deed Recorded October 5, 1998, as Instrument No. 1998-430251 of Official Records in said office of the County Recorder, thence along the southerly line of said deed, South 78° 42' 41" East 400.31 feet;

thence leaving said southerly line, North 22° 11' 25" West 240.79 feet to the northwesterly line of said deed;

thence along said northwesterly line, South 64° 23' 13" East 334.49 feet to the **POINT OF BEGINNING**.

Containing 0.923 Acres, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999833 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

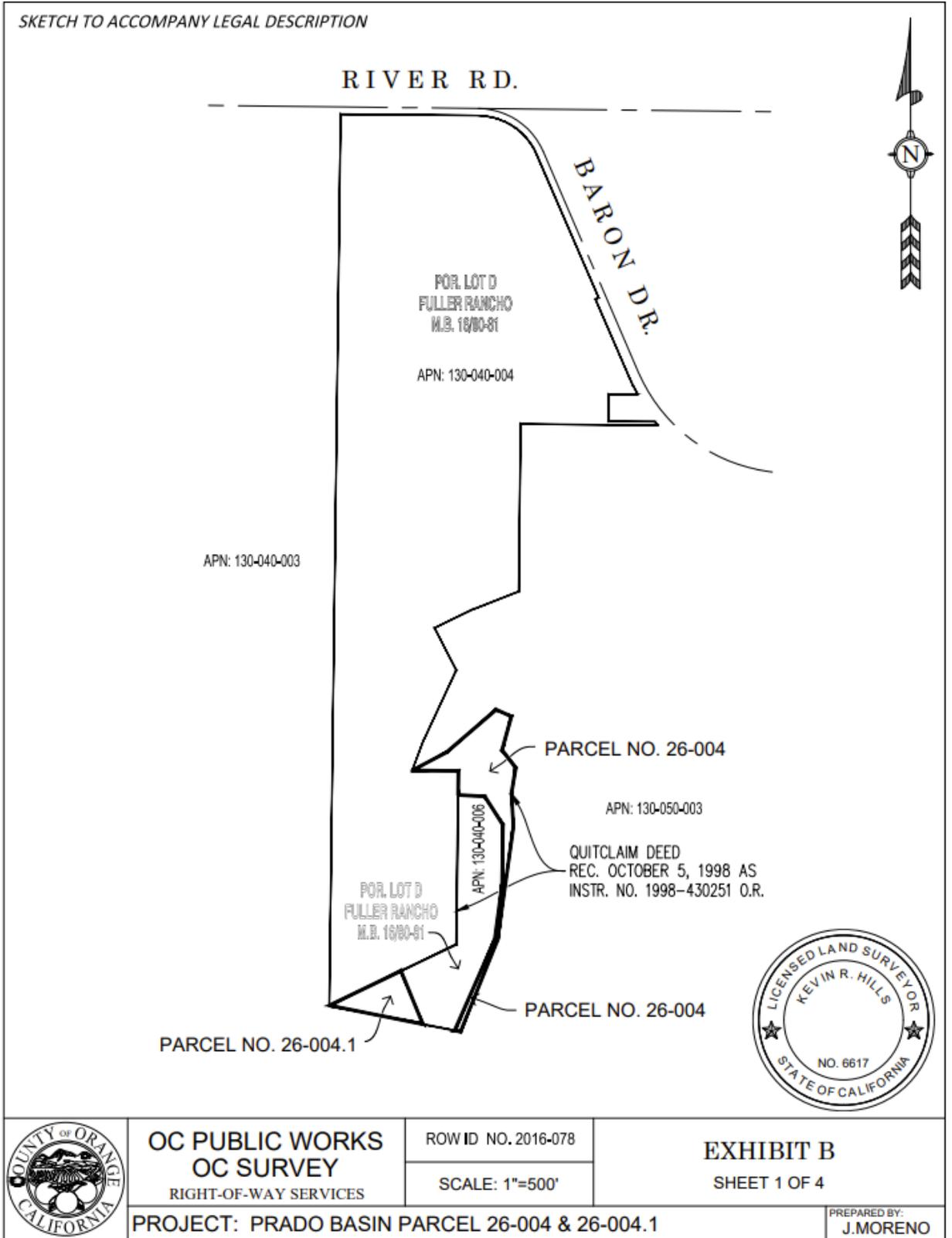
APPROVED



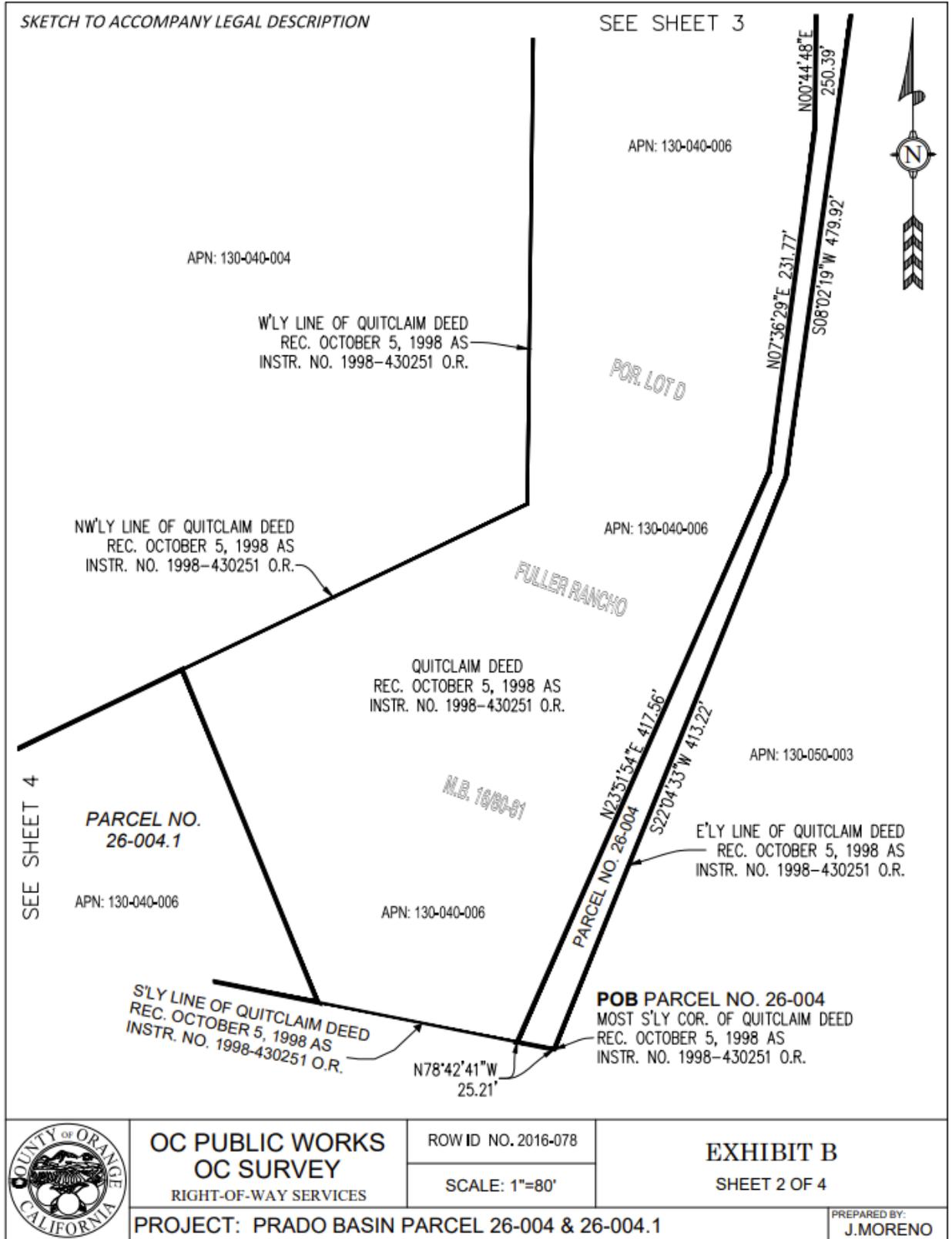
Date: **10/08/2020**

Kevin R. Hills, County Surveyor, L.S. 6617

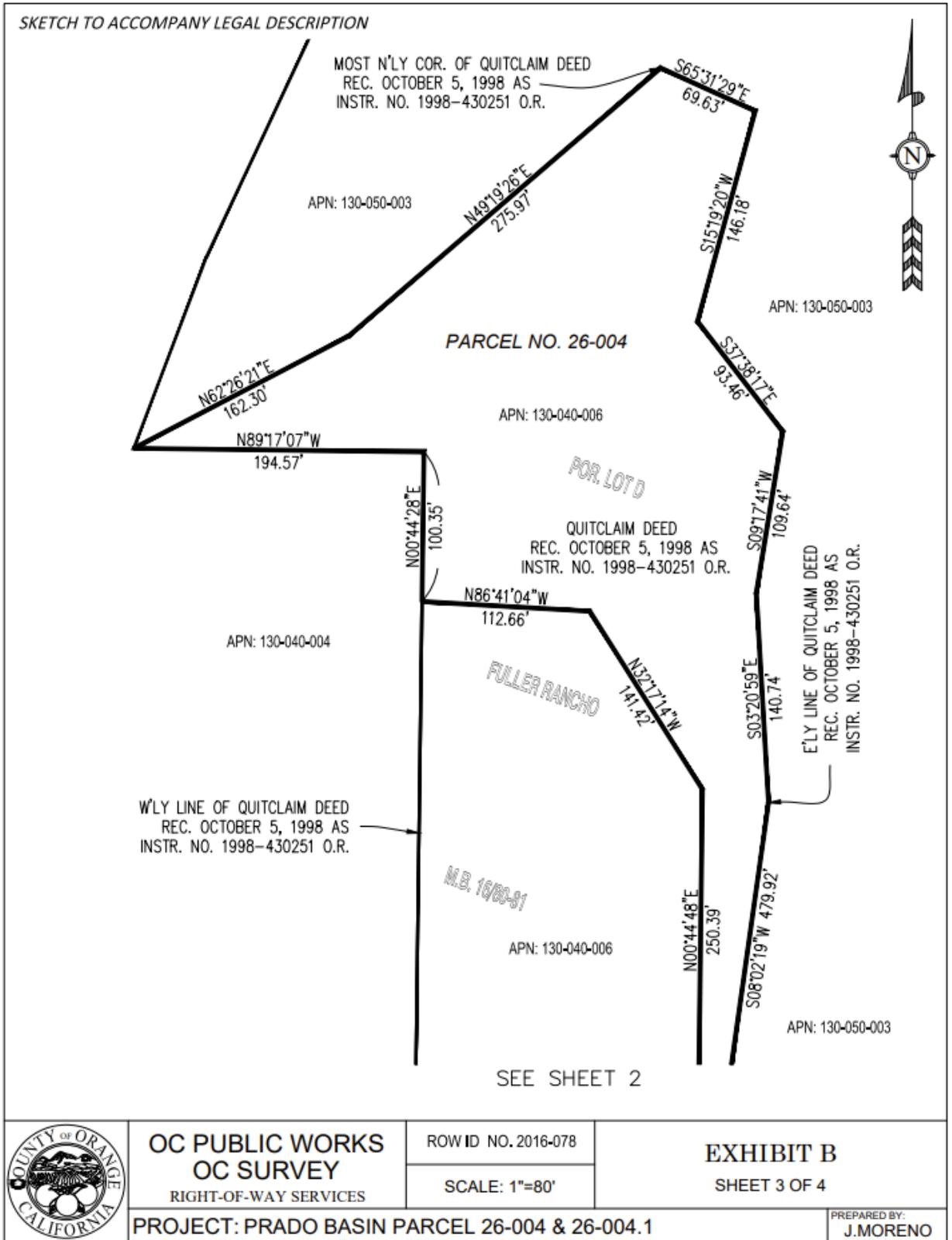




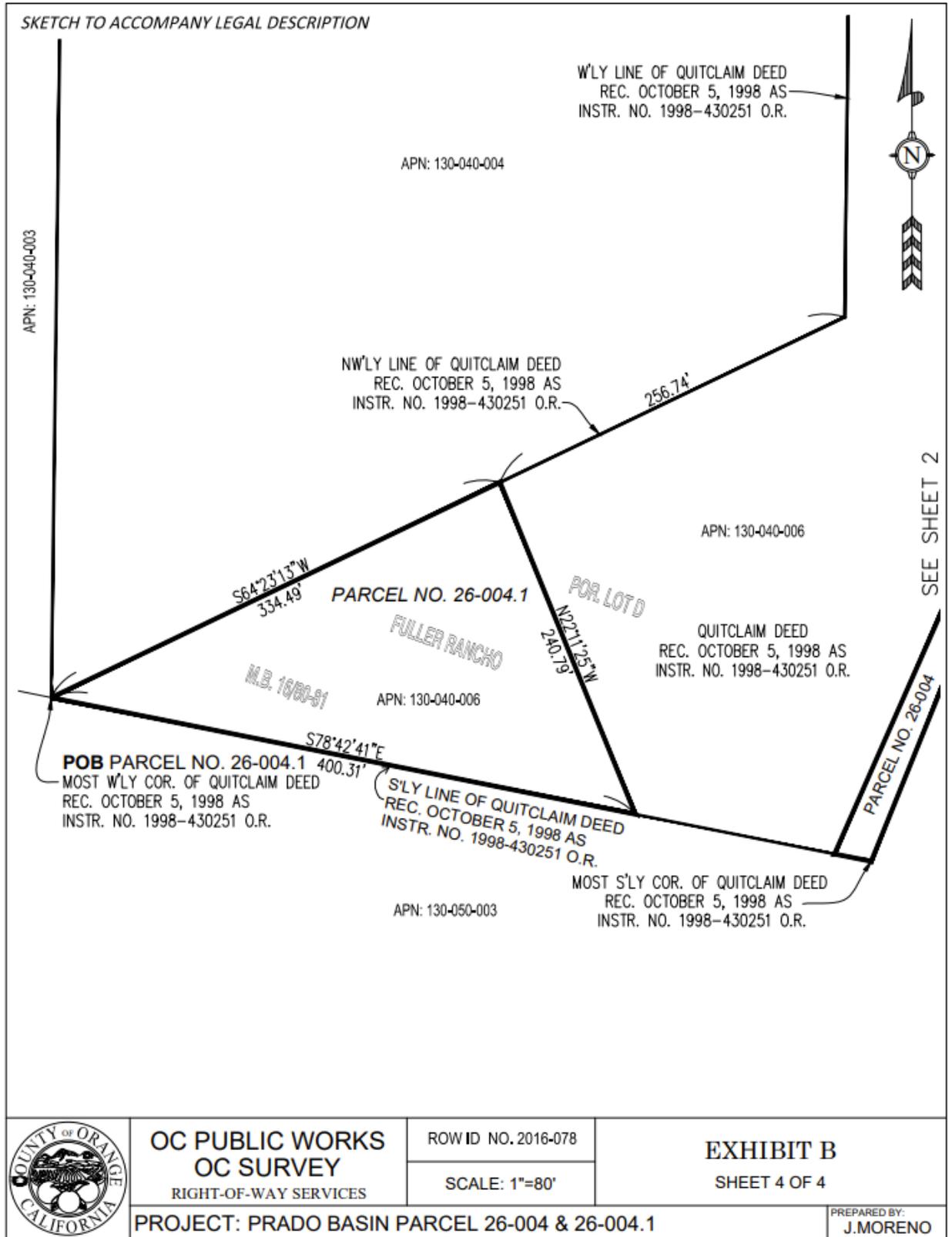
Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes



Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes



Resolution No. _____, Item No. ____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes



Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

[date]

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by Kenneth C. Bleck and Sylvia A. Bleck, as Trustees of the K&S Bleck 2013 Family Trust dated June 3, 2013, (“Owner”) and located at 4047 Bluff Street in the City of Norco, County of Riverside, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-007, which covers a portion of Riverside County Assessor’s Parcel Number (“APN”) 121-060-005, (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area

shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-21-007, which covers portions of Riverside County Assessor's Parcel No[s]. 121-060-005.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$237,000, Job No. ESP2106 to be paid from Fund 404-080-404-LS15-4100-ESP2106.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not

unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS38-4100, Job No. ESP2129) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$237,000 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and

to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$237,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 21-007

That portion of Lot 2 in Block 71 of Auburndale Colony, in the City of Norco, County of Riverside, State of California, as per map filed in Book 6, page 20 of Maps in the office of the County Recorder of San Bernardino and described in Grant Deed filed on September 24, 2001 as Document No. 2001-460764 in the Office of the County Recorder of Riverside, together with that portion of the Southeasterly one-half of vacated Garden Street, 60 feet in width as shown on said Map, described as follows:

COMMENCING at the most southerly corner of said Lot 2 and said Grant Deed;

Thence along the southwesterly line of said Lot 2 and said Grant Deed, North 46° 52' 38" West 123.54 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing along said southwesterly line, North 46° 52' 38" West 118.69 feet to the northwesterly corner of said Grant Deed and the centerline of said Garden Street, said point also being the northeasterly corner of said Grand Deed;

Thence along said centerline, North 53° 04' 08" East 150.44 feet to the northeasterly corner of said Grant Deed;

Thence leaving said centerline and along the northeasterly line of said Grant Deed South 55° 35' 33" East 117.64 feet;

Thence along the northeasterly line of said Grant Deed South 46° 51' 31" East 22.14 feet;

Thence leaving said northeasterly line South 78° 21' 21" West 26.42 feet;

Thence South 11° 59' 20" West 37.58 feet;

Thence South 51° 16' 51" West 17.70 feet;

Thence North 88° 09' 11" West 46.66 feet;

Thence South 44° 29' 53" West 21.66 feet;

Thence North 86° 42' 54" West 28.63 feet;

Thence South 20° 05' 00" West 26.03 feet to the **TRUE POINT OF BEGINNING**.

Containing an area of 20319 Square Feet, more or less.

Attachment N

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999833 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

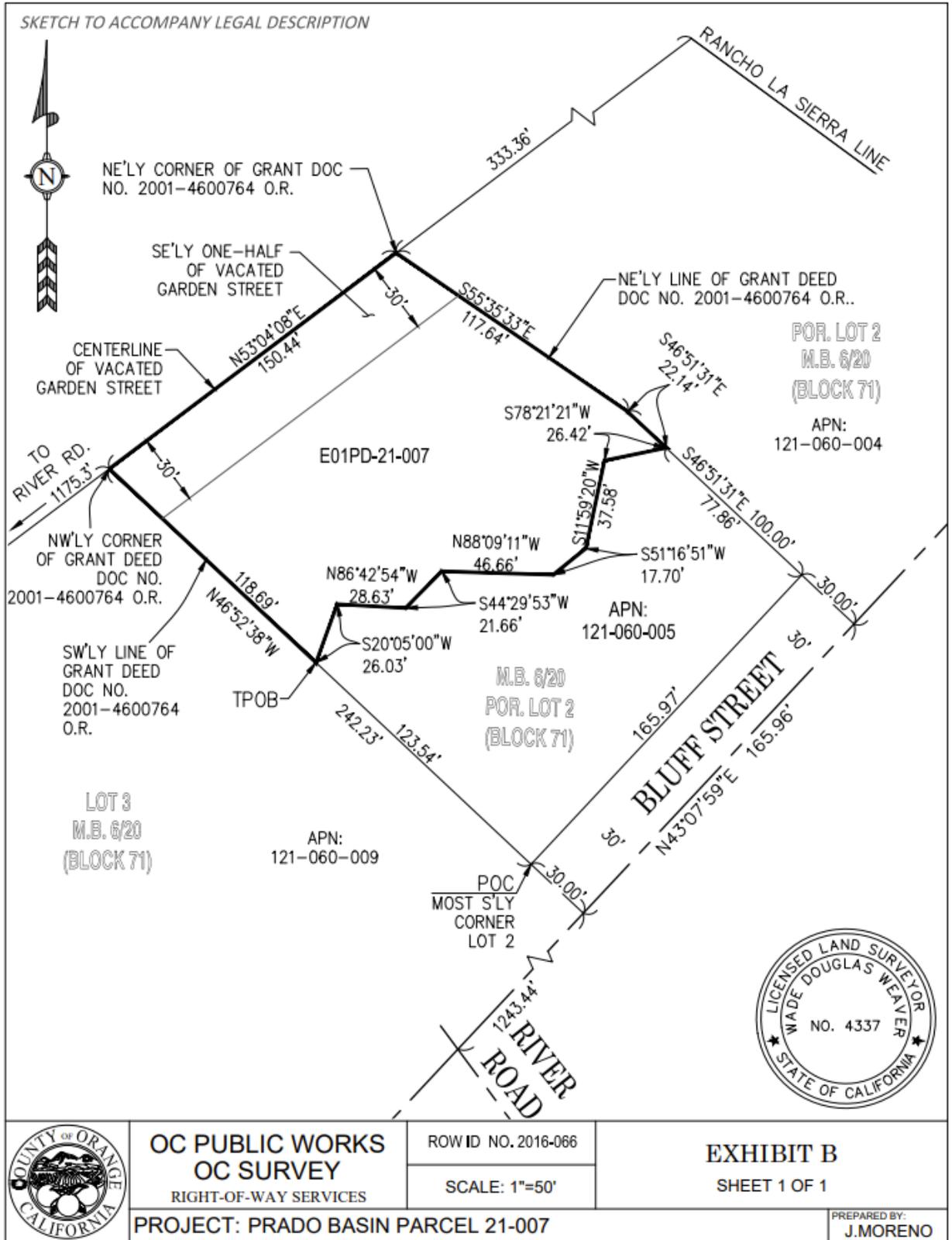
Kevin Hills, County Surveyor, L.S. 6617



Date: 10-05-20

By: Wade Douglas Weaver, L.S. 4337





Resolution No. _____, Item No. _____
 Santa Ana River Mainstem/Prado Dam Project
 Acquisition by Eminent Domain of Real Property for Flood Control Purposes

AMENDED RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

January 12, 2021

WHEREAS, this Amended Resolution of Necessity (“Amended Resolution”) seeks to acquire property interests in the real property currently listed on the latest San Bernardino County equalized tax assessment roll as owned by Pine Sterling LLC but shows on the Orange County Flood Control District’s approved Title Report as owned by Frank Jude Lizarraga, Jr., an unmarried man as to undivided 50% interest and Charles Thomas Braden, a Widower as to undivided 50% interest as tenant in common (collectively “Owner”) and located at 7310 Pine Avenue in the City of Chino, County of San Bernardino, California, and whereas the property interests to be acquired (“Subject Property Interests”) consist of:

Fee simple title to real property that is legally described and depicted by Exhibits A and B, which are attached hereto and incorporated herein by reference, which fee simple area is referred to by the Orange County Flood Control District (“District”) as Project Parcel No. E01PD-46-996 and which covers San Bernardino County Assessor’s Parcel Nos. 1056-271-01 & 1056-271-02 (“Subject Property Interests”).

WHEREAS, the District determined the property necessary for the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”) will leave the remainder in such size, shape, or condition as to be of little market value;

WHEREAS, on or before December 28, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner, *inter alia*, at the address shown by the last equalized San Bernardino County assessment

roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Amended Resolution to acquire the Subject Property Interests for purposes of the Project, through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a January 12, 2021 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests;

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-thirds’ majority of the Board membership, to adopt this Amended Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings; and

WHEREAS, Resolution 20-164 erroneously omitted reference to Code of Civil Procedure Section 1240.410, which authorizes a condemning agency to exercise the power of eminent domain to acquire the entire property when the portion necessary for the project will leave the remainder in such size, shape, or condition as to be of little market value.

NOW, THEREFORE, after consideration of the information contained above as well as in the January 12, 2021 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act (“CEQA”):
 - a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.
 - b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.
 - c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.
 - d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

Attachment O

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firm of Burke, Williams & Sorensen, pursuant to its existing contract with the District, to initiate condemnation proceedings to condemn the Subject Property Interests.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to \$5,701,495, Job No ESP2107; to be paid from Fund 404-080-404-LS16-4100.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Sections 1240.110, 1240.410 and 1240.420), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in San Bernardino County and the District is exercising its power of eminent domain extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Amended Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section

1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, “District’s Counsel”), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District’s Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS16-4100 , Job No. ESP2107) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to \$5,701,495 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of

Attachment O

greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$5,701,495.

IT IS FURTHER RESOLVED that this Amended Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Amended Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Prado Basin Pine Sterling Parcels
Facility No.: E01PD
Parcel No.: 46-996

Those portions of Lots 19 and 36, in Section 31, Township 2 South, Range 7 West, of the Rancho Santa Ana del Chino, in the City of Chino, County of San Bernardino, State of California, per map filed in Book 6, Page 15 of Maps, in the Office of the County Recorder of said county, described in the Grant Deed recorded August 29, 2002 as Document No. 2002-0453406 in said County Recorder's Office.

Containing 9.719 Acres, more or less.

See EXHIBIT B attached and by reference made a part.

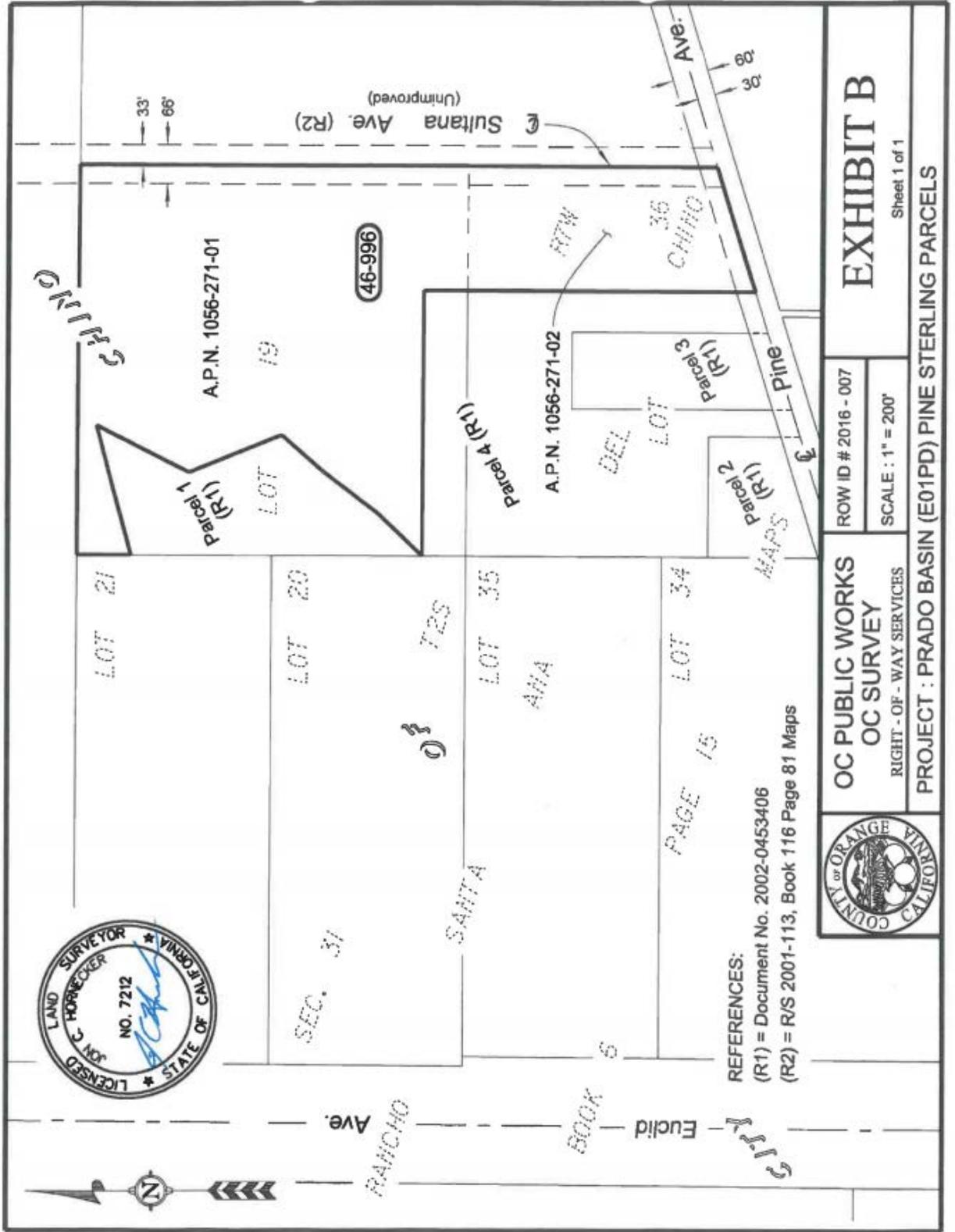
APPROVED
Kevin Hills, County Surveyor, L.S. 6617



By: Jon C. Hornecker, Deputy, L.S. 7212

Date: 5-12-2016





AMENDED RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY
January 12, 2021

WHEREAS, this Amended Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently listed on the latest Riverside County equalized tax assessment roll as owned by Maria Del Socorro Vargas, Trustee of The Maria Del Socorro Vargas Trust, dated October 19, 1999 (“Owner”) and located at 7673 Hall Avenue, Eastvale, County of Riverside, California, for the Santa Ana River Mainstem Project / Prado Dam Project, and whereas the property interests to be acquired consist of:

A fee simple interest in and to real property that is legally described and depicted in **Exhibits A and B** attached hereto, which fee simple interest is referred to by the District as Project Parcel No. 40-028 and 40-032 and includes Riverside County Assessor’s Parcel Numbers 144-070-013 and 144-100-043.

Containing 6.84 acres more or less (“Subject Property Interests”);

WHEREAS, the Santa Ana River Mainstem Project (“Mainstem Project”) is an ongoing project that is designed to provide flood protection to the growing urban communities in Orange, Riverside and San Bernardino Counties. All three counties, collectively, are working closely with the U.S. Army Corps of Engineers (“USACE”) to design and construct the Mainstem Project;

WHEREAS, one of the main components of the Mainstem Project involves improvements to the Prado Dam and related features (“Prado Dam Project”). The Prado Dam Project is intended to increase the level of flood protection for residences and businesses in the communities downstream of Prado Dam.

WHEREAS, a portion of the Subject Property Interests is located in the proposed floodable area, on or below an elevation of 566 feet. Attached to this Amended Resolution of Necessity as **Exhibit C**, and incorporated herein by this reference, is a map of the Subject Property Interests which shows the area on or below the 566-foot flood line designated in red;

WHEREAS, certain portions of the Subject Property Interests are located above the 566-foot flood line. Orange County Flood Control District (“OCFCD” or the “District”) requested guidance from USACE regarding the acquisition of the Subject Property Interests. On December 6, 2017, USACE sent the District a Guidance Letter for the acquisition of the Subject Property Interests. For APN 144-070-013, USACE stated that there is a residential structure located within the proposed floodable area below elevation 566 feet; approximately 80% of the parcel will be subject to flooding; and, there are no alternative locations on the parcel to relocate the residential structure due to lack of ingress/egress and potential for flooding. For APN 144-100-043, USACE stated that more than half of the parcel will be substantially flooded in a storm event, or as a result of flood control operations; and, this parcel also provides the only ingress/egress from APN 144-070-013 to Hall Avenue. A portion of Hall Avenue will also be flooded and, thus, the property above the 566 feet will be landlocked as a result of the Project. Thus, USACE determined that the remnant parcel remaining after a partial taking of the flood inundation area below elevation of 566 feet is uneconomic, and requested that the entire Subject Property Interests be acquired to prevent leaving the impacted landowner with an uneconomic remnant. Attached to this Amended Resolution of Necessity as **Exhibit D** and **Exhibit E** and incorporated herein by reference, are letters sent by USACE on December 6, 2017 and January 6, 2021 respectively;

WHEREAS, pursuant to Government Code section 7267.1 and 7267.2, the District prepared an appraisal of the entire Subject Property Interests, and presented an offer to Owner for the full appraised value on May 14, 2018. An updated offer was made to Owner on January 28, 2019. Owner presented her own appraised value on April 18, 2019. The District updated its appraisal and presented an updated offer to Owner on November 20, 2019;

WHEREAS, negotiations with Owner were at an impasse;

WHEREAS, on June 24, 2020, the clerk of the Board mailed notice to the Owner at the address shown by the last equalized Riverside County assessment roll, of the intention of Orange County Board of Supervisors (“Board”) acting in its capacity as the governing board of the District, to adopt a proposed Resolution of Necessity to acquire the Subject Property Interests for purposes of the Project through eminent domain proceedings, and the date set for a hearing thereon of July 14, 2020;

WHEREAS, Owner did not appear at the July 14, 2020 hearing on the proposed Resolution of Necessity, or object to the adoption of the proposed Resolution of Necessity;

WHEREAS, after the duly noticed public hearing on July 14, 2020, the Board adopted Resolution No. 20-097, finding and declaring, in part, that (a) the public interest and necessity require the Project; (b) the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) the Subject Property Interests sought to be acquired are necessary for the Project; and (d) the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, Resolution No. 20-097 contained a technical error, in that it did not cite to Code of Civil Procedure section 1240.410, *et seq.*, which authorizes OCFCD to acquire a

“remnant”, meaning “a remainder or portion thereof that will be left in such size, shape or condition as to be of little market value”;

WHEREAS, this Amended Resolution of Necessity corrects the error in Resolution No. 20-097, to clarify that the portion of the Subject Property Interests that is being acquired for the Project is located on or below the elevation line of 566 feet, and the portions of the Subject Property Interests that are being acquired as uneconomic remnants pursuant to Code of Civil Procedure section 1240.410, *et seq.* are located above the elevation line of 566;

WHEREAS, on December 22, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owner at, *inter alia*, the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt a proposed Amended Resolution of Necessity to acquire the Subject Property Interests for purposes of the Project, through eminent domain proceedings, and of the date set for a hearing thereon of January 12, 2021;

WHEREAS, said notice by the Clerk notified the Owner of her right to appear and to be heard at a January 12, 2021 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, USACE has confirmed that the Fee Owner can keep the uneconomic remnants as long as she agrees to release it, the local road authority, and the District from any liability as a result of the remaining parcel(s) being landlocked and the local road authority concurs, in writing, with obtaining a release in lieu of acquisition;

WHEREAS, the Fee Owner has been notified of that option via her attorneys of record but has not responded whether or not she wants to retain any of her property above the 566 line despite receiving several requests that she let the District know whether she wants to keep the uneconomic remnants;

WHEREAS, on January 12, 2021, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-thirds' majority of the Board membership, to adopt this Amended Resolution to acquire the portion of the Subject Property Interests necessary for the Project, and the uneconomic remnants, through eminent domain proceedings.

NOW, THEREFORE, IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. The recitals are true and correct and are incorporated herein by this reference.
2. Under the California Environmental Quality Act ("CEQA"):
 - a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final

Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

3. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

4. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution,

the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Sections 1240.110, 1240.410 and 1240.420), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain extraterritorially pursuant to, inter alia, Sections 2 and 16 of the Orange County Flood Control Act.

5. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

6. The portion of the Subject Property Interests located on or below the elevation line of 566 feet is necessary for the Project. It is necessary that the District acquire the portion of the Subject Property Interests located on or below the elevation line of 566 feet to carry out the Project's essential flood control purposes. If this portion of the Subject Property Interests was not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

7. The portion of the Subject Property Interests on or below the elevation line of 566 feet will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

8. The acquisition of the portion of the Subject Property Interests that is necessary for the Project will leave the remainder in such size, shape, or condition as to be of little market value,

and as such the District may exercise the power of eminent domain to acquire the remnant in accordance with Article 5 of the Eminent Domain Law (commencing with Section 1240.410 of the Code of Civil Procedure). Thus, the portions of the Subject Property Interests above the elevation line of 566 feet are being acquired pursuant to Code of Civil Procedure section 1240.410, *et seq.*, as uneconomic remnants.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235;

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Meyers Nave, pursuant to its existing contract with the District as previously authorized by this Board for

Attachment P

purposes of representing the District in condemnation matters (collectively, “District’s Counsel”), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District’s Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that this Amended Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Amended Resolution and certify this record to be a full true, correct copy of the action taken.

Attachment P

LEGAL DESCRIPTION

Santa Ana River – Prado Dam
Facility No.: E01PD
Parcel No.: 40-28 & 40-32

Those certain portions of land in the City of Eastvale, County of Riverside, State of California, described as Parcels 1 and 2 in the Grant Deed recorded December 10, 2001 as Instrument No. 2001-612752 of Official Records in the office of the County Recorder of said County.

Containing 6.84 Acres, more or less.

See EXHIBIT B attached and by reference made a part.

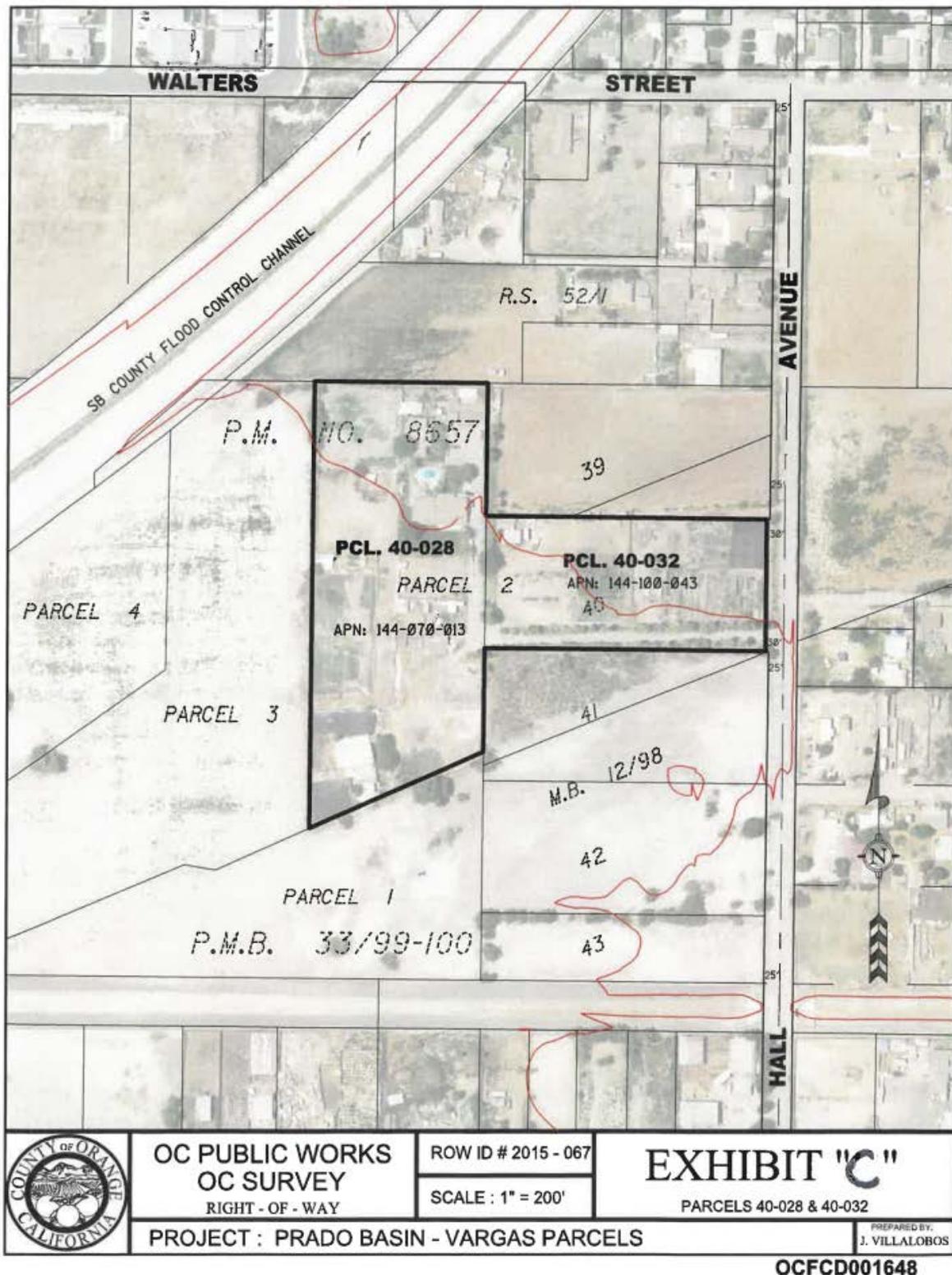
APPROVED

 Date: 12/29/15
Craig S. Wehrman L.S. 6131



Exhibit A







DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BLVD, SUITE 930
LOS ANGELES, CALIFORNIA 90017-3489

December 6, 2017

Office of the Chief
Asset Management Division

SUBJECT: Guidance for acquisition of APN 144-070-013 & 144-100-043, Parcel 40-028
& 40-032 (Vargas), Prado Dam Project

Mr. James Tyler
Manager, Flood Programs Division
OC Public Works
300 N. Flower Street Room 743
Santa Ana, California 92703

Mr. Tyler:

This letter responds to Orange County Flood Control District's ("OCFCD") request for guidance regarding the acquisition of APNs 144-070-013 and 144-100-043 (Vargas) located within Prado Flood Control Basin in San Bernardino County, CA. In accordance with Article III of the Project Cooperation Agreement for the construction of the Prado Dam Separable Element of the Santa Ana Mainstem, including Santiago Creek, California Project (Prado Dam Project), OCFCD as the Local Non-Federal Sponsor is responsible for the acquisition of all Lands, Easements, Rights-of-Way, Relocations, and Disposal sites necessary to construct, operate, and maintain the Prado Dam Project.

The APNs listed above are critical for flood control operations in order to manipulate and control water storage volume within Prado Flood Control Basin. In many cases, a flowage easement is sufficient to provide the Prado Dam Project adequate real estate rights for operation of Prado Dam and Basin. However, there are specific instances where fee simple acquisitions are applicable. In reference to the subject acquisition (Vargas) noted above, the Corps has concluded the following:

Based upon the attached exhibit (Exhibit B) provided by OCFCD, APN 144-070-013 has a residential structure located within the proposed floodable area below elevation 566'. Approximately 80% of the parcel will be subject to flooding. There are no alternative locations on the parcel to relocate the residential structure due to lack of ingress/egress and potential for flooding. Regarding APN 144-100-043, more than half of this parcel will be substantially flooded in a storm event, or as a result of flood control operations. This parcel also provides the only ingress/egress from APN 144-070-013 to Hall Avenue. The remnant parcel left after a partial taking of the flood inundation area below elevation 566' is uneconomic. It is the Government's practice to acquire additional real estate rights (if necessary) to prevent from leaving the impacted landowner with an uneconomic remnant

Exhibit D page I, of 3

- 2 -

Please contact Mr. Willie Starks, Realty Specialist at (213) 452-3140 or email at willie.e.starks@usace.army.mil if you have any questions regarding this letter.

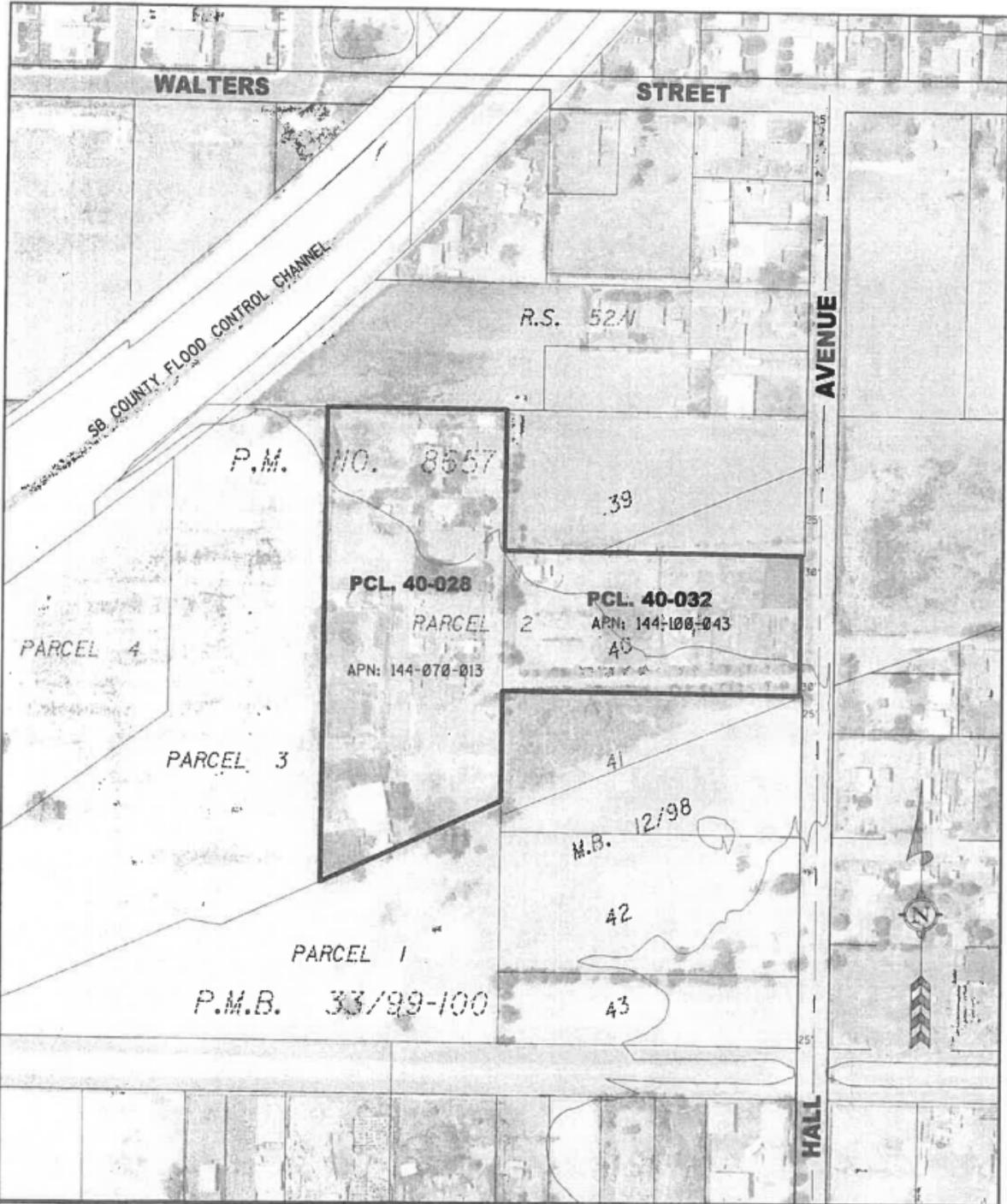
Sincerely,



Cheryl L. Connett
Chief, Asset Management Division

Enclosure
Exhibit B (Site Map)

Exhibit D page 2 of 3



OC PUBLIC WORKS
OC SURVEY
RIGHT-OF-WAY

ROW ID # 2015 - 067
SCALE : 1" = 200'

EXHIBIT "B"

PARCELS 40-028 & 40-032

PROJECT : PRADO BASIN - VARGAS PARCELS

PREPARED BY:
J. VILLALOBOS



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017-3489

January 6, 2021

SUBJECT: Guidance for acquisition of APNs 144-070-013 & 144-100-043, Parcel 40-028 & 40-032 (Vargas), Prado Dam Project

Mr. James Tyler
Manager, Flood Programs Division
OC Public Works
300 N. Flower Street, Room 743
Santa Ana, California 92703

Dear Mr. Tyler:

This correspondence provides additional information regarding Corps guidance to the Orange County Flood Control District (OCFCD) in the letter dated December 6, 2017 pertaining to the acquisition of assessor's parcel number (APN) 144-070-013 and 144-100-043 ("Vargas property"). Acquisition of a large portion of the Vargas property below elevation 566' NGVD is necessary for the operation of the Prado Dam Project, a Federal Flood Risk Management feature of the San Ana River Mainstem Project. In the Corps' letter dated December 6, 2017, it was determined that a full fee acquisition of APNs 144-070-013 and 144-100-043 was necessary to avoid leaving the owners with two (2) uneconomic remnant parcels. In accordance with Public Law 91-646 January 2, 1971 Section 301, "If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the Federal Agency concerned shall offer to acquire the entire property."

The Corps based its analysis of APNs 144-070-013 and 144-100-043 on the following:
APN 144-070-013 - The portion remaining after acquisition above elevation 566' NGVD is landlocked on all sides. There is no adequate ingress/egress to the remainder parcel during the Prado Dam Project designed storm event and this could pose a danger if occupied. This portion of the property is used for residential purposes which includes two (2) dwellings and a mobile home. The Corps determined that acquisition of the remaining parcel above elevation 566' NGVD was necessary to prevent leaving the owner with an uneconomic remnant.

APN 144-100-043 -The existing access to this parcel runs easterly and westerly along the southern border of the property. This is also the primary means of access to and from APN 144-070-013, with connection to Hall Avenue. During the Prado Dam designed storm event, the currently existing ingress/egress will be flooded and inaccessible. In its current condition, access to APN 144-070-013 will be completely blocked by flooding and access to APN 144-100-043 will be severely or totally diminished and likely not

Exhibit E page 1 of 2

- 2 -

traversable. In addition to the access limitations, a substantial portion of the property will be flooded during the designed storm event.

The Corps has determined that the remainder portions of the Vargas property above elevation 566' NGVD are uneconomic remnants. In accordance with Corps' policy, a remnant without access need not be acquired if (1) the owner desires to retain the property and releases the Government from damages for lack of access, and (2) the obtaining of such release in lieu of acquisition is concurred in, in writing, by the local road authority, and the local road authority is released from damages due to loss of access.

Please contact Mr. Willie Starks, Chief, Civil Works Property and Recreation Resource Management Section at (213) 452-3140, or email at willie.e.starks@usace.army.mil if you have any questions regarding this letter.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl L. Connett".

Cheryl L. Connett
Chief, Real Estate Division

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-24-009, which is a portion of San Bernardino County Assessor’s Parcel Number (“APN”) 1057-263-02, located at Pomona Rincon Road and State Route 71, Chino, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation,

Attachment Q

drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether*

Attachment Q

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (4) whether the offer required by section 7267.2 of the Government Code has been made to the owner of record.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, Clerk of the Board of Supervisors,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses		
		Henry Cruz and Joe Cruz, 5865 Panama Drive, Buena Park, CA. 90620

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-24-011, which is a portion of San Bernardino County Assessor’s Parcel Number (“APN”) 1057-263-04, located at Pomona Rincon Road and State Route 71, Chino, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation,

Attachment R

drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether*

Attachment R

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (4) whether the offer required by section 7267.2 of the Government Code has been made to the owner of record.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, Clerk of the Board of Supervisors
(Name) (Title)

on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses		
		Henry Cruz and Virginia Cruz, 5865 Panama Drive, Buena Park, CA 90620

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-27-105, which is a portion of Riverside County Assessor’s Parcel Number (“APN”) 130-671-010, located at 8754 Kendra Lane, Eastvale, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area, No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

Attachment S

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury*; (3) *whether the Subject Property Interests sought to be acquired are necessary for the Project*; and (4) *whether the offer required by section 7267.2 of the Government Code has been made to the owner of record*.

Attachment S

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on December 24th, 2020, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses		
		Robert T. Kelsoe and Lisa A. Kelsoe as Trustees or their successors in Trust under the Robert and Lisa Kelsoe Revocable Trust dated January 16, 2002 8754 Kendra Lane, Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-27-100, which is a portion of Riverside County Assessor’s Parcel Number (“APN”) 130-671-003 , located at 8656 Kendra Lane, Eastvale, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

Attachment T

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury*; (3) *whether the Subject Property Interests sought to be acquired are necessary for the Project*; and (4) *whether the offer required by section 7267.2 of the Government Code has been made to the owner of record*.

Attachment T

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name_____

Address_____

Telephone Number_____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, Clerk of the Board of Supervisors,
(Name) (Title)

on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, 2020 I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses	
	Dale M. Tupker, as Trustee of The Dale M. Tupker Living Trust of 2018, dated February 21, 2018 8656 Kendra Lane Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-006, which is a portion of Riverside County Assessor’s Parcel Number (“APN”) 121-060-004, located at 4033 Bluff Street in Norco, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of

Attachment U

excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether*

Attachment U

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (4) whether the offer required by section 7267.2 of the Government Code has been made to the owner of record.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses		
		4033 Bluff Street, Norco, CA, 92860

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-004, which is a portion of Riverside County Assessor’s Parcel Number (“APN”) 121-060-002 , located at 4001 Bluff Street, Norco, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area, No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

Attachment V

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury*; (3) *whether the Subject Property Interests sought to be acquired are necessary for the Project*; and (4) *whether the offer required by section 7267.2 of the Government Code has been made to the owner of record*.

Attachment V

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, 2020, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses		
		Scott W. Dixon and Monica V. Dixon-4001 Bluff Street, Norco, CA 92860

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-45-001, which is a portion of San Bernardino County Assessor’s Parcel Number (“APN”) 1028-202-26, located at 15780 El Prado Road, Chino, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining,

Attachment W

and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether*

Attachment W

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (4) whether the offer required by section 7267.2 of the Government Code has been made to the owner of record.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on December _____, 2020, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses	
	15780 El Prado, L.P.- 433 N. Camden Drive, Suite 888, Beverly Hills, CA 90210 ATTN: Mitchell S. Bloom
	15780 El Prado, L.P. - 9777 Wilshire Boulevard, Suite 711, Beverly Hills, CA 90212

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-27-099, which is a portion of Riverside County Assessor’s Parcel Number (“APN”)130-671-002, located at 8642 Kendra Lane in Eastvale, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of

Attachment X

excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021 at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether*

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (4) whether the offer required by section 7267.2 of the Government Code has been made to the owner of record.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses		
		Tara and Sean Wilson, 8642 Kendra Ln., Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-26-004, which is a portion of Riverside County Assessor’s Parcel Number (“APN”) 130-040-006, located at 14600 Baron Drive, Eastvale, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area, No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

Attachment Y

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury*; (3) *whether the Subject Property Interests sought to be acquired are necessary for the Project*; and (4) *whether the offer required by section 7267.2 of the Government Code has been made to the owner of record*.

Attachment Y

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, Clerk of the Board of Supervisors,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses	
	Riverside County Regional Park and Open-Space District, c/o Department of Building Services, Real Property Division, 3133 Mission Inn Avenue, Riverside, CA 92507-4138
	Riverside County Regional Park and Open-Space District, 4600 Crestmore Road, Jurupa Valley, CA 92509

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING
THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL
PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption a resolution of necessity (the “Resolution”), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-007, which is a portion of Riverside County Assessor’s Parcel Number (“APN”) 121-060-005, located at 4047 Bluff Street, Norco, California (the “Easement Area”), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area, No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

Attachment Z

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury*; (3) *whether the Subject Property Interests sought to be acquired are necessary for the Project*; and (4) *whether the offer required by section 7267.2 of the Government Code has been made to the owner of record*.

Attachment Z

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE
NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, Clerk of the Board of Supervisors
(Name) (Title)

on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses	
	Kenneth C. Bleck and Sylvia A. Bleck, as Trustees of the K&S Bleck 2013 Family Trust dated June 3, 2013 4047 Bluff Street, Norco, CA 92860

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION AN AMENDED RESOLUTION
DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN
OF REAL PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption an Amended Resolution of Necessity (the “Amended Resolution”), amending Resolution No. 20-164 to correct a technical error, i.e. the failure to cite to Code of Civil Procedure section 1240.410, *et seq.*, which authorizes OCFCD to acquire a “remnant”, meaning “a remainder or portion thereof that will be left in such size, shape or condition as to be of little market value,” and, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

Fee simple title to real property that is legally described and depicted by Exhibits A and B, which are attached hereto and incorporated herein by reference, which fee simple area is referred to by the Orange County Flood Control District (“District”) as Project Parcel No. E01PD-46-996 and which covers San Bernardino County Assessor’s Parcel Nos. 1056-271-01 & 1056-271-02 (“Subject Property Interests”).

The portion of the Subject Property Interests on or below the elevation line of 566 feet is being considered for acquisition through eminent domain proceedings because District staff believes it is required for the essential flood control purposes of the District with respect to the District’s Project; that if this portion of the Subject Property Interests was not acquired, the Project could not proceed as planned, which in turn would result in

Attachment AA

inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the portion of the Subject Property Interests on or below the elevation line of 566 feet because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

The remainder portions of the Subject Property Interests, located above the elevation line of 566 feet, are being considered for acquisition through eminent domain proceedings as “uneconomic remnants”, pursuant to Code of Civil Procedure section 1240.410, *et seq.*

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Amended Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2020, at the Board of Supervisors’ Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury*; (3) *whether the Subject Property Interests sought to be acquired are necessary for the Project*; and (4) *whether the offer required by section 7267.2 of the Government Code has been made to the owner of record.*

Clerk of the Board of Supervisors

Attachment AA

Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON AMENDED RESOLUTION DETERMINING
THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT
DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, _____,
 (Name) (Title)
 on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION AN AMENDED RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached

Notice was mailed to are as follows:

Notice Recipients – Names and Addresses	
	Pine Sterling Properties LLC 9330 Farron Blvd. Rancho Cucamonga, CA 91730
	Charles Braden PO Box 894105 Temecula, CA 92589
	John P Pringle (TR) Roquemore, Pringle & Moore, Inc. 6055 East Washington Blvd., Suite 500 Los Angeles, CA 90040
	Brandon J Iskander Shulman Bastian Friedman & Bui LLP 3550 Vine Street Ste 210 Riverside, CA 92507
	Melissa Davis Lowe Shulman Bastian Friedman & Bui LLP 100 Spectrum Ctr Dr Ste 600 Irvine, CA 92618
	Frank Lizarraga, Jr. 7310 Pine Avenue Chino, CA 91710 Frank Lizarraga, Jr. Lizarraga Law Firm APC 3401 Centre Lake Dr, Ste 600, Ontario, CA 91761-1207

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

 (Signature)

**NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE
GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL
DISTRICT, TO CONSIDER FOR ADOPTION AN AMENDED RESOLUTION
DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN
OF REAL PROPERTY**

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the “Board”), acting as the governing board of the Orange County Flood Control District (the “District”), intends to consider for adoption an Amended Resolution of Necessity (the “Amended Resolution”), amending Resolution No. 20-097 to correct a technical error, i.e. the failure to cite to Code of Civil Procedure section 1240.410, *et seq.*, which authorizes OCFCD to acquire a “remnant”, meaning “a remainder or portion thereof that will be left in such size, shape or condition as to be of little market value,” and determining the necessity to acquire, through eminent domain proceedings, certain real property more specifically described below (the “Subject Property Interests”) – for purposes of the District’s Santa Ana River Mainstem/Prado Dam project (the “Project”). The Subject Property Interests consist of the following:

A fee simple interest in and to real property that is legally described and depicted in Exhibits A and B attached hereto which fee simple interest is referred to by the District as Project Parcel No. 40-028 and 40-032 and includes Riverside County Assessor’s Parcel Numbers 144-070-013 and 144-100-043.

Containing 6.84 acres more or less (“Subject Property Interests”).

The portion of the Subject Property Interests on or below the elevation line of 566 feet is being considered for acquisition through eminent domain proceedings because District staff believes it is required for the essential flood control purposes of the District with respect to the District’s Project; that if this portion of the Subject Property Interests was not acquired, the Project could not proceed as planned, which in turn would result in

Attachment AB

inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the portion of the Subject Property Interests on or below the elevation line of 566 feet because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir. The portion of the Subject Property Interests on or below the elevation line of 566 feet is outlined in red on the map attached hereto as Exhibit C.

The remainder portions of the Subject Property Interests, located above the elevation line of 566 feet, are being considered for acquisition through eminent domain proceedings as “uneconomic remnants”, pursuant to Code of Civil Procedure section 1240.410, *et seq.*

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Amended Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on January 12, 2021, at the Board of Supervisors’ Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether *the public interest and necessity require the Project*; (2) *whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury*; (3) *whether the Subject Property Interests sought to be acquired are necessary for the Project*; and (4) *whether the offer*

Attachment AB

required by section 7267.2 of the Government Code has been made to the owner of record.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

**REQUEST TO BE HEARD ON AMENDED RESOLUTION DETERMINING
THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT
DOMAIN,
REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM
PROJECT**

Name _____

Address _____

Telephone Number _____

Dated: _____

(Signature)

DECLARATION OF MAILING

_____, _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION AN AMENDED RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

Notice Recipients – Names and Addresses	
	Ms. Maria Del Socorro Vargas,
	Trustee of the Maria Del Socorro Vargas Trust dated October 19, 1999
	1182 Via Goya
	Chula Vista, CA 91910

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

(Signature)

3655900.1



OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

333 West Santa Ana Boulevard, Suite 407
Santa Ana, California 92701
Direct No.: (714) 834-3303
E-Mail: leon.page@coco.ocgov.com

LEON J. PAGE
COUNTY COUNSEL

Agenda Item No. SCS- 1
January 12, 2021

MEMORANDUM

January 5, 2021

TO: Robin Stieler, Clerk of the Board of Supervisors
FROM: Leon J. Page, County Counsel
SUBJECT: Request for Supplemental Closed Session

I am requesting a supplemental closed session on Tuesday, January 12, 2021, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

Accordingly, please prepare the Agenda Item to read:

“CONFERENCE WITH LEGAL COUNSEL --
EXISTING LITIGATION Pursuant to Government Code Section
54956.9(d)(1).
Name of Case: *P.E.O.P.L.E., et al., v. Todd Spitzer, et al.*
OCSC Case No. 30-2018-00983799-CU-CR-CXC

RECOMMENDED ACTION: Conduct Closed Session.”

Thank you.

LJP:jb

cc: Members of the Board of Supervisors
Frank Kim, CEO

RECEIVED
2021 JAN -5 PM 1:48
CLERK OF SUPERVISORS
COUNTY OF ORANGE



OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

333 West Santa Ana Boulevard, Suite 407
Santa Ana, California 92701
Direct No.: (714) 834-3303
E-Mail: leon.page@coco.ocgov.com

LEON J. PAGE
COUNTY COUNSEL

Agenda Item No. SCS- 2
January 12, 2021

MEMORANDUM

January 5, 2021

TO: Robin Stieler, Clerk of the Board of Supervisors
FROM: Leon J. Page, County Counsel
SUBJECT: Request for Supplemental Closed Session

I am requesting a supplemental closed session on Tuesday, January 12, 2021, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

Accordingly, please prepare the Agenda Item to read:

“CONFERENCE WITH LEGAL COUNSEL --
EXISTING LITIGATION Pursuant to Government Code Section
54956.9(d)(1).
Name of Case: *Delux Public Charter, LLC et al., v. County of Orange*
Case No. 20-cv-02344

RECOMMENDED ACTION: Conduct Closed Session.”

Thank you.



CMK:LJP:jb

cc: Members of the Board of Supervisors
Frank Kim, CEO

CLERK
BOARD OF SUPERVISORS

2021 JAN -5 PM 1:48

RECEIVED