



Revision to ASR and/or Attachments

Date: September 22, 2021
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Frank Kim, County Executive Office
Re: ASR Control #: 21-000806, Meeting Date 10/5/21, Item No. # 13
Subject: Approval of Highest Bidder for Purchase of the Greenspot Property

CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

2021 SEP 22 PM 2:40

RECEIVED

Explanation:

Additional Recommended Action added, changes to Background Information, addition of Attachment B – Resolution and Attachment C – Government Code Section 54221.

☒ Revised Recommended Action(s)

4. Adopt Resolution declaring the a 1,657-acre parcel of property owned by the Orange County Flood Control District in City of Highland, California, as exempt Surplus Land pursuant to Government Code subdivision 54221(f)(1)(D), and finding that the noticing requirements of Government Code subdivision 54221 are not applicable.

☒ Make modifications to the:

☐ Subject ☒ Background Information ☐ Summary ☐ Financial Impact

On September 8, 2021, the District accepted oral bids from the Responsive Bidders. A total of 18 orals bids were received from the Responsive Bidders including nine from SBVMWD, eight from Shopoff Advisors LP, and one from Redlands Parks Conservancy. The highest oral bid received was from SBVMWD in the amount of \$31,815,000. As required, SBVMWD submitted a cashier's check in the amount of \$500,000 payable to the Orange County Flood Control District and signed a new Offer and Agreement to Purchase Real Property with the new bid amount. The \$31,815,000 bid from SBVMWD, as the highest bid, is submitted to the Board for approval.

The District also requests the Board adopt a Resolution declaring the Greenspot Property as exempt Surplus Land and finding that noticing requirements of Government Code subdivision 54221 are not applicable. Sale of surplus property to a local agency is deemed exempt Surplus Land and exempt from the noticing requirements of the Surplus

Land Act. Therefore, the sale of the Greenspot Property from the District to SBVMWD, two local agencies, falls under the exemptions described above.

SBVMWD is a public agency responsible for long-range water supply for the San Bernardino Valley by importing water into the service area through participation in the State Water Project and manages groundwater storage within its boundaries. SBVMWD was incorporated under the Municipal Water District Act of 1911 (California Water Code Section 71000, et seq., as amended) and its enabling act includes a broad range of powers to provide water, as well as wastewater and storm water disposal, recreation, and fire protection services. SBVMWD plans to use the Greenspot Property for public purposes that include water-related infrastructure, including reservoir(s), pipelines, and other appurtenances, for monitoring, management, and conservation of land to provide habitat and species compensatory mitigation, and for open-space purposes.

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

Added Attachment B and Attachment C

Attachment B – Resolution

Attachment C – Government Code Section 54221

RESOLUTION NO. _____

**RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA ACTING ON
BEHALF OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT
DECLARING CERTAIN PUBLIC PROPERTY AS EXEMPT SURPLUS LAND,
PURSUANT TO GOVERNMENT CODE SECTION 54220, ET SEQ. AND
AUTHORIZING THE TRANSFER OF OWNERSHIP TO THAT PROPERTY TO THE
SAN BERNARDINO VALLEY WATER MUNICIPAL DISTRICT
OCTOBER 5, 2021**

WHEREAS, the Orange County Flood Control District ("District") owns a vacant 1,657 acre parcel in the southeastern-most portion of the City of Highland, south of the San Bernardino National Forest; east of the Santa Ana River and Greenspot Road; and north of Mill Creek Road ("Property"); and

WHEREAS, Government Code subdivision 54221(f)(1)(D) and section 54222.3 designates certain surplus property as "exempt" from the provisions of Article 8 (commencing with Section 54220) of Chapter 5 of Division 2 of Title 5 of the Government Code (the "Act"); and

WHEREAS, the Act authorizes the District to sell surplus real properties in the manner proposed therein; and

WHEREAS, because that Property, described and shown on Exhibit A, which by this reference is incorporated herein, is no longer needed by the District, the Board of Supervisors, acting on behalf of the District, after a public sale process has determined it is in the best interest of the District to transfer the Property to the San Bernardino Valley Water Municipal District, a local public agency ("Water District") pursuant to an offer and agreement to purchase real property; and

WHEREAS, the Property is not (i) within a coastal zone, (ii) adjacent to a historical unit of the State Parks System, (iii) listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places or (iv) within the Lake Tahoe region as defined in Government Code section 66905.5; and

WHEREAS, there is no present or contemplated use of the Property that would preclude the County from declaring the Property as surplus to the needs of the District; and

WHEREAS, transferring ownership to the Water District serves the public purposes of the Water District, which uses could include using the Property for water-related

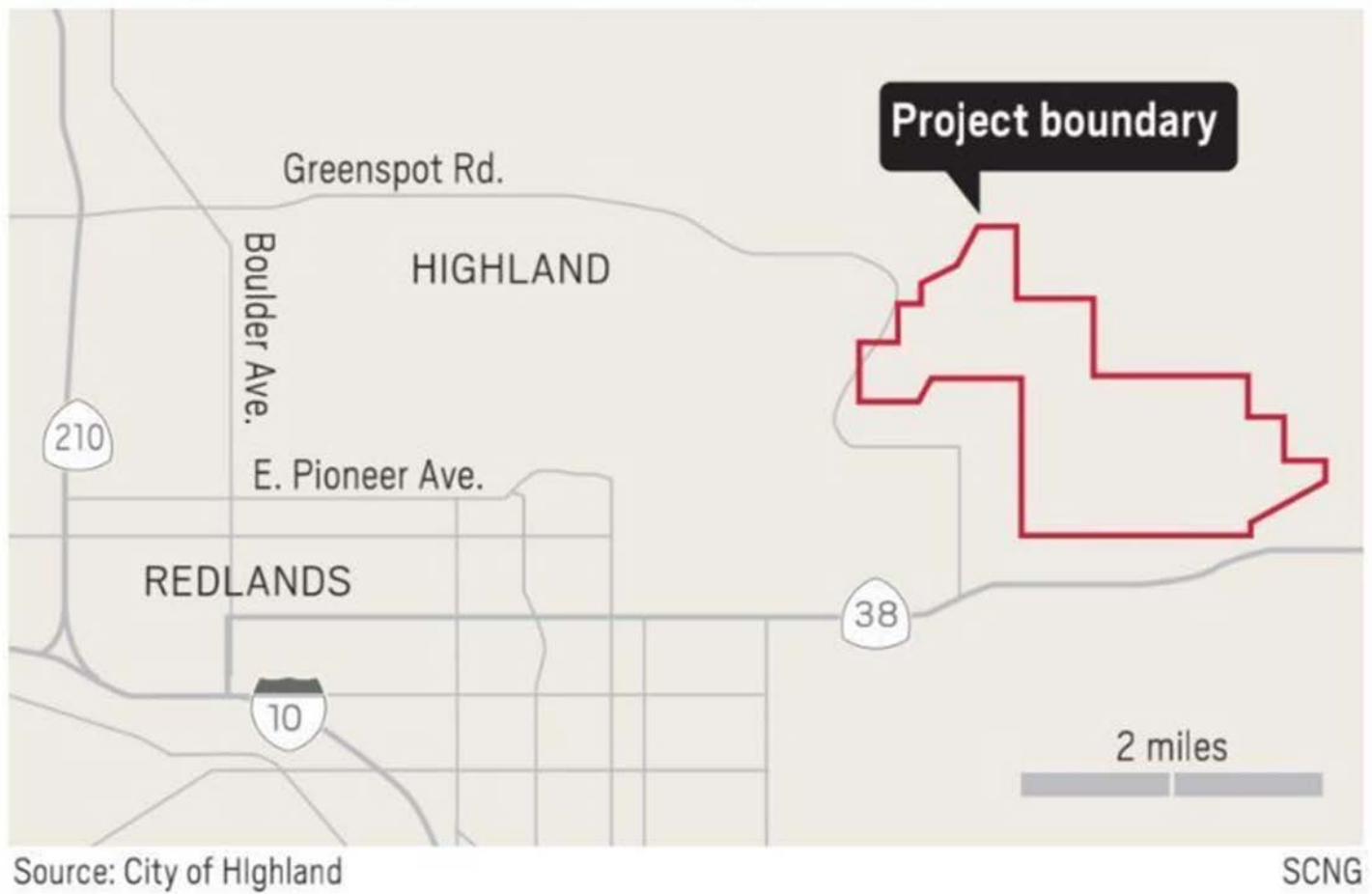
infrastructure, including reservoir(s), pipelines, and other appurtenances, for monitoring, management, and conservation of land to provide habitat and species compensatory mitigation, and for open-space purposes; and

WHEREAS, the County now desires to declare the Property as exempt surplus land and authorize the transfer of it to the Water District for the payment of \$31,815,000.00.

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

1. The recitals above are true and correct, and incorporated herein.
2. Based on the above recitals, the Board finds and declares (i) the Property is surplus because it is not necessary for the District's use or for any flood purpose, (ii) it is exempt surplus property, pursuant to Government Code subdivision 54221(f)(1)(D), (iii) the noticing requirements of Government Code subdivision 54222 are not applicable and (iv) other related provisions of the Act are not applicable, pursuant to Government Code section 54222.3.
3. The Board hereby authorizes and directs the Chief Real Estate Officer or designee to take all steps necessary to transfer ownership of the Property to the Water District for \$31,815,000.00 pursuant to the offer and agreement to purchase real property.
4. The transfer of the Property is found to be exempt from the California Environmental Quality Act pursuant to 14 California Code of Regulation, section 15312.
5. This Resolution is effective upon its adoption.

Exhibit A
to
Resolution No. _____
Property Description and Location



GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607]

(Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]

(Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]

(Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 5. Property [54000 - 54256]

(Chapter 5 added by Stats. 1949, Ch. 81.)

ARTICLE 8. Surplus Land [54220 - 54234]

(Heading of Article 8 amended by Stats. 1982, Ch. 1442, Sec. 1.)

54221.

As used in this article, the following definitions shall apply:

(a) (1) "Local agency" means every city, whether organized under general law or by charter, county, city and county, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing authority, or other political subdivision of this state and any instrumentality thereof that is empowered to acquire and hold real property.

(2) The Legislature finds and declares that the term "district" as used in this article includes all districts within the state, including, but not limited to, all special districts, sewer, water, utility, and local and regional park districts, and any other political subdivision of this state that is a district, and therefore the changes in paragraph (1) made by the act adding this paragraph that specify that the provisions of this article apply to all districts, including school, sewer, water, utility, and local and regional park districts of any kind or class, are declaratory of, and not a change in, existing law.

(b) (1) "Surplus land" means land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use. Land shall be declared either "surplus land" or "exempt surplus land," as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures. A local agency, on an annual basis, may declare multiple parcels as "surplus land" or "exempt surplus land."

(2) "Surplus land" includes land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code and land that has been designated in the long-range property management plan approved by the Department of Finance pursuant to Section 34191.5 of the Health and Safety

Code, either for sale or for future development, but does not include any specific disposal of land to an identified entity described in the plan.

(3) Nothing in this article prevents a local agency from obtaining fair market value for the disposition of surplus land consistent with Section 54226.

(c) (1) Except as provided in paragraph (2), "agency's use" shall include, but not be limited to, land that is being used, is planned to be used pursuant to a written plan adopted by the local agency's governing board for, or is disposed to support pursuant to subparagraph (B) of paragraph (2) agency work or operations, including, but not limited to, utility sites, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants.

(2) (A) "Agency's use" shall not include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development. Property disposed of for the sole purpose of investment or generation of revenue shall not be considered necessary for the agency's use.

(B) In the case of a local agency that is a district, excepting those whose primary mission or purpose is to supply the public with a transportation system, "agency's use" may include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or be for the sole purpose of investment or generation of revenue if the agency's governing body takes action in a public meeting declaring that the use of the site will do one of the following:

(i) Directly further the express purpose of agency work or operations.

(ii) Be expressly authorized by a statute governing the local agency, provided the district complies with Section 54233.5 where applicable.

(d) "Open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(e) "Persons and families of low or moderate income" has the same meaning as provided in Section 50093 of the Health and Safety Code.

(f) (1) Except as provided in paragraph (2), "exempt surplus land" means any of the following:

(A) Surplus land that is transferred pursuant to Section 25539.4 or 37364.

(B) Surplus land that is (i) less than 5,000 square feet in area, (ii) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less, or (iii) has no record access and is less than 10,000 square feet in area; and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes. If the surplus land is not sold to an owner of contiguous land, it is not considered exempt surplus land and is subject to this article.

(C) Surplus land that a local agency is exchanging for another property necessary for the agency's use.

(D) Surplus land that a local agency is transferring to another local, state, or federal agency for the agency's use.

(E) Surplus land that is a former street, right of way, or easement, and is conveyed to an owner of an adjacent property.

(F) Surplus land that is put out to open, competitive bid by a local agency, provided all entities identified in subdivision (a) of Section 54222 will be invited to participate in the competitive bid process, for either of the following purposes:

(i) A housing development, which may have ancillary commercial ground floor uses, that restricts 100 percent of the residential units to persons and families of low or moderate income, with at least 75 percent of the residential units restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 or 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing, and in no event shall the maximum affordable sales price or rent level be higher than 20 percent below the median market rents or sales prices for the neighborhood in which the site is located.

(ii) A mixed-use development that is more than one acre in area, that includes not less than 300 housing units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing.

(G) Surplus land that is subject to valid legal restrictions that are not imposed by the local agency and that would make housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site. An existing nonresidential land use designation on the surplus land is not a legal restriction that would make housing prohibited for purposes of this subparagraph. Nothing in this article limits a local jurisdiction's authority or discretion to approve land use, zoning, or entitlement decisions in connection with the surplus land.

(H) Surplus land that was granted by the state in trust to a local agency or that was acquired by the local agency for trust purposes by purchase or exchange, and for which disposal of the land is authorized or required subject to conditions established by statute.

(I) Land that is subject to Sections 17388, 17515, 17536, 81192, 81397, 81399, 81420, and 81422 of the Education Code and Part 14 (commencing with Section 53570) of Division 31 of the Health and Safety Code, unless compliance with this article is expressly required.

(J) Real property that is used by a district for agency's use expressly authorized in subdivision (c).

(K) Land that has been transferred before June 30, 2019, by the state to a local agency pursuant to Section 32667 of the Streets and Highways Code and has a minimum planned residential density of at least one hundred dwelling units per acre, and includes 100 or more residential units that are restricted to persons and

families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing. For purposes of this paragraph, not more than 20 percent of the affordable units may be restricted to persons and families of moderate income and at least 80 percent of the affordable units must be restricted to persons and families of lower income as defined in Section 50079.5 of the Health and Safety Code.

(2) Notwithstanding paragraph (1), a written notice of the availability of surplus land for open-space purposes shall be sent to the entities described in subdivision (b) of Section 54222 prior to disposing of the surplus land, provided the land does not meet the criteria in subparagraph (H) of paragraph (1), if the land is any of the following:

(A) Within a coastal zone.

(B) Adjacent to a historical unit of the State Parks System.

(C) Listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(D) Within the Lake Tahoe region as defined in Section 66905.5.

(Amended by Stats. 2020, Ch. 165, Sec. 1. (SB 1030) Effective September 25, 2020.)