



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE
(213) 974-1801
FACSIMILE
(213) 626-7446
TDD
(213) 633-0901

ANDREA SHERIDAN ORDIN
County Counsel

March 16, 2010

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

25 MARCH 16, 2010

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

**SETTLEMENT OF CONDEMNATION CASE
LOS ANGELES COUNTY FLOOD CONTROL DISTRICT V.
LOS ANGELES BY-PRODUCTS CO., ET AL.
LOS ANGELES SUPERIOR COURT CASE NUMBER BC390776
PARCEL NOS. 5PP AND 6PP SUN VALLEY WATERSHED-STRATHERN
WETLANDS PARK PROJECT APPROPRIATION ADJUSTMENT
(THIRD DISTRICT AFFECTED) (3 VOTES)**

SUBJECT

Recommendation to acquire property by settlement with one party to this condemnation action brought by the Los Angeles County Flood Control District ("District").

JOINT RECOMMENDATION WITH THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS THAT YOUR BOARD:

1. Approve the attached Appropriation Adjustment in the amount of \$11,990,000 from the Services and Supplies appropriation in the Los Angeles County Flood Control District Fund to Capital Project 70976 ("C.P. No. 70976") for the Sun Valley Watershed - Strathern Wetlands Park Project ("Project") in the amount of \$7,227,000, and to the Los Angeles County Flood Control District Fund Other Charges appropriation in the amount of \$4,763,000;
2. Authorize the District to acquire the fee ownership of Parcels 5PP and 6PP for a total payment of \$28,000,000 by authorizing County Counsel to execute a stipulation for interlocutory judgment in condemnation and make the payment to Los Angeles By-Products Company ("By-Products"); and

3. Authorize the District to issue a warrant in the amount of \$13,990,000 for delivery by County Counsel to complete full payment of the \$28,000,000 settlement in accordance with the terms of the stipulation for interlocutory judgment in condemnation between District and By-Products.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

A proposed settlement of this condemnation action has been reached with representatives of the underlying fee owner, By-Products. Your Board's authorization is now required to complete the proposed settlement and resolve all issues related to the acquisition of the fee ownership of the Strathern Pit ("Pit") and adjoining real property, identified as Parcels 5PP and 6PP, by the District.

This condemnation lawsuit was authorized by your Board to acquire real property for the implementation of the Project, which is part of the Board-approved Sun Valley Watershed Management Plan. The purpose of the Project is to solve a serious local flooding problem as well as to provide water conservation, water quality improvement, habitat restoration, and public recreation/education.

Implementation of Strategic Plan Goals

The recommended actions are consistent with Strategic Plan Goal 1 - Operational Effectiveness and Goal 3 – Community and Municipal Services. Implementation of the Project will provide the following operationally effective programs as well as enhance services to the surrounding communities: much needed flood control protection to the Sun Valley area; improved water quality for the area by removing impurities from surface flood water; water conservation by diverting surface flood water which would otherwise flow into the ocean by adding it to the ground water in the area; new wildlife habitat; and new educational and recreational facilities for this park-deprived area.

Strategic Asset Management Principles Compliance

Not Applicable.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund.

The total settlement amount with By-Products is \$28,000,000. On April 22, 2008, your Board approved the establishment of the Project, C.P. No. 70976, with a project budget of \$20,773,000 for the acquisition of 46 acres of land. Your Board's approval of the attached Appropriation Adjustment will make the additional \$11,990,000 available in the District's Fiscal Year 2009-10 Budget. This Appropriation Adjustment will decrease the

District's Services and Supplies appropriation by \$11,990,000 and increase the Fixed Asset appropriation in C.P. No. 70976 by \$7,227,000 and the District's Other Charges Appropriation by \$4,763,000 for settlement costs in connection with the Project acquisition.

The District deposited \$14,010,000 in Court as probable compensation and By-Products withdrew that amount pursuant to the Court's Order of Immediate Possession.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The District brought this action to acquire the Pit (Parcel 6PP) and a related mostly street-grade parcel (5PP) to reduce existing and projected future flooding occurrences in the Sun Valley area, while retaining storm water within the Sun Valley Watershed, increasing water conservation, improving water quality, increasing wildlife habitat, and providing public recreation/education. The Project will direct storm water runoff into the Pit where it will be stored and treated in preparation for ground water recharge.

Parcel 5PP is approximately 7.85 acres and fronts on Tujunga Avenue. Parcel 5PP is mostly level and at street grade. Defendant Lessee, Over and Over Ready Mix, Inc., currently operates a concrete batch plant there by permission of the District.

Parcel 6PP, known as the Pit, is approximately 38.42 acres. It is a depleted sand and gravel quarry which has been operated as an inert landfill since 1992 and is now partially filled. By-Products is the record fee owner of both parcels and operated the Pit as an inert landfill until the District obtained possession of both parcels on February 11, 2009.

The proposed settlement amount is inclusive of all claims for compensation and damage which could be asserted By-Products, including compensation for the two parcels, severance damages, business goodwill, value of fixtures and equipment, relocation benefits, pre-judgment interest, court costs, and litigation expenses, including attorney and expert fees.

ENVIRONMENTAL DOCUMENTATION

On June 29, 2004, your Board certified the Environmental Impact Report for the Sun Valley Watershed Management Plan, which included this Project.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

This action will not impact current services since the District already has possession of the property. The District will benefit from this project in its efforts to implement multi-use approaches to flood control.

The Honorable Board of Supervisors
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CONCLUSION

The proposed settlement is fair to both parties and is in the District's best interest. It is requested that the Executive Officer, Board of Supervisors, return one conformed copy of this approved Board letter to the Auditor–Controller, one copy to the County Counsel, and three copies to the Department of Public Works Mapping and Property Management Division.

Respectfully submitted,



ANDREA SHERIDAN ORDIN
County Counsel



GAIL FARBER
Director, Department of Public Works

ASO:PTH:lm

Attachment

c: William T Fujioka
Chief Executive Officer

Sachi A. Hamai, Executive Officer
Board of Supervisors

COUNTY OF LOS ANGELES

REQUEST FOR APPROPRIATION ADJUSTMENT

DEPARTMENT OF PUBLIC WORKS

DEPT'S. NO. 690

February 22, 2010

AUDITOR-CONTROLLER:

THE FOLLOWING APPROPRIATION ADJUSTMENT IS DEEMED NECESSARY BY THIS DEPARTMENT. PLEASE CONFIRM THE ACCOUNTING ENTRIES AND AVAILABLE BALANCES AND FORWARD TO THE CHIEF EXECUTIVE OFFICER FOR HIS RECOMMENDATION OR ACTION.

ADJUSTMENT REQUESTED AND REASONS THEREFOR

FY 2009-10

3 - VOTES

SOURCES

Flood Control District Fund B07 - PW - 2000 - 47000 Services and Supplies 11,990,000 DECREASE APPROPRIATION

USES

Flood Control District Fund B07 - CP - 6006 - 65032 - 70976 Fixed Assets - Land 7,227,000 INCREASE APPROPRIATION

Flood Control District Fund B07 - PW - 5500 - 47000 Other Charges 4,763,000 INCREASE APPROPRIATION

SOURCES TOTAL: \$ 11,990,000

USES TOTAL: \$ 11,990,000

JUSTIFICATION

This adjustment is necessary to provide sufficient appropriation in Capital Project 70976 and Other Charges for settlement costs in connection with the Sun Valley Watershed - Strathern Wetlands Park acquisition as per the attached Board Letter. (DPW BA No.10-14)

ADOPTED AUTHORIZED SIGNATURE GAIL FARBER, Director

BOARD OF SUPERVISOR'S APPROVAL (AS REQUESTED/REVISED) BOARD OF SUPERVISORS COUNTY OF LOS ANGELES

#25 MAR 16 2010

Sandra A. Hamai EXECUTIVE OFFICER

Form with checkboxes for ACTION, RECOMMENDATION, APPROVED AS REQUESTED, APPROVED AS REVISED. Includes signatures of Karen Sulekma and R. [unclear] and date Feb 22 20 10.