



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Flood Control
Department No.: 054
For Agenda Of: 04/16/13
Placement: Administrative
Estimated Tme: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Directors, Flood Control and Water Conservation District

FROM: Department Scott D. McGolpin, Public Works Director, 568-3010
Director(s)
Contact Info: Thomas D. Fayram, Deputy Public Works Director, 568-3436

SUBJECT: License Agreement with the Nipomo Community Services District for the Waterline Intertie Project, Fifth Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

- a) Certify that the Board, acting as a Responsible Agency, has considered the environmental effects of the Final Environmental Impact Report (FEIR) for the Nipomo Community Services District Waterline Intertie Project, SCH # 2005071114, pursuant to the California Environmental Quality Act (CEQA) Section 15096(f), (Attachment 1);
- b) Certify that the Board, acting as a Responsible Agency, has reviewed and considered the information contained in the FEIR for the Nipomo Community Services District Waterline Intertie Project and adopts the CEQA Findings pursuant to CEQA Section 15091 as required by Section 15096(h), (Attachment 2);
- c) Approve and authorize the Chair to execute the License Agreement with the Nipomo Community Services District for the Waterline Intertie Project that crosses the Santa Maria River Levee (Attachment 3); and
- d) Find that pursuant to CEQA Section 15162, no substantial changes are proposed, and no new information of substantial importance has come to light regarding environmental effects of the project or of the sufficiency or feasibility of mitigation measures, and therefore the License Agreement with the NCSD is within the scope of the project covered by the Nipomo Community Services District Waterline Intertie Project EIR, SCH # 2005071114, certified in 2009 by the NCSD, and therefore no new environmental document is required.

Summary Text:

The Nipomo Community Services District (NCSD) proposes to install a waterline connection system with the City of Santa Maria to alleviate over pumping of the northwest portion of the Santa Maria Valley Groundwater Basin.

The proposed project would cross the Santa Maria River Levee at the northerly extension of Blosser Road. The pipeline would be constructed under the Levee System as to not disrupt the integrity of the Levee. This section of Levee was recently repaired by the U.S. Army Corps of Engineers (Corps) with new soil cement facing from the top of the Levee to approximately 15 feet below the riverbed.

The NCSD will construct a sleeve below all Levee improvements which will then contain the actual pipeline. The Corps has also reviewed the plan and has approved the work. Other utilities cross the Levee in similar fashion, such as other waterlines, gas lines, oil lines, and others.

The License Agreement allows the NCSD to construct their Waterline Intertie Project within District-owned property and it also indemnifies the Flood Control District from both responsibility of maintenance of the NCSD's project and liability of the secondary use. The License Agreement incorporates the Board's previously adopted "Secondary Use Policy" as a part of the terms and conditions of the License Agreement.

Background:

In 2008, a judgment was rendered regarding litigation over the Santa Maria Groundwater Basin. Within the judgment the Court ordered several actions to be taken. One action ordered by the Court was to alleviate over pumping of the north western end of the Santa Maria Groundwater Basin on the Nipomo Mesa. To relieve this pumping, the City of Santa Maria was ordered to deliver a minimum of 2,500 acre feet of water annually to the NCSD. To affect this delivery, a conveyance pipeline is needed from the City's system to connect to the NCSD system. This requires crossing the Santa Maria River Levee as well as many other properties, mostly in San Luis Obispo County.

Following the judgment in 2008, the NCSD contacted the Flood Control District seeking rights to install the pipeline across the Santa Maria River Levee, which is owned by the Flood Control District. A License Agreement is proposed to allow the NCSD to construct the pipeline. The City of Santa Maria and the Corps have reviewed and approved this project.

Pursuant to the requirements of CEQA, an EIR for the Project was prepared by the NCSD to identify alternatives, analyze impacts, and identify associated mitigation measures for the Waterline Intertie Project. Acting as the lead agency under CEQA, the NCSD approved and adopted the EIR in 2009. The EIR addressed moving up to 3,000 acre-feet of water, slightly higher than the Court ordered minimum. The project crosses the Santa Maria River Levee near Blosser Road in the City of Santa Maria. Due to the issuance of the License Agreement and approval of the project across Flood Control District-owned property, the Flood Control District becomes a Responsible Agency under CEQA. Other than approval of the License Agreement as recommended herein, the Flood Control District will not physically implement any portion of the project.

Pursuant to Section 15096(g)(1), a responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carryout, finance or approve. As such, the Flood Control District's jurisdiction for project approval, and associated Findings under CEQA, only corresponds to portions of the project occurring on Flood Control District-owned property, a distance of approximately 240 linear feet.

On July 7, 1998, the Board of Supervisors adopted Resolution No. 98-266 that established a policy entitled "A Policy for Secondary Uses of Flood Control and Water Conservation Facilities for Bikeway and Recreational Purposes." That policy allows for the secondary use of flood control facilities. Execution of the Agreement indemnifies the District from any and all liability associated with secondary uses of the flood control facilities.

Approval of the License Agreement by NCSD and your Board is necessary to comply with the Flood Control District's Secondary Use Policy.

Fiscal and Facilities Impacts:

Budgeted: No

Narrative:

There are no fiscal impacts associated with this action. The agreement indemnifies the Flood Control District from any and all liability associated with the proposed secondary use of this facility.

Special Instructions:

Direct the Clerk of the Board to send two certified copies of the License Agreement and minute order of these actions to the Flood Control District, Attn: Christina Lopez.

Attachments:

Final EIR Nipomo Community Services District Waterline Intertie Project SCH # 2005071114

(Attachment No. 1 on disc)

CEQA Findings (Attachment 2 on disc)

License Agreement (Attachment 3)

Authored by: Thomas Fayram, Deputy Public Works Director, 568-3436

