

Information presented to the Commission during
the 10-21-15 LAFco Hearing
the Board of Supervisors

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

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October 20, 2015

**FROM: TERRY W. THOMPSON, Director
Real Estate Services Department**

**DENA FUENTES, Director
Community Development and Housing**

**SUBJECT: CONVEYANCE OF COUNTY-OWNED PROPERTY TO DAGGETT COMMUNITY
SERVICES DISTRICT**

RECOMMENDATION(S)

1. Terminate the Maintenance and Operation Contract Agreement No. 80-975 by and between the County and the Daggett Community Services District.
 2. Adopt Resolution finding and declaring that the fee simple interest in and to the Daggett Community Center, Assessor's Parcel Number 0516-031-21, consisting of approximately 2,660 square feet of building on five acres of land, located at 35277 Afton Street, in Daggett, is no longer necessary for the uses and purposes of the County; and that the conveyance of the real property is in the best interest of the public and in accordance with Government Code Section 25365.
 3. Approve the Declaration of Restrictions and Grant Deed; authorize the Chairman of the Board of Supervisors to execute the Grant Deed to convey the property to Daggett Community Services District at no cost (Four votes required).
 4. Authorize the Director of the Real Estate Services Department to execute all documents necessary to complete this transaction.
 5. Confirm a finding of exemption and direct the Clerk of the Board to post the Notice of Exemption as required under the California Environmental Quality Act.
- (Presenter: Terry W. Thompson, Director, Real Estate Services, 387-5252)

BOARD OF SUPERVISORS COUNTY GOALS AND OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

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

FINANCIAL IMPACT

Approval of this item will not require Discretionary General Funding (Net County Cost). The Community Development and Housing Department (CDH) will receive no revenue for the conveyance of the fee simple interest in the real estate. The conveyance of this property will

eliminate any financial and maintenance obligations and liability associated with County ownership of the property.

BACKGROUND INFORMATION

This item will terminate a Maintenance and Operation Agreement with the Daggett Community Services District (DCSD), and convey title to the Daggett Community Center to the DCSD.

The multi-purpose community center was built in the early 1980's to serve the social and recreation needs of residents in the Daggett area. The center consists of approximately 2,660 square feet on a five-acre site located at the northwest corner of Afton Street and Ponmay Street in Daggett. The building consists of a large assembly room, warm-up kitchen, office, restrooms, and a storage room.

The community center was constructed with Community Development Block Grant (CDBG) funding. As required by CDBG regulations, DCSD entered into a Maintenance and Operation Contract, Agreement No. 80-975, approved by the Board of Supervisors on December 10, 1980 (Item No. 38), obligating DCSD to pay the maintenance and operation expenses for the facility.

Recently, the Local Agency Formation Commission (LAFCO), as part of a special study in its oversight capacity of special districts, raised concerns about the County's potential financial obligations concerning the use of the facility, insurance and maintenance requirements. LAFCO suggested the County either enter into a long-term lease agreement with DCSD or convey the Daggett Community Center to DCSD to resolve the questions raised by LAFCO.

CDH requested the United States Department of Housing and Urban Development's (HUD) review of the analysis. Since DCSD had operated the community center for 32 years, HUD approved the conveyance of the community center to DCSD. As required by CDBG regulations, the conveyance includes a reversionary clause that conditions DCSD to continue to operate the community center a minimum of five years as provided in the Reversion of Assets as set forth in the Declaration of Restrictions.

CDH requested the Real Estate Services Department to prepare the necessary documents needed to convey the real property to DCSD.

This conveyance was reviewed pursuant to the California Environmental Quality Act (CEQA) and determined that the fee simple title is exempt from further environmental review under Section 15312, Class 12, Surplus Government Property Sales of the CEQA Guidelines.

PROCUREMENT

Not applicable.

**CONVEYANCE OF COUNTY-OWNED PROPERTY TO DAGGETT
COMMUNITY SERVICES DISTRICT
OCTOBER 20, 2015
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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Robert Messinger, Deputy County Counsel, 387-5455) on September 16, 2015; Community Development and Housing Department (Gary Hallen, Deputy Director, 387-4411) on September 16, 2015; Finance (Steve Atkeson, Administrative Analyst, 387-0294, and Janet Lowe, Assistant Director, Real Estate Services Department, 387-5252) on September 29, 2015; and County Finance and Administration (Mary Jane Olhasso, Assistant Executive Officer, 387-4599) on October 1, 2015.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

County of San Bernardino
c/o Economic Development Agency
385 N. Arrowhead Ave., 3rd Floor
San Bernardino, CA 92415

NO RECORDING FEE PURSUANT TO GOV'T CODE §6103 SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**NOTICE OF LIEN
AND
RESTRICTIONS – DECLARATION**

This Notice of Lien and Restrictions – Declaration (this “Declaration”) is made as of _____, 2015, by the County of San Bernardino (referred to herein as “County” or “Declarant”).

WHEREAS, Declarant is the owner of real property situated in the County of San Bernardino, State of California, consisting of approximately 5 acres and commonly known as 35277 Afton Street, Daggett, California (the “Property”), as more particularly described in Exhibit “A”, attached hereto and by this reference incorporated herein; and

WHEREAS, the Property was acquired and/or improved, in part, with Community Development Block Grant (“CDBG”) funds received from the United States Department of Housing and Urban Development (“HUD”); and

WHEREAS, HUD regulations impose upon CDBG funding recipients certain property Maintenance and Operations (“M&O”) obligations; and

WHEREAS, Declarant hereby encumbers the Property to ensure compliance with the M&O obligations relating to the Property;

NOW, THEREFORE, Declarant declares as follows:

1. Covenant Running with the Land. Declarant covenants and agrees to restrict, and by this instrument does restrict, the future use of the Property as set forth below by the establishment of this covenant running with the land.
2. Transfer, Assignment, or Liens. Upon conveyance of the Property by Declarant to another party, this Declaration shall evidence a lien against the Property to secure the CDBG funds used, in part, to acquire and/or improve the Property. Thereafter, neither the Property nor any interest in the Property shall be conveyed without the prior written consent of the Declarant. The Property shall not be pledged or mortgaged as collateral for any loans without the prior written consent of the Declarant.
3. Restrictions Concerning the Property. The activities of Declarant or any other person shall be subject to the property maintenance and operations obligations as set forth in Exhibit “B” Terms and Conditions (“Terms and Conditions”), attached hereto and made a part hereof by

this reference, which include Reversion of Assets, Program and Reporting and Retention of Records, and Onsite Inspection Requirements.

4. Condition To and Termination of this Declaration. This Declaration of Restrictions shall remain in full force and effect until and unless the obligations set forth in the Terms and Conditions have been fully performed for the duration of time specified therein. Upon the full performance of the Terms and Conditions as determined by Declarant in its sole and exclusive discretion, Declarant shall record a release of this Declaration of Restriction.

5. Successors and Assigns Bound. The Declarant hereby agrees and acknowledges that the Property shall be held, sold, conveyed, owned, and used subject to the applicable terms, conditions and obligations imposed by this Declaration of Restrictions. Such terms, conditions and obligations are a burden and restrict the use of the Property, as applicable.

Subject to the limitations contained in this Declaration, and without modifying its terms, the provisions of this Declaration of Restrictions shall be enforced as equitable servitudes, and conditions, restrictions, and covenants running with the land, and shall be binding upon the agents, representatives, trustees, assignees, successors, and future owners of the Property and each them, unless and until this Declaration of Restrictions is terminated as provided for herein.

Declarant:

COUNTY OF SAN BERNARDINO

By: _____
James Ramos, Chairman
Board of Supervisors

Date: _____

Laura H. Welch,
Clerk of the Board of Supervisors

Approved as to Legal Form:
Jean-Rene Basle, County Counsel
County of San Bernardino, California

By: _____
Deputy

By: _____
Robert F. Messinger, Deputy
County Counsel

Date: _____

Date: _____

EXHIBIT "A"

REAL PROPERTY

LEGAL DESCRIPTION:

The land referred to herein is situated in the County of San Bernardino, State of California, described as follows:

The East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 20, Township 9 North, Range 1 East, San Bernardino Base and Meridian, in the County of San Bernardino, State of California, according to the Official Government Plat thereof.

EXCEPTING all oil, gas and other mineral deposits in said land as reserved by the United State of America in Patent, recorded May 4, 1958, in Book 4452, page 531 of Official Records.

EXHIBIT "B"

TERMS AND CONDITIONS

The real property herein transferred (the "Property") was improved in whole or in part with Community Development Block Grant ("CDBG") funds under terminated Contract Agreement No. 80-975 with the County of San Bernardino ("County") and Daggett Community Services District and must continue in the use for which it was funded (a neighborhood facility for social and recreational programs for area residents) for no less than five years from the effective date of its transfer to a third party grantee ("Grantee"), as required under 24 CFR 570.503.

Upon conveyance of the Property to Grantee, Grantee, its successors and assigns, shall comply with the Department of Housing and Urban Development's and County's terms and conditions to include Reversion of Assets, Program Reporting and Retention of Records, and On Site Inspection requirements. Said conditions are described below and will be in effect for no less than five (5) years from the date the Property is conveyed to Grantee.

REVERSION OF ASSETS

Grantee must continue the use of the Property as a neighborhood facility for social and recreational programs for area residents as described under the terminated Contract Agreement No. 80-975 for five years as set forth in 24 CFR 570.503; or, subject to the prior written approval of County, it may be disposed of in a manner resulting in the reimbursement to the County in the amount of the then current fair market value of the Property, as determined by the County in its sole and unfettered discretion, less any portion thereof attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the Property.

PROGRAM REPORTING AND RETENTION OF RECORDS

Grantee agrees to prepare and submit financial, program progress, and other reports as required by HUD or County directives. Grantee shall maintain such program, property, personnel, financial, statistical and other records, supporting documents, and accounts as are considered necessary by HUD or County. Said records, documents and accounts are to be retained by Grantee for a minimum of five (5) years. The retention period starts from the date the County submits its annual performance and evaluation report, as prescribed in 24 CFR 91.520, in which the service under the terms hereof is reported on for the final time. Said County submission will follow Grantee's final submission to County of reports identified under this paragraph. Records and accounts subject to litigation or audit must be maintained for five (5) years or until the issue is resolved, whichever is longer.

Records that pertain to real estate transactions must be maintained for five (5) years or the number of years that there is an outstanding obligation, whichever is longer. All Grantee's records, with the exception of confidential client information, shall be made available to representatives of County and the appropriate federal agencies. Grantee is required to submit data necessary to complete the Annual Grantee Performance Report in accordance with HUD regulations in the format and at the time designated by the County Director of Community Development and Housing Department or her or his designee.

ON-SITE INSPECTION

County, its officers, agents, employees, persons under contract with County and representatives of HUD, will have the privilege and right to conduct on-site inspections of the Property for a period of five (5) years from the date of conveyance of the Property to Grantee, pursuant to the Reversion of Assets requirement. Grantee will ensure that its employees or agents furnish any information, which in the reasonable judgment of County and HUD representatives, may be relevant to a question of compliance with the Reversion of Assets conditions, HUD directives, or the effectiveness, legality, and achievements of Grantee's use of the Property.

Grantee, its successor and assigns, shall be responsible for securing and maintaining all necessary permits and approvals from other appropriate local, state and federal agencies for its use of the Property, and Grantee shall comply with all applicable laws and regulations concerning its use of the Property.

ACCEPTANCE

Acceptance of the Grant Deed conveying the Property shall constitute Grantee's agreement and covenant to comply with the terms and conditions herein set forth.

Notice of Exemption

To: Office of Planning and Research
State of California
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: County of San Bernardino
Real Estate Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415-0180

Clerk of the Board of Supervisors
County of San Bernardino
385 North Arrowhead Avenue, Second Floor
San Bernardino, CA 92415-0130

PROJECT DESCRIPTION

Surplus Property Sale

The Project consists of the sale of an approximately 2,660 square feet community center, located on 5 acres in Daggett. The property consists of Assessor Parcel Number 0516-031-21.

This Notice of Exemption is for the surplus sale of the property. Any future development of the property may require further project-specific analysis to be performed.

APPLICANT

County of San Bernardino
Real Estate Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415-0180

Fund Code: SBA ECD ADM 200 2445, GRC:4430

State Clearinghouse Number: N/A

Carrie Hyke
Lead Agency Contact Person

(909) 387-5940
Area Code/Telephone Number

Exempt Status: (check one)

- Ministerial [Sec. 21080(b)(1); 15268];
- Declared Emergency [Sec. 21080(b)(3); 15269(a)];
- Emergency Project [Sec. 21080(b)(2); 15269(b)(c)];
- Categorical Exemption. State type and section number: Class 12, Surplus Government Property Sales, Section 15312
- Statutory Exemptions. State code number:

Reasons why Project is exempt: Class 12 consists of the surplus government property sales, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This Notice of Exemption is for the sale of the property. Any further development of the property will be subject to its own environmental review in accordance with CEQA.



Signature (Public Agency)

September 11, 2015

Date

District Planner

Title

Signed by Lead Agency Signed by Applicant

Date received for filing at OPR: _____