

# TAB 78

2.4d – Director’s Deeds

**YELLOW MEETING HANDOUT**

## Supplementary Information - Item #8

### **DIRECTOR’S DEED:**

**08-06-Fre-180 PM R64.68-64.93**

Disposal Unit #DD 82360-01-01

#DD 84844-01-01

Convey to: Fresno Metropolitan Flood Control  
District, a California public corporation

Fresno

15.54 acres

0.57 acre

\$0 (Appraisal \$1,300,000)

Direct conveyance for no monetary consideration. Parcels are being transferred to Fresno Metropolitan Flood Control District (FMFCD) per Agreement #1974(G)-DV entered on October 27, 2020. This agreement will transfer ownership and maintenance of the Briggs Basin. Per FMFCD resolution #2020-953, the Briggs Basin and the additional parcel will be used for public purposes by the FMFCD and FMFCD will be assuming maintenance responsibilities of the Briggs Basin in perpetuity. This transaction is atypical for the Department, as the Department does not typically hold basins that are considered excess land in its inventory. After using it as a source to import borrow material required for a construction project, this landlocked site is now excess, with the potential buyers’ market limited to FMFCD. For transactions such as this in which Government Code Section 14012 is applied, the Department requires a deed restriction limiting the local agency to use the property for a public purpose and further requires that any maintenance expenses applied are commensurate with the duration of the deed restriction. Maintenance expense of these parcels exceed the appraised value amount. Disposal units not subject to Executive Orders N-06-19 or N-23-20.

### **BACKGROUND:**

Briggs Basin was created with the construction of State Route (SR) 180. It was used to source 500,000 cubic yards of import borrow material required for the construction of SR-180 resulting in excess stormwater storage capacity. Briggs Basin was decertified and is excess land. Per Agreement #1974(G)-DV, FMFCD is to acquire the property. Pursuant to Government Code Section 14012, the Department has applied maintenance considerations to the appraised fair market value (FMV). Over the term of the deed restriction, that total value of considerations exceeds the value of the basin.

### **BENEFITS TO THE STATE:**

- Per Director’s Deed, parcel will remain a basin in perpetuity by deed restriction and adopted FMFCD resolution. The deed restriction will be recorded and runs with the land.
- The Department will retain the right to use Briggs Basin for SR-180 stormwater runoff storage, and up to 20% of the basin’s total storage capacity.
- The Department will transfer the maintenance costs of the basin parcel and liabilities to FMFCD in perpetuity per the Agreement.
- Relieving the state of its obligation to maintain the basin enhances safety by reducing the State’s maintenance workforce from roadside exposure.

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- Briggs Basin will enable the local agency to install infrastructure to use the basin as a groundwater recharge facility, which will enhance the reliability of the water supply for the public through groundwater recharge and will help to achieve regional goals through improved water quality.
- The Department is permitted to access non-potable water source from the Basin, thereby enabling the transition from currently used potable to non-potable water for SR-180 landscape irrigation.

### **GOVERNING STATUTES:**

Government Code 14012(a) The director may sell or lease excess right-of-way parcels to municipalities or other local agencies for public purposes, and may accept as all or part of the consideration for such sale or lease any substantial benefits the state will derive from the municipality or other local agency’s undertaking maintenance or landscaping costs that would otherwise be the obligation of the state.

(b) For the purposes of Section 9 of Article 19 of the California Constitution, the department shall notify, on a quarterly basis, the State Coastal Conservancy, the Department of Parks and Recreation, the Wildlife Conservation Board, and the Department of Fish and Game of excess property.

*(Amended by Stats. 2007, Ch. 375, Sec. 2. Effective January 1, 2008.)*

### **POLICY CONSIDERATIONS:**

The Department has elected to apply Government Code Section 14012 authority only in rare circumstances, such as Briggs Basin. The policy guidance currently in development is summarized as follows:

- 1) Government Code Section 14012 will only be implemented in very unusual circumstances, where the excess is sold to a local agency for a specific public purpose.
- 2) The FMV will be determined by a Department-approved appraisal.
- 3) There must be a deed restriction requiring use for the intended public purpose for a period of no less than 15 years.
- 4) Maintenance considerations will be calculated for a term commensurate with the duration of the deed restriction.
- 5) At no time will the State pay a local agency to receive a conveyance under Government Code Section 14012.