

Board of Supervisors

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Clerk



AGENDA FOR FLOOD CONTROL DISTRICT MEETING
Tuesday, November 5, 2013 at 10:00 a.m.
BOARD OF SUPERVISORS HEARING ROOM
1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

ROLL CALL

Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.

CALL TO THE PUBLIC

This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda.

CONSENT

Board of Supervisors

1. Approve the Minutes of the Flood Control District meeting for October 22, 2013.

ACTION

Community Development

2. Approve a professional services agreement with JE Fuller/Hydrology & Geomorphology, Inc. for the Riverstone Ranch Recharge Investigation in the amount of \$214,869.
3. Approve a Memorandum of Agreement with the U.S. Army Garrison, Ft. Huachuca and the Upper San Pedro Partnership for the purchase of the 480 acre Three Canyons/Palominas Property and place a conservation easement on the property.
4. Approve the purchase agreement for the 480 acre Three Canyons/Palominas Property.

5. Approve a conservation easement with the City of Sierra Vista on the Three Canyons/Palominas Property.

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.

Cochise County - 1415 Melody Lane, Building G - Bisbee, Arizona 85603
(520) 432-9200 - Fax (520) 432-5016 - Email: board@cochise.az.gov
www.cochise.az.gov

"PUBLIC PROGRAMS, PERSONAL SERVICE"

Flood Control District Meeting

Meeting Date: 11/05/2013

Minutes

Submitted By: Arlethe Rios, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME N/A
of PRESENTER:

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE N/A
of PRESENTER:

**Source of Mandate
or Basis for Support?:**

Information

Agenda Item Text:

Approve the Minutes of the Flood Control District meeting for October 22, 2013.

Background:

n/a

Department's Next Steps (if approved):

n/a

Impact of NOT Approving/Alternatives:

n/a

To BOS Staff: Document Disposition/Follow-Up:

n/a

Attachments

Minutes

Flood Control District Meeting**Community Development****Meeting Date:** 11/05/2013

Professional Services Agreement for Riverstone Ranch Recharge Investigation

Submitted By: Rorri Perez, Community
Development**Department:** Community Development**Division:**

Floodplain

Presentation: PowerPoint**Recommendation:** Approve**Document Signatures:** BOS Signature Required**# of ORIGINALS** 2**Submitted for Signature:****NAME
of PRESENTER:** Karen Riggs**TITLE
of PRESENTER:** County
Engineer**Mandated Function?:** Federal or State Mandate**Source of Mandate
or Basis for Support?:****Docket Number (If applicable):**

Information**Agenda Item Text:**

Approve a professional services agreement with JE Fuller/Hydrology & Geomorphology, Inc. for the Riverstone Ranch Recharge Investigation in the amount of \$214,869.

Background:

On 24 September 2013, the Flood Control District (FCD) Board approved a grant agreement and Memorandum of Understanding (MOU) with The Nature Conservancy (TNC) for their portion of funding (\$100,000) for site investigation on Riverstone, an 1800 acre parcel that has been purchased for recharge purposes. The Upper San Pedro Partnership also voted to contribute \$50,000 toward this project. Their contribution has already been received. Cochise County's share of \$65,000 was also approved by the FCD Board, which was based on the Scope of Work (SOW) for the investigation. We have received a proposal based on the SOW. Karen Riggs along with Kim Mulhern, recharge projects manager, have reviewed the proposal and negotiated a final proposal (included in the contract). We are asking that the FCD Board approve a contract for Phase I of the SOW in the amount of \$214,869. Invoices will be paid for actual work accomplished and this is a not to exceed amount. The SOW is written such that the project manager has a very active role in the execution and direction of each step in the SOW. We are applying lessons learned from the Palominas Recharge Project, which is a work in progress, so our progress on this and future recharge projects will be iterative.

Department's Next Steps (if approved):

Sign contract prepared by Procurement. (2 originals provided. Return one original to Karen Riggs).

Impact of NOT Approving/Alternatives:

The feasibility analysis will not be provided by Cochise County. The grant agreement with The Nature Conservancy for up to \$100,000 for this project will not be able to move forward and the \$50,000 provided by Upper San Pedro Partnership for this project will need to be returned.

To BOS Staff: Document Disposition/Follow-Up:

Please return copy of the recorded documents to H&F, attn: Karen Riggs.

Fiscal Impact

Fiscal Year: 13/14

One-time Fixed Costs? (\$\$\$):

Ongoing Costs? (\$\$\$):

County Match Required? (\$\$\$):

A-87 Overhead Amt? (Co. Cost Allocation \$\$\$):

Source of Funding?: FCD

Fiscal Impact & Funding Sources (if known):

Cochise County's share of this contract (\$65,000) is budgeted in the Flood Control District 13/14 budget and was approved for this project by the FCD Board on September 24, 2013 in a public meeting. The GL line the funding is currently in is: 261-4110-9-451.200. The \$50,000 contribution from Upper San Pedro Partnership has been received and deposited into the FCD account. Upon approval of this contract, per the MOU with The Nature Conservancy approved by the FCD Board on 24 September 2013, an initial disbursement of \$25,000 will be made to Cochise County. By December 16, 2013 Cochise County will submit a project progress and financial report, after which the remainder of the TNC grant will be disbursed to County

Attachments

Executive Summary

Professional Services Agreement

Powerpoint

Board of Supervisors

Flood Control District Meeting

Meeting Date: 11/05/2013

Memorandum of Agreement with U.S. Army Garrison, Ft. Huachuca and Upper San Pedro Partnership to purchase 480 acre Three Canyons/Palominas Parcel

Submitted By: Britt Hanson, County Attorney

Department: Community Development

Division: Floodplain

Presentation:

Recommendation:

Document Signatures:

of ORIGINALS 1
Submitted for Signature:

NAME
of PRESENTER:

TITLE
of PRESENTER:

Mandated Function?:

Source of Mandate
or Basis for Support?:

Docket Number (If applicable):

Information

Agenda Item Text:

Approve a Memorandum of Agreement with the U.S. Army Garrison, Ft. Huachuca and the Upper San Pedro Partnership for the purchase of the 480 acre Three Canyons/Palominas Property and place a conservation easement on the property.

Background:

This Memorandum of Agreement ("MOA") sets forth the basic terms for financing and acquiring a 480 acre parcel just south of Three Canyons Road and adjacent to the west side of Palominas Road.

The County, through the Flood Control District, with the U.S. Army Garrison, Ft. Huachuca, has been working to purchase and place a conservation easement on this 480 acre parcel for a total purchase price of 2.7 million. The purpose in purchasing the property is water savings in the Sierra Vista SubWatershed and water credits that will accrue to Ft. Huachuca. The parcel has three agricultural wells on it. These wells will be permanently retired through a conservation easement that will be placed on the parcel concurrent with the closing of the purchase.

Fort Huachuca currently has a contract with the City of Sierra Vista as the fiscal agent for the Upper San Pedro Partnership. This contract provides latitude for funding of projects which result in water credits for Fort Huachuca. Pursuant to the MOA, the Upper San Pedro Partnership Executive Committee will provide \$2.6 million received from Fort Huachuca as part of the existing environmental contract and the County agrees to place a conservation easement on the parcel, including retiring the ag wells. The conservation easement will allow the County to sell portions of the property up to 12 times for up to 12 single family dwellings, with water use restrictions.

This agenda item will be considered in conjunction with agenda items for approving the purchase agreement and the conservation easement.

Department's Next Steps (if approved):

The closing of the purchase of the 480 acre parcel is scheduled for November 20, 2013. Working with the title company, the County, Ft. Huachuca, USPP and the City of Sierra Vista (which will hold the conservation easement) will need to coordinate the transfer of funds to the County and execute the conservation easement and other closing documents.

Impact of NOT Approving/Alternatives:

A chance to conserve water, and for Ft. Huachuca to gain significant water credits, will be lost.

To BOS Staff: Document Disposition/Follow-Up:

Have the Chair sign the MOA and send signed copies to Dan Haws, attorney for Ft. Huachuca, and to the Upper San Pedro Partnership.

Fiscal Impact

Fiscal Year:	13/14
One-time Fixed Costs? (\$\$\$):	100,000
Ongoing Costs? (\$\$\$):	0
County Match Required? (\$\$\$):	0
A-87 Overhead Amt? (Co. Cost Allocation \$\$\$):	0
Source of Funding?:	same

Fiscal Impact & Funding Sources (if known):

n/a

Attachments

Memorandum of Agreement -- signed by Fort
Presentation

Board of Supervisors

Flood Control District Meeting

Meeting Date: 11/05/2013

Agreement to Purchase 480 acre Three Canyons/Palominas Property

Submitted By: Britt Hanson, County Attorney

Department: Community Development

Division: Floodplain

Presentation: No A/V Presentation

Recommendation: Approve

Document Signatures: BOS Signature
Required# of ORIGINALS 0
Submitted for Signature:NAME of PRESENTER: Mike Ortega/Britt
HansonTITLE of PRESENTER: County
Administrator/Chief
Civil Deputy
County AttorneyMandated Function?: Federal or State
MandateSource of Mandate
or Basis for Support?:

Docket Number (If applicable):

Information

Agenda Item Text:

Approve the purchase agreement for the 480 acre Three Canyons/Palominas Property.

Background:

At the direction of the Board, the County Administrator, with the assistance of Jim Martin, negotiated the purchase of a 480 acre parcel in the Palominas area for \$2.7 million from Preserve Petrified, LLC. Ft. Huachuca is providing \$2.6 million of the purchase price, with the County Flood Control District providing the remainder.

The mineral rights on this parcel were severed by Tenneco West Co. in 1988 with a conveyance to Tenneco Oil Co. The purchase agreement calls for the seller to clear the title exceptions created by the mineral rights severance, which would probably mean acquiring those mineral rights. However, this may not be possible. The County Attorney could trace ownership of the mineral rights to successors of Tenneco Oil only until 1996, when that successor dissolved. (Another entity that was considering purchasing this parcel reached a similar impasse). At this point it is not known who, if anyone, owns the mineral rights. To minimize this mineral rights exception, the County has retained geologist John Burton to make a determination of the value of the mineral rights. His determination should be forthcoming shortly.

There are two other significant title exceptions, both of which involve easements granted for the benefit of the owners of the southwest quarter section that is adjacent to (and formerly part of the 640 acre section) the 480 acre parcel that the County is acquiring. That quarter section has been platted as a 42 acre parcel subdivision known as Rancho Arizona. One easement is for an access road across the midsection of the "County's" parcel to Palominas Road from the quarter section. In addition, three drainage easements were granted for the benefit of the subdivision. All three drainage easements are in the southeast quarter section of the "County's" parcel. These easements are reflected on a map, prepared by Right-of-Way Agent Terry Couchenour, attached to the agenda item. Even if Rancho Arizona is developed, none of these easements will impact the water conservation values of the parcel, which is the primary purpose of the acquisition. The access road easement may negatively impact other conservation values. All of the easements will need to be taken into account when the County sells portions of the parcel, which it is entitled to do, up to 12 times for up to 12 single family dwellings.

Another item, which is not listed as an exception on the title report, but which appears to be in the chain of title, is a deed restriction placed on the parcel in 1996 by AZSWISS, which then held title, forbidding trailer, mobile and manufactured homes, with the restriction to be enforced by Three Canyons Home Owners Association. This restriction should not impact any of the conservation or resale values.

The closing is scheduled for November 22, 2013.

This agenda item will be considered in conjunction with agenda items for approving the Memorandum of Agreement with Ft. Huachuca and USPP and the conservation easement.

Department's Next Steps (if approved):

Prepare for closing on November 20, 2013

Impact of NOT Approving/Alternatives:

The County will have defaulted on the purchase agreement and Ft. Huachuca and the County will not have the benefit of substantial water conservation through the purchase of this parcel.

To BOS Staff: Document Disposition/Follow-Up:

N/A

Fiscal Impact	
Fiscal Year:	13-14
One-time Fixed Costs? (\$\$\$):	100,000
Ongoing Costs? (\$\$\$):	0
County Match Required? (\$\$\$):	0
A-87 Overhead Amt? (Co. Cost Allocation \$\$\$):	0
Source of Funding?:	same
Fiscal Impact & Funding Sources (if known):	
n/a	

Attachments

Signed Purchase Agreement

Map of Easements to Three Canyons/Palominas Property

Community Development

Flood Control District Meeting

Meeting Date: 11/05/2013

Conservation Easement on Three Canyons/Palominas Parcel

Submitted By: Britt Hanson, County Attorney

Department: Community Development

Division: Floodplain

Presentation: No A/V Presentation

Recommendation: Approve

Document Signatures: BOS Signature
Required# of ORIGINALS 1
Submitted for Signature:NAME of PRESENTER: Mike Ortega/Britt
HansonTITLE of PRESENTER: County
Administrator/Chief
Civil Deputy
County Attorney

Docket Number (If applicable):

Mandated Function?: Local Mandate or
PolicySource of Mandate
or Basis for Support?:

Information

Agenda Item Text:

Approve a conservation easement with the City of Sierra Vista on the Three Canyons/Palominas Property.

Background:

This agenda item will be considered in conjunction with the agenda items to purchase the 480 acre Three Canyons/Palominas property and the Memorandum of Understanding with Ft. Huachuca to fund the purchase.

Concurrent with the purchase of the Property, the County will grant the City of Sierra Vista a conservation easement on it. The conservation easement ensures that the water conservation values--especially the retirement of three agricultural wells on the Property--and other conservation values, are maintained in perpetuity. The conservation easement does allow certain uses, such as grazing. It also permits the County to use the Property for water recharge. (Although this Property may some day be useful for recharge, the County currently has interests in two other parcels in the Sierra Vista Subwatershed--the Mansker and Riverstone properties--that have greater recharge possibilities).

The conservation easement also allows the County to sell portions of the Property up to 12 times for up to 12 single family dwellings. For each such sale out, a buyer's building envelope will be restricted to 4 acres and must be approved by the City of Sierra Vista as holder of the conservation easement. Each deed must contain restrictions on water use, as set forth in ¶3.9 of the conservation easement.

Finally, the conservation easement allows the County to use a 50' strip adjacent to Palominas Road as right-of-way in case the County widens Palominas Road.

County environmental consultant Kim Mulhern prepared an easement document report, which documents the current environment state and use of the Property. No significant environmental concerns were noted. The current use is cattle grazing. It is anticipated that for the near future the County will enter into a grazing lease.

Department's Next Steps (if approved):

Prepare for the scheduled November 20, 2013 closing.

Impact of NOT Approving/Alternatives:

The County will not assist the Fort with water conservation and credits through a conservation easement.

To BOS Staff: Document Disposition/Follow-Up:

The Chair will sign the Conservation Easement, but not just before the November 20th closing date, then route it to the City of Sierra Vista to sign before the closing date.

Attachments

Easement Documentation Report

Exhibits to Easement Documentation Report

Three Canyons/Palominas Road Conservation Easement