

RESOLUTION NO. 524

RESOLUTION OF THE OF SUNNYSLOPE COUNTY WATER DISTRICT APPROVING THE ACQUISITION OF A 2-ACRE PARCEL FOR WELL 12 FOR \$95,000 FROM BRAY & BRIGANTINO

WHEREAS, the Board of Directors (“Board”) of Sunnyslope County Water District (“SCWD”) finds and determines as follows:

1. The District desires to own property situated in San Benito County owned by J & V Brigantino Family Limited Partnership; Vincent Brigantino and Denise Brigantino, as Trustees of the V & D Brigantino Trust dated November 9, 1999; D & D Family Limited Partnership; Ralph Brigantino Trustee of the Testamentary Trust created in the final distribution filed September 26, 1986, Recorder’s file number 8606369; Arnold and Shirley Togliatti, husband and wife as Community Property (collectively “Brigantino”); James Harold Bray and Debbie Raye Bray, Co-Trustees of the Bray Family Trust UA 12/1/92; F. Ronald Culler and Veronica I. Culler, Co-Trustees of the Culler Living Trust dated December 16, 1982 (collectively “Bray”); The John Brigantino Retirement Plan and Trust U/A/D 04/17/2003, John Brigantino, Trustee; The Vince Brigantino Retirement Plan and Trust U/A/D 04/25/2011, Vince Brigantino, Trustee (collectively “John and Vince Brigantino”) to provide land for future construction, operation and maintenance of water supply infrastructure to produce, treat, store, and distribute water; and,
2. Sunnyslope has been in negotiations with the owners of the 2-acre parcel adjoining the future site of well 12 (“Site”) for several years.
3. Sunnyslope does not anticipate building well 12 or the associated pipeline for at least five years, but believes that well 12 will eventually be needed and that the proposed 2-acre parcel is ideally located for well 12 and related facilities.
4. On February 8, 2007, Sunnyslope and Bray executed a License Agreement creating a license for Sunnyslope to drill and operate a test well on a 50' x 50' well site for the future development of well 12, with incidental rights for drilling and testing the well. A copy of the License Agreement is attached as Exhibit D to the Agreement to Adjust Lot Lines, which is Exhibit A.
5. On June 15, 2007, Sunnyslope completed drilling a test well on the proposed site.
6. On December 8, 2011, Sunnyslope and the owners completed negotiations to adjust the lot boundary line between the Bray and John and Vince Brigantino parcels, whereby approximately two (2) acres of the John and Vince Brigantino real property is incorporated into the real property of Bray, easements for Bray and Brigantino are granted and amended, and Sunnyslope acquires two (2) acres, more or less, and a 30' wide water utility easement for \$95,000, plus its fair share of expenses, as evidenced by the Agreement to Adjust Lot Lines, attached hereto as **Exhibit A**, and incorporated by this reference.
7. On September 9, 2010 the Board approved Resolution Number 517 adopting a Mitigated Negative Declaration and Mitigation Monitoring Plan for the District’s Water Well #12 and Pipeline Project, one of the sites studied being the property which is the subject of the Agreement to Adjust Lot Lines.
8. The site is suitable for other District purposes, but no use has been studied or planned other than the use approved in District Resolution 517.
9. CEQA Guidelines Sections 15004 (b)(2)(A) provides that “agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency’s future use of the site on CEQA compliance,” and the California Supreme Court’s decision in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, at 134, states that the Guidelines' exception for land purchases is a reasonable interpretation of CEQA.
10. This Resolution conditions the District’s future use of the Site on CEQA compliance.
11. Sunnyslope’s acquisition of the 2-acre parcel is in accordance with the Negative Declaration adopted by Board Resolution #517, on September 9, 2010, section 15004(b)(2)(A) of 14 CCR, and the decision in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116.

12. This Resolution would enable the General Manager and Secretary and the President to take the actions and execute the documents necessary or appropriate to exercise the District's right to acquire and accept the Site in accordance with the 2007 License Agreement, the Agreement to Adjust Lot Lines, and this Resolution ("Acquisition").

13. The action under consideration is approval of the Acquisition of the Site, which approval constitutes one of many actions necessary to implement the District's Water Well #12 and Pipeline Project and would not by itself result in any significant impacts.

14. The Directors have reviewed and considered the Mitigated Negative Declaration for the District's Water Well #12 and Pipeline in its entirety and find that the Mitigated Negative Declaration is adequate for the purpose of approving the District's Acquisition of the Site, and the District hereby relies upon the contents of those documents and the CEQA process for its CEQA compliance; and,

15. The District intends to conduct all future activities at the Site in accordance; or in accordance with the Mitigated Negative Declaration for the District's Water Well #12 and Pipeline Project; or, alternatively, and if needed to comply with CEQA, the District would amend, supplement or otherwise conduct new environmental review subsequent to approval of a project and adoption of findings prior to directly or indirectly committing to undertake any specific project or action involving a physical change to the environment related to the Acquisition of the Site.

16. The District's General Manager as the District's designated negotiator recommends that the Board approve the Acquisition for execution in the form presented to the Board in open session on December 8, 2011.

NOW, THEREFORE, BE IT RESOLVED the Board hereby resolves as follows:

1. The Board adopts the above findings.
2. The Board authorizes and directs the General Manager and Secretary and the President to take the actions and execute the documents necessary or appropriate to exercise the District's right to acquire the Site in accordance with the 2007 License Agreement, the Agreement to Adjust Lot Lines, and this Resolution, and to accept the Site.
3. This resolution is adopted pursuant to the County Water District Law, Sections 30000 and following, of the California Water Code, and pursuant to the California Environmental Quality Act ("CEQA"), codified at Sections 21000 and following of the Public Resources Code, and the CEQA Guidelines codified at Title 14, Sections 15000 and following of the California Code of Regulations.

THE FOREGOING RESOLUTION was passed and adopted by a vote of the SCWD Board of Directors at its regularly held meeting on December 8, 2011, by the following vote:

AYES: Directors Meraz, Anderson, Clapham, Villalon, and Hill
NAYS: None
ABSTAIN: None
ABSENT: None

SUNNYSLOPE COUNTY WATER DISTRICT

By *Dave Meraz*
Dave Meraz, President

(S E A L)

ATTEST:

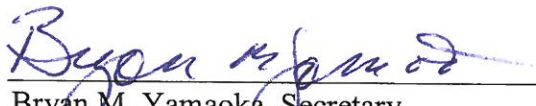


Bryan M. Yamaoka, General Manager

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of Directors of the Sunnyslope County Water District hereby certifies that the foregoing is a full, true and correct copy of the resolution adopted on December 8, 2011, as Resolution No. 524.

Dated: December 8, 2011



Bryan M. Yamaoka, Secretary

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WHEREAS, the Board of Directors (“Board”) of Sunnyslope County Water District (“SCWD”) finds and determines as follows:

1. The District desires to own property situated in San Benito County owned by J & V Brigantino Family Limited Partnership; Vincent Brigantino and Denise Brigantino, as Trustees of the V & D Brigantino Trust dated November 9, 1999; D & D Family Limited Partnership; Ralph Brigantino Trustee of the Testamentary Trust created in the final distribution filed September 26, 1986, Recorder’s file number 8606369; Arnold and Shirley Togliatti, husband and wife as Community Property (collectively “Brigantino”); James Harold Bray and Debbie Raye Bray, Co-Trustees of the Bray Family Trust UA 12/1/92; F. Ronald Culler and Veronica I. Culler, Co-Trustees of the Culler Living Trust dated December 16, 1982 (collectively “Bray”); The John Brigantino Retirement Plan and Trust U/A/D 04/17/2003, John Brigantino, Trustee; The Vince Brigantino Retirement Plan and Trust U/A/D 04/25/2011, Vince Brigantino, Trustee (collectively “John and Vince Brigantino”) to provide land for future construction, operation and maintenance of water supply infrastructure to produce, treat, store, and distribute water; and,
2. Sunnyslope has been in negotiations with the owners of the 2-acre parcel adjoining the future site of well 12 (“Site”) for several years.
3. Sunnyslope does not anticipate building well 12 or the associated pipeline for at least five years, but believes that well 12 will eventually be needed and that the proposed 2-acre parcel is ideally located for well 12 and related facilities.
4. On February 8, 2007, Sunnyslope and Bray executed a License Agreement creating a license for Sunnyslope to drill and operate a test well on a 50' x 50' well site for the future development of well 12, with incidental rights for drilling and testing the well. A copy of the License Agreement is attached as Exhibit D to the Agreement to Adjust Lot Lines, which is Exhibit A.
5. On June 15, 2007, Sunnyslope completed drilling a test well on the proposed site.
6. On December 8, 2011, Sunnyslope and the owners completed negotiations to adjust the lot boundary line between the Bray and John and Vince Brigantino parcels, whereby approximately two (2) acres of the John and Vince Brigantino real property is incorporated into the real property of Bray, easements for Bray and Brigantino are granted and amended, and Sunnyslope acquires two (2) acres, more or less, and a 30' wide water utility easement for \$95,000, plus its fair share of expenses, as evidenced by the Agreement to Adjust Lot Lines, attached hereto as **Exhibit A**, and incorporated by this reference.
7. On September 9, 2010 the Board approved Resolution Number 517 adopting a Mitigated Negative Declaration and Mitigation Monitoring Plan for the District’s Water Well #12 and Pipeline Project, one of the sites studied being the property which is the subject of the Agreement to Adjust Lot Lines.
8. The site is suitable for other District purposes, but no use has been studied or planned other than the use approved in District Resolution 517.
9. CEQA Guidelines Sections 15004 (b)(2)(A) provides that “agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency’s future use of the site on CEQA compliance,” and the California Supreme Court’s decision in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, at 134, states that the Guidelines' exception for land purchases is a reasonable interpretation of CEQA.
10. This Resolution conditions the District’s future use of the Site on CEQA compliance.
11. Sunnyslope’s acquisition of the 2-acre parcel is in accordance with the Negative Declaration adopted by Board Resolution #517, on September 9, 2010, section 15004(b)(2)(A) of 14 CCR, and the decision in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116.

12. This Resolution would enable the General Manager and Secretary and the President to take the actions and execute the documents necessary or appropriate to exercise the District's right to acquire and accept the Site in accordance with the 2007 License Agreement, the Agreement to Adjust Lot Lines, and this Resolution ("Acquisition").

13. The action under consideration is approval of the Acquisition of the Site, which approval constitutes one of many actions necessary to implement the District's Water Well #12 and Pipeline Project and would not by itself result in any significant impacts.

14. The Directors have reviewed and considered the Mitigated Negative Declaration for the District's Water Well #12 and Pipeline in its entirety and find that the Mitigated Negative Declaration is adequate for the purpose of approving the District's Acquisition of the Site, and the District hereby relies upon the contents of those documents and the CEQA process for its CEQA compliance; and,

15. The District intends to conduct all future activities at the Site in accordance; or in accordance with the Mitigated Negative Declaration for the District's Water Well #12 and Pipeline Project; or, alternatively, and if needed to comply with CEQA, the District would amend, supplement or otherwise conduct new environmental review subsequent to approval of a project and adoption of findings prior to directly or indirectly committing to undertake any specific project or action involving a physical change to the environment related to the Acquisition of the Site.

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NOW, THEREFORE, BE IT RESOLVED the Board hereby resolves as follows:

1. The Board adopts the above findings.
2. The Board authorizes and directs the General Manager and Secretary and the President to take the actions and execute the documents necessary or appropriate to exercise the District's right to acquire the Site in accordance with the 2007 License Agreement, the Agreement to Adjust Lot Lines, and this Resolution, and to accept the Site.
3. This resolution is adopted pursuant to the County Water District Law, Sections 30000 and following, of the California Water Code, and pursuant to the California Environmental Quality Act ("CEQA"), codified at Sections 21000 and following of the Public Resources Code, and the CEQA Guidelines codified at Title 14, Sections 15000 and following of the California Code of Regulations.

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AYES: Directors Meraz, Anderson, Clapham, Villalon, and Hill
NAYS: None
ABSTAIN: None
ABSENT: None

SUNNYSLOPE COUNTY WATER DISTRICT

By *Dave Meraz*
Dave Meraz, President

(S E A L)

ATTEST:



Bryan M. Yamaoka, General Manager

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of Directors of the Sunnyslope County Water District hereby certifies that the foregoing is a full, true and correct copy of the resolution adopted on December 8, 2011, as Resolution No. 524.

Dated: December 8, 2011



Bryan M. Yamaoka, Secretary

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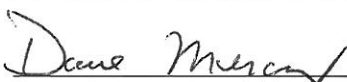
AYES: Directors Meraz, Anderson, Clapham, Villalon, and Hill

NAYS: None

ABSTAIN: None

ABSENT: None

SUNNYSLOPE COUNTY WATER DISTRICT

By 
Dave Meraz, President

(S E A L)

ATTEST:

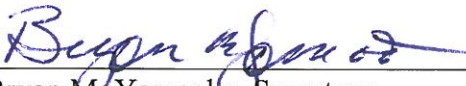


Bryan M. Yamaoka, General Manager

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Dated: December 8, 2011



Bryan M. Yamaoka, Secretary