



# San Bernardino County

## Legislation Text

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**File #: 3645, Agenda Item #: 51**

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

**February 9, 2021**

#### **FROM**

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

#### **SUBJECT**

Amendment No. 11 to the Purchase and Sale Agreement with Watson Land Company for County Surplus Property

#### **RECOMMENDATION(S)**

Approve Amendment No. 11 to the Purchase and Sale Agreement and Escrow Instructions for Auction Sales, Contract No. 14-429, with Watson Land Company to authorize the extension of the close of escrow for a period not to exceed December 31, 2022 to provide the County with the time necessary to remove a United States Department of Agriculture Deed Restriction concerning a 14.81-acre portion of the 60.65 acres of land sold to Watson Land Company, situated west of Hellman Avenue in the City of Chino.

(Presenter: Terry W. Thompson, Director, 387-5252)

#### **COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

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

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.**

**Pursue County Goals and Objectives by Working with Other Agencies.**

#### **FINANCIAL IMPACT**

This amendment will not result in the use of additional Discretionary General Funding (Net County Cost). There is no cost associated with executing this Amendment and the County will receive revenue in the amount of \$2,835,000, to be deposited in the Chino Agricultural Preserve Special Revenue Fund (7801132734), from the sale of the 14.81 acres to Watson Land Company (Watson) at the close of escrow. In April 2016, the County closed escrow on the sale of the 45.84 acres of the 60.65-acre transaction and received \$12,500,000 in revenue; upon the close of escrow for this 14.81-acre portion of the sale, the County will receive total revenue of \$15,335,000 for the 60.65 acres sold to Watson.

At the initial opening of escrow for the entire 60.65 acres, Watson deposited a \$1,533,500 good faith deposit into escrow. This deposit is now applicable to the purchase price for the 14.81 acres of land. Should this portion of the contract be terminated, the deposit of \$1,533,500 is fully refundable to Watson.

Approximately 55.87 acres of this County-owned property being sold to Watson was purchased by the County using grant funds under the California Wildlife, Coastal and Parkland Conservation Act of 1988 (Prop 70). The balance of the 60.65 acres, in the amount of 4.78 acres, was purchased with a Federal Farm and Ranch Land Protection Program grant from the United States Department of Agriculture (USDA) in the amount of

\$100,000. The revenue from the sale to Watson can only be used for Prop 70-related purposes, such as the acquisition of replacement property and for improvements to, and ongoing expenses associated with, other County-owned properties encumbered with Prop 70 deed restrictions or conservation easements.

### **BACKGROUND INFORMATION**

Amendment No. 11 to the Purchase and Sale Agreement and Escrow Instructions for Auction Sales, No. 14-429, (Amendment), between the County and Watson will extend the close of escrow from February 14, 2021 to within 30 days after the release of a USDA deed restriction encumbering a 4.78-acre area of the remaining 14.81-acre portion of the 60.65 acres. This extension of escrow will provide the County additional time to complete this last remaining obligation, and will provide \$2,835,000 in proceeds to the County upon the close of escrow.

RES D began working with the USDA to effect the relocation of the deed restriction immediately following the passage of the 2014 Farm Bill, which provides for the relocation of its deed restrictions under the condition that the existing property is no longer conducive to agricultural development.

Throughout the 1990's, the County acquired 366.55 acres of dairy properties in the cities of Chino and Ontario with a \$20 million Prop 70 grant for the purposes of funding the "acquisition, development, rehabilitation, protection, or restoration of park, wildlife, coastal and natural lands in California, including lands supporting unique or endangered plants or animals." Approximately 165.30 acres are located in the City of Chino, which includes the 60.65 acres the County is selling to Watson, and approximately 201.25 acres are located in the City of Ontario. Of the 60.65 acres located in Chino, 4.78 acres was purchased partially with a \$100,000 grant from the USDA. Acceptance of this grant required the recipient to record a deed restriction over the property to restrict its use to agricultural purposes into perpetuity.

On December 17, 2013 (Item No. 64), the Board adopted Resolution No. 2013-241 to declare the 165.30 acres of County-owned dairy land in Chino surplus and authorized holding a public auction to sell 60.65 acres [Assessor Parcel Numbers (APNs) 0218-301-01, 05, 06, 07, 12, 14, 15, 22, 25, 26] of this land. On June 24, 2014 (Item No. 74), the Board approved the highest bid received at the auction held on March 19, 2014 from Watson to purchase 60.65 acres of property for \$15,335,000. Subsequently, escrow was opened. The close of escrow was contingent on the County's removal of deed restrictions over various portions of the property.

The Purchase and Sale Agreement and Escrow Instructions for Auction Sales, Contract No. 14-429 (Contract), with Watson allowed the Director of the Real Estate Services Department (RES D) to execute an amendment to extend escrow one time. On June 24, 2015, the County and Watson executed the first amendment to the Contract to extend escrow an additional six months, commencing on July 7, 2015 and ending on January 6, 2016, to allow the County additional time to remove the deed restrictions. On December 15, 2015 (Item No. 49), the Board approved a second amendment to the Contract to extend the close of escrow from January 7, 2016 to March 17, 2016 to give RES D additional time to work toward the removal of the deed restrictions. RES D has been successful in removing all deed restrictions with the exception of the USDA deed restriction.

The removal of the USDA deed restriction has proven to be a lengthy process, and Watson needed to move forward with the construction of Hellman Avenue as part of their conditions of development imposed by the City of Chino. As a result, on March 1, 2016 (Item No. 50), the Board approved a third amendment to the Contract to extend the close of escrow for 45.84 acres (APNs 0218-301-01, 05, 06, 07, 12, 14, 15, 22, 25, 26) of the 60.65 acres, located east of Hellman Avenue from March 17, 2016 to April 12, 2016, and provide \$12,500,000 in proceeds to the County upon the close of escrow. The amendment also extended escrow an additional six months from March 18, 2016 to August 31, 2016, for the remaining 14.81 acres (APNs 1055-081-01 and 02), located west of Hellman Avenue which is encumbered with the USDA deed restriction to provide the County additional time to work with the USDA. The amendment also authorized the Director of RES D to execute a fourth amendment if necessary, to extend escrow an additional six months for the sale of the 14.81 acres.

On April 4, 2016, escrow closed on the 45.84 acres and the County received proceeds from the sale in the amount of \$12,500,000. Subsequently, on August 9, 2016, RESD and Watson executed a fourth amendment to the Contract to extend escrow on the 14.81 acres, which is now referenced as APN 1054-491-01 (formerly APNs 1055-081-01 and 02), an additional six months, from August 31, 2016 to February 23, 2017, to allow RESD additional time to work with the USDA to remove the deed restriction.

On February 14, 2017 (Item No. 51), the Board approved a fifth amendment to the Contract to extend the close of escrow from February 14, 2017 to August 13, 2017 to allow RESD additional time to continue to work with the USDA. The fifth amendment also provided an opportunity for both parties to extend escrow an additional six months if mutually agreed. Both parties mutually agreed to this extension and on August 8, 2017, the parties executed the sixth amendment to extend escrow an additional six months from August 14, 2017 to February 13, 2018.

On January 23, 2018 (Item No. 42), the Board approved a seventh amendment to the Contract to extend the close of escrow from February 14, 2018 to August 13, 2018 and provided an opportunity to extend the Contract an additional six months if mutually agreed. Both parties mutually agreed to this extension and on August 9, 2018, the parties executed the eighth amendment to extend escrow an additional six months from August 14, 2018 to February 13, 2019.

On January 29, 2019 (Item No. 31), the Board approved a ninth amendment to the Contract to extend the close of escrow from February 14, 2019 to February 13, 2020. The USDA has authorized the removal of the deed restriction from the 14.81-acre property and its relocation to other County-owned land in Chino that is better suited for agricultural purposes. The USDA now requires that the easement be conveyed to a third party conservation group for long-term stewardship.

On June 25, 2019 (Item No. 44), the Board approved the Real Estate Consultant Agreement with Rivers & Lands Conservancy (RLC) to provide consulting services associated with the dedication and long-term stewardship of the deed restriction that will be relocated to another County-owned property in Chino under the guidance and requirements established by the USDA.

Nevertheless, discussion with the USDA continued and efforts to remove the deed restriction are ongoing, so on January 28, 2020 (Item No. 43), the Board approved the Tenth Amendment to the Contract, extending the close of escrow from February 14, 2020 to August 13, 2020 on the remaining 14.81-acre portion of the 60.65 acres, and providing authority to the RESD Director to execute an escrow extension for an additional six months through February 13, 2021. That escrow extension was subsequently executed and the County and Watson are now approaching the escrow expiration.

RESD continues to work with the RLC and USDA to remove the deed restriction that is anticipated to extend beyond the current February 13, 2021 close of escrow date. This proposed Eleventh Amendment to the Contract will allow the County the time necessary to continue to work with the RLC and USDA towards the removal of this encumbrance.

Approval of this item will extend escrow from February 14, 2021 to a date not later than 30 days after the removal of the USDA deed restriction, but in no event beyond December 31, 2022, to allow RESD additional time to work with the RLC and USDA. Once the deed restriction has been removed, Watson will pay the balance of the purchase price in the amount of \$2,835,000. Watson reserves the right to terminate the transaction should the County fail to remove the USDA deed restriction by the close of escrow. As a result, the County would retain ownership of the 14.81 acres.

## **PROCUREMENT**

On June 24, 2014 (Item No. 74), the Board approved Contract No. 14-429 (procured by public auction held on

March 14, 2014) according to County Policy 12-17, which allows for property that is no longer needed and has no economic reason for retention to be declared surplus and disposable.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Robert Messinger, Principal Assistant County Counsel, 387-5455) on January 15, 2021; Finance (Carl Lofton, Administrative Analyst, 387-5404 and Jessica Trillo, Administrative Analyst, 387-4222) on January 25, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on January 25, 2021.

(BJO: 659-4676)