



# San Bernardino County

## Legislation Text

**File #: 6172, Agenda Item #: 70**

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

**June 14, 2022**

#### **FROM**

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

**BRENDON BIGGS, Director, Department of Public Works - Solid Waste Management**

#### **SUBJECT**

Lease Agreement with the United States of America, Acting through the Bureau of Land Management, for Use of Land in Apple Valley for the Department of Public Works - Solid Waste Management Division

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

Approve Recreation or Public Purposes Lease (CACA09487) with the United States of America, acting through the Bureau of Land Management, for 15 acres of land (portion of Assessor Parcel Number 0436-111-11) located in Apple Valley for a term of 10 years for the period retroactive from January 1, 2017 to December 31, 2026, for use in connection with the Apple Valley Landfill for the Department of Public Works - Solid Waste Management Division at a total cost of \$100.

(Presenter: Terry W. Thompson, Director, 387-5000)

#### **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.**

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

#### **FINANCIAL IMPACT**

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost) as the Department of Public Works - Solid Waste Management Division (SWMD) is financed by fee revenue. SWMD establishes fees that are charged to the public and other agencies for utilization of the San Bernardino County (County) Waste Disposal System. The total cost of this 10-year agreement is \$100. Lease payments will be made from the Real Estate Services (RES) Rents budget (7810001000) and reimbursed from SWMD budget (6701594250). Sufficient appropriation is included in the 2022-23 budget and will be included in future recommended budgets. Annual lease costs are as follows:

<b><u>Year</u></b>	<b><u>Annual Lease Cost</u></b>
January 1, 2017 - December 31, 2017	\$10
January 1, 2018 - December 31, 2018	\$10
January 1, 2019 - December 31, 2019	\$10
January 1, 2020 - December 31, 2020	\$10
January 1, 2021 - December 31, 2021	\$10

January 1, 2022 - December 31, 2022	\$10
January 1, 2023 - December 31, 2023	\$10
January 1, 2024 - December 31, 2024	\$10
January 1, 2025 - December 31, 2025	\$10
January 1, 2026 - December 31, 2026	<u>\$10</u>
<b>Total Cost</b>	<b>\$100</b>

### **BACKGROUND INFORMATION**

This item will approve a new 10-year Recreation or Public Purposes Lease, retroactive from January 1, 2017 through December 31, 2026, with the United States of America (US), acting through the Bureau of Land Management (BLM), for the use of 15 acres of federal land located in Apple Valley as an off-site borrow area to provide soil cover materials for the inactive Apple Valley Landfill (Landfill).

SWMD owns and manages the Landfill, which comprises approximately 120 acres of County-owned property located northeast of Highway 18 in an unincorporated area east of the Town of Apple Valley. SWMD operated the Landfill from 1964 until it ceased operations and was assigned inactive status on June 30, 1997.

On February 23, 1981 (Item No. 23), the Board of Supervisors (Board) approved the submission of an Application for Land for Recreation or Public Purpose to the BLM to lease 40 acres of federal land located adjacent to the Landfill. The application was subsequently approved, and a 25-year Recreation or Public Purposes Lease (CACA-09487) was executed on December 7, 1983 (Initial Lease), to allow the County to use 40 acres of federal land as an off-site borrow area.

The Initial Lease expired in 2008. However, due to a change in federal policy in 1995, BLM would not renew the Initial Lease and required that the County purchase a 15-acre portion of the original 40 acres leased, which is the area disturbed by activities associated with the operation of the Landfill. The County remained in holdover under the Initial Lease while terms of the acquisition were negotiated. On June 2, 2015 (Item No. 72), the Board approved Recreation or Public Purposes Lease Agreement No. 15-279 (CACA-09487) (Replacement Lease) with the US for a term of eight years, retroactive as of December 8, 2008 through December 7, 2016, for 15 acres to allow for additional time to complete the acquisition. The Board also approved the submission of an Application for Recreation or Public Purpose to the BLM to acquire the 15 acres in fee at no cost, and delegated authority to the Director of RESD to execute any other documents and take any actions necessary to complete the Replacement Lease and the acquisition process.

The acquisition process was delayed by BLM due to other priorities, which caused the Replacement Lease to go into holdover when it expired on December 7, 2016. RESD was subsequently notified by the BLM that, due to the passage of the Desert Renewable Energy Conservation Plan (Plan) in 2016, the land was now designated as General Public Lands and no longer available to be conveyed in fee to the County. However, the BLM could continue to lease the land. The BLM process has delayed presentation of this item to the Board, which includes a lease commencement date that is retroactive as of January 1, 2017.

SWMD and RESD recommend approval of a new 10-year lease for 15 acres of federal land for the period retroactive as of January 1, 2017 through December 31, 2026, for use in association with the Landfill. The rental rate is \$10 per year without annual increases for a total cost of \$100. Although the BLM is currently unable to sell the land, the new lease still includes language from the Replacement Lease requesting a conveyance of the land if the BLM deems it appropriate. Since the BLM did not agree to remove the language and SWMD remains interested in acquiring the land if it becomes available for sale, a fee acquisition of the land could occur during the term of the lease if there are changes in the Plan that permit the sale or the land is declared exempt from the Plan. Should an acquisition become available during the term of the new lease, SWMD and RESD will return to the Board if additional approvals are required.

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Staff has reviewed the recommended action pursuant to the California Environmental Quality Act (CEQA) and has determined that it does not constitute a project. Accordingly, no further action is required under CEQA.

**Summary of Lease Terms**

Lessor: United States of America

Location: Apple Valley Assessor Parcel Number (APN) 0436-111-11

Size: 15 acres of land

Term: 10 years commencing retroactive to January 1, 2017

Options: None

Rent: Annual: \$10\*  
\*Low-range for comparable facilities in the Apple Valley area per the competitive set analysis on file with RESD

Annual Increases: None Provided by County Not applicable

Maintenance: Utilities:

Insurance: Both parties are public, self-insured entities

Right to Terminate: Parking: None Not applicable

**PROCUREMENT**

This lease is exempt from the provisions of County Policy No. 12-02 - Leasing Privately Owned Real Property for County Use, because the real property is owned by a governmental agency.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel, and Aaron Gest, Deputy County Counsel, 387-5455) on June 9, 2022; Solid Waste Management Division (Darren Meeka, Deputy Director, 386-8701) on March 28, 2022; Finance (Carl Lofton, Administrative Analyst, 387-5404) on June 10, 2022; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-4376) on June 10, 2022.

(LB: 453-5227)