

STAFF REPORT

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04/29/20
SA 5772
R. Collins
P. Huber

FOURTH AMENDMENT OF OFFER TO PURCHASE REAL ESTATE IN THE COUNTY OF SAN BERNARDINO AND ACCEPTANCE OF OFFER TO PURCHASE

PARTIES:

California State Lands Commission

Barstow Spanish Trail, LLC, a California limited liability company

BACKGROUND:

At its August 17, 2017 meeting, the California State Lands Commission (Commission), acting as the trustee of the School Land Bank Fund, authorized the Executive Officer or designee to execute the document entitled "Offer to Purchase Real Estate in the County of San Bernardino and Acceptance of Offer to Purchase" (Offer) between the Commission and Barstow Spanish Trail, LLC, a California limited liability company (Applicant) ([Item 67, August 17, 2017](#)). The Offer covers the sale of approximately 63.3 gross acres of indemnity school lands in Barstow and included a provision that allowed either party to terminate the agreement without penalty until August 1, 2018.

In May 2018, the Applicant requested an amendment to the Offer to extend the date to allow either party to terminate the agreement without penalty to December 31, 2018. The Commission approved the amendment to the Offer at its meeting of June 21, 2018 ([Item 74, June 21, 2018](#)).

In September 2018, the Applicant requested a second amendment to the Offer to extend the date to allow either party to terminate the agreement without penalty to June 30, 2019. The Commission approved the amendment to the Offer at its meeting of December 3, 2018 ([Item 66, December 3, 2018](#)).

In March 2019, the Applicant requested a third amendment to the Offer to extend the date to allow either party to terminate the agreement without penalty to June 30, 2020. The Commission approved the amendment to the Offer at its meeting of June 28, 2019, contingent on the receipt of a non-refundable deposit in the amount of \$45,000 (Initial Deposit) ([Item 77, June 28, 2019](#)). The Initial Deposit will be applied to the purchase price only if the transaction closes prior to June

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30, 2020. If the transaction does not close prior to June 30, 2020, the Initial Deposit will be transferred into the School Land Bank Fund (Fund).

The Applicant is now requesting a fourth amendment to the Offer that will extend the date that allows either party to terminate the agreement to June 30, 2021. The amendment includes a provision that the Applicant must submit a non-refundable deposit in the amount of \$45,000 (Second Deposit) prior to the execution of the fourth amendment. The Second Deposit will be applied to the purchase price only if the transaction closes on or prior to June 30, 2021. If the transaction does not close by that date, the Second Deposit will be transferred into the Fund.

STATE'S BEST INTERESTS ANALYSIS:

The fourth amendment to the Offer is expected to provide the necessary time to complete the transaction. Proceeds from the sale will be deposited into the State Treasury to the credit of the Fund pursuant to Public Resources Code section 6217.7. In the event the transaction does not close by the specified date, the Second Deposit will be deposited into the State Treasury to the credit of the Fund pursuant to Public Resources Code section 6217.7.

The Fund is managed for revenue-generating purposes with net revenues deposited in the State Treasury to the credit of the California State Teachers' Retirement Fund, which benefits the California State Teachers' Retirement System (CalSTRS), consistent with Public Resources Code section 6217.5. For this reason, Commission staff believes authorization of the fourth amendment to the Offer is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the amendment to the Offer is a discretionary action by the Commission.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 2.1 to optimize returns for the responsible development and use of State lands and resources, both onshore and offshore.
3. The authorization to amend the Offer to Purchase Real Estate in San Bernardino County and Acceptance of Offer to Purchase to extend the closing date is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

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Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

STATE'S BEST INTERESTS FINDING:

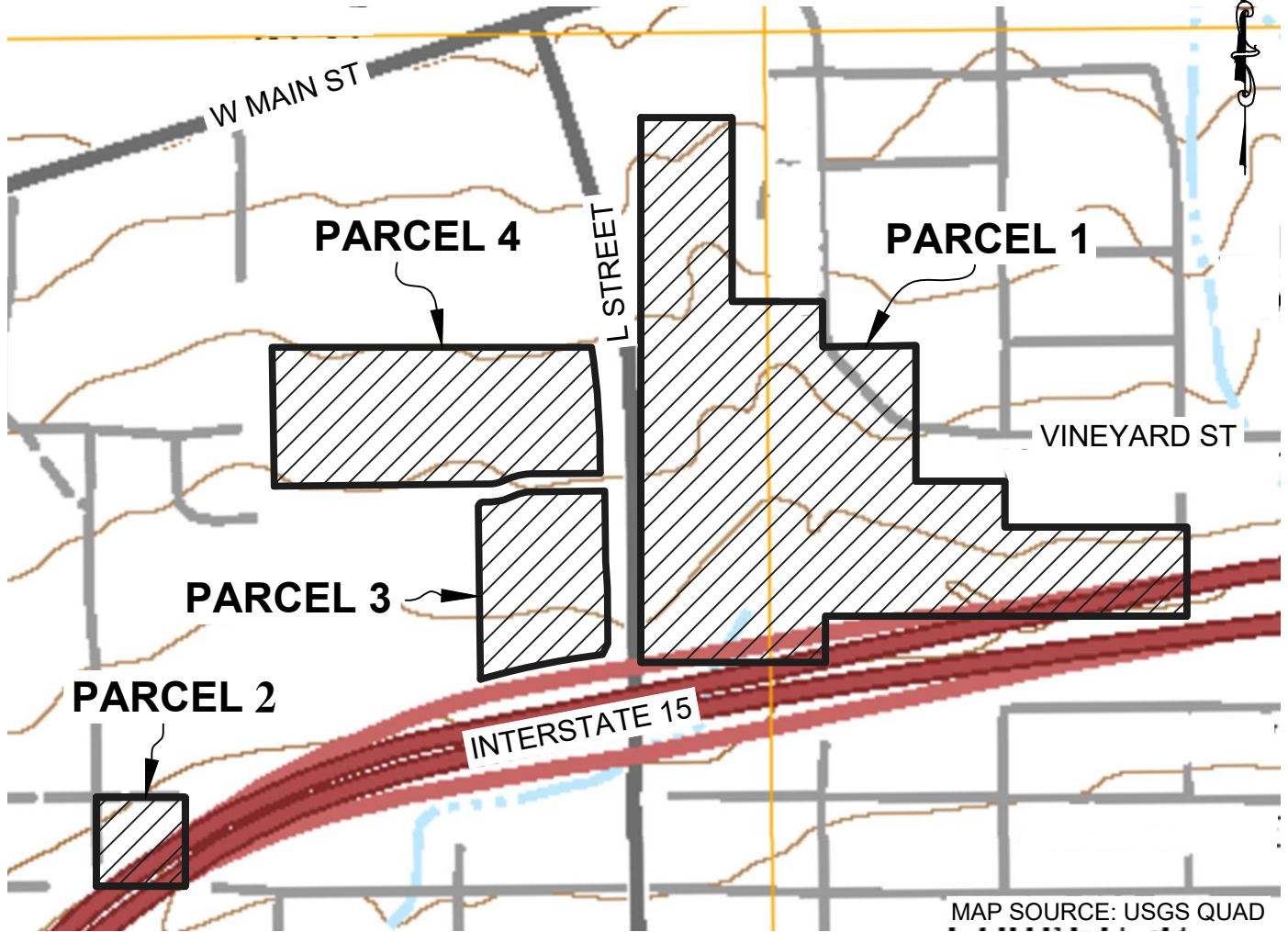
Find that the authorization for the Executive Officer, or designee, to amend the Offer to Purchase Real Estate in San Bernardino County and Acceptance of Offer to Purchase is in the best interests of the State.

AUTHORIZATION:

1. Find that the Commission is acting as the School Land Bank Trustee.
2. Authorize the Executive Officer, or designee, with the written agreement of Barstow Spanish Trail LLC, a California limited liability company, to amend the "Offer to Purchase Real Estate in the County of San Bernardino and Acceptance of Offer to Purchase" previously authorized by the Commission, to extend the date that allows either party to terminate the agreement from June 30, 2020, to June 30, 2021, contingent on the receipt of a non-refundable Second Deposit in the amount of \$45,000.
3. In the event the transaction does not close on or before June 30, 2021, authorize the transfer of the Second Deposit of \$45,000 into the School Land Bank Fund.

NO SCALE

SITE

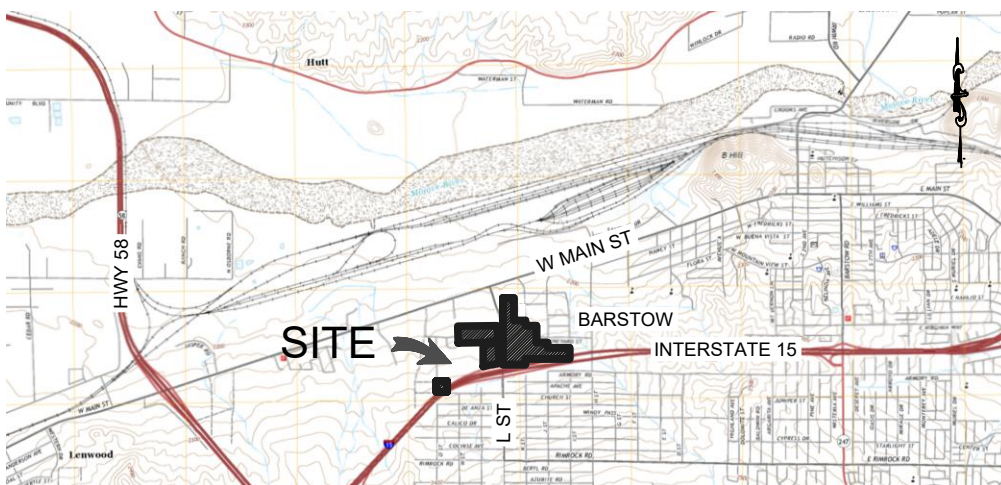


MAP SOURCE: USGS QUAD

VICINITY OF THE INTERSECTION OF INTERSTATE 15 AND
L STREET, CITY OF BARSTOW

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE SALE PROPOERTY, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE APPLICANT OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

EXHIBIT A

SA 5772
BARSTOW SPANISH
TRAIL, LLC
SCHOOL LANDS - SALE
SAN BERNARDINO
COUNTY



JWP 3/18/2020