



COUNCIL AGENDA STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS DATE: 02/05/2019
FROM: CITY MANAGER ITEM NO: 4
SUBJECT: TRES HERMANOS RANCH

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. Adopt a Resolution entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHINO HILLS, CALIFORNIA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SETTLEMENT AGREEMENT AND THE AMENDED AND RESTATED TRES HERMANOS CONSERVATION AUTHORITY JOINT POWERS AGREEMENT ("TRES HERMANOS JPA") WITH THE CITY OF DIAMOND BAR AND THE CITY OF INDUSTRY REGARDING TRES HERMANOS RANCH; APPROPRIATE \$2,959,967 FROM COMMUNITY FACILITIES DISTRICT REGIONAL FUNDS AS CHINO HILLS CONTRIBUTION TO THE POTENTIAL PURCHASE OF TRES HERMANOS RANCH BY THE NEWLY CONSTITUTED TRES HERMANOS CONSERVATION AUTHORITY ("AUTHORITY"); APPOINT COUNCILMEMBERS RAY MARQUEZ AND PETER ROGERS AS THE CHINO HILLS DIRECTORS TO SERVE ON THE AUTHORITY'S BOARD OF DIRECTORS (The proposed actions are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations (CEQA Guidelines) Section 15301); AND
2. Authorize the City Manager to take other actions necessary to implement the Settlement Agreement and the Tres Hermanos JPA.

BACKGROUND/ANALYSIS:

Tres Hermanos Ranch includes approximately 2,445 acres of undeveloped open space located within the cities of Chino Hills and Diamond Bar that has historically been used for cattle grazing. There is also a water reservoir on the property south of Grand Avenue. Approximately 1,750 acres are located within the boundaries of Chino Hills and 695 acres of the Tres Hermanos Ranch are located within the boundaries of Diamond Bar, as is depicted in Attachment 1.

In 1978, the City of Industry acquired Tres Hermanos Ranch and later that same year transferred it to the Industry Urban-Development Agency, which was the redevelopment agency established in the City of Industry. In 2012, the property was transferred to the Successor Agency to the Industry Urban--Development Agency ("Successor Agency"), as part of the dissolution of all redevelopment agencies in California under the Redevelopment Dissolution Act of 2011.

In 2014, the State Department of Finance approved the Long Ranch Property Management Plan ("Plan") for the Industry Successor Agency which governs the disposal of property assets owned by the Successor Agency as set forth in the Redevelopment Dissolution Act. The Tres Hermanos Ranch was included in that Plan.

During a period beginning in 2016, the City of Industry and San Gabriel Water & Power, LLC ("San Gabriel"), took various actions to enter into a ground lease whereby the City of

Industry would lease various properties it owned, including the Tres Hermanos Ranch, to San Gabriel for development of a massive solar facility (the "Master Lease"). Inclusion of the Tres Hermanos Ranch in the Master Lease was subject to a condition precedent that the City of Industry, in its sole discretion, purchase Tres Hermanos Ranch by December 31, 2018. The Master Lease provides that if the City of Industry made this purchase, that it would be amended to include the Tres Hermanos Ranch. Industry did not elect to purchase Tres Hermanos Ranch by that date.

In August 2017, the Oversight Board to the Successor Agency approved the sale of Tres Hermanos Ranch to the City of Industry, but placed a deed restriction on the Tres Hermanos Ranch limiting uses to open space, public use or preservation (the "Deed Restriction"). In response to that action, the approval of the Master Lease and anticipating that the City of Industry might claim the solar facility described in the Master Lease was allowed under the Deed Restriction, Chino Hills and Diamond Bar filed six lawsuits collectively in Sacramento and Los Angeles counties, challenging on various grounds, among other things, the sale of Tres Hermanos Ranch by the Successor Agency to the City of Industry and the Master Lease (the "Litigation").

The cities of Chino Hills and Diamond Bar entered into settlement discussions with the City of Industry in an effort to resolve outstanding concerns regarding the future use of Tres Hermanos Ranch. All three cities ultimately agreed that the Tres Hermanos Ranch provides important environmental, educational, and recreational resources to the community and region. It was also determined that the most prudent method to protect these resources and the interest of each respective jurisdiction would be to consider transferring ownership of the Tres Hermanos Ranch to the re-constituted Authority, in which all three cities would have representation on a Board of Directors. Through the Authority, the planning and coordination for the long-term use of the Tres Hermanos Ranch will allow for a more rational approach to any proposed future use consistent with open space preservation, the existing conditions on the Tres Hermanos Ranch and the Deed Restriction..

To resolve the Litigation, the proposed Settlement Agreement (included as Attachment 2) will provide for the following:

- The existing Tres Hermanos Conservation Authority Joint Powers Agreement will be amended and restated to create a newly re-constituted Tres Hermanos Conservation Authority pursuant to the Joint Powers Act, Government Code sections 6500 et seq., (the "Tres Hermanos JPA"), which Authority will, among other things:
 - Include the cities of Chino Hills, Diamond Bar and Industry as Members of the Authority;
 - Create a Seven (7) member governing Board of Directors comprised of two (2) Members from Chino Hills, two (2) Members from Diamond Bar and three (3) Members from Industry;
 - Provide that any proposed use of the property must be approved by the Board of Directors and be consistent with the Deed Restriction and applicable land use regulations of the cities of Chino Hills and Diamond Bar; and
 - Include additional provisions for administration, voting rights, budgeting, and distribution of operating revenue and expenses concerning the Authority.
- The City of Industry will acquire Tres Hermanos Ranch from the Successor Agency in the amount of \$41,650,000.
- The City of Industry will transfer Tres Hermanos Ranch to the Authority for the purchase price of \$41,650,000.
- The cities of Chino Hills and Diamond Bar will collectively deposit into escrow, 10% of the Tres Hermanos Conservation Authority's purchase price, i.e., \$4,165,000

(\$2,959,967 of which is Chino Hills share), toward the acquisition of the Tres Hermanos Ranch by the Authority. At close of escrow this amount will be transferred to the City of Industry, which will be credited with the balance of the purchase price as its contribution toward the Authority's acquisition.

- The Tres Hermanos Ranch will be transferred to the Authority subject to the Deed Restriction, limiting the use for "open space, public use or preservation".
- The conditions under which the cities of Chino Hills and Diamond Bar will conditionally and ultimately with prejudice, dismiss the Litigation.

As is set forth in more detail in Resolution 2019R-XXX, the Settlement Agreement, creation of the Authority, and transfer of Tres Hermanos Ranch to the Authority will for the reasonably foreseeable future, result in maintaining the Tres Hermanos Ranch in its current existing condition. The three cities do not have any existing or contemplated plans for any development of Tres Hermanos Ranch or addition to or subtraction from any current uses thereon. Acquisition by the Authority and adoption of the Tres Hermanos JPA will ensure that local land use authority, such as zoning and general plan designation, remains with and will be subject to, the cities of Chino Hills and Diamond Bar as it is currently. Any proposed future uses of Tres Hermanos Ranch will be subject to the approval of the Authority's Board of Directors and must be consistent with both the Deed Restriction and the applicable land use regulations of the cities of Chino Hills and Diamond Bar. Through contributions made by the Authority's Members, the maintenance of Tres Hermanos Ranch by the Authority will be continued as it is presently.

The approval of the Settlement Agreement and Tres Hermanos JPA requires approval by the city councils of the cities of Diamond Bar and Industry, which will be concurrently considering these actions along with Chino Hills. If approved by all three cities, the Authority will then meet to consider the purchase and sale agreement transferring Tres Hermanos Ranch from the City of Industry to the Authority.

ENVIRONMENTAL (CEQA) REVIEW:

The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations (CEQA Guidelines) Section 15301; for the following reasons: (1) the Actions will result in the transfer of ownership interests of Tres Hermanos Ranch to the Conversation Authority, the primary purpose of which is to preserve open space and existing habitat and historical resources which Actions are categorically exempt from CEQA review and (2) the Actions will result in the operation, repair, maintenance or minor alteration of existing public structures, facilities, mechanical equipment or topographical features with negligible or no expansion of the existing uses, which Actions are categorically exempt from CEQA review pursuant to CEQA Guidelines Section 15301.

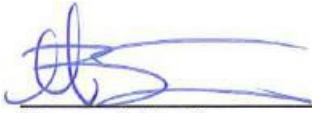
FISCAL IMPACT:

As noted in the recommendation, Chino Hills contribution toward the proposed purchase of the Tres Hermanos property is pro-rated by the percentage of the ranch acreage in the City. Therefore the \$2,959,967 represents Chino Hills' share. Community Facilities District Regional funds will be used for the acquisition. The City's share of the Authority's annual maintenance costs will be determined through the budget process and is currently estimated at approximately \$150,000 annually. An appropriation for the City's share of the Authority's maintenance costs will be subject to further action by the City Council at a subsequent meeting.

REVIEWED BY OTHERS:

The City Attorney and Finance Director have reviewed this agenda item.

Respectfully Submitted,



Konradt Bartlam
City Manager

Attachments Resolution

Exhibit 1 - Settlement Agreement

Exhibit 1A - Amended & Restated Agreement

Exhibit 1B - P&S Agreement

Exhibit 2 - Budget Amendment

RESOLUTION NO. 2019R-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHINOHILLS, CALIFORNIA APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SETTLEMENT AGREEMENT AND THE AMENDED AND RESTATED TRES HERMANOS CONSERVATION AUTHORITY JOINT POWERS AGREEMENT (“TRES HERMANOS JPA”) WITH THE CITY OF DIAMOND BAR AND THE CITY OF INDUSTRY REGARDING TRES HERMANOS RANCH; APPROPRIATE \$2,959,967 FROM COMMUNITY FACILITIES DISTRICT REGIONAL FUNDS AS CHINO HILLS CONTRIBUTION TO THE POTENTIAL PURCHASE OF TRES HERMANOS RANCH BY THE NEWLY CONSTITUTED TRES HERMANOS CONSERVATION AUTHORITY (“AUTHORITY”); APPOINT COUNCILMEMBERS RAY MARQUEZ AND PETER ROGERS AS THE CHINO HILLS DIRECTORS TO SERVE ON THE AUTHORITY’S BOARD OF DIRECTORS

WHEREAS, the Successor Agency to the Industry Urban-Development Agency (the “Industry Successor Agency”) is the owner of certain real property which consists of Assessor Parcel Numbers: 1000-011-19, 1000-011-20, 1000-011-21, 1000-011-22, 1000-021-13, 1000-021-14, 1000-031-14 and 1000-031-15 in San Bernardino County and 8701-021-271, 8701-022-270 and 8701-022-273 in Los Angeles County, commonly known as, and hereinafter referred to as, "Tres Hermanos Ranch"; and

WHEREAS, the Oversight Board of the Industry Successor Agency (the “Oversight Board”) was established pursuant to California Health and Safety Code Section 34179 to review and make determinations regarding various actions taken by the Industry Successor Agency; and

WHEREAS, the Industry Successor Agency and Oversight Board approved the sale of Tres Hermanos Ranch to the City of Industry in the amount of \$41,650,000, and required as a condition of such approval that a deed restriction limiting the use of the Tres Hermanos Ranch to open space, public use, or preservation be included in the grant deed conveying Tres Hermanos Ranch to Industry (the “Deed Restriction”); and

WHEREAS, the City of Industry entered into a Master Lease agreement and amendments thereto, with San Gabriel Water and Power, LLC (the “Master Lease”), in which the City of Industry (“Industry”) agreed to lease to San Gabriel Water and Power, LLC (“San Gabriel”), various properties it owns, or might in the future own, including the Tres Hermanos Ranch, to develop a large solar facility, provided that certain conditions precedent were met; and

WHEREAS, the Master Lease provides that Industry and San Gabriel would amend the Master Lease to include the Tres Hermanos Ranch in the leased property,

provided that Industry elected, in its sole discretion, to acquire the Tres Hermanos Ranch no later than December 31, 2018; and

WHEREAS, the cities of Chino Hills and Diamond Bar filed six lawsuits in Sacramento and Los Angeles counties challenging, among other things, the sale of Tres Hermanos Ranch by the Industry Successor Agency to Industry, the Oversight Board's approval thereof, and the Master Lease, on various grounds set forth in the lawsuits (collectively, the "Tres Hermanos Lawsuits"); and

WHEREAS, the cities of Chino Hills, Diamond Bar and Industry (collectively, the "Cities") entered into settlement discussions to resolve the Tres Hermanos Lawsuits; and

WHEREAS, based on those discussions, the Cities have expressed their desire to resolve the Tres Hermanos Lawsuits in the manner set forth in that certain Settlement Agreement and Mutual Releases, a true and correct copy of which is attached to this Resolution as Exhibit 1 and incorporated fully herein by this reference (the "Tres Hermanos Settlement Agreement").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chino Hills as follows:

Section 1. Recitals. The City Council finds the recitals set forth in this Resolution to be true and correct.

Section 2. Settlement Agreement. The City Council approves the Tres Hermanos Settlement Agreement and authorizes the City Manager to execute same and to execute and take such further actions as may be necessary that are consistent with and necessary to enter into the Tres Hermanos Settlement Agreement.

Section 3. Joint Powers Agreement. The City Council approves the Amended and Restated Tres Hermanos Conservation Authority Joint Powers Agreement, a true and correct copy of which is attached as Exhibit "A" to Exhibit 1 of this Resolution (the "Tres Hermanos JPA"), and authorizes the City Manager to execute same and to execute such other documents and take such further actions as may be necessary to make effective and implement the Tres Hermanos JPA.

Section 4. Appointment of Directors. Council Members Ray Marquez and Peter Rogers are appointed to serve as directors on the Board of Directors of the Tres Hermanos Conservation Authority (the "Conservation Authority"), and to exercise such powers as are set forth in the Tres Hermanos JPA. The Council may make future appointments to the Conservation Authority by minute action rather than by resolution.

Section 5. Environmental Determination.

A. Pursuant to the Settlement Agreement, Industry will acquire Tres Hermanos Ranch from the Industry Successor Agency subject to the Deed Restriction. Upon

recording of a grant deed transferring Tres Hermanos Ranch from the Industry Successor Agency to Industry, Industry will immediately transfer Tres Hermanos Ranch to the Conservation Authority by grant deed in accordance with a purchase and sale agreement between Industry and the Conservation Authority, a true and correct copy of which is attached as Exhibit "B" to Exhibit 1 of this Resolution (the "PSA").

B. The transfer of Tres Hermanos Ranch to the Conservation Authority is subject to the approval of the Conservation Authority's Board of Directors, which is scheduled to convene its first meeting on February 6, 2019, to consider the approval of the PSA.

C. Tres Hermanos Ranch includes approximately 2,445 acres of land, approximately 1,750 acres of which are located within the jurisdiction of the City of Chino Hills ("Chino Hills") and 695 acres within the jurisdiction of the City of Diamond Bar ("Diamond Bar"). Tres Hermanos Ranch is primarily open space, with minor ancillary uses such as the Arnold Reservoir, residence for a caretaker and cattle grazing. For over 40 years, Tres Hermanos Ranch has been owned by either Industry or the Industry Successor Agency.

D. As set forth in the general plans of Diamond Bar and Chino Hills, Tres Hermanos Ranch consists of non-native grasslands used primarily for grazing and agriculture, a freshwater emergent wetland, Southern Willow Scrub, pockets of Coastal Sage Scrub, considered sensitive habitat by the California Department of Fish and Wildlife, Sycamore Alluvial Woodland and Coast Live Oak Woodland. In addition, the Chino Hills general plan has identified the Western Pond Turtle as being identified around the Arnold Reservoir and as a state species of concern. It identifies several potential historical resources such as structures and/or artifacts associated with the Tres Hermanos Adobe, a multi-arch dam and the Arnold Reservoir. Although public access to Tres Hermanos Ranch is limited, it is believed that Tres Hermanos Ranch is home to mule deer, mountain lions, bobcats and other animal and bird species native to this part of Southern California.

E. If the Conservation Authority's Board of Directors approves the PSA, Tres Hermanos Ranch will be transferred to the Conservation Authority subject to the Deed Restriction. As set forth in the Tres Hermanos JPA, the general purpose of the Conservation Authority is to "... coordinate the overall conservation, use and potential improvement of the Ranch through collaboration by its Members...." As set forth more fully in the Tres Hermanos JPA, any proposed use of Tres Hermanos Ranch will require the approval of the Conservation Authority's Board of Directors and must be consistent, as applicable, with the current zoning and general plan designations of Chino Hills and Diamond Bar, as well as the Deed Restriction. The Conservation Authority will operate, repair and maintain Tres Hermanos Ranch and existing tangible property or facilities located thereon, in accordance with its general purpose and the Deed Restriction. Administration of the Conservation Authority and funding therefore will be shared obligations of the Cities.

F. There are no proposed new uses, new improvements or major alterations contemplated on Tres Hermanos Ranch for the foreseeable future.

G. In considering this Resolution, the staff report, and all other documents, oral testimony and other evidence presented at the meeting on this Resolution, the City Council finds that, consistent with the preceding discussion in this Paragraph 5, the City Council's adoption of this Resolution approving the Settlement Agreement and the Tres Hermanos JPA and which contemplates the acquisition of Tres Hermanos Ranch by the Conservation Authority (collectively, the "Actions"), are categorically exempt from the California Environmental Quality Act ("CEQA") for the following reasons: (1) the Actions will result in the transfer of ownership interests of Tres Hermanos Ranch to the Conservation Authority, the primary purpose of which is to preserve open space and existing habitat and historical resources including, but not limited to, those identified in Sections 5.C and 5.D of this Resolution, which Actions are categorically exempt from CEQA review pursuant to California Code of Regulations, Title 14, Chapter 3 ("CEQA Guidelines"), Section 15325; and (2) the Actions will result in the operation, repair, maintenance or minor alteration of existing public structures, facilities, mechanical equipment or topographical features including, but not limited to, those identified in Section 5.C and 5.D of this Resolution, with negligible or no expansion of the existing uses, which Actions are categorically exempt from CEQA review pursuant to CEQA Guidelines Section 15301.

Section 6. Budget Amendment No. 19B037 is hereby approved as reflected on Exhibit No. 2, attached hereto.

Section 7. This Resolution shall take effect immediately upon its passage and adoption and execution by the Mayor.

PASSED, APPROVED, AND ADOPTED this 4th day of February, 2019.

CYNTHIA MORAN, MAYOR

ATTEST:

CHERYL BALZ, CITY CLERK

APPROVED AS TO FORM:

MARK D. HENSLEY, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) §
CITY OF CHINO HILLS)

I, Cheryl Balz, City Clerk of the City of Chino Hills, California, do hereby certify that the foregoing Resolution was duly and regularly passed, approved and adopted by the City Council of the City of Chino Hills, California, at its Special meeting held on the 4th day of February 2019, by the following Roll Call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

CHERYL BALZ, CITY CLERK
CITY OF CHINO HILLS

Attachments:

- Exhibit 1: Tres Hermanos Settlement Agreement
- Exhibit 1A: Amended and Restated Tres Hermanos Conservation Authority
 Joint Powers Agreement
- Exhibit 1B: Purchase and Sale Agreement/Joint Escrow Instructions
- Exhibit 2: Budget Amendment