

## RESOLUTION NO. 2019-02

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DIAMOND BAR APPROVING A SETTLEMENT AGREEMENT WITH THE CITY OF CHINO HILLS AND THE CITY OF INDUSTRY; APPROVING AN AMENDED AND RESTATED TRES HERMANOS CONSERVATION AUTHORITY JOINT POWERS AGREEMENT; APPOINTING REPRESENTATIVES TO SERVE AS DIRECTORS AND ALTERNATE ON THE BOARD OF DIRECTORS OF THE TRES HERMANOS CONSERVATION AUTHORITY; AND NOTICE OF CEQA EXEMPTION REGARDING SAME**

**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: 8701-021-271, 8701-022-270 and 8701-022-273 in Los Angeles County, and 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, 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 Diamond Bar 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.** Mayor Carol Herrera and Mayor Pro Tem Steve Tye are appointed to serve as directors, and Council Member Nancy Lyons is appointed to serve as the alternate, 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.

**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 7, 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 hearing 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 Conversation 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.** This Resolution shall take effect immediately upon its passage and adoption and execution by the Mayor.

**PASSED, APPROVED, AND ADOPTED** this 5th day of February, 2019.

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Carol Herrera, Mayor

ATTEST:

I, Tommye A. Cribbins, City Clerk of the City of Diamond Bar, California, do hereby certify that the foregoing Resolution was duly and regularly passed, approved and adopted by the City Council of the City of Diamond Bar, California, at its Special meeting held on the 5th day of February 2019, by the following Roll Call vote:

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

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Tommye A. Cribbins, City Clerk  
City of Diamond Bar

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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