

STAFF REPORT

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**THIRD 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 meeting of August 17, 2017, the Commission, acting as the trustee of the School Land Bank Fund, authorized the Executive Officer or her 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 allows either party to terminate the agreement without penalty until August 1, 2018.

In May 2018, the Applicant requested an amendment to the Offer that would 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 June 21, 2018 public meeting ([Item 74, June 21, 2018](#)).

In September 2018, the Applicant requested a second amendment to the Offer that would 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 public meeting of December 3, 2018 ([Item 66, December 3, 2018](#)).

The Applicant is now requesting a third amendment to the Offer that will extend the date to allow either party to terminate the agreement without penalty to June 30, 2020. The amendment includes a provision that Applicant must submit a non-refundable deposit in the amount of \$45,000 prior to the execution of this amendment. The deposit will be applied to the purchase price only if the

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transaction closes on or prior to June 30, 2020. If the transaction does not close by that date, the deposit will be forfeited.

STATE'S BEST INTEREST ANALYSIS:

The third 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 School Land Bank Fund pursuant to Public Resources Code section 6217.7. In the event the transaction does not close by the specified date, the \$45,000 deposit will be deposited into the State Treasury to the credit of the School Land Bank Fund pursuant to Public Resources Code section 6217.7.

Properties may be acquired with monies from the Fund that would be 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 third amendment to the Offer is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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.
2. 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.

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

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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 her 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, 2019 to June 30, 2020, contingent on the receipt of a non-refundable deposit in the amount of \$45,000.
3. In the event the transaction does not close on or before June 30, 2020, authorize the deposit of the \$45,000 non-refundable deposit into the School Land Bank Fund.