



**SUBMITTAL TO THE BOARD OF DIRECTORS
REGIONAL PARK AND OPEN SPACE DISTRICT
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

627



FROM: REGIONAL PARK AND OPEN SPACE DISTRICT

SUBMITTAL DATE:
May 4, 2009

SUBJECT: APPROVAL OF SECOND AMENDMENT TO OPTION AGREEMENT WITH THE MT. SAN JACINTO COMMUNITY COLLEGE DISTRICT FOR SALE OF PROPERTY IN WILDOMAR

RECOMMENDED MOTION: That the Board of Directors:

- 1) Approve the attached Second Amendment to Option Agreement to Purchase and Sell Real Property and Escrow Instructions ("Second Amendment"), and authorize the Chairman to execute the Second Amendment on behalf of the Park and Open Space District;
- 2) Authorize the General Manager to take all actions necessary to administer the Option Agreement executed April 8, 2003, as amended, in accordance with its terms and conditions.

BACKGROUND: An Option Agreement To Purchase Real Property and Joint Escrow Instructions ("Option Agreement") was entered into on April 8, 2003 by and between the Riverside County Regional Park and Open Space District ("Park District") and the Mt. San Jacinto Community College District ("MSJCC"). The property being purchased is approximately 80 acres in Wildomar, north of Clinton Keith Road.

(continued on page 2)

Scott Bangle, General Manager

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	N/A

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY:

Alex Gann

County Executive Office Signature

Dept' Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: | **District:** 1 | **Agenda Number:**

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

13.1

FORM APPROVED COUNTY COUNSEL
BY: 5/4/09
DATE
ELENA M. BOEVA

SUBJECT: APPROVAL OF SECOND AMENDMENT TO OPTION AGREEMENT WITH THE MT. SAN JACINTO COMMUNITY COLLEGE DISTRICT FOR SALE OF PROPERTY IN WILDOMAR

The initial term of the Option Agreement was for four (4) years commencing May 1, 2003 and ending April 30, 2007.

On October 24, 2006 the Board of Directors approved the First Amendment to the Option Agreement extending the option period for two (2) years (ending April 30, 2009), with a right to four further six (6) month extensions, not to exceed two (2) years, with a payment of \$50,000.00 for each of these further extensions. Thus, the maximum contract period ends April 30, 2011.

The purpose of the Second Amendment is to waive the first two (2) of the four (4) payments of \$50,000.00 required for the four (4) potential further extension periods.

This Board of Directors has already approved the provision that all option monies paid by MSJCC shall be fully refundable in the event the sale is not consummated. Agreement was given by the Board based on MSJCC's good faith efforts and substantial financial investments during the pendency of litigation filed as Ste. Marie v. Riverside County Regional Park and Open Space District. All arguments have been completed in this matter with the California Supreme Court's decision expected within the next forty-five (45) days.

To date, MSJCC has expended well in excess of \$500,000 for architectural, legal, environmental and other reports and studies in anticipation of consummation of the Option Agreement.

**SECOND AMENDMENT TO OPTION AGREEMENT TO PURCHASE AND SELL
REAL PROPERTY AND ESCROW INSTRUCTIONS**

THIS SECOND AMENDMENT TO OPTION AGREEMENT TO PURCHASE REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS ("Second Amendment to Option Agreement") is effective this 23 day of April, 2009 ("Effective Date"), by and between the RIVERSIDE COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT, a political subdivision of the State of California ("Seller") and the MT. SAN JACINTO COMMUNITY COLLEGE DISTRICT ("Buyer"). Seller and Buyer are sometimes hereinafter referred to individually as a "Party," and collectively as the "Parties."

RECITALS

A. Seller is the owner of certain real property commonly known as the Wildomar Property. Seller and Buyer previously entered into an Option Agreement to Purchase Real Property and Joint Escrow Instructions effective May 1, 2003 ("Option Agreement") attached hereto as Exhibit "A," and incorporated herein by reference; and

B. Seller and Buyer amended the Option Agreement ("Amendment to Option Agreement") on October 24, 2006, attached hereto as Exhibit "B," and incorporated herein by reference; and

C. Seller and Buyer agree that Buyer has properly exercised all prior option extensions with the current extension period expiring on April 30, 2009. Four 6-month extensions remain available according to the terms of the Option Agreement as previously amended; and

D. Seller and Buyer desire to further amend the Option Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual promises, covenants, conditions, representations and agreements contained herein, Seller and Buyer agree to further amend the Option Agreement as follows:

2. Option to Purchase.

2.7 Right to Further Extend Option. This Section is superseded in its entirety and hereby amended as follows: Subsequent to the six (6) year period referenced under Section 2.6, Buyer may further exercise four (4) additional six month (6) month option extension periods. For each further extension, Buyer shall notify Seller, in writing, of the intent to extend. The costs and expenses heretofore incurred by Buyer in its performance under this Agreement are deemed adequate consideration for the first two additional six month (6) month option extension periods. For the third and fourth additional six month (6) month option extension periods, Buyer shall notify Seller, in writing, of the intent to extend accompanied by a payment of \$50,000. The maximum duration of this Option Agreement, as amended, shall not exceed eight (8) years.

In calendar terms, the four additional six (6) month option extension periods set forth above and the required consideration are:

- 1) May 1, 2009 through and including October 31, 2009 – no additional consideration due;
- 2) November 1, 2009 through and including April 30, 2010 – no additional consideration due;
- 3) May 1, 2010 through and including October 31, 2010 - \$50,000 payment due;
- 4) November 1, 2010 through and including April 30, 2011 - \$50,000 payment due.

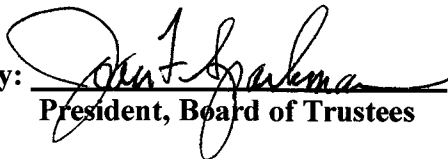
2.8 Refundable Payments. The original "Option payment" and all Option extension payments made pursuant to the terms of this Agreement, and all amendments thereto, shall be applicable to the purchase price and are fully refundable in the event Buyer fails to exercise its Option.

IN WITNESS WHEREOF, the parties have executed this Second Amendment to Option Agreement as of the date and year first written above.

**RIVERSIDE COUNTY REGIONAL PARK
AND OPEN SPACE DISTRICT**

**MT. SAN JACINTO COMMUNITY
COLLEGE DISTRICT**

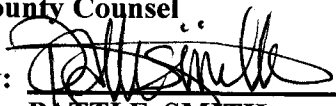
By: _____
Chairman, Riverside County Regional
Park and Open Space District

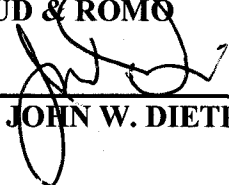
By: 
President, Board of Trustees

APPROVED AS TO FORM:

PAMELA J. WALLS
County Counsel

**ATKINSON, ANDELSON, LOYA,
RUUD & ROMO**

By: 
PATTIE F. SMITH
Deputy County Counsel

By: 
JOHN W. DIETRICH

ATTEST:
KECIA HARPER-IHEM, Clerk

By: _____
Deputy

(SEAL)