

**SUBMITTAL TO THE BOARD OF DIRECTORS OF THE
RIVERSIDE COUNTY PUBLIC FINANCING AUTHORITY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

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C



FROM: Economic Development Agency

SUBMITTAL DATE:
February 23, 2011

SUBJECT: Resolution No. PFA 2011-04, Notice of Intention to Convey Real Property Interests in Property Located East of Lime Street & West of Highway 91, between 11th & 12th Streets in the City of Riverside, California; Possession & Use Agreement with Riverside County Transportation Commission

RECOMMENDED MOTION: That the Board of Directors:

1. Adopt Resolution No. PFA 2011-04, Notice of Intention to Convey a Real Property Interests located east of Lime Street & west of Highway 91, between 11th & 12th Streets in the City of Riverside, California, consisting of portions of Assessor's Parcel Number 215 -310-007, to the Riverside County Transportation Commission; and
2. Direct the Clerk of the Board to give notice pursuant to Government Code Section 6061; and,

(Continued)

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA

Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: N/A

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

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature

BY:
Jennifer I. Sargent

FORM APPROVED COUNTY COUNSEL
BY: Dale A. Gardner 2/23/11
DATE: 2/23/11
Departmental Concurrence

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

Prev. Agn. Ref.: _____ District: 2 Agenda Number: **5.2**

Economic Development Agency

Resolution No. PFA 2011-04, Notice of Intention to Convey Real Property Interests in Property Located East of Lime Street & West of Highway 91, between 11th & 12th Streets in the City of Riverside, California; Possession & Use Agreement with Riverside County Transportation Commission

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RECOMMENDED MOTION: (Continued)

3. Approve the Possession & Use Agreement between the Riverside County Public Finance Authority, the State of California Department of General Services, and the Riverside County Transportation Commission for the right to construct on land identified as Assessor Parcel Number 215-310-007.

BACKGROUND:

The Riverside County Transportation Commission (RCTC) is the lead agency on a multitude of highway improvement projects in Riverside County, including the SR-91 HOV project, which is intended to add high occupancy vehicle (HOV) lanes to Highway 91 from Adams Street to the 60/91/215 interchange, in both directions. The project will also improve ramps, bridges and freeway access, and it will close a six mile HOV gap. Included in this project is realignment of the 9th Street onramp to 10th Street, relocation of existing sewer facilities to 12th Street (connecting to the existing line that services the State Appellate Court building), and the construction of an overhead ramp that will eliminate fourteen parking stalls on the subject property on an interim basis.

The anticipated duration of the impact of the project to this property is 18 months. RCTC will provide for replacement parking at the CAC on an interim basis, at RCTC expense.

Pursuant to Government Code Section 25365, Riverside County Public Finance Authority (RCPFA) may transfer or exchange interests in real property belonging to RCPFA to another public agency, upon the terms and conditions as are agreed upon and without complying with any other provisions of the Government Code, if the property or interest therein is not required for RCPFA use.

On December 16, 2010, RCTC presented a revised offer to the County of Riverside on behalf of RCPFA to purchase various fee and easement interests, along with a temporary construction easement. The amount of the offer is \$110,000.00.

RCPFA intends to convey to the Riverside County Transportation Commission District, by appropriate instruments, varying interests in real property located in the City of Riverside, located east of Lime Street & west of Highway 91, between 11th & 12th Streets in the City of Riverside, California, consisting of portions of Assessor's Parcel No. 215-310-007 as depicted on Exhibit A (Master Parcel) and more particularly described in Exhibit B-1, B-2, C-1 and C-2, Legal Descriptions and depictions.

In the interim, in order for RCTC to obtain Caltrans right of way certification, staff recommends that RCPFA enter into the Possession & Use Agreement, which will protect the project funding and enable construction bidding to begin while the property acquisition details are finalized. This Possession & Use Agreement grants an irrevocable right to RCTC to possess and use the described real property to further its SR-91 HOV project.

(Continued)

Economic Development Agency

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BACKGROUND: (Continued)

Real Estate Division staff labor, County Counsel review and TLMA survey review costs will be covered by the proceeds from a similar offer made to the County of Riverside on adjacent property. The proceeds of the offer will be directed as set forth in existing bond financing agreements. RCTC has agreed to cover to the costs of outside bond counsel.

This resolution has been reviewed and approved by County Counsel as to legal form.

Attachments:

Exhibit A, Depiction of the Master Parcel

Exhibit B-1, Legal Description of the Fee Property

Exhibit B-2, Depiction of the Fee Property

Exhibit C-1, Legal Description of the Aerial Easement Property

Exhibit C-2, Depiction of the Aerial Easement Property

1 BOARD OF SUPERVISORS

COUNTY OF RIVERSIDE

2 EX OFFICIO BOARD OF DIRECTORS

PUBLIC FINANCING AUTHORITY

3
4 RESOLUTION NO. PFA 2011-04

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6 NOTICE OF INTENTION TO CONVEY REAL PROPERTY INTERESTS LOCATED
7 EAST OF LIME STREET & WEST OF HIGHWAY 91, BETWEEN 11TH & 12TH
8 STREETS IN THE CITY OF RIVERSIDE, CALIFORNIA, CONSISTING OF PORTIONS
9 OF ASSESSOR'S PARCEL NO. 215-310-007, BY VARIOUS INSTRUMENTS TO THE
10 RIVERSIDE COUNTY TRANSPORTATION COMMISSION

11
12 WHEREAS, the Riverside County Public Financing Authority (the "Authority") has
13 been formed pursuant to Section 6500 and following of the California Government Code
14 (the "Act") to assist the County of Riverside (the "County") in financing public capital
15 improvements and is authorized pursuant to Section 6584 and following of the Act to
16 issue bonds for such purposes; and

17 WHEREAS, pursuant to the Trust Agreement, dated as of November 1, 1997
18 (the "Trust Agreement"), between the Authority and the Treasurer of the State of
19 California, as trustee (the "Treasurer"), the Authority issued its 1997 Lease Revenue
20 Bonds (State of California Court of Appeal Fourth Appellate District, Division Two
21 Project) (the "Bonds") to, among other things, finance the acquisition of certain land east
22 of Lime Street and west of Highway 91 between 11th and 12th Streets, identified by and
23 as Assessor Parcel Number 215-310-007 (the "Site") from the County, and the
24 acquisition, installation and construction thereon of a court building, related parking
25 facilities and other related equipment and improvements currently comprising the State
26 of California Court of Appeal, Fourth Appellate District (the "Court"), which was leased
27 to the Department of General Services of the State of California (the "Department")
28 pursuant to the Riverside County California State Court of Appeal Fourth Appellate

FORM APPROVED COUNTY COUNSEL
BY: Dale A. Gardner 7/24/11 DATE

1 District, Division Two Building Lease, dated October 17, 1997, as amended by
2 Addendum No. 1 to Lease, dated as of November 1, 1997 (as amended, the "Lease"),
3 each by and between the County and the Department; and

4 WHEREAS, pursuant to the Site Purchase, Assignment of Lease and Agency
5 Agreement, dated as of November 1, 1997, between the County and the Authority, the
6 County, among other things, sold the Site to the Authority and assigned all of its rights
7 and interests in the Lease to the Authority; and

8 WHEREAS, the Court was built on the Site and the Department currently
9 possesses the Site to operate the Court pursuant to the Lease; and

10 WHEREAS, the Riverside County Transportation Commission ("RCTC") has
11 notified the Authority and the Department that RCTC requires immediate possession of
12 a portion of the Site (such portion hereinafter referred to as the "Parcel") for the purpose
13 of expanding a portion of State Highway Route 91 (the "Project"); and

14 WHEREAS, due to certain funding and timing constraints, the Authority and the
15 Department are unable to consummate a release of the Parcel pursuant to an
16 amendment of the Lease and other documents; and

17 WHEREAS, RCTC, the Authority and the Department agree that any delay in the
18 start of construction of the Project is contrary to the public interest; and

19 WHEREAS, RCTC, the Authority and the Department have determined that it is
20 in the public interest to enter into an Agreement of Possession and Use (the
21 "Agreement"), the form of which has been presented to the Board of Directors of the
22 Authority (the "Board") and to which the legal description of the Parcel is included, to
23 allow RCTC to take immediate possession of the Parcel to proceed with construction of
24 the Project without delay; and

25 WHEREAS, RCTC, the Department and the Authority agree that the Agreement
26 will be entered into in the interest of time and with the understanding that RCTC will
27 continue to negotiate in good faith with the Authority and the Department to acquire their
28 respective interests in the Parcel by direct purchase, which will ultimately require

1 amendment of the Lease and other documents to be approved by the Board at a later
2 meeting; and

3 WHEREAS, pursuant to the Agreement, if RCTC, the Department and the
4 Authority do not reach a settlement within 180 days of the execution thereof, the
5 Authority acknowledges that RCTC shall begin timely preparations for the filing of a
6 complaint in eminent domain to acquire title to the Parcel; and

7 WHEREAS, pursuant to the Lease and the Indenture, the Authority also
8 acknowledges that any amounts that the Authority is to receive in selling the Parcel to
9 RCTC shall be used by the Treasurer to redeem Bonds; and

10 NOW, THEREFORE BE IT RESOLVED, DETERMINED AND ORDERED BY
11 THE AUTHORITY AND NOTICE IS HEREBY GIVEN BY THE BOARD AS FOLLOWS:

12 Section 1. The Board hereby determines that the Parcel is no longer required
13 for use by the Authority and hereby declares the Parcel to be surplus and intends to
14 convey the Parcel to RCTC on or after the date hereof. The terms and conditions of
15 the proposed conveyance are currently being negotiated and shall be approved by the
16 Board upon the approval of the necessary amendment of the Lease and other
17 documents.

18 Section 2. The proposed form of the Agreement on file with the Secretary of
19 the Authority and incorporated into this Resolution by reference, is hereby approved.
20 The Chairperson, the Vice-Chairperson and the Executive Director of the Authority and
21 each of their designees (each, an "Authorized Representative") are hereby authorized
22 and directed, for and in the name and on behalf of the Authority, to execute,
23 acknowledge and deliver to RCTC and the Department the Agreement in substantially
24 said form with such changes therein as such Authorized Representative may require or
25 approve, such approval to be conclusively evidenced by the execution and delivery
26 thereof by such Authorized Representative.

27 Section 3. All actions heretofore taken by any officer of the Authority or the
28 County or in connection with or related to the Agreement or any other document

1 necessary to consummate the transactions referred to herein, are hereby approved,
2 confirmed and ratified.

3 Section 4. The Authorized Representatives are, and each of them acting alone
4 is, authorized and directed to take any and all such actions, and to execute any and all
5 such documents as may be necessary or desirable to effectuate the purposes of this
6 Resolution.

7 Section 5. The Clerk of the Authority shall certify to the passage of this
8 Resolution, shall transmit a copy hereof to the County and shall cause this action of the
9 Board of Directors in adopting the same to be entered in the official minutes of the
10 Board of Directors.

11 Section 6. This Resolution shall take effect from and after its adoption.

12 Section 7. The Clerk of the Board is directed to give notice hereof as
13 provided in Section 6061 of the Government Code.

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PASSED, APPROVED AND ADOPTED on March 1, 2011 by the following vote:

AYES:

NOES:

ABESENT: