

FORM APPROVED COUNTY COUNSEL  
DATE 10/15/13  
BY: Patricia Munroe  
Departmental Concurrence

324

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Economic Development Agency/Facilities Management

**SUBMITTAL DATE:**

October 24, 2013

**SUBJECT:** First and Third Amendments to Lease – Security Bank, Two Options to Extend Lease for Five Years Each, CEQA Exempt, District 2, [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the attached First and Third Amendments to Lease;
2. Authorize the Chairman of the Board to execute the same on behalf of the County; and
3. Find that the leasing of the building and improvements are exempt from CEQA pursuant to CEQA guidelines section 15601 (b) (3) as it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment; and section 15301, Class 1, as the project involves negligible or no expansion of an existing use or alterations.

**BACKGROUND:**

**Summary**

(Commences on Page 2)

Robert Field  
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS: Revenue Lease				Budget Adjustment: No	
				For Fiscal Year: 2013/14	

**C.E.O. RECOMMENDATION:**

APPROVE

BY:

County Executive Office Signature

Jennifer L. Sargent

**MINUTES OF THE BOARD OF SUPERVISORS**

☐ A-30  
☐ Positions Added  
☐ 4/5 Vote  
☐ Change Order

Prev. Agn. Ref.:

District: 2/2

Agenda Number:

3-22

# **SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

Economic Development Agency/Facilities Management

**FORM 11:** First and Third Amendments to Lease – Security Bank, Two Options to Extend Lease for Five Years Each, CEQA Exempt, District 2, [\$0]

**DATE:** October 24, 2013

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## **BACKGROUND:**

### **Summary**

The Security Bank, tenant, currently occupies Riverside Centre, a County owned facility pursuant to the terms of their two current lease agreements. The original lease agreements are full service gross lease agreements which include all facility expenses including maintenance, custodial, utilities and property taxes. Since this is a County owned facility, property taxes are not payable by the County however a possessory interest tax is assessed and collected by the Tax Collector on entities which occupy County facilities. The possessory interest tax payments are billed twice per year by the Tax Collector and they are not a part of the rent billed by County to the Tenant. These lease amendments provide the necessary modifications to delete the property tax payment requirements and require the tenant to pay the possessory interest tax.

### **First Amendment to Lease** (Suites 810 & 830)

The current rental paid by tenant is \$2.69 per square foot, which excludes the possessory interest tax payment. This payment is estimated to be approximately \$.34 per square foot, which when added to the current rental equates to a total estimated monthly rental of \$3.03 per square foot. An analysis of the market rates in downtown Class A office buildings resulted in the market rates of comparable space to be approximately \$2.30 - \$2.40 per square foot, which includes payment of taxes, therefore a downward adjustment in tenant's base rent is necessary to bring the rent in line with comparable market rents. The new base rental rate recommended is \$2.00 per square foot, which when added to the estimated possessory interest tax amount of \$.34 per square foot, equates to a total rental of \$2.34 per square foot. In addition to the tax language changes, this amendment will adjust the rent, and provides two options to extend the lease for two periods of five years each.

### **Third Amendment to Lease** (Suite 100)

The current rental paid by tenant is \$2.91 per square foot which excludes the possessory interest tax payment. This payment is estimated to be approximately \$.34 per square foot, which when added to the current rental equates to a total estimated monthly rental of \$3.25 per square foot. An analysis of the market rates in downtown Class A office buildings concluded that the market lease rates of comparable space to be approximately \$2.30 - \$2.40 per square foot, which includes payment of taxes, therefore a downward adjustment in tenant's base rent is necessary to bring the rent in line with comparable market rents. The new base rental rate recommended is \$2.00 per square foot, which when added to the estimated possessory interest tax amount of \$.34 per square foot, equates to a total rental of \$2.34 per square foot. In addition to the tax language changes, this amendment will adjust the rent, and provides two options to extend the lease for two periods of five years each.

Pursuant to the California Environmental Quality Act (CEQA), these Leases were reviewed and determined to be categorically exempt from CEQA under CEQA Guidelines 15301, Class 1 – Existing Facilities. The proposed project, the Leases, is the letting of property involving existing facilities and no expansion of an existing use will occur.

The terms of the lease amendments are set forth in the summary below:

Lessor: County of Riverside  
3403 10<sup>th</sup> Street, Suite 400  
Riverside, California 92501

Premises Location: 3403 10<sup>th</sup> Street, Suites 100, 810 & 830  
Riverside, California 92501

(Continued)

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

Economic Development Agency/Facilities Management

**FORM 11:** First and Third Amendments to Lease – Security Bank, Two Options to Extend Lease for Five Years Each, CEQA Exempt, District 2, [\$0]

**DATE:** October 24, 2013

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**BACKGROUND:**

**Summary (Continued)**

**First Amendment, Suites 810 & 830**

Size: 10,670 square feet

Rent:	Current	New
	\$2.69 per sq. ft.	\$2.00 per sq. ft.
	\$28,666.22 per month	\$21,340.00 per month
	\$343,994.64 per year	\$256,080.00 per year

**Third Amendment, Suite 100**

Size: 3,796 square feet

Rent:	Current	New
	\$2.91 per sq. ft.	\$2.00 per sq. ft.
	\$11,059.91 per month	\$7,592.00. per month
	\$132,714.12 per year	\$91,104.00 per year

Possessory Interest Tax: In addition to the new rent Lessee to pay Possessory Interest Tax to be billed by Tax Collector and estimated to be approximately \$.34 per square foot.

Term: Current term expires November 30, 2013

Options to Extend: Provides two Option Terms of five years each. The first option extends the lease five years effective December 1, 2013 and expires November 30, 2018. The second option extends the lease for an additional five years.

Rental Adjustment: Rent to be increased 3% annually during the second Option Term.

Custodial: Provided by County

Maintenance: Provided by County

Utilities: Provided by County

Signage: Deletes signage payment to County in lieu of previous possessory interest tax paid in the Third Amendment to Lease.

The attached First and Third Amendments to Lease have been reviewed and approved by County Counsel as to legal form.

**Impact on Residents and Businesses**

There will be no foreseeable impact on residents and local businesses.

(Continued)

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Economic Development Agency/Facilities Management

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**SUPPLEMENTAL:**

**Additional Fiscal Information**

The Economic Development Agency anticipated these lease extensions and budgeted the revenue in FY 2013/14.

**Contract History and Price Reasonableness**

These leases for the First and Third Amendments commenced in 2006 and 2005 respectively and are scheduled to expire on November 30, 2013. During this period there has been no renegotiation of the lease rate or its terms. Since the leases were originated, market lease rates have declined; therefore the rental rates have been renegotiated as stated above.

Attachment:

First Amendment to Lease

Third Amendment to Lease

1 **FIRST AMENDMENT TO LEASE**

2  
3 **THIS FIRST AMENDMENT TO LEASE** ("First Amendment"), dated as of  
4 \_\_\_\_\_, 2013, is entered into by and between the **COUNTY OF**  
5 **RIVERSIDE**, a political subdivision of the State of California, ("Landlord"), as successor  
6 in interest to Riverside Centre Associates, L.P., a California limited partnership  
7 ("Original Landlord"), and **SECURITY BANK OF CALIFORNIA**, a California chartered  
8 corporation, ("Tenant"). Landlord and Tenant are sometimes collectively referred to as  
9 the "Parties."

10 **RECITALS**

11 a. Original Landlord and Tenant have entered into that certain Lease dated  
12 November 16, 2006 (the "Original Lease"), as amended, pursuant to which Original  
13 Landlord agreed to lease to Tenant and Tenant agreed to lease from Original Landlord  
14 that certain building located at 3403 10<sup>th</sup> Street, Suites 810 & 830, Riverside (the  
15 "Building"), as more particularly described in the Original Lease (the "Premises").

16 b. The Parties now desire to amend the Lease upon the terms and  
17 conditions contained in this First Amendment.

18 NOW THEREFORE, for good and valuable consideration the receipt and  
19 adequacy of which is hereby acknowledged, the Parties agree as follows:

20 1. **DELETION OF LEASE LANGUAGE PERTAINING TO**  
21 **OPERATING EXPENSES.** The following Sections of the Lease pertaining to operating  
22 expenses and all other related provisions or references are hereby deleted from the  
23 Lease: Section 2.10 entitled "Base Year," Section 2.12 entitled "Tenant's Share,"  
24 Section 2.17 entitled "Landlord's Broker," and Section 6 entitled "Operating Expenses."

25 2. **GROSS LEASE.** A new Section 6 shall be included to the Lease  
26 as follows:

27 "6. Gross Lease. The Landlord and Tenant intend this Lease to be a full gross  
28 lease. Any and all references in the Lease to the contrary shall be disregarded and

1 shall be of no force or effect. Except for Tenant's obligation to pay the Possessory  
2 Interest Tax set forth in Section 7 and personal property tax on Tenant's personal  
3 property in the Premises, Landlord shall be responsible for all costs and expenses of  
4 operating, maintaining, managing and repairing the Project, including but not limited to:  
5 costs levied, assessed or imposed by, or at the direction of any federal, state, regional,  
6 municipal, local or other governmental authority in connection with the use or  
7 occupancy of the Project, the Premises, or any portion thereof, other than Possessory  
8 Interest Tax; any operation and maintenance charges assessed against the Project  
9 pursuant to any covenants, conditions and restrictions, reciprocal easement  
10 agreements or similar restrictions and agreements now or hereafter affecting any  
11 portion of the Project; insurance premiums for all insurance policies deemed necessary  
12 by Landlord or any Lender; deductible amounts under insurance policies; water and  
13 sewer charges; janitorial services; security costs; waste disposal costs; gardening and  
14 landscaping costs; the cost of air conditioning, heating, ventilation, electricity, sprinkler,  
15 fire and life-safety, mechanical, water and other services and utilities; elevator  
16 maintenance; wages of Landlord's employees engaged in the operation, maintenance  
17 or repair of the Project, including all customary employee benefits, Workers'  
18 Compensation and payroll taxes; the fair market rental value of the Project manager's  
19 offices and storage areas in the Building which are devoted solely to the management,  
20 operation, maintenance or repair of the Project; management fees; legal, accounting  
21 and other professional and consulting fees and costs; capital improvements and  
22 replacements to all or any portion of the Project made after completion of the Building;  
23 all costs and expenses incurred by Landlord and interest on any funds borrowed to pay  
24 the cost of any capital improvements as a result of or in order to comply with any Laws,  
25 including, but not limited to, Laws pertaining to energy, natural resources conservation,  
26 safety or environmental protection; supplies, materials, equipment and tools;  
27 maintenance and repair of all parking facilities and Common Areas.

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1                   3.     OPTION PERIOD NOTICING REQUIREMENTS. Section 36.1 of  
2 Section 6 of the Lease Addendum is hereby deleted and the following Section  
3 substituted:

4     "36.1 Subject to the provisions hereof, Tenant shall be entitled to two (2) options  
5 (each an "Extension Option") to extend the Term for additional periods of five (5) years  
6 each (each an "Option Term"). The first Option Term shall commence December 1,  
7 2013 and shall expire November 30, 2018. The second Option Term shall commence  
8 December 1, 2018 and shall expire November 30, 2023. An Extension Option shall be  
9 exercised only by written notice delivered to Landlord ("Tenant's Notice of Exercise of  
10 Option") not less than (7) days and not more than twelve (12) months prior to the  
11 expiration of the original Lease Term or expiration of the first Option Term. If Landlord  
12 has not timely received written notice from Tenant exercising any Extension Option  
13 hereunder in accordance with the First Amendment, then upon recognition thereof,  
14 Landlord shall promptly send Tenant written notice of Tenant's failure to exercise the  
15 subject option ("Landlord Option Notice"). The Landlord Option Notice shall specifically  
16 reference this Section 36.1 and specify that Tenant shall have ten (10) business days  
17 from receipt of the Landlord Option Notice to exercise the subject Extension Option. If  
18 Tenant fails to deliver to Landlord written notice of the exercise of an Extension Option  
19 within ten (10) business days after Tenant's receipt of the Landlord Option Notice, the  
20 Extension Option shall lapse, and there shall be no further right to extend the term of  
21 the Lease. The second Extension Option may be exercised only if the first Extension  
22 Option was timely exercised."

23                   4.     LEASE TERMS AND CONDITIONS DURING OPTION  
24 TERM(S). Section 36.3 of Section 5 of the Lease Addendum dated November 16,  
25 2006 ("Addendum") is hereby deleted and the following Section substituted:  
26     "36.3 All terms and conditions of the Lease shall apply to and during each Option  
27 Term, except that the rent shall be adjusted as set forth in Section 36.5, as amended."  
28

1                   5.     OPTION TERM RENT AND RENTAL ADJUSTMENTS. Section  
2 36.5 of Section 5 of the Addendum is hereby deleted and the following language  
3 substituted:

4 "36.5 For each Option Term, the Rent to be paid shall be as follows:

5 First Option Term:             \$21,340.00 per month for the entire first Option Term.

6 Second Option Term:         \$21,340.00 per month for the first year of the Option Term,  
7 thereafter the monthly rent shall be increased three (3%) annually.

8                   6.     OTHER TAXES.     The language in Section 7 of the Lease is  
9 hereby deleted and the following language substituted:

10 "Tenant shall be responsible for payment of the annual Possessory Interest Tax levied  
11 on the premises upon assessment and billing by the County Assessor's office and Tax  
12 Collector's office. The Possessory Interest Tax shall be paid by Tenant directly to the  
13 County Tax Collector and notwithstanding anything in the Lease to the contrary, the  
14 Possessory Interest Tax shall not be included in the calculation of operating expenses  
15 responsible by the Landlord, nor shall Tenant's payment obligation of such Possessory  
16 Interest Tax be limited in any manner by the provisions of Section 6 of the Lease.  
17 Failure to pay shall result in fines or fees levied by the Tax Collector's office. In  
18 addition Tenant shall be responsible to pay, or cause to be paid, before delinquency,  
19 any and all taxes levied or assessed against Tenant's personal property or trade  
20 fixtures."

21                   7.     NOTICES. The Landlord's name and address in Section 2.19 of  
22 the Lease shall be deleted and the following language substituted:

23                             Landlord's Address for Notices:

24                             County of Riverside/EDA

25                             Attn: Real Estate Division

26                             3403 10<sup>th</sup> Street, Suite 500

27                             Riverside, California 92501  
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1           8.     FIRST AMENDMENT TO PREVAIL. The provisions of this First  
2 Amendment shall prevail over any inconsistency or conflicting provisions of the Lease.  
3 Any capitalized terms shall have the meaning defined in the Lease, unless defined  
4 herein or context requires otherwise.

5           9.     MISCELLANEOUS. Except as amended or modified herein, all  
6 terms of the Lease shall remain in full force and effect. If any provisions of this First  
7 Amendment shall be determined to be illegal or unenforceable, such determination  
8 shall not affect any other provision of the Lease. Neither this First Amendment nor the  
9 Lease shall be recorded by the Tenant.

10          10.    COUNTERPARTS. This First Amendment may be executed in  
11 tow or more counterparts, each of which shall be an original, but all of which shall  
12 constitute one and same instrument.

13          11.    EFFECTIVE DATE. This First Amendment to Lease shall not be  
14 binding or consummated until its approval by the Riverside County Board of  
15 Supervisors and fully executed by the Parties.

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1 WITNESS WHEREOF, the Parties have executed this First Amendment  
2 as of the date first written above.

3  
4 LANDLORD:

TENANT:

5 COUNTY OF RIVERSIDE

SECURITY BANK OF CALIFORNIA

6  
7 By: \_\_\_\_\_  
8 John J. Benoit, Chairman  
9 Board of Supervisors

By:   
Michael Vanderpool, President

10  
11 ATTEST:  
12 Kecia Harper-Ihem  
13 Clerk of the Board

14 By: \_\_\_\_\_  
15 Deputy

16 APPROVED AS TO FORM:  
17 Pamela J. Walls  
18 County Counsel

19 By:   
20 Patricia Munroe  
21 Deputy County Counsel