

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



ITEM
3.5
(ID # 2532)

MEETING DATE:

Tuesday, January 31, 2017

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA):

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA): Exclusive Negotiations Agreement between the County of Riverside and Peggy Marie Hughes, Robert James Starnes District 5, CEQA Exempt; [\$20,000] Fifth District Community Improvement Designation Funds, 50% and Third District Community Improvement Designation Funds 50%

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Sections 21065, 15061(b)(3) and 15378;
2. Approve the attached Exclusive Negotiation Agreement between Peggy Marie Hughes, Robert James Starnes and the County of Riverside (Parties) and authorize the Chairman of the Board to execute the same on behalf of the County;

ACTION: Policy

Robert Field, Assistant County Executive Officer/EDA

1/17/2017

Gregory V. Priamos, Director County Counsel

1/17/2017

Rohini Dasika

1/23/2017

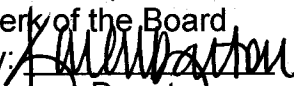
Gregory V. Priamos, Director County Counsel

1/17/2017

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington and Ashley
Nays: None
Absent: Tavaglione
Date: January 31, 2017
xc: EDA, Recorder

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

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STATE OF CALIFORNIA**

RECOMMENDED MOTION: Continued.

3. Authorize the Assistant County Executive Officer of the Economic Development Agency, or his designee, to execute any other documents and administer all actions necessary to complete this transaction; and

4. Direct the Clerk of the Board to file the attached Notice of Exemption with County Clerk for posting within five days of Board approval.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 10,000	\$ 10,000	\$ 20,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Fifth District Community Improvement Designation (CID) Funds-50% and Third District Community Improvement Designation (CID) Funds-50%			Budget Adjustment:	No
			For Fiscal Year:	2016/17

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

A request for Proposals was circulated to the public in August of 2015 requesting 4 to 6 acres of vacant land for purchase. Peggy Marie Hughes and Robert James Starnes (the Owners) are the owners of the real property located on the East side of Trumble Road, approximately 900 feet north of Ethanac Road, Perris, California, Assessor's Parcel Numbers 329-240-014 and 329-240-015 which consists of approximately 5.16 acres of vacant land and is depicted on the map attached hereto (the Property).

The County of Riverside now desires to consider acquiring the Property by entering into this proposed Exclusive Negotiation Agreement (ENA) with the Owners which provides for a period of property due diligence, analysis, contract discussion and negotiation. It is proposed that this location will serve as a future resource center which would provide the County and Cities with a regional facility to treat and assist underserved populations. The County intends to work collaboratively with all Cities in the region to pursue the future planning and construction of facilities that would best service this growing area of the County.

As per the ENA, the Negotiation and Due Diligence Period shall be one year, commencing on the Effective Date. County may extend the Negotiation Period for an additional one year by providing the Owners a written notice of sixty days prior to expiration of the initial Period (the Extension). If an Acquisition Agreement has not been executed by the Parties prior to the expiration of the Negotiation Period or the Extension thereof, then this Agreement shall terminate, and neither Party shall have any further rights or obligations under this Agreement. If an Acquisition Agreement is executed by the Parties, then, upon such execution, this ENA shall

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STATE OF CALIFORNIA**

terminate and all rights and obligations of the Parties shall be as set forth in the executed Acquisition Agreement.

In return for the Owners' execution of this Agreement, the County will tender ten thousand (\$10,000.00) dollars to the Owners within thirty days of full execution of this Agreement and an additional ten thousand dollars within thirty days of the year anniversary of this Agreement if the County elects to extend the Due Diligence Period an additional one year as provided above. All such funds shall be referred to hereinafter as "Consideration" for the extended negotiation, analysis and due diligence timeline afforded by the ENA. The Consideration tendered will be non-refundable but applicable to any purchase or acquisition price.

The entering into an ENA to consider the purchase of a property, on its own, is not a project under CEQA. This ENA is limited to the negotiations and due diligence necessary for the potential purchase of property and would not result in any physical direct or reasonably foreseeable indirect impacts to the environment. The potential indirect effects from this Agreement would be analyzed as part of separate discretionary action taken by the County to develop and approve a design. Therefore, in no way, would the Project as proposed have the potential to cause a significant environmental impact, and the Project is exempt from further CEQA analysis.

The ENA and Form 11 have been reviewed and approved as to form by County Counsel.

Impact on Citizens and Businesses

The acquisition of this site will provide the County with a centralized location to pursue the planning and construction of a resource center for the benefit of this region of the County. The residents and businesses will benefit from having a resource center that will serve this region of the County.

SUPPLEMENTAL:

Additional Fiscal Information

There is currently no funding source or budget allocated for this project; however, the Real Estate Division of the Economic Development Agency will seek to be reimbursed for any and all costs associated with this project through the General Fund Sub-Fund 11183.

Attachments:

Aerial Image

Exclusive Negotiation Agreement

Notice of Exemption

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SUPPLEMENTAL:

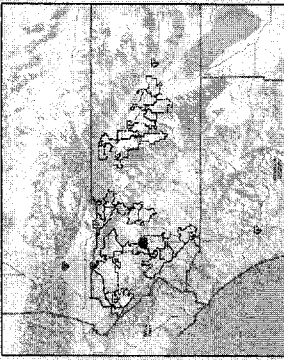
Additional Fiscal Information Continued.

RF:JWW:VC:VY:CAO:ra 13471

MinuteTrak 2532

Perris Resource Center

Trumble Rd. & Ethanac Rd.



Legend



0 1,454 2,909 Feet



"IMPORTANT" Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

REPORT PRINTED ON... 9/11/2015 2:36:23 PM

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Notes
APNs 329-240-014 & 015

EXCLUSIVE NEGOTIATION AGREEMENT

THIS EXCLUSIVE NEGOTIATION AGREEMENT (the "Agreement") is entered into as of January 31, 2017 ("Effective Date") by and between the County of Riverside, a political subdivision of the State of California (the "County"), and PEGGY MARIE HUGHES, a married woman as her sole and separate property and ROBERT JAMES STARNES, a married man as his sole and separate property, as tenants in common, each as to a fifty percent (50%) interest ("Property Owners"), on the basis of the following purposes, intentions, and facts:

RECITALS

A. The County desires to acquire real property and enter into such agreement as the Parties may deem appropriate to specify the rights and obligations of the parties with respect to the disposition of the Property for the purpose of planning and constructing a resource center that will facilitate the provision of human services in the Southwest and Mid County Regions, and will work collaboratively with all cities in the area to pursue the planning and construction of a facility that will best service this growing region of the County; and

B. The Property Owners are the owners of real property located in the City of Perris, identified with Assessor's Parcel Numbers 329-240-014 and 329-240-015 which consists of approximately 5.2 acres of vacant land, is generally depicted on the map attached hereto and incorporated herein by reference as Exhibit A and is further described by the legal description included therein (the "Property"); and

C. The County and Property Owners (which may be referred to hereinafter individually as "Party" or collectively as the "Parties",) desire to enter into this Agreement in order to permit the Parties to negotiate the terms and conditions of an Acquisition Agreement, or such other type of agreement as the Parties may deem appropriate to specify the rights and obligations of the parties with respect to the disposition of the Property.

NOW, THEREFORE, the County and the Property Owners hereby mutually agree as follows:

I. Negotiation

A. Good Faith Negotiations. The County and the Property Owners agree for the Negotiation and Due Diligence Period (the "Negotiation Period") to negotiate diligently and in good faith with respect to the disposition of the Property. The Property Owners agree for the Negotiation Period, and any extension of the Negotiation Period, not to negotiate with any other person or entity or to enter into any agreement regarding the acquisition, disposition, lease, use or development of the Property. "Good faith negotiations" shall mean that the County and the Property Owners shall use their best efforts to communicate frequently and follow reasonable negotiation procedures to develop the terms and conditions for an agreement mutually acceptable

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to the Parties to be set forth in the form of an Agreement of Purchase and Sale and Joint Escrow Instructions (the "Acquisition Agreement").

B. Negotiations Period. The Negotiation Period shall be one (1) year, commencing on the Effective Date. County may extend the Negotiation Period for an additional one (1) year by providing the Property Owners of written notice sixty (60) days prior to expiration of the initial Period (the "Extension").

If an Acquisition Agreement has not been executed by the Parties prior to the expiration of the Negotiation Period or the Extension thereof, then this Agreement shall terminate, and neither Party shall have any further rights or obligations under this Agreement except as set forth in Section IV. If an Acquisition Agreement is executed by the Parties, then, upon such execution, this Agreement shall terminate and all rights and obligations of the Parties shall be as set forth in the executed Acquisition Agreement.

C. Consideration from County. In return for the Property Owners' execution of this Agreement, the County will tender ten thousand dollars (\$10,000.00) to the Property Owners within thirty (30) days of full execution of this Agreement and an additional ten thousand dollars (\$10,000.00) within thirty (30) days of the one (1) year anniversary of this Agreement if the County extends the Period an additional one (1) year as provided above. All such funds shall be referred to hereinafter as the "Consideration". The Consideration tendered will be considered non-refundable but applicable to any purchase or acquisition price.

D. Limitations on Effect of Agreement. This Agreement shall not obligate the County or the Property Owners to enter into an Acquisition Agreement for the Property. By executing this Agreement, the County is not committing itself to or agreeing to undertake any acquisition, disposition, lease or exercise of control over the Property. Execution of this Agreement by the County is merely an agreement to conduct a period of exclusive negotiations in accordance with the terms hereof, reserving for subsequent Riverside County Board of Supervisors ("Board of Supervisors") action the final discretion and approval regarding the execution of any Acquisition Agreement, and all proceedings and decisions in connection therewith. Any Acquisition Agreement resulting from negotiations pursuant to this Agreement shall become effective only if and after such Acquisition Agreement has been considered and approved by the Board of Supervisors following the conduct of all legally required procedures, and executed by the Chairman of the Board of Supervisors. Until and unless an Acquisition Agreement is approved by the Board of Supervisors executed by the Chairman, no agreement drafts, actions, deliverables or communications arising from the performance of this Agreement shall impose any legally binding obligation on either Party to enter into or support entering into an Acquisition Agreement or be used as evidence of any oral or implied agreement by either Party to enter into any other legally binding document. The County's decision on whether to enter into an Acquisition Agreement with the Property Owners shall be final and conclusive and shall not be subject to review.

E. Property Owners' Obligations. The Property Owners shall within the Negotiation Period (and any mutually agreed upon extensions): Negotiate exclusively through its staff with

the County for the Acquisition of the Property by the County; Grant County entry onto the Property for the purpose of completing all due diligence deemed necessary by the County; Cooperate fully in providing the County with appropriate information and assistance; and Deliver to the County not later than thirty (30) days after the Effective Date of this Agreement any of the following documents related to the Property which are in possession of the Property Owners: a. Any existing surveys; b. Any government permits, licenses and approvals; c. Any contracts or leases or other agreements relating to the Property or any operations thereon; d. Other written documents in the Property Owners' possession regarding physical condition of the Property or the improvements thereof or the use or development of the Property.

F. Purchase Price. Should the County and Property Owners agree to enter into an Acquisition Agreement, the Property Owners agree to sell and convey to the County, and the County agrees to purchase from the Property Owners the Property described herein, under the terms and conditions set forth in the Acquisition Agreement. The Purchase Price shall be in the amount of Six Hundred Seventy Five Thousand Dollars (\$675,000.00) with deductions of any and all applicable Consideration paid to the Property Owners as part of this Agreement and as described in Section I(C).

II. Assignment. County shall not assign all or any part of this Agreement without the prior written approval of the Property Owners which shall not be unreasonably withheld, delayed or conditioned.

III. Right of Entry. The Property Owners hereby grant to County and its employees, agents, representatives and contractors the nonexclusive right to enter upon the Property at any time during the Negotiation Period to perform due diligence activities including, but not limited to, survey and certain work, consisting of geotechnical investigation, a Phase I Environmental Assessment prepared in compliance with the most recent published American Society for Testing and Materials Phase I Environmental Property Assessment Standard, a Phase II Environmental Investigation and Report, if required, and other due diligence related activities (collectively, the "Work").

County will require any third parties, agents or contractors to procure and maintain, for the time the right of entry is being utilized, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of due diligence on behalf of the County. Such insurance shall name the Property Owners as additional insureds.

IV. Default and Remedies. Failure by either party to negotiate in good faith as provided in this Agreement shall constitute an event of default under this Agreement. The non-defaulting party shall give written notice of a default to the defaulting party, specifying the nature of the default and the required action to cure the default. If a default remains uncured fifteen (15) days after receipt by the defaulting party of such notice, the non-defaulting Party may exercise the remedies set forth below.

(a) Remedies.

(1) Property Owners Default; Liquidated Damages. THE PARTIES EACH AGREE THAT IN THE EVENT OF A MATERIAL DEFAULT OR BREACH HEREUNDER BY THE PROPERTY OWNERS THE DAMAGES TO COUNTY WOULD BE EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN, AND THAT THEREFORE, IN THE EVENT OF A MATERIAL DEFAULT OR BREACH BY THE PROPERTY OWNERS THE PORTION(S) OF THE CONSIDERATION TENDERED TO THE PROPERTY OWNERS PURSUANT TO THE PROVISIONS OF SECTION I(C) (THE "TENDERED CONSIDERATION AMOUNT") SHALL SERVE AS LIQUIDATED DAMAGES, AS A REASONABLE ESTIMATE OF THE DAMAGES TO THE COUNTY, INCLUDING COSTS OF NEGOTIATING AND DRAFTING THIS AGREEMENT, COSTS OF DUE DILIGENCE AND OTHER COSTS INCURRED IN CONNECTION HEREWITH. DELIVERY TO AND REFUND OF THE TENDERED CONSIDERATION AMOUNT TO THE COUNTY SHALL BE COUNTY'S SOLE AND EXCLUSIVE REMEDY AGAINST THE PROPERTY OWNERS, AND COUNTY WAIVES ANY AND ALL RIGHT TO SEEK OTHER RIGHTS OR REMEDIES AGAINST THE PROPERTY OWNERS, INCLUDING WITHOUT LIMITATION, SPECIFIC PERFORMANCE. THE PAYMENT AND RETENTION OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO THE COUNTY PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. COUNTY HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. UPON ANY SUCH BREACH OR DEFAULT BY THE PROPERTY OWNERS HEREUNDER, THIS AGREEMENT SHALL BE TERMINATED AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER, EXCEPT FOR THE RIGHT OF COUNTY TO A REFUND OF SUCH LIQUIDATED DAMAGES.

County

Property Owners

(2) County Default. In the event of an uncured default by the County under this Agreement, the Property Owners shall be entitled to terminate this Agreement. Following such termination, neither Party shall have any right, remedy or obligation under this Agreement.

V. Non-Recourse to Agents. No member, official, employee, agent, or consultant of any Party to this Agreement shall be personally liable to any other Party, or any successor in interest or person claiming by, through or under any Party, in the event of any default or breach, or for or on account of any amount which may be or become due, or in any claim, cause or obligation whatsoever under the terms of this Agreement.

VI. Real Estate Commissions. The County shall not be liable for any finder's fees, real estate commissions or brokerage fees which may arise herefrom. The County represents that it has engaged no broker, agent or finder in connection with this transaction and each party agrees to hold the other party harmless from any claim by any broker, agent or finder which it has retained.

VII. Authority to Execute. The persons executing this Agreement or exhibits attached hereto on behalf of the Parties to this Agreement hereby warrant and represent that they have the authority to execute this Agreement and warrant and represent that they have the authority to bind the respective parties to this Agreement to the performance of its obligations hereunder.

VIII. Notices. Any notice to any of the Parties required or permitted under this Agreement shall be delivered by email together with delivery by a nationally recognized "overnight" delivery service, addressed to the other party as follows:

If to County:
County of Riverside
Economic Development Agency
Real Estate Division
3403 10th Street, Suite 400
Riverside, CA 92501

Telephone 951-955-4820
Email: VYzaguirre@rivcoeda.org

If to the Property Owners:
Peggy Marie Hughes
1651 Stable Rock Road
Prescott, AZ 86303
Telephone: 562-822-1027
Email: peggymhughes@aol.com

Robert James Starnes
1218 Mayflower Cir.
Ridgecrest, CA 93555
Telephone: 760-371-5123
Email: Robstarnes@IWVISP.com

IX. Entire Agreement. This Agreement constitutes the entire agreement of the Parties regarding the subject matter of this Agreement.

X. Severability. In the event that any of the provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

XI. Waiver. Failure by a Party to enforce the performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's rights to enforce or assert and claims against the other Party under the terms of this Agreement thereafter.

XII. Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a Party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in Riverside County, State of California, and the Parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

XIII. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties hereto, and the rule of construction to the

effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement, all Parties having been represented by counsel in the negotiation and preparation hereof.

XIV. Counterparts. This Agreement may be signed by the different Parties hereto in counterparts, each of which shall be an original but all of which together shall constitute one and the same agreement.

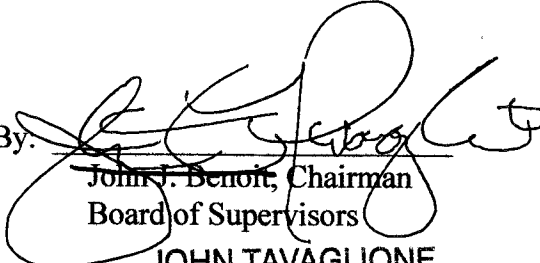
XV. Modification This Agreement shall not be changed, modified, or amended except upon the written consent of the Parties hereto.

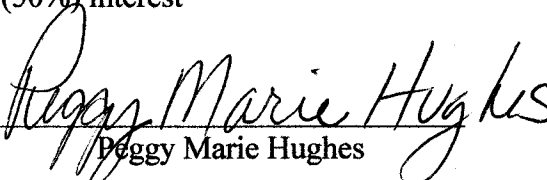
SIGNATURE PROVISIONS FOLLOW

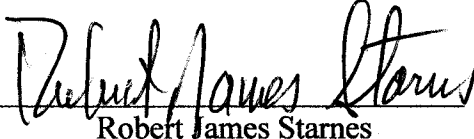
IN WITNESS WHEREOF, County and the Property Owners have executed this Agreement as of the date first above written.

COUNTY:
County of Riverside, a political
subdivision of the State of California

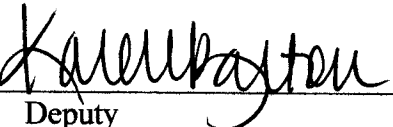
PROPERTY OWNERS:
PEGGY MARIE HUGHES, a married
woman as her sole and separate property and
ROBERT JAMES STARNES, a married
man as his sole and separate property, as
tenants in common, each as to a fifty percent
(50%) interest

By: 
John J. Benoit, Chairman
Board of Supervisors
JOHN TAVAGLIONE


Peggy Marie Hughes


Robert James Starnes

ATTEST:
KECIA HARPER-IHEM
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:
Gregory P. Priamos

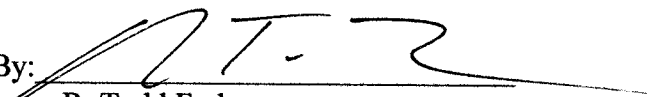
By: 
R. Todd Frahm
Deputy County Counsel

EXHIBIT A
(Property)



EXHIBIT "A"

All that certain real property situated in the County of Riverside, State of California, described as follows:

Parcel 1:

In the County of Riverside, State of California:

Lots 732 of Romola Farms No. 6A, as shown by map on file in Book 14, Pages 63, 64 and 65 of Maps, in the Office of the County Recorder of said County, State of California;

Excepting therefrom the following described portion; commencing at the Northwest corner of said Lot; thence Southerly along the Westerly line thereof 66 feet to the true point of beginning; thence continuing Southerly along the Westerly line thereof, 180 feet; thence Easterly and parallel with the Northerly line of said Lot, 246 feet; thence Northerly and parallel with the Westerly line of said Lot, 180 feet to the Southerly line of the Northerly 66 feet of said Lot; thence Westerly and parallel with the Northerly line of said Lot, 246 feet to the true point of beginning.

Assessor's Parcel No: 329-240-014

Parcel 2:

Lot 733 of Romola Farms No. 6-A, as shown by map on file in Book 14, Pages 63, 64 and 65 of Maps, Records of Riverside County, California.

Excepting therefrom the South 198 feet thereof.

Assessor's Parcel No: 329-240-015



Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on.

2/6/17
Date

KB
Initial

NOTICE OF EXEMPTION

September 29, 2016

Project Name: Authorization to Enter into an Exclusive Negotiations Agreement to Purchase Real Property in the City of Perris, County of Riverside, California

Project Number: FM0417200265

Project Location: East side of Trumble Road, approximately 900 feet north of Ethanac Road, Perris, California; Assessor's Parcel Numbers (APNs): 329-240-014 and 329-240-015 (See attached exhibit)

Description of Project: The County of Riverside (County) Economic Development Agency Real Estate Division (EDA), on behalf of the 3rd and 5th Districts, is proposing to purchase the fee interest in real property consisting of 5.16± acres of vacant land in the city of Perris. Pursuant to Government Code Section 25350, the County must publish a notice of intention to purchase interests in real property, that contains the description of the property proposed to be purchased, the price, the seller, and a statement of the time the board will meet to consummate the purchase. The County desires to acquire the property to develop a homeless shelter, although the details of the facility, such as size, capacity, and specific purpose are unknown at this time. A Request for Proposals was circulated to the public in August of 2015 requesting 4 to 6 acres of vacant land for purchase. The subject property that best matched the needs of the County is approximately 5.16 acres of vacant land. The County desires to purchase the property for the purposes of planning and constructing a future homeless resource center which would provide the County and Cities within the region with a facility to treat and assist the homeless population. The County intends to work collaboratively with all Cities in this region to pursue the planning and construction of a facility that will best service this growing region of the County.

The Economic Development Agency Real Estate Division (EDA) has negotiated the acquisition of the property of fee simple interests in real property located in the city of Perris, County of Riverside, State of California, and APNs 329-240-014 and 329-240-015 on behalf of the County of Riverside, by Grant Deed from Peggy Marie Hughes and Robert James Starnes. The agreed upon price for the acquisition shall be \$675,000. As a measure to enable this transaction, the County and Peggy Marie Hughes, Robert James Starnes (the "Parties") desire to enter into an Exclusive Negotiation Agreement for the purpose establishing the procedures and standards of negotiations with possibilities that funds becoming available in the future to move forward with the transaction. The Negotiation period will occur for a term of one year, commencing on the date that both Parties have executed the agreement. Additionally, the term of these negotiations may be extended by one year, and shall be exercised by the written mutual consent of the Parties.

Name of Public Agency Approving Project: County of Riverside, Economic Development Agency

Name of Person or Agency Carrying Out Project: County of Riverside, Economic Development Agency; Peggy Marie Hughes and Robert James Starnes

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PO Box 1160 Riverside, California 92402 Tel: 951-781-1111 Fax: 951-781-1112

www.rivcoeda.org

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Environmental Planning
Fair & National Date Festival
Foreign Trade
Graffiti Abatement

Parking
Project Management
Purchasing Group
Real Property
Redevelopment Agency
Workforce Development

Exempt Status: Not a project as defined in California Environmental Quality Act (CEQA) Section 21065 and State CEQA Guidelines Section 15061(b) (3), General Rule or "Common Sense" Exemption, and Section 15378. Codified under Public Resources Code Division 13, Chapter 2.5, Section 21065, and California Code of Regulations Title 14, Articles 5 and 20, Sections 15061, and 15378.

Reasons Why Project is Exempt: The discretionary action to enter into an Exclusive Negotiations Agreement to purchase the property is exempt from the requirements of CEQA as it would not result in direct impacts to the physical environment or reasonably foreseeable indirect effects. The entering into an Exclusive Negotiations Agreement to purchase the property is the initial discretionary action for a series of discretionary actions that defines a broader project. The broader project represents the whole of the action and can be defined by the following sequence of discretionary approvals: negotiations to purchase, acquisition of property, award of contract for schematic design, award of contract for design development, award of contract for construction bid package, and award to construct project.

At this time, there are many unknowns associated with the future development of a homeless shelter (e.g., number of units, footprint size, and whether the shelter is transitional, emergency, or permanent); the resulting indirect effects from these unknown project details are not reasonably foreseeable. In addition, the limited availability of public funds makes it economically infeasible to develop the entire design of the project in one phase. However, the identification of future known additional discretionary actions provide a mechanism to address these indirect effects resulting from the acquisition of property through evaluation at a future time when more details are known and more meaningful disclosure can be provided to the public.

Section 15378 (c) defines a project as the collection of discretionary actions that defines the whole of the action. This process allows for the completion of environmental review when all the conditions and details are known or reasonably foreseeable. At this point in the process, the design of the project does not exist and is not substantive enough to provide a meaningful analysis of environmental effects. The completion of the level of design required to complete the analysis is not economically viable based on the availability of funding and the County's project development and fiscal policies. The County EDA process for project development requires multiple discretionary actions through project development, which is beneficial to the CEQA process as it allows for any necessary incorporation of public input to occur at appropriate times. The process allows for the appropriate level of environmental review to occur at the most relevant timeframe during the sequence of County discretionary actions when engineering and project information is refined and developed, and public input can be incorporated to address any potential significant impacts or assist in any necessary development of project alternatives or mitigation measures.

The Project developer, under terms of a separate agreement, would be required to provide additional CEQA review and collectively analyze the effects of all of the discretionary actions involved in the development of the Project to avoid any perception of segmentation or piecemealing. The entering into an Exclusive Negotiations Agreement to purchase the property by the County does in no way guarantee the completion of a homeless facility; there are many actions and processes that must be completed, all which necessitate discretionary actions by the County, and which may or may not be approved, based on public input and more refined project-related information. The County would continue to act as the Lead Agency for all of the necessary discretionary actions to ensure that CEQA compliance is satisfied. The ultimate approval of a homeless facility by the County is contingent on a developer obtaining all required environmental and land use permits, including CEQA compliance with any applicable public agencies. A separate agreement between the County and the selected developer will contain the appropriate legal requirements and indemnification to ensure that a proper level of environmental review is conducted, prior to approval by the Board of Supervisors. Based on the existing CEQA Statute and Guidelines, it is assumed that an Initial Study will be prepared once the design is developed enough to adequately assess project impacts and give the public the opportunity to provide meaningful input into project development. The preparation of the Initial Study would begin after completion of schematic design. This sequence of timing allows for potential environmental effects and public input to be incorporated prior to development of final design, so that any potential impacts can be reduced or eliminated with the establishment of the appropriate project mitigation or alternatives.

Therefore, the entering into an Exclusive Negotiations Agreement to purchase the property, on its own, is not a project under CEQA and a Notice of Exemption is the appropriate CEQA determination until a meaningful environmental review can be conducted on reasonably foreseeable information with the appropriate level of public input. The environmental review for the whole of the action will be subsequently conducted by the selected developer of the homeless facility, who has not been identified at this time. The environmental review will be ensured through a commitment provided in a separate agreement, upon selection of the developer. The County will act as the Lead Agency to ensure that the appropriate level of analysis is conducted and that mitigation or alternatives be incorporated to minimize any proposed effects that a future homeless shelter may entail to the greatest extent feasible.

- **Section 15061 (b) (3) – “Common Sense” Exemption:** Even if a determination is made that the Purchase Agreement is defined as a Project under CEQA, the purchase agreement is exempt pursuant to State CEQA Guidelines Section 15061(b)(3). In accordance with CEQA, the use of the Common Sense Exemption is based on the “general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.” State CEQA Guidelines, Section 15061(b) (3). The use of this exemption is appropriate if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” *Ibid.* This determination is an issue of fact and if sufficient evidence exists in the record that the activity cannot have a significant effect on the environment, then the exemption applies and no further evaluation under CEQA is required. See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68. The ruling in this case stated that if a project falls within a category exempt by administrative regulation or ‘it can be seen with certainty that the activity in question will not have a significant effect on the environment’, no further agency evaluation is required. With certainty, there is no possibility that the Exclusive Negotiations Agreement to purchase the property itself may have a significant physical effect on the environment. The Agreement would be limited to the negotiations for the purchase of property and transfer of ownership which would not result in any physical direct or reasonably foreseeable indirect impacts to the environment. The potential indirect effects from this Agreement would be analyzed as part of separate discretionary action taken by the County to develop and approve a design. It is at this stage of development, that enough reasonably foreseeable information could be established to define a description and address the potential environmental impacts of a homeless shelter. At this point, a contractual obligation to provide an appropriate level of environmental review under CEQA would be incorporated into the terms of a design development agreement to the satisfaction of the County, acting as the Lead Agency with final permitting approval. Therefore, in no way, would the Project as proposed have the potential to cause a significant environmental impact, and the Project is exempt from further CEQA analysis.

Based upon the identified exemption above, the County of Riverside, Economic Development Agency hereby concludes that no physical environmental impacts are anticipated to occur and the project as proposed is exempt under CEQA. No further environmental analysis is warranted.

Signed:  Date: 9/29/16

Mike Sullivan, Senior Environmental Planner
County of Riverside, Economic Development Agency

RIVERSIDE COUNTY CLERK & RECORDER

**AUTHORIZATION
TO BILL
BY JOURNAL VOUCHER**

Project Name: Authorization to Enter into an Exclusive Negotiations Agreement to Purchase Real Property located in the City of Perris

Accounting String: 524830-47220-7200400000- FM0417200265

DATE: September 29, 2016

AGENCY: Riverside County Economic Development Agency

THIS AUTHORIZES THE COUNTY CLERK & RECORDER TO BILL FOR FILING AND HANDLING FEES FOR THE ACCOMPANYING DOCUMENT(S).

NUMBER OF DOCUMENTS INCLUDED: One (1)

AUTHORIZED BY: Mike Sullivan, Senior Environmental Planner, Economic Development Agency

Signature: 

PRESENTED BY: Craig Olsen, Senior Real Property Agent, Economic Development Agency

-TO BE FILLED IN BY COUNTY CLERK-

ACCEPTED BY: -

DATE: -

RECEIPT # (S) -



Date: September 29, 2016

To: Mary Ann Meyer, Office of the County Clerk

From: Mike Sullivan, Senior Environmental Planner, Project Management Office

Subject: **County of Riverside Economic Development Agency Project # FM0417200265**
Authorization Enter into an Exclusive Negotiations Agreement to Purchase Real Property located in the City of Perris; Assessor Parcel Numbers: 329-240-014 and 329-240-015

The Riverside County's Economic Development Agency's Project Management Office is requesting that you post the attached Notice of Exemption. Attached you will find an authorization to bill by journal voucher for your posting fee.

After posting, please return the document to:

Mail Stop #1330

Attention: Mike Sullivan, Senior Environmental Planner,

Economic Development Agency,

3403 10th Street, Suite 400, Riverside, CA 92501

If you have any questions, please contact Mike Sullivan at 955-8009.

Attachment

cc: file