

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



FROM: Economic Development Agency / Facilities Management

SUBMITTAL DATE:

August 28, 2013

SUBJECT: Ordinance Amendment No. 861.1, an Ordinance of the County of Riverside Amending Ordinance No. 861 to Authorize the Delegation of Authority to Execute Leases and Licenses on County Property

RECOMMENDED MOTION: That the Board of Supervisors:

1. Introduce and adopt on successive weeks, Ordinance No. 861.1, authorizing the delegation of authority to execute leases and licenses on county property;
2. Find that the adoption of Ordinance No. 861.1 is exempt from California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3);
3. Direct the Clerk of the Board to file a Notice of Exemption with the County Clerk for posting; and

RECOMMENDED MOTION: (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:	2013/14

COMPANION ITEM ON BOARD AGENDA: No

SOURCE OF FUNDS: N/A

Positions To Be Deleted Per A-30	☐
Requires 4/5 Vote	☐

C.E.O. RECOMMENDATION:

APPROVE

BY:

Jennifer L. Sargent

County Executive Office Signature

Policy ☒

Consent ☐

Dep't Recomm.: ☐

Policy ☒

Consent ☐

Per Exec. Ofc.: ☐

Prev. Agn. Ref.: 3.11 of 8/15/06

District: All

Agenda Number:

3-30

RECOMMENDED MOTION: (Continued)

4. Approve that upon the effective date of Ordinance 861.1, Resolution Numbers 97-252, 97-251, 98-364 and 2002-364 will be rescinded and superseded by Ordinance 861.1 and such resolutions will no longer be in effect.

BACKGROUND:

Riverside County Ordinance No. 861, which became effective September 14, 2006, provided limited delegated authority to the managing director or assistant director of the Economic Development Agency to act as the Airport property manager in order to enter into certain agreements related to airport property. In addition, various resolutions were adopted to expand the delegated authority, as outlined below. Ordinance No. 861 expired five years from the effective date on September 14, 2011. The purpose of Ordinance No. 861.1 is to grant delegated authority, not only related to airport properties, but to encapsulate the purposes of the below listed resolutions that now require ordinance adoption to be effective.

Resolution No. 97-251 was approved by the Board of Supervisors in regular session assembled on December 9, 1997, permitting, what was designated at the time as the Director of the Department of Building Services, the delegated authority to execute leases for use by the County with limitations. Subsequently, Resolution No. 2002-364 was adopted by the Board to amend and expand the limitations for this delegation of authority, to recognize the change from the Department of Building Services to the Department of Facilities Management and designate the Director of the Department of Facilities Management as the county officer to execute these leases. Resolution No. 97-252 delegated authority to the same county officer to enter into leases of county owned real property with limitations. Resolution No. 98-364 was adopted for delegated limited authorities for leases on County owned property devoted to airport uses. Once Ordinance No. 861.1 takes effect, the authorities delegated within these resolutions will be contained within the ordinance; therefore, they will be superseded and no longer necessary.

The purpose of Ordinance No. 861.1 once effective will be to provide and establish alternative procedures for the leasing and licensing of real property by or for the County of Riverside and to delegate to an appropriate county officer, such as the Assistant County Executive Officer of the Economic Development Agency, the Managing Director and the Assistant Director of the Real Estate Division, the Assistant Director of Aviation Division of the Economic Development Agency, or any other county officer charged by the Board with the responsibilities and duties of managing any County property, the authority with limitations to negotiate and execute leases and licenses on behalf of the County of Riverside for real property belonging to, leased by, or licensed by the County of Riverside or for the use of the County, including airport property. The delegation of authorities established in this ordinance shall transfer to any equivalent successor county officer positions to the positions named herein. Ordinance No. 861.1 is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(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. The County's approval of this proposed ordinance does not create any reasonably foreseeable physical change in the environment; it is simply a procedural change in authority to enter certain agreements.

County Counsel has approved this ordinance as to form.

Attachment: Ordinance Amendment No. 861.1

1 ORDINANCE NO. 861.1

2
3 AN ORDINANCE OF THE COUNTY OF RIVERSIDE
4 AMENDING ORDINANCE NO. 861 AUTHORIZING THE
5 ASSISTANT COUNTY EXECUTIVE OFFICER/ECONOMIC DEVELOPMENT AGENCY
6 TO EXECUTE CERTAIN AIRPORT LEASES
7

8 The Board of Supervisors of the County of Riverside ordains as follows:

9 Section 1. Ordinance No. 861 is amended in its entirety to read as follows:

10
11 "ORDINANCE NO. 861

12
13 AN ORDINANCE OF THE COUNTY OF RIVERSIDE
14 ESTABLISHING PROCEDURES AND LIMITED DELEGATION OF AUTHORITY
15 FOR LEASES AND LICENSES OF REAL PROPERTY
16

17 Section 1. PURPOSE. To establish alternative procedures for the leasing and
18 licensing of real property by or for the County of Riverside and to delegate to an appropriate county
19 officer, such as the Assistant County Executive Officer of the Economic Development Agency, the
20 Managing Director and the Assistant Director of the Real Estate Division, the Assistant Director of
21 Aviation Division of the Economic Development Agency, or any other county officer charged by the
22 Board with the responsibilities and duties of managing any County property, the authority with limitations
23 to negotiate and execute leases and licenses on behalf of the County of Riverside for real property
24 belonging to, leased by, or licensed by the County of Riverside or for the use of the County, including
25 airport property. The delegation of authorities established in this ordinance shall transfer to any
26 equivalent successor county officer positions to the positions named herein.

27 Section 2. AUTHORITY. This ordinance is adopted pursuant to Government Code
28 sections 25537, 25350.51, and 25526.6. The Board of Supervisors may, by ordinance, 1) establish an

1 alternative procedure, than those procedures required by sections 25526 to 25535, for leasing and
2 licensing of any real property belonging to, leased by, or licensed by, the County and may delegate
3 authority with limitations to a county officer(s) deemed appropriate to execute such leases and licenses; 2)
4 authorize, with limitations, a county officer it deems appropriate to obtain by lease or license real property
5 for the use by the County.

6 Section 3. DEFINITIONS. The following words and phrases, whenever used in this
7 ordinance, shall be construed as defined in this section. Any words and phrases not specifically defined
8 herein shall have the meaning as they are defined in Riverside County Ordinance No. 803.

- 9 a. Airport Property. Any County property that was acquired for airport
10 purposes or designated as part of an airport within the County of Riverside,
11 whether or not any portion thereof is actually used for airport or
12 aeronautical purposes.
- 13 b. Call for Bids. To summon by invitation the solicitation for one or more
14 offers from any responsible party as a preliminary step to conducting the
15 bidding procedures for leasing or licensing County property.
- 16 c. County Property. Any real property or any interest therein, buildings and
17 facilities belonging to, leased by or licensed by the County of Riverside.
- 18 d. Delegate. A county officer working as an Assistant County Executive
19 Officer, a Managing Director or a Assistant Director, each of the County of
20 Riverside Economic Development Agency.
- 21 e. Highway Purposes. The intended use, passing or repassing of any public
22 highway, road, street, avenue, alley, lane, drive, way , place court, or trail,
23 by the public to the full, unobstructed and uninterrupted enjoyment of the
24 entire width of the layout for that intention.
- 25 f. Lease. An agreement, including any leases or subleases, in which a
26 property owner or person with authority to lease such property agrees to
27 give a person or entity the exclusive right to use, occupy and control the real
28 property for a specific term and for consideration.

- 1 g. License. An agreement, including a license, right of entry, and use permit,
2 whereby the owner of real property grants, or a person with the authority to
3 grant, a revocable, non-exclusive right to a person or entity to use the real
4 property for a specific purpose. It is personal to that person or entity, does
5 not transfer an interest in real property.
- 6 h. Public Party. The State of California, a county, city, district, public agency
7 or corporation, or public utility corporation.
- 8 i. Responsible Party. Any person or entity, public or private, willing and
9 capable of performing the requisite terms and conditions provided in the
10 Call for Bids for a lease or license of County property.

11 Section 4. ALTERNATIVE BIDDING PROCEDURE FOR LEASING AND
12 LICENSING OF COUNTY PROPERTY. The Board, pursuant to Government Code section 25537,
13 hereby prescribes the following alternative procedure to the procedure required by sections 25526 to
14 25535 for leasing and licensing of County property. This alternative procedure shall not be required for
15 any leases or licenses that have been specifically excluded by law from any bidding procedures. The
16 Board authorizes the delegate to conduct the alternative bidding procedure prescribed herein for the lease
17 or license of County property in accordance with the following:

- 18 a. The call for bids shall be posted in at least three public places for not
19 less than 15 days and published for not less than two weeks in a
20 newspaper of general circulation that is published in Riverside
21 County with a description of the County property proposed to be
22 leased or licensed, the terms of the lease or license, and the location
23 and time period for receipt and examination of the bids.
- 24 b. The delegate shall open and examine all the written bids to lease or
25 license the property at the place and time specified in the call for
26 bids. The highest written bid that conforms to all the terms and
27 conditions specified in the call and was made by a responsible party
28 shall be declared as the highest bid by the delegate pending final

1 approval by the Board.

- 2 c. The delegate shall present the highest declared bid as described in
3 this Section 4.b., to the Board at a regular meeting for acceptance or
4 rejection. The Board shall either accept the bid declared as the
5 highest or reject all bids for the proposed lease or license.

6 Section 5. LEASES OR LICENSES OF COUNTY PROPERTY EXCLUDED FROM
7 BIDDING PROCEDURES. Notwithstanding Section 4 of this ordinance, a lease or license of County
8 property not exceeding ten (10) years in duration nor exceeding an estimated monthly rental rate of
9 twenty five thousand dollars (\$25,000) may be excluded from the bidding procedures prescribed in
10 Section 4, except that notice shall be given pursuant to Government Code section 6061, posted in the
11 office of the Clerk of the Board. Any such leases or licenses excluded from bidding procedures shall not
12 have an actual monthly rental that exceeds twenty five thousand dollars (\$25,000), the term shall not
13 exceed 10 years and the lease or license is not renewable. Any notice for such leases or licenses shall be
14 given pursuant to Government Code section 25537(b)-(d). The Board hereby authorizes the delegate to
15 execute in the name of the County as lessor in a lease or licensor in a license of County property without
16 any advertised call for bids provided the lease or license conforms to the limitations provided in this
17 Section 5 and is done in compliance with all applicable laws.

- 18 a. For licenses, notice shall be given to the supervisorial district office
19 in which the property is located, at least five (5) working days prior
20 to execution of the license, with a description of the property, the
21 terms and conditions of the license and the name of proposed
22 licensee.

- 23 1) If no written objection to the proposed license is received
24 within five working days after the notice has been provided,
25 it shall be deemed approved by the district office.
26 2) If written objection to the proposed license is received within
27 the five working days, the license may be submitted for
28 approval by the Board at a regular meeting.

- b. The delegation of authority granted in this Section 5 shall expire five years from the effective date of Ordinance No. 861.1.

Section 6. GRANTING A LICENSE OR USE PERMIT ON COUNTY PROPERTY TO A PUBLIC PARTY. Notwithstanding any other provision of the law and as authorized by Government Code section 25526.6, the delegate is hereby authorized to grant a license or permit for use of any County property to a public party in the manner and upon the terms and conditions as the delegate determines or prescribes, upon a finding by the Board or the delegate that the grant is in the public interest and that the interest in land granted will not substantially conflict or interfere with the use of the property by the County.

Section 7. LEASE OR LICENSE OF REAL PROPERTY FOR USE BY COUNTY. The delegate is hereby authorized to negotiate and execute a lease or license for use by the County for a term not to exceed five (5) years and for a monthly rental amount not to exceed seven thousand five hundred dollars (\$7,500) pursuant to Government Code section 25350.51 and provided that:

- a. A notice of intention to consummate such a lease or license shall be posted in a public place for five working days prior to consummation of the lease or license containing a description of the property to be leased or licensed, the terms of the lease or license, and any county officer authorized to execute the lease or license.
- b. The rental rate has been determined by the delegate to represent a fair and reasonable rate.
- c. The delegate may amend a lease or license to provide for property improvements or alterations, or both, provided the total cost in each amendment does not exceed seven thousand five hundred dollars (\$7,500), the amendment does not extend the term of the lease or license and no more than two amendments, not to exceed seven thousand five hundred dollars (\$7,500) each, are made within a twelve (12) month period.

Section 8. CHANGES TO EXISTING LEASES. Matters concerning termination,

1 extension, amendment or renewal of leases on real property shall be submitted to the Board for approval
2 by and with the recommendation of the Assistant County Executive Officer for the Economic
3 Development Agency, except those leases for use by the County for a total term not to exceed five years
4 and for a rental amount not to exceed seven thousand five hundred dollars (\$7,500) per month and in
5 accordance with the limitations provided in Section 7.c of this ordinance. A total term shall mean the sum
6 of the original term plus any prior or proposed extensions or renewals thereof.

7 Section 9. LEASING AND LICENSING OF AIRPORT PROPERTY. In addition to
8 the provisions set forth in this ordinance or by state law, any lease and license of airport property shall
9 also include the following:

- 10 a. Shall be in accordance with all applicable federal, state or local
11 regulations with respect to the use, leasing or licensing of airport
12 property.
- 13 b. Shall be administered in accordance with the regulations and
14 requirements of the Federal Aviation Administration (FAA), as well
15 as the Grant Assurances associated with any applicable FAA grants
16 or other agreements.
- 17 c. Shall include applicable federally required lease provisions.
- 18 d. Shall include a lease or license attachment with a Fixed Base
19 Operator (FBO), the County's current "Minimum Standards for
20 Fixed Based Operators," or as it may be amended from time to time.
- 21 e. Shall not, if a lease of airport property for the purposes provided in
22 Government Code section 50478, have a term that exceeds 50 years.

23 Section 10. LEASING OF REAL PROPERTY ACQUIRED FOR HIGHWAY
24 PURPOSES. The Board authorizes the delegate to lease any real property acquired by the County for
25 highway purposes may be leased by the delegate, with the recommendation of the Director of
26 Transportation and without competitive bidding, subject to the term requirements of Streets and
27 Highways Code section 960.6. Proceeds from such leases shall be paid into the County Treasury to the
28 credit of any fund designated by the Board which is available for highway purposes. A notice of intention

1 to enter into the lease shall be posted in a public place at least five (5) working days prior to entering into
2 a lease under this section.

3 Section 11. GENERAL CONSIDERATIONS FOR ALL LEASES AND LICENSES
4 OF REAL PROPERTY. Board Policies providing considerations or guidelines for leasing and licensing
5 of real property by or for the County should be followed in conjunction with the procedures and
6 limitations prescribed by law and this ordinance. Any real property transaction conducted on behalf of
7 the County that is deemed a "project" under the California Environmental Quality Act (CEQA) shall be
8 done in compliance with CEQA. Any documents associated with the real property transactions shall be
9 approved as to form by county counsel.

10 Section 12. SEVERABILITY. If any provision, clause, sentence or paragraph of this
11 ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity
12 shall not affect the other provisions of this ordinance which can be given effect without the invalid
13 provision or application, and to this end, the provisions of this ordinance are hereby declared to be
14 severable."

15 Section 2. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after
16 its adoption.

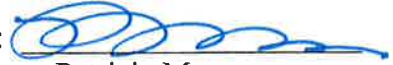
17
18 BOARD OF SUPERVISORS OF THE COUNTY
OF RIVERSIDE, STATE OF CALIFORNIA

19 By: _____
20 John J. Benoit
Chairman, Board of Supervisors

Attest:
Kecia Harper-Ihem
Clerk of the Board

By: _____
Deputy

23
24 Approved as to Form:
September __, 2013

25 By: 
26 Patricia Munroe
Deputy County Counsel

27
28 JF:ra/080213/16.151 S:\Real Property\TYPING\Docs-16.000 to 16.499\16.151.doc



NOTICE OF EXEMPTION

August 6, 2013

Project Name: County of Riverside, Amendment of Ordinance 861.1

Project Number: FM04107200174/Ordinance 861.1

Project Location: County-wide

Description of Project: Resolution No. 97-251 was approved by the Board of Supervisors in regular session assembled on December 9, 1997 permitting, what was designated at the time as the Director of the Department of Building Services, the delegated authority to execute leases for use by the County with limitations. Subsequently, Resolution No. 2002-364 was adopted by the Board to amend and expand the limitations for this delegation of authority, to recognize the change from the Department of Building Services to the Department of Facilities Management and designate the Director of the Department of Facilities Management as the county officer to execute these leases. Resolution No. 97-252 delegated authority to the same county officer to enter into leases of county owned real property with limitations. Resolution No. 98-364 was adopted for delegated limited authorities for leases on County owned property devoted to airport uses. Once Ordinance No. 861.1 takes effect, the authorities delegated within these resolutions will be contained within the ordinance; therefore, they will be superseded and no longer necessary.

Ordinance No. 861.1 is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(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. The County's approval of this proposed ordinance does not create any reasonably foreseeable physical change in the environment.

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

Exempt Status: California Environmental Quality Act (CEQA) Guidelines, General Rule Exemption Section 15061

Reasons Why Project is Exempt: The project is exempt from the provisions of CEQA specifically by CEQA Guidelines:

- Section 15061 (b) (3)- With certainty, there is no possibility that the amendment of Ordinance 861.1 will have a significant effect on the environment.

Signed:

Date:

Rob Field, Assistant County Executive Officer/EDA
County of Riverside, Economic Development Agency