

Real Property Acquisition Questionnaire* for ASR
(*Applies to property purchase, or acquisition lease, license or easement)

Instructions:

- This questionnaire was developed with input from Auditor Controller, Internal Auditor and CEO Real Estate to assure that County leadership is fully informed.
- Insert the complete answer after each question below.
- When completed, save and include as an Attachment to your ASR.
- In the body of the ASR focus on the considerations relevant to the decision.
- If you need assistance, please contact CEO Real Estate.

1. What property interest is being considered for acquisition (fee, lease, license, easement)?

A Nonexclusive At-Grade Easement Deed from Union Pacific Railroad Company (Railroad) for Parcel Z58-252 for the purpose of widening the at-grade road crossing at the intersection of Gilbert Street and Pacific Place (Project).

- a) Why is this property being considered for acquisition?
To facilitate the County's Project.
- b) How and who identified this property for a potential acquisition?
The County.
- c) What factors are key in recommending this property for acquisition?
It will support County's Project
- d) How does the proposed acquisition fit into the County's/District's strategic or general plan?
It will allow County to provide enhanced traffic enhancements and ADA compliance improvements to the County's residents.
- e) What are the short and long term anticipated uses of the property?
Public Road.
- f) Are there any limitations on the use of the property for its intended purposes?
No.

2. What analysis has been performed as to whether to acquire the proposed real property interest?

The goal is to provide safe use of the public street.

- a) Have there been any internally or externally prepared reports regarding this property acquisition?
No.
- b) Who performed the analysis?
Not applicable.
- c) Provide details about the analysis and cost/benefit comparison.
Not applicable.

3. How was the acquisition price, or lease/license rent, determined?

- **The easement interest was negotiated for \$66,025.00.**
- **County's annual payment of \$7,820.00 to Railroad for signal maintenance.**
- **County's annual payment of \$3,624.00 to Railroad for surface maintenance.**

According to Road, the annual maintenance costs are estimated by Railroad based upon material and force account estimates and following the American Railway Engineering and Maintenance-of-Way Associated cost indexes.

- a) Who performed the appraisal or market study and what certifications do they possess?

Not applicable.

- b) How does the price/rent compare with comparable properties?

N/A

- c) Does the setting of the price/rent follow industry standards and best practices?

Yes, Road concurs with Railroad's methodology.

- d) What are the specific maintenance requirements and other costs within the agreement and who is responsible?

Following the execution of the Public Highway At-Grade Crossing Agreement (Agreement) and Nonexclusive At-Grade Easement Deed (Easement Deed), the County will be responsible for the construction of the Project and continued maintaining the easement area.

Railroad will perform maintenance of the signal system and roadway surface between the track tie ends within the crossing.

- e) Provide an estimate of the costs to the County/District if applicable.

The road will be included in the road system asphalt road inventory to be inspected and maintained consistent with road maintenance program. The Project cost is estimated at \$722,631 and the annual cost is estimated at \$11,444 for signal and roadway surface maintenance.

The cost will be funded from Road Fund 174.

The ongoing annual maintenance costs will be included in the future Fund 115, the OC Road, recommended budgets. According to Road, these annual fees may be re-established every five (5) years to account for escalation.

4. What additional post-acquisition remodeling or upgrade costs will be needed for the property to meet its intended use?

The Project will commence upon the easement rights acquisition.

- a) Will any of the upgrades be required to meet County, ADA, or other standards and requirements?

ADA ramps will be installed as part of the Project.

- b) Include estimates of the costs.

The Project cost is estimated at \$722,631 and the annual cost is estimated at \$11,444 for signal and roadway surface maintenance.

- d) What department will be responsible for the costs?

Fund 174, OC Road – Capital Improvement Projects. And, Fund 115, OC Road, for annual maintenance costs.

5. Can the County terminate the purchase/easement, lease/license? **Yes.**

- a) What would be necessary to terminate the agreement, and when can it be terminated?

The Agreement can be terminated by the Board of Supervisors up to the point in time when the Easement Deed are accepted.

- b) Are there penalties to terminate the purchase/easement, or lease/license?

No.

6. What department will be responsible for the acquisition payments?

County will pay the Railroad \$66,025.00 for the easement rights.

- a) Are the acquisition costs budgeted in the department's budget?

Road – Fund 174.

- b) What fund number will the funds for the acquisition ultimately be drawn from?
Road – Fund 174.
- c) Will any restricted funds be used for the acquisition? (Check with the Auditor Controller's General Accounting Unit and Counsel if you have questions about whether restricted funds are involved.)
No restricted funds will be used.
- d) If restricted funds will be used, has County Counsel advised that this is an allowable use of the proposed restricted funds?
No restricted funds will be used.

7. Does the proposed purchase/lease/license/easement agreement comply with the CEO Real Estate standard language?
The language in the Agreement and Easement Deed complies with CEO Real Estate practice and has been negotiated and carefully tailored to this particular transaction by the parties, CEO Real Estate and County Counsel.
- a) List any modified clauses and reasons for modification.
The language, clauses and exhibits to these documents are specifically tailored to this transaction. They reflect upon agreed transaction terms between the Railroad and the County
8. If this is a lease, is it a straight lease, an operating agreement, a lease with an option to purchase, or a capital lease (see details below)?
This acquisition is not a lease; it is an easement rights acquisition. Therefore, the Capital Lease Determination, which follows is not applicable to this transaction.

Capital Lease Determination: At the inception of any *potential* capital lease, it is important to contact the Auditor-Controller's Capital Asset Unit for further guidance to ensure that proper classification and accounting for the lease occurs. There are specialized accounting rules and required forms for capital leases. See further details in the County's Accounting Manual, Policy No. FA-1: *Accounting for Lease Purchases (Capital Leases)*, located on the intranet. For accounting purposes only, a capital lease exists if ANY one (1) of the following four (4) criteria is met:

- i) Lease transfers ownership to the County by the end of the term.
- ii) Lease contains an option to purchase the property by the end of the term for a price lower than the expected fair market value of the property? (For example \$1 or \$1,000, and based on this option price, for accounting purposes only, the ultimate purchase of the property is deemed reasonably assured at the inception of the lease.)
- iii) Lease term is equal to 75% or more of the remaining estimated useful life of the leased property.*
- iv) Present value of the minimum lease payments is equal to 90% or more of the fair value of the property at the inception of the lease.*

*Criteria iii) and iv) don't apply if the lease term begins in the last 25% of a property's estimated useful life.

To validate whether a lease is a capital lease for accounting purposes, please contact the Auditor-Controller's Capital Asset Unit at capitalassets@ac.ocgov.com .