

State of California  
Business, Transportation & Housing Agency  
Department of Transportation

HIGHWAY RIGHT OF WAY MATTERS  
Airspace Lease  
12-ORA-5-87

CTC Meeting: December 12-13, 2001

Brice Paris  
Chief  
Division of Right of Way  
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Agenda Item: 2.4c.

Original Signed By:  
ROBERT L. GARCIA  
Chief Financial Officer  
December 1, 2001

### AIRSPACE LEASE – THE IRVINE COMPANY

It is recommended that the California Transportation Commission (Commission) authorize the execution of a lease between the Department of Transportation (Department) and the proposed lessee, The Irvine Company.

The proposed lessee currently owns a large entertainment/retail development (The Irvine Spectrum) located in Irvine. This development has an expansive parking lot to provide parking for customers and employees of the development. The proposed lessee would like to increase the parking capacity for the development as the existing parking lot fills up during peak usage periods.

The proposed airspace site contains approximately 2.31 acres and is located adjacent to the development, at the northwest quadrant of the intersection of the Santa Ana (I-5) Freeway and the San Diego (I-405) Freeway (see map). The proposed airspace site is adjacent to the most remote area of the parking lot. The topography is level-to-slope-area-to-a-plateau area along the I-5; and slope-area along the I-405. A portion of the proposed airspace site is beneath a “fly-over” off-ramp from south-bound I-5 to Bake Parkway. The bottom of the bridge “fly-over” structure is high over the proposed parking area. There are three columns supporting the “fly-over” which are located within the proposed parking area. This proposed airspace site is landlocked, irregular in shape, and could not support independent development. For this reason, this site has never been offered for bid. The proposed lessee is the only property owner directly adjacent to this site.

Proposed lessee agreed to a lease under the following terms and conditions:

#### STANDARD TERMS AND CONDITIONS

Term: 50 years.

Area: 100,703 square feet net usable (100,825 square feet gross area of which 122 square feet is unusable due to fly-over support columns)

Use: Supplemental parking area.

Consideration: \$7,133.33/month (\$85,600/Year), based on a fair market appraised value of \$1,007,000, resulting in a return of 8.5 percent.

Adjustment: Annual Consumer Price Index adjustment, with a minimum annual adjustment of 2.00 percent and a maximum annual adjustment of a 7.00 percent.

Reevaluation: Every tenth year.

Cancellation: This lease may be terminated at any time by lessee upon providing lessor with 120 days prior notice, in writing, but in no event prior to two years from the date of execution of this Lease. If the area is needed for a future widening project, the State can cancel the lease and the lessee will return the area to its original condition.

The optimum return for this proposed site will be realized through a lease with said proposed lessee for parking purposes, which is the highest and best use. The proposed site would: add revenue to the State; relieve the Department of continuing maintenance expenses; and does not detract from the safety and aesthetics of the adjoining freeways and the “fly-over” ramp. The developer proposes to grade, pave, curb, stripe and landscape the site. The rental rate is based upon a Fair Market Appraisal and Highest and Best Use Study. We therefore, request approval of a directly negotiated lease to proposed lessee under the terms and conditions outlined above.

The proposed terms and conditions have been reviewed and are recommended for approval by the Commission’s Airspace Advisory Committee.