

FORM APPROVED COUNTY COUNSEL  
 BY: GREGORY P. PRIAMOS DATE 7/22/15

Departmental Concurrence

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

316



**FROM:** Economic Development Agency

**SUBMITTAL DATE:**

September 24, 2015

**SUBJECT:** First Amendment to Operating Agreement, Riverside EXCITE, District 2, CEQA Exempt [\$0]

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

1. Find that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 and Section 15061(b)(3);
2. Approve the attached First Amendment to Operating Agreement and authorize the Chairman of the Board to execute the same on behalf of the County;
3. Direct the Clerk of the Board to file the attached Notice of Exemption with the County Clerk for posting within five work days ; and

(Continued)

*Robert Field*

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: N/A				Budget Adjustment: No	
				For Fiscal Year: 2015/16	

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

APPROVE

BY: Rohini Dasika  
 Rohini Dasika

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

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

Prev. Agn. Ref.:

District: 2

Agenda Number:

3-23

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

Economic Development Agency

**FORM 11:** First Amendment to Operating Agreement, Riverside EXCITE, District 2, CEQA Exempt [\$0]

**DATE:** September 24, 2015

**PAGE:** 2 of 3

**RECOMMENDED MOTION:**

(Continued)

4. Authorize the Assistant County Executive Officer/EDA, or designee, to take all necessary steps to implement the First Amendment to Operating Agreement, including, but not limited to signing subsequent, necessary and relevant documents, subject to approval by County Counsel.

**BACKGROUND:**

**Summary**

On August 22, 2014 the County of Riverside (County) entered into an Operating Agreement with Riverside EXCITE, a non-profit organization, as operator, for the purpose of opening and operating an accelerator program (Accelerator) in conjunction with the University of California Riverside (UCR) in a County facility located at 3499 10<sup>th</sup> Street, Riverside. The specific purpose of this facility is to promote economic development opportunities by facilitating the successful incubation and acceleration of startup and early stage companies in the County. These companies will be engaged in entrepreneurial research and product development and with the intent of creating new and sustainable jobs in the region.

In accordance with a separate agreement, OmniPlatform Corporation was to assist Riverside EXCITE in providing technical oversight and assistance with the operation of the Accelerator. OmniPlatform Corporation is unable to participate in accordance with the separate agreement; therefore the proposed First Amendment to Operating Agreement (First Amendment), which is attached, represents the deletion of OmniPlatform from the Operating Agreement and clarifies the parties' obligation relative to utilities, maintenance, furnishings and alterations. Pursuant to Section 46 of the Operating Agreement any subsequent amendments to the Operating Agreement must be approved by Riverside ExCite and signed by the Board of Supervisors. Except for the modification set forth in the proposed First Amendment, all other terms and conditions of the Operating Agreement shall remain the same.

Pursuant to the California Environmental Quality Act (CEQA), the First Amendment was reviewed and determined to be categorically exempt from CEQA under State CEQA Guidelines Section 15301, Class 1 – existing facilities and Section 15061(b) (3) General Rule on "Common Sense" exemption. The proposed project, the amendment to the operating agreement, is an agreement relating to the operation of the existing Accelerator and no expansion of an existing use will occur. In addition, it can be seen with certainty that there is no possibility that the First Amendment may have a significant impact on the environment since the proposed changes are purely administrative changes.

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

Operator: Riverside ExCite  
3499 10<sup>th</sup> Street  
Riverside, California

Premises: 3499 10<sup>th</sup> Street, 1<sup>st</sup> Floor  
Riverside, California

Term: Five years commencing 12/1/14

(Continued)

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
Economic Development Agency  
**FORM 11:** First Amendment to Operating Agreement, Riverside EXCITE, District 2, CEQA Exempt [\$0]  
**DATE:** September 24, 2015  
**PAGE:** 3 of 3

**BACKGROUND:**  
**Summary** (Continued)

Maintenance:            Provided by County  
Utilities:                Provided by County  
Custodial:               Provided by County

**Impact on Citizens and Businesses**

This facility will have a positive impact on the residents of the Community by creating a number of new companies and in turn new jobs throughout the County.

Attachment:  
First Amendment to Operating Agreement  
Notice of Exemption  
Aerial Image

1 **FIRST AMENDMENT TO**  
2 **OPERATING AGREEMENT**

3  
4 **THIS FIRST AMENDMENT TO OPERATING AGREEMENT (Accelerator)**  
5 (“First Amendment”), dated as of \_\_\_\_\_, 2015, is entered into by and  
6 between the **COUNTY OF RIVERSIDE**, a political subdivision of the State of California,  
7 (“County”), and **RIVERSIDE EXCITE**, a California non-profit corporation (“Operator”),  
8 sometimes collectively referred to herein as the “Parties.”

9 **RECITALS**

10 a. The Operator and County entered into that certain Operating Agreement  
11 (Accelerator) dated August 22, 2014 (“Operating Agreement”) relating to, among other  
12 things, the operation by Operator of an accelerator program (“Accelerator”) to support  
13 the growing number of start-up and early stage companies in the County of Riverside.  
14 Any capitalized term not defined herein shall have the meaning ascribed to such term  
15 in the Operating Agreement;

16 b. The Accelerator is located within approximately 4,976 square feet of  
17 office space owned by the County at 3499 10<sup>th</sup> Street, Riverside, California, first floor,  
18 as more particularly depicted on Exhibit “A” to the Operating Agreement;

19 c. The Operating Agreement originally contemplated the provision of  
20 technical oversight and assistance to the Accelerator by OmniPlatform Corporation, a  
21 Delaware corporation (“Omni”). Omni is no longer able to provide such oversight and  
22 assistance; and

23 d. The Parties desire to amend the Operating Agreement to (1) delete all  
24 references to Omni and any assistance obligations of Omni contained therein; and (2)  
25 modify to certain other obligations of the Parties, all on the terms and conditions as set  
26 forth below.

27 ///

28 ///

1 NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency  
2 of which is hereby mutually acknowledged, the Parties do hereby agree as follows:

3           1.     **Introductory Paragraph.** The introductory paragraph of the  
4 Operating Agreement commencing with the words, “THIS OPERATIONS  
5 AGREEMENT (“Agreement”)...” is hereby amended to delete the word, “Operations”  
6 and replace with the word “Operating” such that the paragraph now reads, “THIS  
7 OPERATING AGREEMENT (“Agreement”)....”

8           2.     **OmniPlatform Corporation.** The Operating Agreement is hereby  
9 amended as follows:

10           a.     Section 2 of the Operating Agreement, titled “OmniPlatform  
11 Corporation” is hereby deleted in its entirety. All reference to “Omni” and/or “Omni  
12 Platform” and any obligations of Omni and/or OmniPlatform set forth in the Operating  
13 Agreement are hereby deleted in their entirety.

14           b.     Exhibit “C” OmniPlatform Corporation Scope of Services is hereby  
15 deleted in its entirety from the Operating Agreement.

16           3.     **Scope of Incubator Services.** Section 5 (b) of the Operating  
17 Agreement, titled “Collaboration with Omni” is hereby deleted in its entirety from the  
18 Operating Agreement.

19           4.     **Incubator Equipment; Furnishings.** Section 15 of the Operating  
20 Agreement, titled, “Incubator Equipment; Furnishings” is hereby deleted in its entirety  
21 and replaced with the following:

22           “15.   **Incubator Furnishings.** Except for furnishing purchased by Operator  
23 with Operator funds, all furnishings located within the Property as identified in Exhibit E  
24 attached hereto and incorporated herein by this reference, are the sole property of the  
25 County (“County Furnishings”). Operator, at its expense, shall provide any additional  
26 furnishings Operator deems necessary and shall be responsible for maintaining all  
27 furnishings within the Property. In the event that Operator is no longer retained as the  
28 Operator of the Accelerator, all County Furnishings (excluding therefrom all furnishings

1 purchased by Operator with Operator funds) shall be retained by County as its sole  
2 property. Operator may not remove any furnishings when they vacate the Property.”

3           **5. Furnishings.** The Operating Agreement is hereby amended to  
4 add a new Exhibit E, Furnishing Inventory, identifying the County’s furnishings, attached  
5 hereto as attachment No. 1 and incorporated herein by this reference.

6           **6. Operator Alterations.** Section 16 of the Operating Agreement  
7 titled, “Operator Alterations,” is hereby deleted in its entirety and replaced with the  
8 following:

9           “16. Operator Alterations. Operator shall be prohibited from making  
10 any alterations, modifications or improvements to the Property without prior written  
11 consent from the County. “

12           **7. Utilities/Maintenance Costs.** Section 20 (a) of the Operating  
13 Agreement shall be deleted in its entirety and replaced with the following:

14           “(a) County shall provide utilities including electricity, water and refuse  
15 collection. Operator shall provide all internet and telephone service. “

16           **8. Miscellaneous.**

17           a. **Further Cooperation.** The Parties agree to execute such other  
18 instruments, agreements and amendments to documents as may be necessary or  
19 appropriate to effectuate the Operating Agreement as amended by this First  
20 Amendment.

21           b. **Interpretation.** This First Amendment, when combined with the  
22 Operating Agreement, sets forth and contains the entire understanding and agreement  
23 of the Parties hereto and correctly sets forth the rights, duties and obligations of each  
24 to the other as of this date.

25           c. **Waivers; Amendments.** All waivers of the provisions of this First  
26 Amendment and all amendments hereto must be in writing and signed by the  
27 appropriate authorities of County and Operator.

28

1           d.     **Effectiveness of Operating Agreement; First Amendment to**  
2 **Prevail.** Except as modified and amended by this First Amendment all other terms and  
3 conditions of the Operating Agreement remain unmodified and in full force and effect.  
4 The provisions of this First Amendment shall prevail over any inconsistency or  
5 conflicting provisions of the Operating Agreement.

6           e.     **Severability.** If any term or provision of this First Amendment shall  
7 be held by a court of competent jurisdiction to be invalid or unenforceable, the  
8 remainder of this First Amendment shall not be affected thereby and each other term  
9 and provision of this First Amendment shall be valid and enforceable to the fullest  
10 extent permitted by law.

11           f.     **Effective Date.** The effective date of this First Amendment is the  
12 date the Parties execute this First Amendment. If the Parties execute this First  
13 Amendment on more than one date, then the last date this First Amendment is  
14 executed by a party shall be the Effective Date.

15  
16  
17  
18   [Signatures on Following Page]

19  
20   [Remainder of Page Intentionally Blank]

1 IN WITNESS WHEREOF, the Parties have executed this First Amendment as of  
2 the dates written below.

3  
4 COUNTY

OPERATOR

5 COUNTY OF RIVERSIDE, a political  
6 subdivision of the State of California

RIVERSIDE EXCITE, a California  
Non-Profit Corporation

7  
8  
9 By: \_\_\_\_\_  
Marion Ashley, Chairman  
Board of Supervisors

By:  \_\_\_\_\_  
Sean Varner, Secretary

10  
11 Dated: \_\_\_\_\_

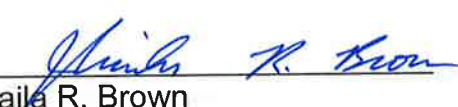
Dated: August 10, 2015

12  
13 ATTEST:

14 Kecia Harper-Ihem  
15 Clerk of the Board

16 By: \_\_\_\_\_

17  
18 APPROVED AS TO FORM:  
19 Gregory P. Priamos, County Counsel

20  
21 By:  \_\_\_\_\_  
Jhaila R. Brown  
22 Deputy County Counsel

23  
24  
25  
26  
27 TW:ra/072115/RV557/17.551 S:\Real Property\TYPING\Docs-17.500 to 17.999\17.551.doc





## NOTICE OF EXEMPTION

July 21, 2015

**Project Name:** First Amendment to Operating Agreement, Riverside EXCITE

**Project Number:** FM047611055700

**Project Location:** 3499 10th Street, 1st Floor, Riverside, California 92501;  
Assessor Parcel Number: 215-120-005 (See attached exhibit)

**Description of Project:** On August 22, 2014 the Economic Development Agency (EDA) entered into an Operating Agreement with Riverside EXCITE, a non-profit organization, as Operator, for the purpose of opening and operating an incubator operation in conjunction with the University of California Riverside (UCR) in a County facility located at 3499 10th Street, Riverside. The specific purpose of this facility is to promote economic development opportunities by facilitating the successful incubation and acceleration of startup companies. These companies will be engaged in entrepreneurial research and product development and with the intent of creating new and sustainable jobs in the region. In accordance with a separate agreement, OmniPlatform Corporation was to assist UCR in providing technical oversight and assistance with the operation of the Accelerator. OmniPlatform Corporation is unable to participate in accordance with the separate agreement; therefore this First Amendment to Operating Agreement represents the deletion of OmniPlatform from the Operating Agreement. The facility currently consists of an existing building, in a developed portion of the City of Riverside. The proposed project is the amendment to an operating agreement involving existing facilities; no expansion of an existing use will occur.

**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:** State California Environmental Quality Act (CEQA) Guidelines, Section 15301, Class 1, Existing Facilities Exemption; Section 15061(b)(3), General Rule or "Common Sense" Exemption.

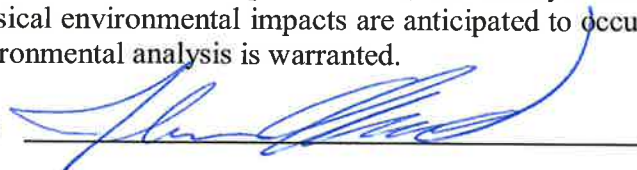
**Reasons Why Project is Exempt:** The Project is exempt from the provisions of CEQA specifically by the State CEQA Guidelines as identified below. The Project will not result in any specific or general exceptions to the use of the categorical exemption as detailed under State CEQA Guidelines Section 15300.2. The Project will not cause any impacts to scenic resources, historic resources, or unique sensitive biological environments. Further, no unusual circumstances or potential cumulative impacts would occur that may reasonably create an environmental impact. The deletion of OmniPlatform from the Operating Agreement is not anticipated to result in any significant physical environmental impacts.

- Section 15301 – Class 1 Existing Facilities Exemption. This exemption includes the operation, repair, maintenance, leasing, or minor alteration of existing public or private structures or facilities, provided the exemption only involves negligible or no expansion of the previous site’s use. The Project as proposed is the deletion of OmniPlatform from the Operating Agreement. The amendment will not increase or expand the use of the site, and merely allows for the continued use of the site in a similar capacity; therefore, the Project meets the scope and intent of the Class 1 Exemption
- Section 15061 (b)(3) – “Common Sense” Exemption. 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 *Muzzy Ranch Co. v Solano County Airport Land Use Comm’n* (2007) 41 Cal.4th 372.

With certainty, there is no possibility that the Project may have a significant effect on the environment. The proposed amendment to the operating agreement will not have an effect on the environment. The use and operation of the facility will be substantially similar to the existing uses and will not create any new environmental impacts to the surrounding area. 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 exemptions 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: \_\_\_\_\_

7/21/15

John Alfred, Acting Senior Environmental Planner  
County of Riverside, Economic Development Agency

**RIVERSIDE COUNTY CLERK & RECORDER**

**AUTHORIZATION  
TO BILL  
BY JOURNAL VOUCHER**

Project Name: First Amendment to Operating Agreement, Riverside EXCITE

Accounting String: **Fund: 524830-47220-7200400000- FM047611055700**

DATE: July 21, 2015

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: John Alfred, Acting Senior Environmental Planner, Economic Development Agency

Signature: \_\_\_\_\_

PRESENTED BY: Trea Womack, Senior Real Property Agent, Economic Development Agency

-TO BE FILLED IN BY COUNTY CLERK-

ACCEPTED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

RECEIPT # (S) \_\_\_\_\_



Date: July 21, 2015

To: Mary Ann Meyer, Office of the County Clerk

From: John Alfred, Acting Senior Environmental Planner, Project Management Office

Subject: **County of Riverside Economic Development Agency Project # FM047611055700**  
First Amendment to Operating Agreement, Riverside EXCITE

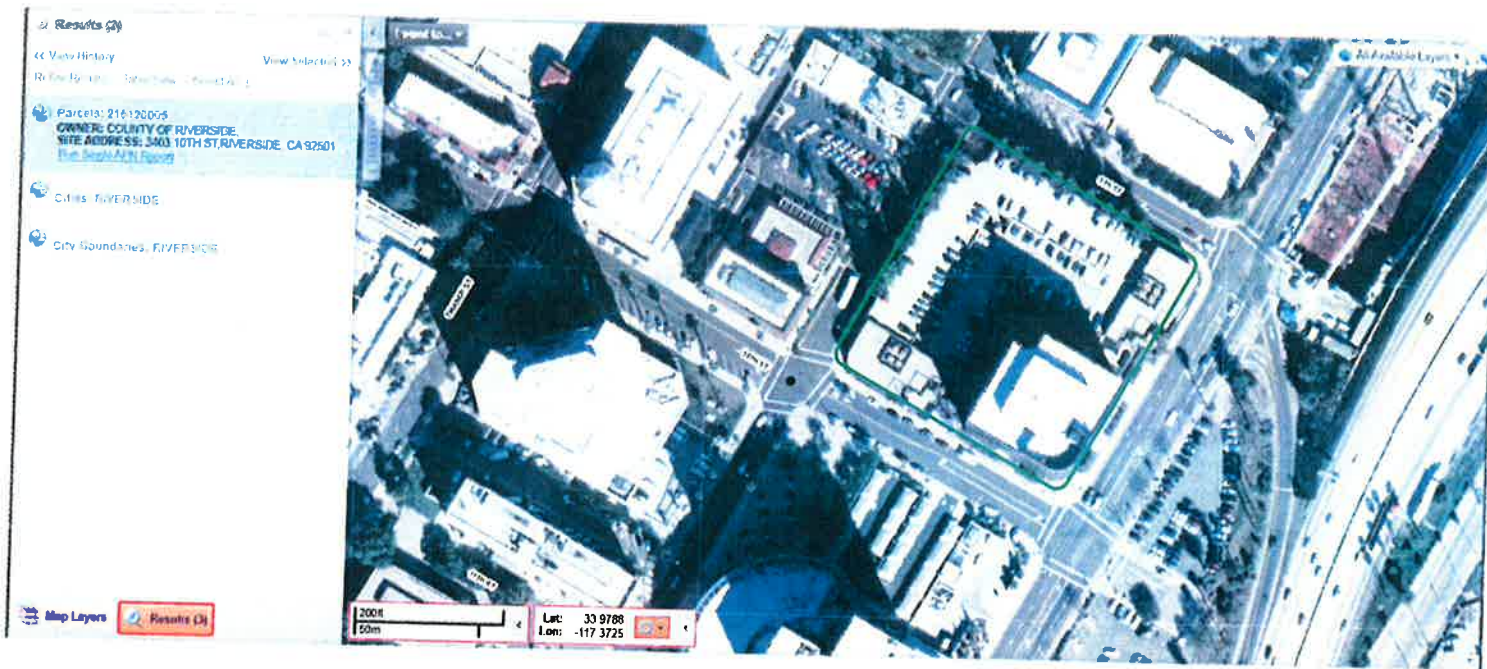
The Riverside County's Economic Development Agency's Project Management Office is requesting that you post the attached Notice of Exemption. Attached you will find an authorization to bill by journal voucher for your posting fee.

**After posting, please return the document to Mail Stop #1330 Attention: John Alfred, Acting Senior Environmental Planner, Economic Development Agency, 3403 10<sup>th</sup> Street, Suite 400. Riverside, CA 92501. If you have any questions, please contact John Alfred at 955-4844.**

Attachment

cc: file





**3499 10<sup>th</sup> Street, Riverside, CA 92501**  
**Assessor Parcel Number 215-120-005**



**3499 10<sup>th</sup> Street, Riverside, CA 92501**  
**Assessor Parcel Number 215-120-005**