

FORM APPROVED COUNTY COUNSEL
BY: Gregory P. Priamos DATE 3/4/16
Department of Public Social Services

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

916



FROM: Economic Development Agency

SUBMITTAL DATE:

March 3, 2016

SUBJECT: Termination of Lease Agreement with Crown Holdings, LLC, Department of Public Social Services, Riverside, 10-year lease, CEQA Exempt, District 1

RECOMMENDED MOTION: That the Board of Supervisors:

1. Finds that the County of Riverside has contractual grounds to terminate the Lease Agreement dated May 12, 2015 between the County of Riverside and Crown Holdings, LLC (Lease) for leasing property located at 7800 Lincoln Avenue, Riverside, California;
2. Finds that the termination of the lease is exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 and 15061(b)(3), as it can be seen with certainty that there is no possibility the activity in question may have a significant impact on the environment;
3. Approves the termination of the Lease and authorizes County Counsel to execute and send the termination letter to Crown Holdings, LLC on behalf of the County of Riverside to effect the termination immediately; and

(Continued)

Robert Field

Robert Field
Assistant County Executive Officer

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:

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

☐ Positions Added
☐ Change Order

☐ A-30
☐ 4/5 Vote

Prev. Agn. Ref.: 3-11 of 05/12/15

District: 1

Agenda Number:

3-6

RECOMMENDED MOTION: (Continued)

4. Direct the Clerk of the Board to file the Notice of Exemption with the County Clerk within five working days of approval by the Board.

BACKGROUND:

Summary

On October 8, 2013, the Board of Supervisors approved a request by the Department of Public Social Services (DPSS) for the Economic Development Agency (EDA), Real Estate Division to locate suitable space in the city of Riverside. The current office layout is obsolete and does not meet the updated space design for client services management. A Request for Proposal was issued for both existing and build to suit opportunities for consideration and EDA selected the proposal from Crown Holdings, LLC, as developer for the project.

On May 12, 2015, the Board of Supervisors approved the Lease Agreement between the County of Riverside and Crown Holdings, LLC, as "Lessor," whereby the County would lease a building to be constructed on land at 7800 Lincoln Avenue, Riverside, California. The Lessor was responsible for the construction of a 50,000 square foot office building and all aspects of a build to suit lease under the terms of the negotiated lease agreement with County. In the event Lessor failed to acquire the land for the project within a specified time frame, the County has a right to terminate the Lease with the Lessor.

Pursuant to Section 20.1 of the Lease, County has the right to terminate the Lease should the Lessor not close escrow on the land within sixty days of approval of the lease agreement and the Parties shall have no further obligation to one another upon the effective date of the termination. Lessor failed to comply with this provision. The Economic Development Agency, Real Estate Division staff communicated with the Lessor to request status and reminded Lessor of the time commitments required in the aforementioned Lease section. To date, the Lessor has not closed escrow on the land. It is recommended that the Board of Supervisors approve the termination of this Lease based on its contractual right to do so. This termination would enable the County to avoid further expense with this Lease Agreement and to re-initiate the pursuit of finding a suitable alternate location.

The proposed project, the termination of the Lease, was reviewed and determined to be exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 and 15061(b)(3) as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. This is a mere termination of an agreement resulting in no further action or changes and does not cause significant changes in the land. The Parties have no further obligations to one another upon termination of the Lease.

Impact on Citizens and Businesses

An effort will continue by the EDA Real Estate Division to locate suitable office space in the region to provide DPSS program services to the community.

SUPPLEMENTAL:

Additional Fiscal Information

There is no direct financial impact associated with the attached transaction document.

Contract History and Price Reasonableness

N/A

Attachments: Aerial Image; Notice of Exemption; Notice to Terminate Lease Letter

Department of Public Social Services

Lincoln Ave. & Grace St., Riverside



Legend

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.

Notes
District 1
APN #237-040-020



0 645 1,290 Feet



REPORT PRINTED ON... 1/14/2016 10:40:30 AM

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NOTICE OF EXEMPTION

January 21, 2016

Project Name: County of Riverside, Economic Development Agency (EDA) Termination of Lease Agreement with Crown Holdings LLC, Riverside

Project Number: FM042611056100

Project Location: 7800 Lincoln Avenue, west of Grace Street, Riverside, California 92503; Assessor's Parcel Number (APN) 237-040-020 (See Attached Exhibit)

Description of Project: The County of Riverside (County) Board of Supervisors approved a request by the Department of Public Social Services (DPSS) for the Economic Development Agency (EDA), Real Estate Division to locate suitable space in the city of Riverside on October 8, 2013 as the existing office layout was determined to be obsolete and not compliant with the updated space design for client services management. A Request for Proposal was issued for both existing and build to suit opportunities for consideration of all options.

On May 12, 2015, the Board of Supervisors approved a Lease Agreement between the County of Riverside and Crown Holdings, LLC, as "Lessor", whereby the County would lease a building to be constructed on land at 7800 Lincoln Avenue, Riverside, California. There were beneficial provisions of property location, developer capability, as well as negotiated terms for an operating lease. In addition, the Lessor was obligated to complete its land acquisition within a specified time period. Otherwise, the County has certain contractual rights to terminate for cause under the Lease if the specified time commitments were not satisfied by the Lessor.

Pursuant to Section 20.1 of the Lease Agreement, the County has the right to terminate the Lease should the Lessor not close escrow on the land within 60 days of approval and the parties shall have no further obligation to one another upon the effective date of the termination. The 60-day time period for close of escrow has passed and the Lessor had not closed escrow on the land acquisition. The EDA, Real Estate Division staff communicated with the Lessor to request status and reminded Lessor of its time commitments required in the aforementioned Lease section. To date, the Lessor has not closed escrow on the land. It is recommended that the Board of Supervisors approve the termination of this Lease based on its contractual right to do so. This termination would enable the County to avoid further expense with this Lease Agreement and to re-initiate the pursuit of finding a suitable alternate location.

The termination of the Lease is identified as the proposed Project under the California Environmental Quality Act (CEQA). The Project is a mere termination of an agreement resulting in no further action or changes and does not cause significant physical changes in the land. No additional direct or indirect physical environmental impacts are anticipated.

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

P.O. Box 1180 • Riverside, California • 92502 • T: 951.955.8916 • F: 951.955.6686

www.rivcoeda.org

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Exempt Status: State CEQA Guidelines, Section 15301, Class 1, Existing Facilities Exemption; Section 15061(b) (3), General Rule or "Common Sense" Exemption, Codified under Title 14, Articles 5 and 19, Sections 15061 and 15300 to 15301.

Reasons Why Project is Exempt: The proposed Project is categorically 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 an impact to an environmental resource of hazardous or critical concern nor does the Project include unusual circumstances which could have the possibility of a significant effect on the environment. The Project would not result in impacts to scenic highways, hazardous waste sites, historic resources, or other sensitive natural environments, or have a cumulative effect to the environment. No significant environmental impacts are anticipated to occur with the termination of the Lease Agreement.

- **Section 15301 – Class 1 Existing Facilities Exemption:** This categorical 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 limited to the termination of a lease agreement. The termination of the lease agreement would not require any expansion of public services and facilities; therefore, the Project is exempt as the Project meets the scope and intent of the Class 1 Exemption identified in Section 15301, Article 19, Categorical Exemptions of the CEQA Guidelines.
- **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 *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 Project may have a significant effect on the environment. The proposed termination of the License Agreement will not result in any direct or indirect physical environmental impacts. The termination of the Lease Agreement will result in no changes to the existing use and will not create any new environmental impacts to the surrounding area. No alterations and no impacts to the existing use of the site would occur. 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: 1/21/16

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

RIVERSIDE COUNTY CLERK & RECORDER

**AUTHORIZATION
TO BILL
BY JOURNAL VOUCHER**

Project Name: Lincoln Termination of Lease with Crown Holdings LLC, Riverside

Accounting String: 524830-47220-7200400000 - FM042611056100


DATE: January 21, 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: Heidi Rigler, Senior Real Property Agent, Economic Development Agency

-TO BE FILLED IN BY COUNTY CLERK-

ACCEPTED BY: -

DATE: -

RECEIPT # (S) -



Date: January 21, 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 # FM042611056100**
Lincoln Termination of Lease with Crown Holdings LLC, Riverside

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



OFFICE OF COUNTY COUNSEL
COUNTY OF RIVERSIDE

3960 ORANGE STREET, SUITE 500
RIVERSIDE, CA 92501-3674
TELEPHONE: 951/955-6300
FAX: 951/955-6322 & 951/955-6363

March 15, 2016

Crown Holdings, LLC
Attn. Mr. Clyde Lane
414 Lorraine Boulevard, Suite 100
Los Angeles, California 90020-4730

Re: Notice to Terminate Lease

Dear Mr. Lane:

This office represents the County of Riverside in all matters relating to the lease between Crown Holdings, LLC ("Lessor") and the County of Riverside ("County") (the "Lease") for real property located at 7800 Lincoln Avenue, Riverside, California (the "Property"). Please direct all communications to the undersigned.

As you are well aware, escrow had not yet closed on the Property when the Lease was executed on May 5, 2015 and it was intended that the Lessor close escrow on the Property within sixty (60) days of execution. This did not occur as agreed. As a courtesy, the County granted you until September 24, 2015 as additional time to close escrow on the Property. Unfortunately, as of today's date, the escrow has still not closed.

Paragraph 20.1 of the Lease states: "Should for any reason, the escrow on the land described in Exhibit A fail to close within 60 days of approval and execution of this lease agreement by the County of Riverside Board of Supervisors, County shall have the option of terminating the lease agreement and the parties shall have no further obligation to one another."

Accordingly, notice is given that the Lease is hereby terminated immediately pursuant to Paragraph 20.1. The County owes you no further obligation.

Please feel free to contact this office should you have any questions.

Sincerely,

GREGORY P. PRIAMOS
County Counsel

TODD FRAHM
Deputy County Counsel

RTF:lb