

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

525



FROM: Economic Development Agency /Facilities Management

SUBMITTAL DATE:

April 12, 2012

SUBJECT: First Amendment to Revenue Lease - Christian Schools of the Desert

RECOMMENDED MOTION: That the Board of Supervisors approve the attached First Amendment to Lease and authorize the Chairman of the Board to execute same on behalf of the County.

BACKGROUND: The County of Riverside purchased property from Christian Schools of the Desert located at 40-700 Yucca Lane, Bermuda Dunes in August, 2008. The County also entered into a six-year revenue lease with Christian Schools of the Desert, commencing August 26, 2008, to accommodate their construction time frame for completion of a new school at a new location.

FORM APPROVED COUNTY COUNSEL
BY: ANITA C. WILLIS
DATE: 3-15-12
Departmental Concurrence

Robert Field

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:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: Revenue Lease	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Jennifer L. Sargent*
County Executive Office Signature Jennifer L. Sargent

Dep't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Buster and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: April 24, 2012
xc: EDA

Kecia Harper-Ihem
Clerk of the Board
By: *[Signature]*
Deputy

Prev. Agn. Ref.: 3.26 of 7/01/08; 3.37 of 7/29/08 | District: 4/4 | Agenda Number: 3.14

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

BACKGROUND: (Continued)

Christian Schools of the Desert has requested an extension to their lease agreement and the County has agreed to modify the lease to further accommodate their expected schedule of completion. The attached document represents a one-year extension of their current term with an option to renew for two years at market rent.

The revenue lease is summarized as follows:

Location: 40700 Yucca Lane
Bermuda Dunes, CA 92203

Lessee: Christian Schools of the Desert
40700 Yucca Lane
Bermuda Dunes, CA 92203

Term: Extended one year with a new expiration date of August 25, 2014.

Rent: One dollar per year.

Option to Extend: Two years with ninety days notice.

The attached Revenue First Amendment to Lease has been reviewed and approved by County Counsel as to legal form.

1 **FIRST AMENDMENT TO LEASE**

2 (CHRISTIAN SCHOOLS OF THE DESERT,
3 40-700 Yucca Lane, Bermuda Dunes, California)
4

5 This First Amendment to Lease (First Amendment) is made as of
6 April 24, 2012, by and between the **COUNTY OF RIVERSIDE**, a political
7 subdivision of the State of California (County), and **CHRISTIAN SCHOOLS OF THE**
8 **DESERT**, a 501 (c) non-profit organization (Lessee), dba Desert Christian Academy.

9 **Recitals**

10 A. County and Lessee have entered into that certain Lease, dated July 29,
11 2008, (Original Lease) pursuant to which County has agreed to lease to Lessee and
12 Lessee has agreed to lease from County real property located at 40-700 Yucca Lane,
13 Bermuda Dunes, California, (Leased Premises), as more particularly shown on Exhibit
14 A attached to the Lease.

15 B. The term of the Original Lease expires on August 25, 2014.

16 C. County and Lessee desire to amend the Lease on the terms and
17 conditions set forth herein. The Original Lease together with this Amendment are
18 collectively sometimes referred to herein as the "Lease".

19 NOW THEREFORE, for good and valuable consideration the receipt and
20 adequacy of which is hereby acknowledged, the parties agree to amend the Original
21 Lease as follows:

22 1. **Lease Property Description.** Section 1 of the Original Lease is
23 hereby amended to state as follows:

24 "The Leased Property is located at 40-700 Yucca Lane in
25 Bermuda Dunes, County of Riverside, also identified as Assessor's Parcel Number
26 607-040-069, and herein called the "Leased Property", more particularly shown on
27 Exhibit A, attached hereto and by this reference made a part of this Lease."
28

1 **2. Use.** Section 2 of the Original Lease is hereby amended to state
2 as follows:

3 "As permitted and duly authorized by law, Lessee shall use the
4 Leased Property as the interim site of the Christian Schools of the Desert, for the
5 purpose of providing a preschool through twelfth grade private school in the Coachella
6 Valley, until the permanent school is constructed at Lessee's already owned property.

7 Christian Schools of the Desert shall also make available portions of the Leased
8 Property for community events that may be requested through the County. Said
9 events will be considered donated services to the community.

10 Lessor covenants that Lessee shall at all times during the term of
11 this Lease, any option periods, or extensions thereof, peaceable and quietly have, hold
12 and enjoy the use of the Leased Property so long as Lessee shall fully and faithfully
13 perform the terms and conditions that it is required to perform under this Lease."

14 **3. Term.** Section 4 of the Original Lease is hereby amended to state
15 as follows:

16 **4.1.** The Lease term shall be for a period of seven (7) years
17 commencing August 26, 2008, and expiring at midnight on August 25, 2015.

18 **4.2 Extension of Lease.** County may grant Lessee one
19 extension of the Lease term (Extension). The Extension shall be for a period of not
20 more than (2) two years (Extended Term), subject to the conditions in this Section 4.1.

21 **4.3 Request for Extension.** The Extension may be requested
22 by Lessee delivering to County written notice thereof no later than ninety days prior to
23 the expiration of the Extended Term."

24 **4.** Section 5 of the Original Lease is hereby amended to add the
25 following:

26 **5.1 Extended Term Rent.** For the Extended Term, the Rent to
27 be paid shall be the "Fair Market Rent" which shall mean the monthly rental rate in
28 current transactions with tenants in comparable space or office type use, of

1 approximately the same size, in the Coachella Valley leasing market vicinity. County
2 shall, within thirty (30) days of Lessee's Notice of Request for Lease Extension, serve
3 upon Lessee written notice of the new Fair Market Rent to be paid by Lessee during
4 the Extended Term. Lessee shall, within thirty (30) days, respond to County in writing
5 specifying whether or not the new Fair Market Rent is acceptable. In the event Lessee
6 is not in agreement with the new Fair Market Rent, Lessee shall vacate the premises
7 on the expiration date as set forth in this First Amendment to Lease. In the event
8 County fails to receive a notice from Lessee, Lessee shall vacate the premises on the
9 lease term expiration date set forth in this First Amendment."

10 5. The Original Lease is hereby amended to add a new **Section 2A.**
11 **Shared Use**, as follows:

12 **"2A. Shared Use.** Lessee shall be allowed to enter into an
13 agreement for a shared use of all or any part of the premises, with prior written consent
14 of County. Said consent shall be at the sole and subjective discretion of the County.
15 Lessee shall submit each proposed shared use agreement, either sublease or license,
16 to County for approval. Neither a delay in the approval or disapproval nor any consent
17 to any shared use by any other person, firm or corporation which may be given by
18 County, shall constitute a waiver by County of the provisions of this Lease or a release
19 of Lessee from primary liability for the full performance by the provisions of this Lease,
20 and Lessee shall continue to be primarily liable in any and all events for the full
21 performance of each and every condition and covenant under this Lease. Any
22 approved shared use shall at all times be subject to the restrictions on use provisions
23 of section 2 of the Lease Agreement.

24 Any funds derived from a Shared Use agreement to the Lessee
25 shall be allocated to maintenance expenses associated with the operation of the
26 Leased Property. In the event any funds derived from a Shared Use agreement are
27 not allocated for maintenance expenses, these funds shall be placed into a separate
28

1 account and reserved for future maintenance expenses. County shall have the right to
2 audit Lessee's accounting records to verify the requirements of this Section.

3 Accounting records shall be defined as income/expense
4 statements accounts receivable and accounts payable records, ledgers, invoices,
5 receipts and computer generated income and expense statements. Lessee shall grant
6 County access to said records providing County gives Lessee thirty days advanced
7 notice of County's intent to audit."

8 6. The Original Lease is hereby amended to add a new **Section 2B.**
9 **Non-Discrimination**, as follows:

10 "2B. **NonDiscrimination.** Lessee herein covenants by and for
11 Lessee and Lessee's successors and assigns all persons claiming under or through
12 Lessee, this Lease is made and accepted upon and subject to the following conditions:
13 that there shall be no discrimination against or segregation of any person or group of
14 persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the
15 Government Code, as those bases are defined in Sections 12926, 12926.1,
16 subdivision (m) and Section (1) of subdivision (p) of Section 12955, and Section
17 12955.2 of the Government Code, in the leasing, use, occupancy, tenure, or enjoyment
18 of the Premises, nor shall Lessee, or any person claiming under or through Lessee,
19 establish or permit any such practice or practices of discrimination or segregation with
20 reference to the selection, location, number, use, or occupancy, or tenants, lessees,
21 sublessees, subtenant(s), or vendees in the Premises herein leased."

22 7. The Original Lease is hereby amended to add a new **Section 32.**
23 **No Assignment by Christian Schools of the Desert**, as follows:

24 "32. **No Assignment by Christian Schools of the Desert.**
25 Christian Schools of the Desert shall not assign or transfer, or attempt to assign or
26 otherwise transfer all or any portion of Christian Schools of the Desert's rights or
27 obligations under this Lease."
28

1 8. The Original Lease is hereby amended to add a new **Section 33.**
2 **Permits, Licenses, Taxes**, as follows:

3 **"33. Permits, Licenses and Taxes.** Lessee recognizes and
4 understands that this Lease, or any Shared Use agreement, may create a possessory
5 interest subject to property taxation and that Lessee may be subject to the payment of
6 property taxes levied on such interest to the extent that such taxes, assessments and
7 charges are applicable as imposed by the Internal Revenue Code."

8 9. The Original Lease is hereby amended to add a new **Section 34.**
9 **Miscellaneous**, as follows:

10 **"34 Miscellaneous.** Except as amended or modified herein, all
11 the terms of the Original Lease shall remain in full force and effect and shall apply with
12 the same force and effect to this Amendment. County shall not be bound by this
13 Amendment until County has executed and delivered this Amendment to Lessee,
14 notwithstanding Lessee's execution and delivery of this Amendment to County. Time
15 is of the essence in this Amendment and the Lease and each and all of their respective
16 provisions. The language in all parts of the Lease shall be construed according to its
17 normal and usual meaning and not strictly for or against either County or Lessee.
18 Neither this Amendment, nor the Original Lease, nor any notice nor memorandum
19 regarding the terms hereof, shall be recorded by County. Any such unauthorized
20 recording shall give County the right to declare a breach of the Lease and pursue the
21 remedies provided for therein."

22 10. Except as modified or supplemented by this First Amendment to
23 Lease, all other provisions of the Lease remain the same and in full force and effect.

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1 11. This First Amendment to Lease shall not be binding or consummated
2 until its approval by the Riverside County Board of Supervisors.

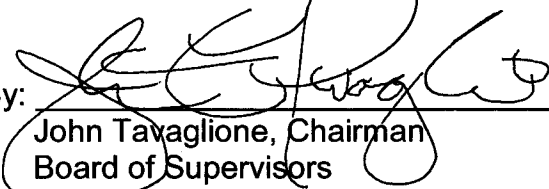
3 IN WITNESS WHEREOF, the parties have executed this Amendment as of the
4 date first written above.

5
6 Dated: 4/4/12

7 **CHRISTIAL SCHOOLS OF THE DESERT**, a
8 501 (c) non-profit organization

9 By: 
10 David E. Fulton, Founder
11 Chief Executive Officer


12 **COUNTY OF RIVERSIDE**, a political
13 subdivision of the State of California

14 By: 
15 John Tavaglione, Chairman
16 Board of Supervisors

17 **ATTEST:**
18 Kecia Harper-Ihem
19 Clerk of the Board

20 By: 
21 Deputy

22 **APPROVED AS TO FORM:**
23 Pamela J. Walls
24 County Counsel

25 By: 
26 Anita C. Willis
27 Deputy County Counsel

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