

FORM APPROVED COUNTY COUNSEL  
 BY: *[Signature]* DATE: 3/24/16  
 GREGORY P. PRAMOS

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

918



**FROM:** Economic Development Agency

**SUBMITTAL DATE:**  
 March 24, 2016

**SUBJECT:** Ground Lease – City of Riverside, District 2, CEQA Exempt, [\$41,420] Fund 11183

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

1. Find that the Ground Lease at 4049 Main Street is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 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;
2. Approve the attached Ground Lease and authorize the Chairman of the Board to execute the same on behalf of the County; and
3. Direct the Clerk of the Board to file the attached Notice of Exemption with the County Clerk for posting within five working days.

**BACKGROUND:**

**Summary** (Commences on Page 2)

*[Signature]*  
 Robert Field  
 Assistant County Executive Officer/EDA  
 By: Jeff Van Wagenen, Managing Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 41,420	\$ 0	\$ 41,420	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

**SOURCE OF FUNDS:** Fund 11183  
 Budget Adjustment: No  
 For Fiscal Year: 2015/16

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

APPROVE

BY: *[Signature]*  
 Rohini Dasika

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Benoit, seconded by Supervisor Washington and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Benoit and Ashley  
 Nays: None  
 Absent: Tavaglione  
 Date: April 5, 2016  
 xc: EDA, Recorder

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

Prev. Agn. Ref.: | District: 2 | Agenda Number:

3-9

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

Departmental Concurrence

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

Economic Development Agency/Real Estate Division

**FORM 11:** Ground Lease – City of Riverside, District 2, CEQA Exempt, [\$41,420] Fund 11183

**DATE:** March 24, 2016

**PAGE:** 2 of 3

**BACKGROUND:**

**Summary**

On November 18, 2014, the County of Riverside acquired real property located at 4049 Main Street from the Board of Trustees of the Riverside County Law Library, otherwise known as Lots 5, 6, 7 and 8 of the C. J. Gills Re-Subdivision of Block 10, Range 7, Riverside, City of Riverside, County of Riverside, consisting of approximately 0.25 acres. Prior to this acquisition, the Board of Trustees of the Riverside County Law Library owned the property, which has been vacant since a former restaurant moved from the site.

The City of Riverside proposes to lease the property from the County with the intent of improving the site in the future by developing a new project, which would result in the demolition of all existing substandard structures and related facilities onsite and the construction of an outdoor retail and restaurant centered venue. These future actions would all occur at City expense and approval. The City intends to enter into a development agreement with a third party developer to renovate the property for a future project in downtown Riverside. Therefore, the City's desire for this property is to completely renew and revitalize this area for the exclusive purpose of constructing, maintaining and operating a future project to sublease to tenants and create a sustainable pedestrian and retail/restaurant business friendly environment in the downtown.

The Notice of Exemption is included as Attachment A.

**Leased Premises:** 4049 Main Street, Riverside, CA  
APNs: 215-092-010, and 215-092-011

**Lessor:** County of Riverside

**Lessee:** City of Riverside

**Size:** Approximately 0.25 acres

**Term:** Thirty three years.

**Options:** Two five year options to extend.

**Rent:** Shall commence upon the effective date of the lease agreement and shall be payable annually at a rate of \$1.00 a year each year on the anniversary date.

**Utilities:** To be paid for by Lessee

**Maintenance:** To be paid for by Lessee

**Demolition:** To be paid for by Lessee

**Improvements:** To be paid for by Lessee

This ground lease has been reviewed and approved by County Counsel as to legal form.

(Continued)

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

Economic Development Agency/Real Estate Division

**FORM 11:** Ground Lease – City of Riverside, District 2, CEQA Exempt, [\$41,420] Fund 11183

**DATE:** March 24, 2016

**PAGE:** 3 of 3

**Impact on Citizens and Businesses**

The ground lease to the City of Riverside will facilitate the development of this revitalization project. The future project will serve to create jobs and generate revenue that will enhance the local economy and benefit both citizens and businesses in this Downtown area.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

No net County cost will be incurred and no budget adjustment is necessary, however the Economic Development Agency's Real Estate Division has incurred costs associated with this transaction. County Counsel and Real Estate costs to date in the approximate amount of \$41,420 will be reimbursed from Fund 11183.

**Attachments:**

Aerial Image

Ground Lease

Notice of Exemption

# Downtown Riverside Piazza

## Chow Alley



Legend



0 236 472 Feet



REPORT PRINTED ON... 3/21/2016 2:09:17 PM

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Notes

"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.



Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on.

4/7/16  
Date

KB  
Initial

## NOTICE OF EXEMPTION

March 23, 2016

**Project Name:** County of Riverside, Main Street Ground Lease to the City of Riverside

**Project Number:** FM0417200268

**Project Location:** 4049 Main Street, north of 11<sup>th</sup> Street, Riverside, California 92501; APNs 215-092-011 and 215-092-010 (See Attached Exhibit)

**Description of Project:** The County of Riverside (County) owns the real property located at 4049 Main Street (APN 215-092-011 and 215-092-010) that was acquired on November 18, 2014 from the Board of Trustees of the Riverside County Law Library. The County has been contacted by the City of Riverside Community Development Department, which is interested in renewing and revitalizing the area for the exclusive purpose of constructing, maintaining and operating a future project to sublease to tenants and create a sustainable pedestrian and retail business-friendly environment in Downtown Riverside. The County is proposing to lease the property to the City of Riverside in the form of a 33-year Ground Lease.

It is assumed that at some point, the City will enter into a development agreement with a third party contractor. No known details of how the site would be developed are reasonably foreseeable at this time. It is at the City's discretion whether or not to reuse or demolish the existing building. A future development agreement between a third party and the City of Riverside would involve future discretionary actions to approve design, demolition, and construction and additional California Environmental Quality Act (CEQA) consideration would be undertaken with the City of Riverside acting as the Lead Agency. However, at this time, the only reasonably foreseeable action related to the discretionary action taken by the County Board of Supervisors is the ground lease. Therefore, the letting of the Ground Lease is identified as the proposed Project under CEQA.

**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 CEQA Guidelines, 15061(b)(3), General Rule or "Common Sense" Exemption. Codified under California Code of Regulations Title 14, Article 5, Section 15061.

**Reasons Why Project is Exempt:** The discretionary action to lease the property is exempt from the requirements of CEQA as it would not result in direct impacts to the physical environment or reasonably foreseeable indirect effects. The lease of property itself would have no direct physical effect on the environment as the Lease Agreement does not include any changes to the existing land use or a physical disruption of the property.

APR 05 2016 3-9

- **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. With certainty, there is no possibility that the Lease Agreement itself may have a significant physical effect on the environment. The Lease Agreement would be limited to the lease of the property and would not result in any physical direct or reasonably foreseeable indirect impacts to the environment. 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.

The potential indirect effects from this Lease Agreement would occur through series of discretionary actions that define a broader project, e.g., the development of design, demolition of the existing buildings, construction and operation of a new project. The Lease Agreement between the County and City is not deemed to be an approval pursuant to CEQA for any specific development and does not commit any public agency, including the City, to a definite course of action regarding a project that may lead to an adverse effect on the environment or limit any choice of alternatives or mitigation measures prior to CEQA compliance. In addressing indirect effects of the Lease Agreement, CEQA Guidelines 15004(b) identifies the necessity of balance in determining the timing of CEQA compliance, citing the need to enable environmental considerations to have influence on programming and design, while at the same time having enough detailed information for meaningful environmental assessment. When considering future indirect effects from the Lease Agreement, at this point in the process, no details regarding the design or specific use of the project is substantive enough to provide a meaningful analysis of environmental effects. Future development of the site under the discretionary actions of the City provides the appropriate opportunity for environmental considerations to influence design and the characterization of effects would be more meaningful as there are more specific associated with any new development. In summary, the potential indirect effects of a future project, as proposed, are not reasonably foreseeable and not considered as part of the proposed discretionary action, which is limited to the Ground Lease Agreement.

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: 3/23/16

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

**RIVERSIDE COUNTY CLERK & RECORDER**

**AUTHORIZATION  
TO BILL  
BY JOURNAL VOUCHER**

**Project Name:** Main Street Ground Lease to the City of Riverside

**Accounting String:** 524830-47220-7200400000- FM0417200268

**DATE:** March 23, 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:** Jim Force, Supervising Real Property Agent, Economic Development Agency

-TO BE FILLED IN BY COUNTY CLERK-

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

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

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



Date: March 23, 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 # FM0417200268**  
Main Street Ground Lease to the City of 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 10<sup>th</sup> Street, Suite 400, Riverside, CA 92501**

**If you have any questions, please contact Mike Sullivan at 955-8009.**

Attachment

cc: file



**GROUND LEASE BY AND BETWEEN**  
**COUNTY OF RIVERSIDE AND CITY OF RIVERSIDE ASSESSOR'S PARCEL NOS. 215-092-010**  
**AND 215-092-011**

**TABLE OF CONTENTS**

Section 1.	Lease of Premises
Section 2.	Term
Section 3.	Rent
Section 4.	Use
Section 5.	Rights and Obligations of the City
Section 6.	Termination by County
Section 7.	Termination by City
Section 8.	Title to Buildings and Improvements
Section 9.	Permits, Licenses, Etc.
Section 10.	Repairs at No Cost to the County, Governmental Regulations and Waste
Section 11.	Damage or Destruction
Section 12.	Assignment and Subletting of Leasehold Interest
Section 13.	Mortgage of Leasehold
Section 14.	Insurance
Section 15.	Mechanic's and Other Liens
Section 16.	Hold Harmless/Indemnification
Section 17.	Lease Year
Section 18.	Quiet Enjoyment
Section 19.	County's Right of Inspection
Section 20.	City's Default and County's Remedies
Section 21.	Non-Waiver
Section 22.	No Merger
Section 23.	No Partnership
Section 24.	Covenants Run with the Land
Section 25.	Notices
Section 26.	Limitation of County's Liability
Section 27.	Estoppel Certificates
Section 28.	Prevailing Wage
Section 29.	Holding Over
Section 30.	Non Discrimination
Section 31.	Severability
Section 32.	Time of the Essence
Section 33.	Consents
Section 34.	Integration
Section 35.	Amendments
Section 36.	Governing Law
Section 37.	Approval Authority

**GROUND LEASE BY AND BETWEEN  
COUNTY OF RIVERSIDE AND CITY OF RIVERSIDE ASSESSOR'S PARCEL NOS. 215-092-010  
AND 215-092-011**

THIS GROUND LEASE ("Lease") is made as of the 21<sup>st</sup> day of April, 2016, by and between the County of Riverside, a political subdivision of the State of California, as Lessor ("County") and the City of Riverside, a California charter city and municipal corporation, as Lessee ("City"). County and City may sometimes hereinafter be referred to as "the Parties."

**RECITALS**

- A. County is the owner of certain real property (the "Property") located within the city limits of the City of Riverside, County of Riverside, State of California, identified with Assessor's Parcel Numbers (APN) 215-092-010 and 215-092-011, and certain improvements situated thereon, consisting of approximately .25 acres and more particularly described in **Exhibit "A"**, attached hereto and by this reference incorporated herein.
- B. County wishes to lease to City, and the City desires to lease from the County, together with certain rights, privileges, and easements appurtenant to the Property as further described herein, for the term and subject to the terms, covenants and conditions in this Lease. The Property, along with such appurtenant rights, privileges and easements are collectively referred to as the "Premises."
- C. City, through its local economic initiatives desires to lease the Premises in order to carry out plans to create a sustainable pedestrian and business friendly environment through a subsequent development agreement for the Premises and to use the Premises for restaurant and compatible and complimentary retail commercial uses approved by both the County and the City.

**AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, County and City hereby agree as follows:

- 1. **Lease of Premises.** County hereby leases, transfers and demises to City, and City hereby leases and takes from County, the Premises for the terms and upon the agreements, covenants and conditions set forth in this Lease.
- 2. **Term.** The term of this Lease shall be thirty-three (33) years (the "Term") commencing upon full approval and execution of this Lease by both Parties (the "Commencement Date") and, unless sooner terminated or extended as provided herein, shall end upon the expiration of the Term. This Lease may be extended for two (2) additional five (5) year periods upon mutual consent of the Parties.
- 3. **Rent.** City shall pay to County as rental for the use and occupancy of the Premises annual rent (the "Rent") of One Dollar (\$1.00) for the duration of the term.

- 3.1. **Payment.** City shall pay to County, on or before the first day of each and every successive calendar year during the Term, Rent payable for the then current Lease Year.
- 3.2. **Location for Payment.** Rent (and all other moneys and charges payable by City to County hereunder) shall be paid by City to County in lawful money of the United States of America at County's address for notices hereunder, or to such other person or at such other place as County may from time to time designate by notice in writing to City.
4. **Use.** City shall use the Premises for restaurant and compatible and complimentary retail commercial uses. All uses of the Premises must be approved in writing by both the County and the City.
5. **Rights and Obligations of the City.** At no cost to the County, City shall have the following rights and obligations:
  - 5.1. **Improvements by the City.** City shall make such improvements to the Premises and such changes and alterations, structural or otherwise, to any buildings, improvements, fixtures and equipment now or hereafter located on the Premises, including demolition of any or all buildings and improvements now or hereafter located on the Premises and replacement thereof, as necessary to allow for the full utilization of the Premises as a pedestrian friendly restaurant and retail space ("the Improvements").
    - 5.1.1. Within 180 days after the Commencement Date, City shall provide County with preliminary plans ("the Preliminary Plans") for all Improvements proposed to be made on the Premises. The Parties shall work together to develop a mutually agreeable design. Approval of the Preliminary Plans shall be subject to the prior consent of County as evidenced by written approval of the two County Board members whose supervisorial districts encompass portions of the City of Riverside after consultation with the Presiding Judge of the Riverside County Superior Court. Such consent shall be at the sole discretion of the County.
    - 5.1.2. City shall submit final plans ("Final Plans") to the County for the Improvements to determine that such Final Plans are substantially similar to the approved Preliminary Plans and obtain final consent by the County as evidenced by written approval of the two County Board members whose supervisorial districts encompass portions of the City of Riverside. Consent to the Final Plans shall not be unreasonably withheld by the County.
    - 5.1.3. City or its sublessee shall obtain all entitlements necessary for the project within three (3) years of the Commencement Date. Upon obtaining all entitlements, City shall proceed with due diligence and dispatch to complete the Improvements on the Premises per the plans approved by the City and County per Section 5.1.1 of this Lease. The project shall substantially commence operations of all businesses on the Premises not later than six (6) years following

the Commencement Date. Failure to obtain all required entitlements within three (3) years of the Commencement Date or to complete all Improvements and to substantially commence operations of all businesses on the Premises within six (6) years of the Commencement Date shall give County the right to terminate this Lease immediately.

5.1.4. Any Improvements shall be undertaken in all cases subject to the following additional conditions which City covenants to observe and perform:

5.1.4.1. No improvement, change or alteration, and no demolition and replacements shall be undertaken until City, and its contractors, shall have procured and paid for, so far as the same may be required, all municipal and other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction, and County agrees to cooperate with the City in the application for such permits or authorizations whenever such action is necessary.

5.1.4.2. All work done in connection with any improvement, change, alteration or demolition and replacement shall be done promptly and in a good and workmanlike manner and in compliance with all laws, ordinances, orders, rules, regulations and requirements of all Federal, state and municipal governments and the appropriate departments, commissions, boards and officers thereof. All such work shall be at the sole cost and expense of City or its assignee.

5.1.5. City agrees that upon expiration or termination of the Lease, the Improvements on the Premises shall become the property of County, free from any liens or claims whatsoever, without any compensation therefor from County to City or any other person.

5.1.6. Upon expiration or termination of the Lease, City shall surrender the Premises and the Improvements to County, in good order, condition, and repair, reasonable wear and tear and obsolescence excepted. City shall leave in place and in good order, condition, and repair all trade fixtures, mechanical equipment, machinery, and systems of the Improvements (i.e., heating, ventilating, air conditioning, electrical, and plumbing systems); except City shall remove unattached equipment and furniture owned by City that is not required to operate at the Premises.

5.1.7. Contemporaneous with the expiration or termination of the term of this Lease, City shall immediately deliver to County the following:

5.1.7.1. Such documents, instruments, and conveyances as County may request to enable County's ownership of the Improvements on the Premises to be reflected of record, including, without limitation, a deed in recordable form; and

5.1.7.2. All construction plans, surveys, permits, and other documents relating

to the Improvements on the Premises as may be in the possession of City at the time.

5.1.8. All documents and instruments required to be delivered by City to County pursuant this Section shall be in form and content reasonably satisfactory to County.

5.1.9. During the continuance of any Leasehold Mortgage and until such time as the lien of any Leasehold Mortgage has been extinguished County shall not accept any surrender of this Lease.

5.1.10. County and City shall, within ninety (90) days of the Commencement Date, begin negotiations for the construction of a joint parking structure on County's real property located at the north east corner of Eleventh and Market, Riverside, California, 92501 (APN: 215-092-013). The Parties shall negotiate diligently and in good faith toward the planning and construction of a future parking structure.

5.1.11. City shall have the obligation to relocate all construction trailers and layout areas utilized for the construction and improvements to the County owned structure located at 4075 Main Street, Riverside, California, at a time and to a location acceptable to County.

5.2. **Demolition by the City.** City has the right, at its cost, to demolish that certain structure identified as 4049 Main Street, Riverside (formerly known as Michelle'z) (APN: 215-092-011) on the Premises. Prior to any demolition on the Premises by the City, City agrees to provide County with any and all demolition plans for review and written consent by County. City agrees to pay for any and all costs associated with any demolition on the Premises and to pay for any necessary demolition, environmental remediation, or relocation of existing improvements including utilities. The Parties recognize that demolition of the existing structures on the Property may cause damage to adjacent County owned structures, including but not limited to those located at 4075 Main Street; 4015 Main Street; 4001 Main Street; and at the north east corner of Eleventh and Market, Riverside, California 92501 with APN 215-092-013, or reveal the need for repairs, patching, painting and/or general renewal to the outer face of adjacent County structures. City shall be liable for any such damage or repairs and shall provide and pay for these repairs consistent with plans submitted by City and approved in writing by the County. In no case shall the City be responsible for repairing pre-existing structural defects of adjacent structures that were not caused in whole or in part by the City's demolition.

City shall indemnify, defend and hold County harmless from any liability, claim, damage or action whatsoever, based or asserted upon any act or omission of City, its officers, employees, contractors, agents or representatives arising out of or in any way relating to any demolition or construction activities.

## 6. **Termination by County.**

6.1. Notwithstanding any other provision to the contrary, seven (7) years after the execution of this Lease County shall have the option to terminate this Lease upon one (1) year's written notice to City.

6.2. Following the Commencement Date, County shall have the right to terminate effective immediately in the event that City fails to perform any of the obligations set forth in Section 5.1 above, within the time limits as stated in that Section.

7. **Termination by City.** The City shall have the right to terminate the Lease for any reason by providing County with a one hundred and eighty (180) days written notice provided no encumbrances or continuing obligations on the Premises exist and the City shall deliver the Premises in a clean and safe condition in the same or better condition than it was at the execution of this Lease, except the Parties agree that the City is not obligated to reconstruct the building demolished pursuant to Section 5.2

8. **Title to Buildings and Improvements.**

8.1. Title to all buildings, structures and improvements that are part of the Premises prior to the Commencement Date, except the building demolished pursuant to Section 5.2, shall be and remain in the name of the County through the term of this Lease unless the Parties specifically otherwise agree in writing.

8.2. City, upon the expiration or termination of this Lease, shall execute and deliver any and all deeds, bills of sale, assignments, and other documents which in County's sole judgment may be necessary or appropriate to transfer, to evidence or to vest in County clear title to any of the property located on the Premises at the time of such expiration or termination.

8.3. City, in addition, shall deliver to County on the expiration or termination of this Lease originals or certified copies of any plans, reports, contracts or other items relating to the ownership or operation of the Premises.

9. **Permits, Licenses, Etc.** If necessary, County will cooperate with the City concerning all applications for permits, licenses or other authorizations relating to the Premises required by any municipal, county, state, or federal authorities, or required in connection with the construction, reconstruction, demolition, repair or alteration of any buildings or improvements now or hereafter constituting a part of the Premises. County will cooperate during the Term to execute, acknowledge and deliver any and all instruments it deems necessary to grant licenses, rights-of-way and easements in favor of municipal and other governmental authorities or public utility companies incident to the installation of water lines, fire hydrants, sewers, electricity, telephone, gas, steam, and other facilities and utilities reasonably required for the use and occupancy of the Premises. City shall reimburse County for any sum paid by County in respect of the matters specified in this Section 9, including reasonable attorney's fees.

10. **Repairs at No Cost to County, Governmental Regulations and Waste.**

10.1. City shall, during the Term, at its own cost and expense and without any cost

or expense to County:

**10.1.1.** Keep and maintain all buildings and Improvements now or hereafter located on the Premises (except as otherwise provided in Section 5.2) and all appurtenances thereto in good and neat order and repair and shall allow no nuisances to exist or be maintained therein. City shall likewise keep and maintain the grounds, sidewalks, roads and parking, and landscaped areas in good and neat order and repair. County shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Premises or any buildings or improvements now or hereafter located thereon, and City hereby expressly waives all right to make repairs at County's expense under sections 1941 and 1942 of the California Civil Code, or any amendments thereof; and

**10.1.2.** Comply with and abide by all federal, state, county, municipal and other governmental statutes, ordinances, laws and regulations affecting the Premises, all buildings and improvements now or hereafter located thereon, or any activity or condition on or in the Premises.

**10.2.** City agrees that it will not commit or permit waste upon the Premises other than to the extent necessary for the removal of any buildings or improvements upon the Premises or for the purpose of constructing and erecting thereon other buildings and improvements in accordance with the rights and obligations set forth in Section 5 above.

**11.           Damage or Destruction.** No loss or damage by fire or other cause required to be insured against hereunder resulting in either partial or total destruction of any building, structure, or other improvement on the Property, shall operate to terminate this Lease, or to relieve or discharge City from the payment of rents or amounts payable as rent as they become due and payable, or from the performance and observance of any of the agreements, covenants and conditions herein contained on the part of City to be performed and observed. City hereby waives the provisions of subsection 2 of section 1932 and subsection 4 of section 1933 of the California Civil Code, as amended from time to time.

**12.           Assignment and Subletting of Leasehold Interest.**

**12.1.** Subject to the provisions of Section 6 and Section 13 herein, with County's written consent, City may assign this Lease at any time provided that, (i) no default exists in the performance or observance of any agreement, covenant or condition of this Lease on the part of City to be performed or observed as of the date of such assignment, (ii) the assignment shall be in writing, duly executed and acknowledged by City and the assignee, in form satisfactory to County, providing that the assignee assumes and agrees to perform and observe all the agreements, covenants and conditions of this Lease on the part of City to be performed and observed, and (iii) an executed original of such assignment shall be delivered to County.

**12.2.** City shall have the right, in the regular and ordinary course of its business

of maintaining and operating the buildings and Improvements now or hereafter located on the Premises, to sublease any offices, stores, spaces or related facilities in such buildings and improvements for any use permitted by Section 4 herein; provided, however, that each such sublease shall be subject to and subordinate to this Lease and the rights of County hereunder and shall require the prior written consent of the County.

- 13. Mortgage of Leasehold.** City and/or its assignee or sublessee shall have the right to encumber the leasehold estate created by this Lease by a mortgage, deed of trust or other security instrument, including, without limitation, an assignment of the rents, issues and profits from the Premises, (the "Leasehold Mortgage") to secure repayment of any loan to City, and associated obligations, from any lender (a "Lender").

City shall have no right to require County to encumber County's fee interest in the Property, and notwithstanding anything herein contained to the contrary, County hereby agrees that City is entitled to enter into a Leasehold Mortgage with an Institutional Lender only to finance construction of the Improvements permitted to be constructed under this Lease.

**14. Insurance.**

**14.1.** Without limiting or diminishing the City's obligation to indemnify or hold the County harmless, City shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Lease. As respects to the insurance section only, the County herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, attorneys or representatives as Additional Insureds.

**14.2. Workers' Compensation.** City shall maintain statutory Workers' Compensation Insurance as prescribed by the laws of the State of California. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

**14.3. Commercial General Liability.** The City is self-insured for \$3,000,000 and will provide the County with a self-insured affirmation letter. City agrees that any sublessee shall maintain appropriate Commercial General Liability insurance coverage, covering claims which may arise from or out of such sublessee's use of the Premises or any portion thereof. Said policy from the sublessee shall name the City and the County as Additional Insureds with a policy limit of liability of not less than \$1,000,000 per occurrence combined single limit.

**14.4. Vehicle Liability.** If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then City shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County as Additional Insureds.



**14.5.** For the duration of the Lease while any construction or demolition activities are undertaken, City shall require its Contractor to keep in full force and effect, a policy of Course of Construction Insurance covering loss or damage to the Premises for the full replacement value of such work. The Named Insured shall include the City, County and Contractor as their interests appear. Contractor shall be responsible for any deductible payments that result from a loss at the Premises under this coverage. .

**14.6.** General Insurance Provisions - All lines.

**14.6.1.** Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VII (A:7) unless such requirements are waived, in writing, by County Risk Management. If County's Risk Management waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

**14.6.2.** The City must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of County Risk Management before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the County, and at the election of the County's Risk Manager, City's carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the County, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

**14.6.3.** City shall cause City's insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If City's insurance carrier(s) policies does not meet the minimum notice requirement found herein, City shall cause City's insurance carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.

**14.6.4.** In the event of a modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and copies of endorsements evidencing coverage's set forth herein and the insurance required herein is in full force and effect. City shall not commence operations until the County has been

furnished original Certificate (s) of Insurance and copies of endorsements

**14.6.5.** It is understood and agreed to by the parties hereto that the City's insurance shall be construed as primary insurance, and the County's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

**14.6.6.** City shall pass down the insurance obligations contained herein to all tiers of contractors working under this Agreement.

**14.6.7.** The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the County.

**14.6.8.** City agrees to notify County of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

**15. Mechanics' and Other Liens.** City shall any and all mechanics', materialmen's and other liens for work or labor done, services performed, materials, appliances, teams or power contributed, used or furnished to be used in or about the Premises for or in connection with any operations of City, any alterations, improvements, repairs or additions which City may make or permit or cause to be made, or any work or construction by, for or permitted by City on or about the Premises, and to save and hold County and all of the Premises and all buildings and improvements thereon free and harmless of and from any and all such liens and claims of liens and suits or other proceedings pertaining thereto. City covenants and agrees to give County written notice not less than twenty (20) days in advance of the commencement of any construction, alteration, addition, improvement or repair costing in excess of Twenty Five Thousand Dollars (\$25,000) in order that County may post appropriate notices of County's non- responsibility

**16. Hold Harmless/Indemnification.**

**16.1.** City shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, attorneys and representatives from any liability, claim, damage or action whatsoever, based or asserted upon any act or omission of City, its officers, employees, contractors, agents or representatives arising out of or in any way relating to this Lease, including but not limited to property damage, bodily injury, or death. City shall defend, at its sole cost and expense, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, attorneys and representatives in any such action or claim. With respect to any action or claim subject to indemnification herein by City, City shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise

in no manner whatsoever limits or circumscribes City's indemnification of County. City's obligations hereunder shall be satisfied when City has provided to County the appropriate form of dismissal (or similar document) relieving the County from any liability for the action or claim involved. The specified insurance limits required in this Agreement shall in no way limit or circumscribe City's obligations to indemnify and hold harmless the County.

**16.2.** City agrees to notify County of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

**16.3.** In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the City from indemnifying the County to the fullest extent allowed by law.

**16.4.** County shall indemnify and hold harmless the City, its departments, directors, officers, City Councilmembers, elected and appointed officials, employees, agents, attorneys and representatives from any liability, claim, damage or action whatsoever, based or asserted upon any act or omission of County, its officers, employees, contractors, agents or representatives arising out of or in any way relating to this Lease, including but not limited to property damage, bodily injury, or death. County shall defend, at its sole cost and expense, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, the City of Riverside, its Departments, directors, officers, City Councilmembers, elected and appointed officials, employees, agents, attorneys and representatives in any such action or claim. With respect to any action or claim subject to indemnification herein by County, County shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of City; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes County's indemnification of City. County's obligations hereunder shall be satisfied when County has provided to City the appropriate form of dismissal (or similar document) relieving the City from any liability for the action or claim involved.

**16.5.** County agrees to notify City of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

**16.6.** In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the County from indemnifying the City to the fullest extent allowed by law.

**17.** **Lease Year.** As used herein the term "Lease Year" shall mean each successive twelve calendar month period during the Term, with the first Lease Year commencing on the Commencement Date; provided, however, that the last Lease Year shall be the fractional year that ends upon the date of the expiration of the Term.

- 18. Quiet Enjoyment.** County covenants that upon payment by City of the rent herein reserved and upon performance and observance by City of all of the agreements, covenants and conditions herein contained on the part of City to be performed and observed, City shall peaceably hold and quietly enjoy the Premises during the entire Term, and any extension thereof, subject to County's right to termination, without hindrance, molestation or interruption by County or by anyone lawfully or equitably claiming by, through or under County.
- 19. County's Right of Inspection.** County may, at any reasonable time and from time to time during the Term, enter upon the Property for the purpose of inspecting the buildings or improvements now or hereafter located thereon and for such other purposes as may be necessary or proper for the reasonable protection of its interests.
- 20. City's Default and County's Remedies.** It shall be an event of default hereunder (each an "Event of Default") if: (i) default shall be made by City in the punctual payment of any rent or other moneys due hereunder and shall continue for a period of ten (10) days after written notice thereof to City; (ii) default shall be made by City in the performance or observance of any of the other agreements, covenants or conditions of this Lease on the part of City to be performed and observed and such default shall continue for a period of thirty (30) days after written notice thereof to City, or, in the case of a default which cannot be cured by the payment of money and cannot be cured within thirty (30) days, shall continue for an unreasonable period after such written notice; (iii) City shall abandon the Premises; (iv) City shall admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation under any law or statute of the federal government or any state government or any subdivision of either now or hereafter in effect, make an assignment for the benefit of its creditors, consent to, or acquiesce in the appointment of a receiver of itself or of the whole or any substantial part of the Premises; (v) a court of competent jurisdiction shall enter an order, judgment or decree appointing a receiver of City or of the whole or any substantial part of the Premises, and such order, judgment or decree shall not be vacated, set aside or stayed within sixty (60) days from the date of entry of such order, judgment or decree, or a stay thereof be thereafter set aside; (vi) a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against City under any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation law or statute of the Federal government or any state government or any subdivision of either now or hereafter in effect, and such order judgment or decree shall not be vacated, set aside or stayed within sixty (60) days from the date of entry of such order, judgment or decree, or a stay thereof be thereafter set aside; or (vii) under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of City or of the whole or any substantial part of the Premises, and such custody or control shall not be terminated within sixty (60) days from the date of assumption of such custody or control. Upon the occurrence of any Event of Default by City hereunder, County shall have the following rights and remedies, in addition to all other rights and remedies of County provided hereunder or by law. The right to terminate this Lease, in which event City shall immediately surrender possession of the Premises, and pay to County all rent and all other amounts payable by City

hereunder to the date of such termination;

**20.1.** The remedies described in California Civil Code Section 1951.2, including, without limitation, the right to recover the worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss for the same period that City proves could be reasonably avoided, as computed pursuant to subdivision (b) of section 1951.2 of the California Civil Code;

**20.2.** The remedies described in California Civil Code section 1951.4, including, without limitation, the right to collect, by suit or otherwise, each installment of rent or other sums that become due hereunder, or to enforce, by suit or otherwise, performance or observance of any agreement, covenant or condition hereof on the part of City to be performed or observed; or

**20.3.** The right to cause a receiver to be appointed in any action against City to take possession of the Premises or to collect the rents or profits therefrom. Neither appointment of such receiver nor any other action taken by County shall constitute an election on the part of County to terminate this Lease unless written notice of termination is given to City.

**21. Non-waiver.** If any action or proceeding is instituted or if any other steps are taken by County or City, and a compromise part payment or settlement thereof shall be made, either before or after judgment, the same shall not constitute or operate as a waiver by County or City of any agreement, covenant or condition of this Lease or of any subsequent breach thereof. No waiver of any default under this Lease shall constitute or operate as a waiver of any subsequent default hereunder, and no delay, failure or omission in exercising or enforcing any right, privilege, or option under this Lease shall constitute a waiver, abandonment or relinquishment thereof or prohibit or prevent any election under or enforcement or exercise of any right, privilege, or option hereunder. No waiver of any provision hereof by County or City shall be deemed to have been made unless and until such waiver shall have been reduced to writing and signed by County or City, as the case may be. The receipt by County of rent with knowledge of any default under this Lease shall not constitute or operate as a waiver of such default. Payment by City or receipt by County of a lesser amount than the stipulated rent or other sums due County shall operate only as a payment on account of such rent or other sums. No endorsement or statement on any check or other remittance or in any communication accompanying or relating to such payment shall operate as a compromise or accord and satisfaction unless the same is approved in writing by County, and County may accept such check, remittance or payment without prejudice to its right to recover the balance of any rent or other sums due by City and pursue any remedy provided under this Lease or by law.

**22. No Merger.**

**22.1.** There shall be no merger of the leasehold estate created by this Lease with any other estate in the Premises, including the fee estate, by reason of the fact that the same person may own or hold the leasehold estate created by this Lease, or an interest in such leasehold estate, and such other estate in the Premises, including

the fee estate, or any interest in such other estate; and no merger shall occur unless and until County, City and any Lender shall join in a written instrument effecting such merger and shall duly record the same.

**22.2.** No termination of this Lease shall cause a merger of the estates of County and City, unless County so elects and any such termination shall, at the option of County, either work a termination of any sublease in effect or act as an assignment to County of City's interest in any such sublease, but only as to the Premises and not as to any property owned by the City.

**23. No Partnership.** It is expressly understood and agreed that County does not, in any way or for any purpose by executing this Lease, become a partner of City in the conduct of City's business, or otherwise, or a joint venturer or a member of a joint enterprise with City.

**24. Covenants Run With Land**

**24.1.** The agreements, covenants and conditions in this Lease contained are and shall be deemed to be covenants running with the land and the reversion and shall be binding upon and shall inure to the benefit of County and City and their respective successors and assigns and all subsequent landlords and tenants respectively hereunder.

**24.2.** All references in this Lease to "City" or "County" shall be deemed to refer to and include successors and assigns of City or County, respectively, without specific mention of such successors or assigns.

**25. Notices.** Any notices required or desired to be served by either party upon the other shall be addressed to the respective parties as set forth below:

COUNTY

County of Riverside  
Economic Development Agency  
3403 Tenth Street, Suite 400  
Riverside, CA 92522

CITY

City of Riverside  
Community & Economic Development  
3900 Main Street  
Riverside, CA 92552

or to such other addresses as from time to time shall be designated by the respective parties. Notices must be in writing and will be deemed to have been given when personally delivered, sent by facsimile with receipt acknowledged, deposited with any nationally recognized overnight carrier that routinely issues receipts, or deposited in any depository regularly maintained by the United States Postal Service, postage prepaid, certified mail, return receipt requested, addressed to the party for whom it is intended at its address set forth above.

**26. Limitation of County's Liability.** In the event of any transfer of County's interest in this Lease, the County herein named (and in case of any subsequent transfer, the then transferor) shall be automatically freed and relieved from and after the date of such transfer of all personal liability for the performance of any covenants or obligations on the part of County contained in this Lease thereafter to be performed;

provided, however, that any funds in the hands of County or the then transferor at the time of such transfer, in which City has an interest shall be turned over to the transferee and any amount then due and payable to City by County or the then transferor under any provision of this Lease shall be paid to City; and provided, further, that upon any such transfer, the transferee shall expressly assume, subject to the limitations of this Section 26, all of the agreements, covenants and conditions in this Lease to be performed on the part of County, it being intended hereby that the covenants and obligations contained in this Lease on the part of County shall, subject as aforesaid, be binding on each County, its successors and assigns, only during its period of ownership.

**27. Estoppel Certificates.** City or County, as the case may be, will execute, acknowledge and deliver to the other and/or to Lender, promptly upon request, its certificate certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which the Minimum Rent, Percentage Rent, and other monetary obligations have been paid, (c) whether there are then existing any charges, offsets or defenses against the enforcement by County of any agreement, covenant or condition hereof on the part of City to be performed or observed (and, if so, specifying the same), and (d) whether there are then existing any defaults by City in the performance or observance by City of any agreement, covenant or condition hereof on the part of City to be performed or observed and whether any notice has been given to City of any default which has not been cured (and, if so, specifying the same). Any such certificate may be relied upon by a prospective purchaser, mortgagee or trustee under a deed of trust of the Premises or any part thereof.

**28. Prevailing Wage.** Prevailing wages are required for work done that falls within the definition of "public works" under California Labor Code §1720. "Public works" are defined as "construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds..." For those projects which are "public works" pursuant to Labor Code § 1720.2, the following applies:

**28.1.** For the purposes of this Lease, "contractor" and "subcontractor" include a contractor, subcontractor, licensee, officer, agent, or representative thereof, acting in that capacity, when working on the Project pursuant to this Lease.

**28.2.** City shall require that Contractor shall comply with prevailing wage requirements and be subject to restrictions and penalties in accordance with § 1770 et seq. of the Labor Code which requires prevailing wages be paid to appropriate work classifications in all bid specifications and subcontracts.

**28.3.** The City shall require that Contractor shall furnish all subcontractors / employees a copy of the Department of Industrial Relations prevailing wage rates at which Lessor will post at the job site. All prevailing wages shall be obtained by the Lessor/Contractor from:

Department of Industrial Relations  
Division of Labor Statistics and Research  
455 Golden Gate Avenue, 8th Floor  
San Francisco, CA 94102

- 28.4.** City shall require that Contractor shall comply with the payroll record keeping and availability requirement of § 1776 of the Labor Code.
- 28.5.** City shall require that Contractor shall make travel and subsistence payments to workers needed for performance of work in accordance with § 1773.8 of the Labor Code.
- 28.6.** Prior to commencement of work, City shall require that Contractor shall contact the Division of Apprenticeship Standards and comply with § 1777.5, § 1777.6, and § 1777.7 of the Labor Code and applicable regulations.
- 29. Holding Over.** This Lease shall terminate without further notice upon the expiration of the Term, or any extension thereof, any holding over by City after the expiration of the Term, or any extension thereof, shall not constitute a renewal hereof or give City any rights hereunder or in or to the Premises, except as otherwise herein provided, it being understood and agreed that this Lease cannot be renewed, extended or in any manner modified except in writing signed by County and City.
- 30. Nondiscrimination.** The Parties shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical or mental disability, medical conditions, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, genetic information, gender, gender identity, sex or sexual orientation, in connection with the performance of this Agreement. The parties further agree to conform to the requirements of the Americans with Disabilities Act in the performance of this Lease.
- 31. Severability.** In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Lease, but this Lease shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.
- 32. Time of the Essence.** Time is of the essence of each and all of the agreements, covenants, and conditions of this Lease.
- 33. Consents.** Whenever in this Lease the consent or approval of either County or City is required or permitted, the party requested to give such consent or approval will act promptly and will not unreasonably withhold its consent or approval except as otherwise provided in this Lease.
- 34. Integration.** This instrument constitutes the entire agreement between County and City with respect to the subject matter hereof and supersedes all prior offers



and negotiations, oral or written. This Lease may not be amended or modified in any respect whatsoever except by an instrument in writing signed by County, City and, if required by any Lender, by Lender.

35.           **Amendments.** This Lease may be modified only in writing and only if signed by the parties at the time of the modification.
36.           **Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the State of California.
37.           **Approval Authority.** Anything to the contrary notwithstanding, this Lease shall not be binding or effective until its approval and execution by the Board of Supervisors for the County of Riverside and the City Council of the City of Riverside.

**SIGNATURE PROVISIONS FOLLOW**

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

COUNTY OF RIVERSIDE

By:   
John J. Benoit, Chairman  
Board of Supervisors

CITY OF RIVERSIDE

By:   
John A. Russo  
City Manager


ATTEST:  
Kecia Harper-Ihem  
Clerk of the Board

By:   
Deputy

ATTEST:  
Colleen J. Nicol  
City Clerk

By:   
Deputy

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

By:   
Todd Frahm  
Deputy County Counsel

APPROVED AS TO FORM:  
Gary Geuss, City Attorney

By: 

## **EXHIBIT "A"**

All that certain real property situated in the County of Riverside, State of California, described as follows:

**Lot 5, 6, 7, and 8 of C. J. Gill's Resubdivision of Block 10, Range 7, Riverside, in the City of Riverside, County of Riverside, State of California, as shown by Map on file in Book 5, Page 71 of Maps, San Bernardino County Records.**

***Assessor's Parcel No's: 215-092-010 and 011***