

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



**ITEM
3.4
(ID # 9347)**

MEETING DATE:

Tuesday, April 16, 2019

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA):

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA): Approval of First Amendment to Ground Lease with the City of Riverside, District 2, CEQA Exempt, [\$0] (Clerk of the Board to File the Notice of Exemption)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the First Amendment to Ground Lease at 4049 Main Street is exempt from the California Environmental Quality Act (CEQA) pursuant to State 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 First Amendment to 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.

ACTION:Policy

Robert Field, Assistant County Executive Officer/ECD 3/18/2019

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Washington, Perez and Hewitt
Nays: None
Absent: Spiegel
Date: April 16, 2019
xc: EDA, Recorder

Kecia Harper
Clerk of the Board
By: Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment:	No
			For Fiscal Year:	2018/19

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On April 21, 2016, the County of Riverside (County) and the City of Riverside (City), entered into a Ground Lease (Lease) for a 0.25 acre County-owned vacant property located on Main Street and identified as Assessor Parcel Numbers 215-092-010 and 215-092-011 (Property). The City, in cooperation with the County, wishes to improve and transform this property and area that faces the Historic Downtown Courthouse. The City, through a Public-Private Partnership, is seeking to develop "Chow Alley" which upon completion will create new public and private retail spaces and activate the architectural assets that comprise this area of the City.

Through this First Amendment to the Lease (Amendment) the City is requesting reasonable and minor extensions of the development timelines and obligations provided within the Lease and as are summarized below.

- Within Five Years (5) after the commencement date of the Lease the City must provide the County with preliminary plans for all improvements proposed on the Property.
- The City, or its sublessee, shall obtain all entitlements necessary for the development of the Property within six (6) years of the commencement date of the Lease.
- The development shall substantially commence operations of businesses on the subject site no later than seven (7) years following the commencement date of the Lease.
- Failure of the City, or its sublessee, to obtain all development entitlements within six (6) years from the commencement date of the Lease or to complete all improvements to substantially commence operations of businesses on the subject site within seven (7) years of the commencement date of the Lease shall give the County the absolute right to immediately terminate the Lease.

Staff recommends approval of this Amendment as this project seeks to pursue a positive economic and community development impact for the residents and businesses of both the City and County.

Pursuant to the California Environmental Quality Act (CEQA), the First Amendment was reviewed and determined to be categorically exempt from State CEQA Guidelines Section

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

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.

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

Impact on Citizens and Businesses

The Lease to the City of Riverside will assist in the development of this proposed 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 region of the County.

**SUPPLEMENTAL:
Additional Fiscal Information**

No net County cost will be incurred and no budget adjustment is necessary.

Attachments:

- Aerial Image
- First Amendment to Ground Lease
- Notice of Exemption

RF:HM:VY:SG:CAO:mc 268FM 20.485 16024
Minute Traq ID 9347


Rahmi Basika, Principal Management Analyst 4/9/2019


Gregory V. Priamos, Director County Counsel 4/3/2019



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

4/17/19
Date

kb
Initial

NOTICE OF EXEMPTION

March 12, 2019

Project Name: County of Riverside, First Amendment to Ground Lease for 4049 Main Street with the City of Riverside

Project Number: FM0417200268

Project Location: 4049 Main Street, north of 11th 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 was subsequently contacted by the City of Riverside Community Development Department, which was 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 entered into a ground lease with the City of Riverside for the entitlement and development of the subject property. At the time of the execution of the Ground Lease, a future development agreement between a third party and the City of Riverside was anticipated that would involve future discretionary actions to approve design and construction and additional California Environmental Quality Act (CEQA) consideration would be undertaken with the City of Riverside acting as the Lead Agency. At that time, the only reasonably foreseeable action related to the discretionary action taken by the County Board of Supervisors was the ground lease and it was determined that the execution of the Ground Lease with the City of Riverside was exempt under CEQA. The future development of the property by the City and a third party developer has not proceeded in the scheduled timeline that was assumed in the Ground Lease. The City is now requesting a First Amendment to the Ground Lease in which additional time is provided for the provision of plans and entitlements for the future development of the property. The revision of dates for the completion of plan submittal and for obtaining all entitlements 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, City of Riverside

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 amend the Ground Lease associated with 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 extension of time to create a future development idea itself would have no direct physical effect on the environment as the First Amendment to the Ground Lease Agreement does not include any changes to the existing land use or a physical disruption of the property.

APR 16 2019 3.4

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- **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 Lease Agreement itself may have a significant physical effect on the environment. The First Amendment to the Ground Lease Agreement would be limited to an extension of time to provide a development concept and entitlements for 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 First Amendment to the Ground Lease Agreement would occur through series of discretionary actions that define a broader project, e.g., the development of design, obtainment of entitlements and analysis of potential environmental effects, and construction and operation of a new project. The First Amendment to the Ground 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 Ground Lease Agreement, at this point in the process, no details regarding the design or specific use of the project has been completed to provide a meaningful analysis of environmental effects. The project allows for the creation of design needed to analyze the potential effects of future development. The development of a design, and plan submittal provides the appropriate opportunity for environmental considerations, the influence of design and the characterization of effects. In summary, the potential indirect effects of a future project, as proposed, will not be reasonably foreseeable until the First Amendment to the Ground Lease is executed, which will allow for the provision of design and entitlements. Therefore, the future indirect effects are not considered as part of the proposed discretionary action, which is limited to the execution of the First Amendment 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: 3/12/19

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

RIVERSIDE COUNTY CLERK & RECORDER

**AUTHORIZATION
TO BILL
BY JOURNAL VOUCHER**

Project Name: First Amendment to 4049 Main Street Ground Lease, City of Riverside

Accounting String: 524830-47220-7200400000- FM0417200268

DATE: March 12, 2019

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:



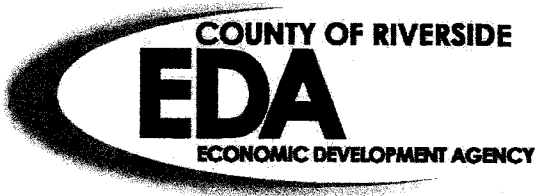
PRESENTED BY: Craig Olsen, Supervising Real Property Agent, Economic Development Agency

-TO BE FILLED IN BY COUNTY CLERK-

ACCEPTED BY: -

DATE: -

RECEIPT # (S) -



Date: March 12, 2019

To: Kiyomi Moore/Josefina Castillo, Office of the County Clerk

From: Mike Sullivan, Senior Environmental Planner, Project Management Office

Subject: **County of Riverside Economic Development Agency Project # FM0417200268**
First Amendment to 4049 Main Street Ground Lease, 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 or email at msullivan@rivco.org.

Attachment

cc: file

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

THIS FIRST AMENDMENT TO GROUND LEASE ("First Amendment") is made and entered into this 11th day of April, 2019, by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("Lessee") and the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("Lessor"), with respect to the following:

RECITALS

A. On April 21, 2016, ("Commencement Date") Lessor and Lessee entered into that certain Ground Lease ("Original Lease") for the property located on Main Street, Riverside, California, identified as Assessor Parcel Nos. 215-092-010 and 215-092-011 ("Property").

B. The Parties desire to revise the dates for completion of plan submittal and for obtaining all project entitlements.

TERMS AND CONDITIONS

NOW, THEREFORE, for good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Section 5.1.1 is hereby deleted in its entirety and replaced with the following:

"5.1.1. Within five (5) years 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."

2. Section 5.1.3 is hereby deleted in its entirety and replaced with the following:

"5.1.3. City or its sublessee shall obtain all entitlements necessary for the project within six (6) 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 seven (7) years following the Commencement Date. Failure to obtain all required entitlements within six (6) years of the Commencement Date or to complete all Improvements and to substantially commence operations of all businesses on the Premises within seven

(7) years of the Commencement Date shall give County the right to terminate this Lease immediately.”

3. First Amendment to Prevail. Unless defined herein or the context requires otherwise, all capitalized terms herein shall have the meaning defined in the lease, as heretofore amended. The provisions of this First Amendment shall prevail over any inconsistency or conflicting provisions of the Lease, as heretofore amended, and shall supplement the remaining provisions thereof.

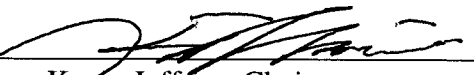
4. Miscellaneous. Except as amended or modified herein, all the terms of the Original Lease shall remain in full force and effect and shall apply with the same force and effect. Time is of the essence in this Amendment and the Lease and each and all of their respective provisions. Subject to the provisions of the Lease as to assignment, the agreements, conditions and provisions herein contained shall apply to and bind the heirs, executors, administrators, successors and assigns of the parties hereto. If any provisions of this Amendment or the Lease shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of the Lease and all such other provisions shall remain in full force and effect. The language in all parts of the Lease shall be construed according to its normal and usual meaning and not strictly for or against either Lessor or Lessee. Neither this Amendment, nor the Original Lease, nor any notice nor memorandum regarding the terms hereof, shall be recorded by Lessee.

5. This First Amendment to Lease shall not be binding or consummated until its approval by the Riverside County Board of Supervisors and fully executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to the Original Lease as of the date first above written.

LESSOR:

COUNTY OF RIVERSIDE

By: 
Kevin Jeffries, Chairman
Board of Supervisors

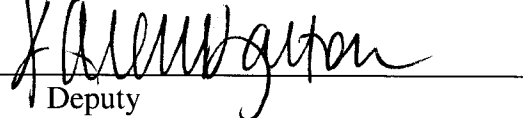
LESSEE:

CITY OF RIVERSIDE


By: 
Al Zelinka
City Manager

ATTEST:

Kecia R. Harper
Clerk of the Board

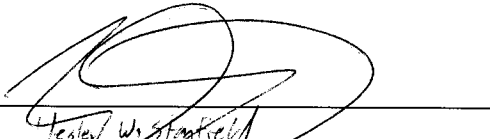
By: 
Deputy

ATTESTED TO:


By: 
Colleen J. Nicol
City Clerk

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Deputy County Counsel

APPROVED AS TO FORM:

By: 
Kristi J. Smith
Chief Assistant City Attorney