

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



ITEM: 3.17
(ID # 17564)

MEETING DATE:

Tuesday, November 16, 2021

FROM : TLMA - AVIATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/AVIATION: Approval of Fourth Amendment to Lease between the County of Riverside and Desert Resorts Aviation, a California limited liability company at Jacqueline Cochran Regional Airport, CEQA Exempt. District 4. [\$2,700 Total Cost - TLMA Aviation 100%] (Clerk of the Board to file the Notice of Exemption)

RECOMMENDED MOTION: That the Board of Supervisors:

1. **Find** that the project is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 and Section 15601 (b)(3);
2. **Approve** the Fourth Amendment to Lease between County of Riverside, a political subdivision of the State of California, and Desert Resorts Aviation LLC, a California Limited Liability Company, at Jacqueline Cochran Regional Airport to provide Lessee an additional ten (10) year Option to Extend the Lease;

Continued on page 2

ACTION:Policy

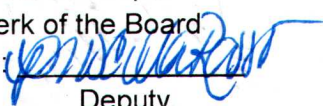
Charissa Leach, TLMA Director

11/2/2021

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: November 16, 2021
xc: TLMA- Aviation, Recorder

Kecia R. Harper
Clerk of the Board
By: 
Deputy

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

RECOMMENDED MOTION: That the Board of Supervisors:

3. **Authorize** the Chair of the Board of Supervisors to execute the Fourth Amendment to Lease at Jacqueline Cochran Regional Airport with Desert Resorts Aviation LLC, a California Limited Liability Company; and
4. **Direct** the Clerk of the Board to file the Notice of Exemption with the County Clerk within Five (5) days of approval by the Board of Supervisors.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$2,700	\$0	\$2,700	\$0
NET COUNTY COST	\$0	\$0	\$0	\$0
SOURCE OF FUNDS: TLMA Aviation Revenue Fund			Budget Adjustment:	No
			For Fiscal Year:	2020/21- 2050/51

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The County of Riverside, as landlord, and Desert Resorts Aviation, LLC, a California limited liability company (DRA), as tenant, entered into that certain Ground Lease dated on or about November 14, 2006, as amended by that certain First Amendment to Ground Lease Jacqueline Cochran Regional Airport dated January 9, 2007, as amended by that Second Amendment to Ground Lease Jacqueline Cochran Regional Airport dated April 10, 2007, and that Third Amendment to Ground Lease dated April 21, 2021 (collectively, "DRA Ground Lease"). The DRA Ground Lease relates to the lease of approximately 169.46 acres of non-aeronautical land at the Jacqueline Cochran Regional Airport ("DRA Leased Premises"). DRA subleases the DRA Leased Premises in its entirety to CHP Land Company LLC, a Delaware corporation ("CHP") predecessor in interests to HITS, Inc., a Delaware corporation pursuant to that certain Sublease dated on or about December 12, 2006, as amended by that certain First Amendment to Sublease dated April 10, 2007 (collectively, "Sublease"), which relates to the development, management, and operations of an equestrian center on the DRA Leased Premises. Both the DRA Ground Lease and Sublease have an initial term of fifteen years, with two options to extend for fifteen (15) years and ten (10) years, respectively, which can be exercised absent an existing default.

The term of the Lease was for fifteen (15) years with two (2) options to extend. The first option represented an additional fifteen (15) years, and the second option for an additional ten (10) years. Lessee exercised its first fifteen (15) year extension option of the Lease

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STATE OF CALIFORNIA**

through the Third Amendment to Ground Lease dated April 21, 2021. The first option period will commence on November 15, 2021.

The County and DRA now desires to amend the Lease to add one (1) additional ten (10) year option ("Additional Option") which will be coterminous with the Sublease and will accommodate CHP's lender. The attached Fourth Amendment to Lease ("Fourth Amendment") will provide DRA with the Additional Option. If exercised, the Additional Option rate will have a mark-to-market rate adjustment for fifty percent (50%) of the then improved land and shall be determined by a certified MAI appraiser. Upon approval of the Fourth Amendment, DRA and CHP will enter into a Second Amendment to Sublease to make the sublease coterminous with the DRA Ground Lease. The extended lease term will enable CHP to make further improvements to the property and guarantee a return on investment.

The TLMA – Aviation Division negotiated the terms of the Fourth Amendment and recommends approval of the extension to Lease. The Fourth Amendment has been reviewed and approved as to form by County Counsel.

Impact on Residents and Businesses

The DRA Leased Premises currently houses the Desert International Horse Park ("Horse Park") which offers 18 weeks of world-class equestrian competition from October through March. During the 18- week season, the Horse Park attracts about 300,000 to 350,000 people to the Thermal and Coachella communities. The Horse Park also provides many temporary and year around employment for residents in the area. Businesses and Residents benefit from the positive economic impact borne through the maintenance and operations of the Horse Park.

Additional Fiscal Information

No net County cost will be incurred and no budget adjustment is necessary, however, the Transportation and Land Management Agency, Aviation Division has incurred costs associated with this transaction. County Counsel and Facilities Management costs to date in the approximate amount of \$2,700 will be reimbursed from the TLMA Aviation Revenue Fund.


County Counsel Review	\$ 2,000
CEQA NOE	\$ 700
Total	\$ 2,700

Attachments:


Fourth Amendment to Ground Lease

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STATE OF CALIFORNIA

CEQA NOE
Aerial Image



Jason Farin, Principal Management Analyst 11/9/2021



Gregory V. Priantos, Director County Counsel 11/3/2021

County of Riverside
Facilities Management
3133 Mission Inn Avenue, Riverside, CA 92507

FOR COUNTY CLERK USE ONLY

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

11/23/21 Date JLR Initial

NOTICE OF EXEMPTION

November 1, 2021

Project Name: County of Riverside, Approval of Fourth Amendment to Lease between the County of Riverside and Desert Resorts Aviation, a California limited liability company at Jacqueline Cochran Regional, Thermal

Project Number: ED1910012

Project Location: 56580 Higgins Drive, south of Airport Boulevard, Assessor's Parcel Number (APN) 759-060-017, Thermal, Riverside County, California, 92274

Description of Project: The County of Riverside (County), as landlord, and Desert Resorts Aviation, LLC, a California limited liability company (DRA), as tenant, entered into that certain Ground Lease dated on or about November 14, 2006, as amended by that certain First Amendment to Ground Lease Jacqueline Cochran Regional Airport dated January 9, 2007, as amended by that Second Amendment to Ground Lease Jacqueline Cochran Regional Airport dated April 10, 2007, and that Third Amendment to Ground Lease dated April 21, 2021 (collectively, DRA Ground Lease). The DRA Ground Lease relates to the lease of approximately 169.46 acres of non-aeronautical land at the Jacqueline Cochran Regional Airport (DRA Leased Premises). DRA subleases the DRA Leased Premises in its entirety to CHP Land Company LLC, a Delaware corporation (CHP) predecessor in interests to HITS, Inc., a Delaware corporation pursuant to that certain Sublease dated on or about December 12, 2006, as amended by that certain First Amendment to Sublease dated April 10, 2007 (collectively, Sublease), which relates to the development, management, and operations of an equestrian center on the DRA Leased Premises. Both the DRA Ground Lease and Sublease have an initial term of 15 years, with two options to extend 15 years and 10 years, respectively, which can be exercised absent an existing default.

The term of the Lease was for 15 years with two options to extend. The first option represented an additional 15 years, and the second option for an additional 10 years. Lessee exercised its first 15-year extension option of the Lease through the Third Amendment to Ground Lease dated April 21, 2021. The first option period will commence on November 15, 2021.

The County and DRA now desires to amend the Lease to add one additional 10-year option (Additional Option) which will be coterminous with the Sublease and will accommodate CHP's lender. The attached Fourth Amendment to Lease (Fourth Amendment) will provide DRA with the Additional Option. If exercised, the Additional Option rate will have a mark-to-market rate adjustment for fifty percent (50%) of the then improved land and shall be determined by a certified MAI appraiser. Upon approval of the Fourth Amendment, DRA and CHP will enter into a Second Amendment to Sublease to make the sublease coterminous with the DRA Ground Lease. The extended lease term will enable CHP to make further improvements to the property and guarantee a return on investment. The approval of the Fourth Amendment to extend the Lease with an additional 10-year option is identified as the proposed project under the California Environmental Quality Act (CEQA). No additional direct or indirect physical environmental impacts are anticipated.

Name of Public Agency Approving Project: Riverside County

Name of Person or Agency Carrying Out Project: Riverside County Facilities Management


NOV 16 2021 3.17

Exempt Status: State CEQA Guidelines Section 15301, Class 1, Existing Facilities Exemption; Section 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 proposed project is categorically exempt from the provisions of CEQA specifically by the State CEQA Guidelines as identified below. The project will not result in any specific or general exceptions to the use of the categorical exemption as detailed under State CEQA Guidelines Section 15300.2. The project will not cause an impact to an environmental resource of hazardous or critical concern nor would the project involve unusual circumstances that could potentially have a significant effect on the environment. The project is limited to an additional option to an existing Lease for 169.46 acres of land and would not result in any physical direct or reasonably foreseeable indirect impacts to the environment. and no significant environmental impacts are anticipated to occur.

- **Section 15301 – Class 1 Existing Facilities Exemption:** This categorical exemption includes the operation, repair, maintenance, leasing, or minor alteration of existing public or private structures or facilities, provided the exemption only involves negligible or no expansion of the previous site’s use. The project, as proposed, is the extension of term for an existing Lease. The addition of a 10-year option to extend the Lease is limited to a contractual agreement would be consistent with the existing land use, and would not result in a physical change to the property. Therefore, the project is exempt as it meets the scope and intent of the Categorical Exemption identified in Section 15301, Article 19, Categorical Exemptions of the CEQA Guidelines.
- **Section 15061 (b) (3) – “Common Sense” Exemption:** In accordance with CEQA, the use of the Common Sense Exemption is based on the “general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.” State CEQA Guidelines, Section 15061(b) (3). The use of this exemption is appropriate if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” *Ibid*. This determination is an issue of fact and if sufficient evidence exists in the record that the activity cannot have a significant effect on the environment, then the exemption applies and no further evaluation under CEQA is required. See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68. The ruling in this case stated that if a project falls within a category exempt by administrative regulation or 'it can be seen with certainty that the activity in question will not have a significant effect on the environment', no further agency evaluation is required. With certainty, there is no possibility that the project may have a significant effect on the environment. The approval of the Fourth Amendment is an administrative function and would result in the continued operation of the airport on the leased premises. No significant direct or indirect environmental impacts would occur. Therefore, in no way, would the project as proposed have the potential to cause a significant environmental impact and the project is exempt from further CEQA analysis.

Therefore, the County of Riverside Facilities Management 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:** 11-1-2021
Mike Sullivan, Senior Environmental Planner
County of Riverside, Facilities Management

RIVERSIDE COUNTY CLERK & RECORDER

**AUTHORIZATION
TO BILL
BY JOURNAL VOUCHER**

**Project Name: Fourth Amendment to Lease with Desert Resorts Aviation, LLC at
Cochran Regional Airport**

Accounting String: 523230-40710-1910700000 - ED1910012


DATE: November 1, 2021

AGENCY: Riverside County

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, Facilities Management**

Signature: 

PRESENTED BY: **Jose Ruiz, Senior Real Property Agent, TLMA-Aviation**

-TO BE FILLED IN BY COUNTY CLERK-

ACCEPTED BY: -

DATE: -

RECEIPT # (S) -

County of Riverside
Facilities Management
3133 Mission Inn Avenue, Riverside, CA 92507

Date: November 1, 2021
To: Kiyomi Moore/Josefina Castillo, Office of the County Clerk
From: Mike Sullivan, Senior Environmental Planner, Facilities Management
Subject: **County of Riverside Facilities Management Project # ED1910012**
Fourth Amendment to Lease with Desert Resorts Aviation LLC at Cochran
Regional Airport

The Riverside County's Facilities Management'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 #2600

Attention: Mike Sullivan, Senior Environmental Planner,

Facilities Management,

3133 Mission Inn Avenue, Riverside, CA 92507

If you have any questions, please contact Mike Sullivan at 955-8009 or email at msullivan@rivco.org.

Attachment

cc: file

**Fourth Amendment to Lease
Jacqueline Cochran Regional Airport**

This FOURTH AMENDMENT TO LEASE ("Fourth Amendment") is made and entered into on this 15TH day of OCTOBER, 2021, by and between the **County of Riverside**, a political subdivision of the state of California ("County"), on behalf of its Transportation and Land Management Agency, Aviation Division, and Desert Resorts Aviation, LLC, a California Limited Liability Company, ("Lessee"), collectively referred to herein as the "Parties," with reference to the following:

RECITALS

WHEREAS, County and Lessee entered into that certain Lease at Jacqueline Cochran Regional Airport, dated November 14, 2006, ("Original Lease"), whereby, among other things, Lessee agreed to lease from County approximately 169.46 acres of vacant land ("Leased Premises") located at Jacqueline Cochran Regional Airport; and

WHEREAS, the Lease was amended by that certain First Amendment to Lease dated January 9, 2007, by and between County and Lessee, whereby, among other things, Lessee agreed to make available 6,000 parking spaces for County's use in connection with an air show or other aviation related events; and

WHEREAS, the Lease was amended by that certain Second Amendment to Lease dated April 10, 2007, by and between County and Lessee pertaining to Paragraph 40 of the Original Lease that the County would obtain authorization from the FAA for a land-use change for 229.46 acres including the Leased Premises for the land to be used for aeronautical purposes; and

WHEREAS, the Lease was amended by that certain Third Amendment to Lease dated April 21, 2021 whereby Lessee exercised its option to extend the term of the Lease for an additional period of fifteen (15) years on the same terms and conditions pursuant to Section 3(b) of the Original Lease; and

WHEREAS, The Original Lease together with the First, Second, Third Amendments and this Fourth Amendment are collectively referred to herein as the "Lease;" and

WHEREAS, County and Lessee now desire to amend Section 3(b) the Lease to add an additional ten- (10-) year option term and amend Section 5 of the Lease to allow a mark to market rate adjustment upon the exercise of the final ten- (10-) year option term.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree that the Lease shall be modified as follows:

- 1. Term.** Section 3(b) (Term) of the Lease is hereby amended and restated in its entirety to read as follows:

"With respect to the Leased Premises, provided that Lessee at the time of exercising either option is not in default under the terms of this Lease after applicable notice and opportunity to cure, Lessee shall have the option to extend the term of this Lease for three additional periods. The first option period shall be fifteen years, the second option period shall be ten (10) years ("Second Option") and the third option shall be for ten (10) years ("Third Option"). Lessee shall exercise each option period by notifying the County in writing of its intention to exercise each option by no more than twelve (12) months or less than six (6) months before the expiration of the then current term. "

The Parties acknowledge that the first option to extend as referenced in this amended Section 3(b) has already been exercised by the Lessee and will commence November 15, 2021.

- 2. Rent.** Section 5 (Rent) of the Lease is hereby amended by the following adding the following language:

"Commencing on the first day following the exercise of the Third Option, if such exercise shall occur, Lessee shall pay to County an annual Base Rent for the use

and occupancy of the Leased Premises that will be based on fifty percent (50%) value of the then current market rate for improved land. A property appraisal for the purpose of establishing the adjusted Base Rent is to be performed by an independent certified MAI appraiser, knowledgeable in aviation appraising and in good standing with the American Institute of Real Estate Appraisers. The appraiser is to be procured and paid for by County.

3. Assignment Upon Early Termination/Expiration. A new Section is added as the last Section to the Lease and shall read as follows:

42. Assignment upon early termination/expiration. Until August 10, 2025, if, by reason of any breach of this Lease or default hereunder by Lessee, either this Lease or any renewal hereof shall be terminated at the election of the County prior to the stated expiration of such term or right, or if this Lease will expire because Lessee has failed to exercise any extension option after a sublessee of Lessee has exercised the associated extension option under a sublease or similar agreement with Lessee (in each instance, a "Sublease"), or if this Lease may be terminated for any other reason (including, without limitation, by reason of the disaffirmance or rejection thereof in connection with a bankruptcy of the Lessee), then County shall notify Lessee of County's right to terminate and provide opportunity to cure. Upon receipt of such notice and failure to cure, Lessee shall offer to assign this Lease to CHP Land Company LLC, its sublessee, and sublessee's lender ("Mortgagee") subject to County consent, which such consent shall not be unreasonably withheld. Upon receipt of the offer to assign, sublessee or Mortgagee, as applicable will notify the County whether it intends to assume the rights and responsibilities of this Lease. In the event that sublessee or Mortgagee, as applicable, intends to assume this Lease, the Mortgagee (or sublessee, as applicable) shall make written request upon County for such consent, which shall not be unreasonably withheld, within thirty (30) days after receipt by the Mortgagee (or sublessee, as applicable) of such Termination Notice. Notwithstanding

anything to the contrary in this Lease (i) each sublessee of Lessee and its Mortgagee are express third party beneficiaries of this Section 42, and (ii) each sublessee of Lessee (and subsequent sublessees) and its Mortgagee (and subsequent Mortgagees) shall be permitted to change their respective notice addresses, which shall be effective upon written notice to the County of such changed notice address.

As of the date hereof, notices to the sublessee of Lessee and its Mortgagee shall be delivered to the following addresses:

If to sublessee of Lessee:

CHP Land Company LLC
2731 Outpost Drive
Los Angeles, California 90068
Attention: Mr. Steve Hankin
Email: steve@deserthorsepark.com

With a copy to:

Wollmuth Maher & Deutsch LLP
500 Fifth Avenue
New York, New York 10110
Attention: Paul R. DeFilippo, Esq.
Email: pdefilippo@wmd-law.com

Wollmuth Maher & Deutsch LLP
500 Fifth Avenue
New York, New York 10110
Attention: Paul R. Weber, Esq.
Email: pweber@wmd-law.com

If to sublessee's Mortgagee:

CHP Funding 1 LLC
c/o Sculptor Real Estate
9 West 57th Street, 40th Floor
New York, New York 10019
Attention: Steven Orbuch
Email: sorbuch@sculptor.com

With a copy to:
CHP Funding 1 LLC
c/o Sculptor Real Estate
9 West 57th Street, 40th Floor
New York, New York 10019
Attention: Real Estate Asset Management
Email: sreassetmgmt@sculptor.com

With an additional copy to:
Bryan Cave Leighton Paisner LLP
1290 Avenue of the Americas
New York, New York 10104
Attention: Ronald Emanuel
Email: rbemanuel@bclplaw.com

4. Miscellaneous

a. Construction of Fourth Amendment. The Parties hereto negotiated this Fourth Amendment at arm's length and with advice of their respective attorneys, and no provisions contained herein shall be construed against Lessor solely because it prepared this Fourth Amendment in its executed form.

b. Capitalized Terms/Fourth 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 Fourth Amendment shall prevail over any inconsistency or conflicting provisions of the Lease, as heretofore amended, and shall supplement the remaining provisions thereof.

c. Further Cooperation. The Parties agree to execute such other instruments, agreements and amendments to documents as may be necessary or appropriate to effectuate the Lease as amended by this Fourth Amendment.

d. Interpretation. This Fourth Amendment, when combined with the Lease and all amendments hereto, sets forth and contains the entire understanding and agreement of the Parties hereto and correctly sets forth the rights, duties and obligations of each to the other as of this date.

e. Waivers; Amendments. All waivers of the provisions of this Fourth Amendment and all amendments hereto must be in writing and signed by the appropriate authorities of County and Lessee.

f. Attachments. Each of the attachments and exhibits attached hereto are incorporated herein by this reference.

g. Effectiveness of Lease. Except as modified and amended by this Fourth Amendment all other terms and conditions of the Lease remain unmodified and in full force and effect. If any provisions of this Fourth 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 County or Lessee. Neither this Fourth Amendment, nor the Lease, nor any notice nor memorandum regarding the terms hereof, shall be recorded by Lessee.

h. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each party of this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (“CUETA”) Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The parties further agree that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by

computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

i. Effective Date. The Effective Date of this Fourth Amendment is the date provided above in Section 1 of this Fourth Amendment.

IN WITNESS WHEREOF, County and Lessee hereto have executed this Fourth Amendment as of the dates set forth below.

COUNTY:

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

By: Karen S. Spiegel
Karen Spiegel, Chair
Board of Supervisors

Date: NOV 16 2021

LESSEE:

Desert Resorts Aviation, LLC
a California limited liability company

By: Matthew V. Johnson
Matthew V. Johnson
Managing Member

Date: OCTOBER 15, 2021

ATTEST:

KECIA R. HARPER
Clerk of the Board

By: Kecia R. Harper
Deputy

APPROVED AS TO FORM:
GREGORY P. PRIAMOS
County Counsel

By: Wesley Stanfield
Wesley Stanfield
Deputy County Counsel