

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



ITEM: 3.20
(ID # 16869)

MEETING DATE:

Tuesday, January 25, 2022

FROM : FACILITIES MANAGEMENT:

SUBJECT: FACILITIES MANAGEMENT - REAL ESTATE (FM-RE): Approval of Second Amendment to Lease with Cactus Avenue, LLC, Located at 26900 Cactus Avenue, Moreno Valley, District 5 [\$0](Clerk to file Notice of Exemption)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301, Existing Facilities exemption, and Section 15061(b)(3), Common Sense exemption; and
2. Approve the attached Second Amendment to Lease with Cactus Avenue, LLC, and authorize the Chair of the Board to execute the same on behalf of the County; and
3. Authorize the Chair of the Board of Supervisors to execute the Grant Deed to complete the conveyance of real property and this transaction.
4. Authorize and direct the Clerk of the Board to file the Notice of Exemption within five business days.

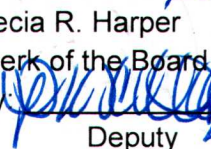
ACTION:


Rose Salgado, Director of Facilities Management 12/30/2021

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel seconded by Supervisor Washington 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: January 25, 2022
xc: FM-RE, Recorder

Kecia R. 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	\$0.00	\$0.00	\$0.00	\$0.00
NET COUNTY COST	\$0.00	\$0.00	\$0.00	\$0.00
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: 2021/22	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The County of Riverside entered into a sublease agreement on October 15, 1996 with California Kidney Centers for the exclusive purpose of constructing, maintaining, and operating a kidney dialysis center on County-owned land.

The Sublease has a term of 24 years with the County receiving an annual rent of \$11,780.11 per year which has been utilized to offset annual debt service payments. On November 4, 1997, pursuant to Section 26 of the Sublease, California Kidney Center assigned the sublease to Cactus Avenue, LLC, Lessee.

On March 18, 1998, the County of Riverside Asset Leasing Corporation transferred title in the subleased premises to the County of Riverside; and on November 3, 1998, the County of Riverside and Cactus Avenue, LLC, converted the Sublease into a Lease (Original Lease).

A provision of the lease includes a transfer of land ownership at the expiration of the lease to Cactus Avenue, LLC, provided the required rent payments have been paid in full. The lease expires November 2, 2022.

Cactus Avenue, LLC has requested an early payoff and transfer of the land as agreed in the Lease, and this Second Amendment to Lease amends the lease providing for the early transfer. Upon approval of the Second Amendment to Lease and execution of the Grant Deed, the property shall be transferred to Cactus Avenue, LLC.

Pursuant to the California Environmental Quality Act (CEQA), the Lease is reviewed and determined to be categorically exempt from CEQA under CEQA Guidelines 15301, Class 1 – Existing Facilities. The proposed project, the Second Amendment to the Lease, is the transfer of property involving existing facilities and no expansion of an existing use will occur.

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

Impact on Residents and Businesses

The Dialysis Center provides beneficial services to the community.

Contract History and Price Reasonableness

The ground lease has been in place since 1996.

ATTACHMENTS

- Aerial
- Second Amendment to Lease
- Grant Deed
- Notice of Exemption

HR:sc/121421/MV033/30.537

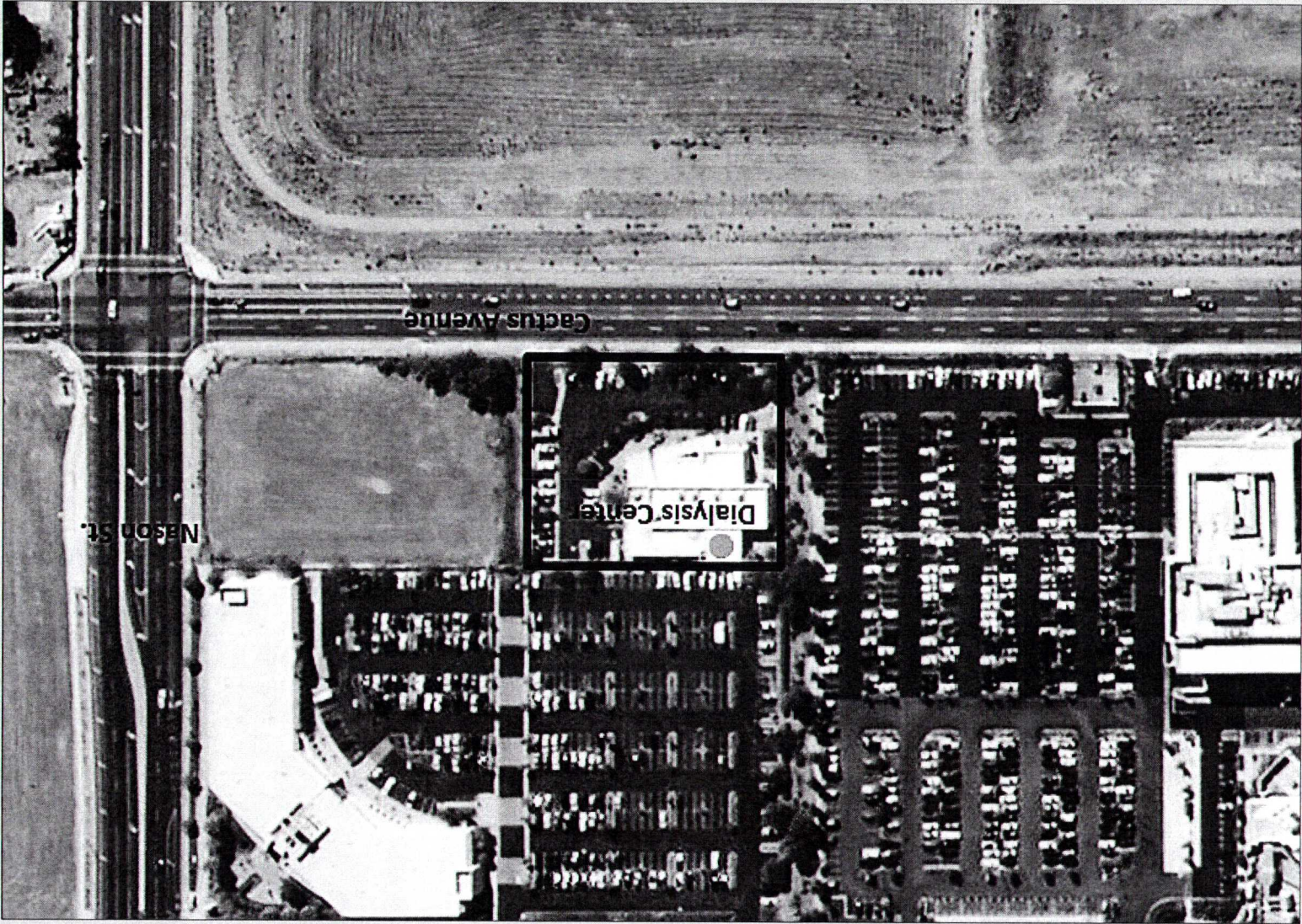


Meghan Hahn, Senior Management Analyst 1/13/2022



Gregory L. Priamos, Director County Counsel 1/13/2022

26900 Cactus Avenue, Moreno Valley



0 188 376 Feet

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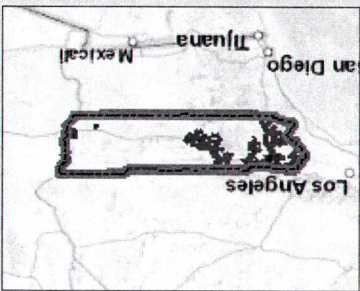
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Notes

APN 486-280-027
District 5

Legend



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SECOND AMENDMENT TO LEASE

26900 Cactus Avenue
Moreno Valley, California

THIS **SECOND AMENDMENT TO LEASE** ("Second Amendment") is made as of January 25, 2021² by and between **COUNTY OF RIVERSIDE**, a political subdivision of the State of California, ("County"), and **CACTUS AVENUE, LLC**, a California limited liability company, ("Lessee"). County and Lessee are hereinafter collectively referred to as the "Parties."

Recitals

A. In 1990, the County of Riverside financed the purchase of two, twenty acre parcels in Moreno Valley for the development of ancillary medical uses including a kidney dialysis center which was meant to serve as a magnet for future projects;

B. On October 2, 1995, the County of Riverside adopted Resolution No. 95-299, giving Notice of Intention to lease Real Property, inviting public bids and setting a public hearing date of November 7, 1995 for bid opening and oral bidding;

C. October 15, 1996, the County of Riverside approved the sublease ("Sublease") of 1.5 acres of land with California Kidney Centers for the exclusive purpose of constructing, maintaining and operating a kidney dialysis center or any medically-related use supporting the hospital campus necessary for the health and well-being of the residents of the County;

D. The Sublease had a term of 24 years with the County receiving an annual rent of \$11,780.11 per year which were to be utilized to offset annual debt service payments;

E. On November 4, 1997, pursuant to Section 26 of the Sublease, California Kidney Center assigned the sublease to Cactus Avenue, LLC;

F. On March 18, 1998, the County of Riverside Asset Leasing Corporation transferred title in the subleased premises to the County of Riverside; and

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1 **G.** On November 3, 1998, the County of Riverside and Cactus Avenue, LLC,
2 converted the Sublease into a Lease ("Original Lease").

3 **H.** The Original Lease has been amended by that certain First Amendment to
4 lease dated as of November 2, 1999, by and between the County of Riverside and
5 Cactus Avenue LLC whereby the Parties agreed to update the Lease Agreement with
6 regard to the County's representative to administer the Lease.

7 **I.** The Original Lease, as heretofore, currently, or hereafter amended, shall
8 hereafter be referred to as the "Lease."

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

11 **1. Term.** A new Section 4(d) is added to Section 4 of the Lease as follows:

12 d. However, in the event that Lessee pays to the County the aggregate
13 total lease payments in the Original Lease Term, which total \$280,222.64 prior to the
14 expiration of the Lease Term as defined herein, County shall transfer the leased
15 premises in accordance with Section 6 of the Lease upon 30-day prior written notice to
16 County by Lessee.


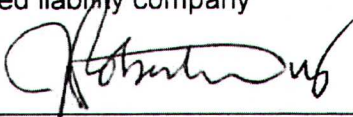
17 **2. Escrow.** The Parties agree that County will open escrow with Lawyers
18 Title Company upon Board of Supervisors approval of this Second Amendment to
19 Lease, and that all the provisions of Section 6 of the Lease shall apply. Escrow shall
20 close on or before fifteen (15) days from the date of Board of Supervisors approval of
21 this Lease.

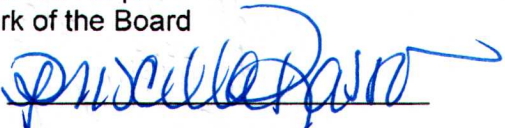
22 **3. Second Amendment to Prevail.** The provisions of this Second
23 Amendment shall prevail over any inconsistency or conflicting provisions of the Lease.
24 Any capitalized terms shall have the meaning defined in the Lease, unless defined
25 herein or context requires otherwise.


26 **4. Miscellaneous.** Except as amended or modified herein, all terms of the
27 Lease shall remain in full force and effect and shall apply with the same force and
28 effect. If any provisions of the Amendment shall be determined to be illegal or

1 unenforceable, such determination shall not affect any other provision of the Lease and
2 all such other provisions shall remain in full force and effect. The language in all parts
3 of the Lease shall be construed according to its normal and usual meaning and not
4 strictly for or against either County or Lessee. Neither this Amendment, nor the Lease,
5 nor any notice nor memorandum regarding terms hereof, shall be recorded by Lessee.

6 **5. Effective Date.** This Second Amendment to Lease shall not be binding or
7 consummated until its approval by the Riverside County Board of Supervisors and fully
8 executed by the Parties.

9
10 COUNTY: LESSEE:
11 COUNTY OF RIVERSIDE, a political subdivision of the State of California CACTUS AVENUE, LLC, a California
12 limited liability company
13 By:  By: 
14 JEFF HEWITT, Chair John Robertson, M.D.
15 board of Supervisors Managing Partner

16
17 ATTEST:
18 Kecia R. Harper
19 Clerk of the Board
20 By: 
21 Deputy

22 APPROVED AS TO FORM:
23 Gregory P. Priamos, County Counsel
24 By: 
25 Wesley Starfield
26 Deputy County Counsel

27
28 HR:sc/11162021/MV033/30.537

Recorded at request of and return to:
Cactus Avenue, LLC
3660 Park Sierra Drive, Suite 208
Riverside, CA 92505

FREE RECORDING
This instrument is for the benefit of
the County of Riverside and is
entitled to be recorded without fee.
(Govt. Code 6103)

COPY

(Space above this line reserved for Recorder's use)

PROJECT: Kidney Dialysis Center
APN: 486-280-027

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

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

GRANTS to the Cactus Avenue, LLC, a California limited liability company, the real property in the
County of Riverside, State of California, described as:

See Exhibit "A" attached hereto
And made part hereof

Dated: JAN 25 2022

GRANTOR:

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

By: 

JEFF HEWITT
Board of Supervisors

ATTEST:

Kecia R. Harper
Clerk of the Board

By: 

Deputy

FORM APPROVED COUNTY COUNSEL

BY: 

WESLEY W. STANFIELD

1/21/2022
DATE

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EXHIBIT "A"

LEGAL DESCRIPTION

THOSE PORTIONS OF LOT 8 AND CACTUS AVENUE IN BLOCK 130 OF MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., AS SHOWN VACATED BY RESOLUTION ABANDONING PORTIONS OF COUNTY HIGHWAYS RECORDED AUGUST 11, 1966 AS INSTRUMENT NO. 81996, OFFICIAL RECORDS, BY MAP ON FILE IN BOOK 11 OF MAPS AT PAGE 10 THEREOF, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTOIN OF THE CENTERLINE OF NASON STREET OF SAID MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO. AND THE CENTERLINE OF SAID CACTUS AVENUE;

THENCE NORTH 89° 33' 57" WEST ALONG SAID CENTERLINE OF CACTUS AVENUE, A DISTANCE OF 399.20 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING IN A LINE PARALLEL WITH AND DISTANT WESTERLY 399.20 FEET, MEASURED AT RIGHT ANGLES, FROM THE CENTERLINE OF SAID NASON STREET;

THENCE CONTINUING NORTH 89° 33' 57" WEST ALONG SAID CENTERLINE OF CACTUS AVENUE, A DISTANCE OF 256.00 FEET TO A POINT IN A LINE PARALLEL WITH AND DISTANT WESTERLY 655.20 FEET, MEASURED AT A RIGHT ANGLE, FROM THE CENTERLINE OF SAID NASON STREET;

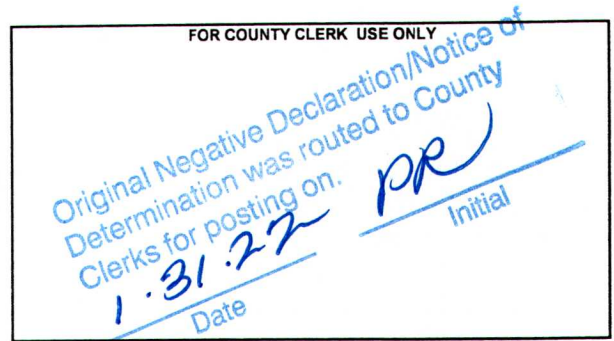
THENCE NORTH 00° 26' 40" EAST ALONG A SAID PARALLEL LINE, A DISTANCE OF 255.23 FEET TO A POINT IN A LINE PARALLEL WITH AND DISTANT 255.23 FEET, MEASURED AT RIGHT ANGLE, FROM THE CENTERLINE OF SAID CACTUS AVENUE;

THENCE SOUTH 89° 33' 57" EAST ALONG A SAID PARALLEL LINE, A DISTANCE OF 256.00 FEET TO A POINT IN A LINE PARALLEL WITH AND DISTANT WESTERLY 399.20 FEET, MEASURED AT A RIGHT ANGLE, FROM THE CENTERLINE OF SAID NASON STREET;

THENCE SOUTH 00° 26' 40" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 255.23 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OIL, GAS, OTHER MINERALS AND HYDROCARBON SUBSTANCES, AND ACCOMPANYING FLUIDS INCLUDING, BUT NOT BY WAY OF LIMITATION, ALL GEOTHERMAL RESOURCES IN, UNDER OR PRODUCED AND SAVED FROM THE REAL PROPERTY GRANTED HEREIN, TOGETHER WITH ANY OF THE FOREGOING WHICH MAY BE ALLOCATED THERETO PURSUANT TO ANY POOLING OR UNITIZATION AGREEMENT OR RATABLE TAKINGS PROGRAM TO WHICH GRANTOR MAY SUBSCRIBE, AND TOGETHER WITH THE SOLE AND EXCLUSIVE RIGHT TO PROSPECT FOR, DRILL FOR, PRODUCE AND REMOVE SUCH OIL, GAS, OTHER MINERALS AND HYDROCARBON SUBSTANCES AND GEOTHERMAL RESOURCES, FROM THE REAL PROPERTY BELOW THE DEPTH OF FIVE HUNDRED (500) FEET FROM THE SURFACE OF SAID REAL PROPERTY, INCLUDING THE RIGHT TO SLANT DRILL FROM ADJACENT PROPERTY, THE RIGHT TO UTILIZE SUBSURFACE STORAGE FOR NATURAL SUBSTANCES, AND THE RIGHT TO MAINTAIN SUBSURFACE PRESSURES, AS RESERVED TO THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, A CALIFORNIA CORPORATION, RECORDED JUNE 29, 1990 AS INSTRUMENT NO. 241521, OFFICIAL RECORDS.

County of Riverside
Facilities Management
3133 Mission Inn Ave., Riverside, CA



NOTICE OF EXEMPTION

January 12, 2022

Project Name: Second Amendment to Lease with Cactus Avenue LLC, Chicago Avenue, Riverside

Project Number: FM0473462003300

Project Location: 26900 Cactus Avenue, west of Nason Street, Moreno Valley, California; Assessor's Parcel Number (APN) 486-280-027

Description of Project: The County of Riverside (County) entered into a sublease agreement on October 15, 1996 with California Kidney Centers for the exclusive purpose of constructing, maintaining, and operating a kidney dialysis center on County-owned land. The Sublease has a term of 24 years with the County receiving an annual rent of \$11,780.11 per year which has been utilized to offset annual debt service payments. On November 4, 1997, pursuant to Section 26 of the Sublease, California Kidney Center assigned the sublease to Cactus Avenue, LLC, Lessee. On March 18, 1998, the County of Riverside Asset Leasing Corporation transferred title in the subleased premises to the County of Riverside; and on November 3, 1998, the County of Riverside and Cactus Avenue, LLC, converted the Sublease into a Lease ("Original Lease").

A provision of the lease includes a transfer of land ownership at the expiration of the lease to Cactus Avenue, LLC, provided the required rent payments have been paid in full. The lease expires November 2, 2022. Cactus Avenue, LLC has requested an early payoff and transfer of the land as agreed in the Lease, and this Second Amendment to Lease amends the lease providing for the early transfer. Upon approval of the Second Amendment to Lease and execution of the Grant Deed, the property shall be transferred to Cactus Avenue, LLC. The Second Amendment to the Lease is defined as the proposed project under the California Environmental Quality Act (CEQA). The project involves the transfer of title at an existing facility and no expansion of the existing facility will occur. The operation of the existing facility will continue to provide health services. 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

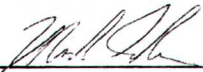
Exempt Status: State CEQA Guidelines Section 15301, Class 1, Existing Facilities Exemption; Section 15061(b) (3), General Rule or "Common Sense" Exemption. Codified under California Code of Regulations Title 14, Article 5, Section 15061.

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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 would not result in impacts to scenic highways, hazardous waste sites, historic resources, or other sensitive natural environments, or have a cumulative effect to the environment. No significant environmental impacts are anticipated to occur with the Second Amendment to the Lease Agreement.

- **Section 15301 – Class 1 Existing Facilities Exemption:** This categorical exemption includes the operation, repair, maintenance, leasing, or minor alteration of existing public or private structures or facilities, provided the exemption only involves negligible or no expansion of the previous site’s use. The project, as proposed, is limited to the cleanup transfer of title and ownership at an existing facility. This transfer is administrative and will not require physical modifications to the existing building which would increase or expand the use of the site, and is limited to the continued use of the site in a similar capacity; therefore, the project is exempt as the project meets the scope and intent of the Class 1 Exemption identified in Section 15301, Article 19, Categorical Exemptions of the CEQA Guidelines.
- **Section 15061 (b) (3) – “Common Sense” Exemption:** In accordance with CEQA, the use of the Common Sense Exemption is based on the “general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.” State CEQA Guidelines, Section 15061(b) (3). The use of this exemption is appropriate if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” *Ibid*. This determination is an issue of fact and if sufficient evidence exists in the record that the activity cannot have a significant effect on the environment, then the exemption applies and no further evaluation under CEQA is required. See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68. The ruling in this case stated that if a project falls within a category exempt by administrative regulation or 'it can be seen with certainty that the activity in question will not have a significant effect on the environment', no further agency evaluation is required. With certainty, there is no possibility that the project may have a significant effect on the environment. The proposed Second Amendment will not result in any direct or indirect physical environmental impacts. The use and operation of the facility will be substantially similar to the existing use and will not create any new environmental impacts to the surrounding area. No impacts beyond the ongoing, existing use of the site would occur. Therefore, in no way, would the project as proposed have the potential to cause a significant environmental impact and the project is exempt from further CEQA analysis.

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: 1-12-2022
Mike Sullivan, Senior Environmental Planner
County of Riverside, Facilities Management

RIVERSIDE COUNTY CLERK & RECORDER

**AUTHORIZATION
TO BILL
BY JOURNAL VOUCHER**

Project Name: Second Amendment to Lease with Cactus Avenue LLC

Accounting String: 524830-47220-7200400000 - FM0473462003300

DATE: January 12, 2022

AGENCY: Riverside County Facilities Management

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: **Heidi Rigler, Supervising Real Property Agent, Facilities Management**

-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: January 12, 2022
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 # FM0473462003300**
Second Amendment to Lease with Cactus Avenue LLC

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