

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

August 25, 2020

FROM

**TERRY W. THOMPSON, Director, Real Estate Services Department
CORWIN PORTER, Director, Department of Public Health**

SUBJECT

Amendment No. 3 to Lease Agreement with ABO Enterprises, Inc. for Office Space for the Department of Public Health, Women, Infants and Children Program in San Bernardino

RECOMMENDATION(S)

1. Approve the Real Estate Services Department's use of an alternative procedure in lieu of a Formal Request for Proposals as allowed per County Policy 12-02 – Leasing Privately Owned Real Property for County Use, to extend the term of Lease Agreement No. 09-1087 with ABO Enterprises, Inc. for two years for the period of September 1, 2020 through August 31, 2022 and add two two-year options to extend the term of the lease for the Department of Public Health, Women, Infants and Children Program.
2. Approve **Amendment No. 3 to Lease Agreement No. 09-1087** with ABO Enterprises, Inc. to extend the term of the lease two years for the period of September 1, 2020 through August 31, 2022, following a permitted five-month holdover for the period of April 1, 2020 through August 31, 2020, adjust the rental rate schedule, add two two-year options to extend the term of the lease, and update standard lease agreement language for 4,000 square feet of office space for the Department of Public Health, Women, Infants and Children Program at 2035/2037 North D Street in San Bernardino in the amount of \$234,232.

(Presenter: Terry W. Thompson, Director, 387-5252)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The total cost of this two-year amendment, including the permitted holdover at the current lease rate of \$7,880 per month for five months, is \$234,232. Lease payments will be made from the Real Estate Services Department (RESD) Rents budget (7810001000) and reimbursed from the Department of Public Health (DPH) budget (9300061000). The lease includes an electrical utility cap, beyond which landlord's expenses are reimbursable by DPH, but it is not anticipated that electric utility expenses will exceed the cap. The DPH budget for the program is 100% federal and state funded. Sufficient appropriation is included in both Rents and DPH 2020-21 budgets and will be included in future recommended budgets. Annual lease costs are as follows:

Period

Annual Lease Cost

**Amendment No. 3 to Lease Agreement with ABO Enterprises, Inc. for Office Space for the Department of Public Health, Women, Infants and Children Program in San Bernardino
August 25, 2020**

April 1, 2020 - August 31, 2020	\$ 39,400
September 1, 2020 – August 31, 2021	\$ 96,456
September 1, 2021 – August 31, 2022	<u>\$ 98,376</u>
Total Cost	<u>\$234,232</u>

BACKGROUND INFORMATION

The recommended action will amend the existing lease by extending the lease for the period of September 1, 2020 through August 31, 2022, following a permitted five-month holdover for the period of April 1, 2020 through August 31, 2020, adjust the rental rate schedule, add two two-year options to extend the term of the lease, and update standard lease agreement language for 4,000 square feet of office space for the DPH, Women, Infants and Children (WIC) Program. RESD negotiated a rental rate of \$2.01 per square foot per month (\$96,456 annually), for the period of September 1, 2020 through August 31, 2022. The amendment also reflects a five-month permitted holdover, adjusts the rent rate schedule, adds two two-year options to extend the term of the lease, and updates standard lease agreement language.

On December 1, 2009 (Item No. 43), the Board of Supervisors (Board) approved a five-year lease agreement, No. 09-1087, with one three-year and one two-year option to extend the term of the lease for 4,000 square feet of office space at 2035 and 2037 North D Street in San Bernardino for the DPH WIC Program. The original term of the lease was for the period of February 1, 2010 through January 31, 2015. In the 10 years since the lease was originally approved, the Board has approved two amendments to extend the term of the lease through March 31, 2020.

<u>Amendment No.</u>	<u>Approval Date</u>	<u>Item No.</u>
1	October 7, 2014	38
2	March 20, 2018	41

DPH requested RESD process an amendment to extend the term of the lease for two years for the period of September 1, 2020 through August 31, 2022 and add two two-year options to extend the term of the lease to allow the WIC program to continue providing services to residents in the San Bernardino area. Due to protracted negotiations with the landlord regarding market rental rates, the lease went into a permitted holdover on April 1, 2020. Amendment No. 3 extends the term on the lease two years for the period of September 1, 2020 through August 31, 2022, following a permitted five-month holdover for the period of April 1, 2020 through August 31, 2020, adds two two-year options to extend the term of the lease, adjusts the rental rate schedule, and updates standard lease agreement language. All other provisions and terms of the lease remain unchanged.

Staff has reviewed the recommended action pursuant to the California Environmental Quality Act (CEQA) and has determined that it does not constitute a project. Accordingly, no further action is required under CEQA

Summary of Lease Terms

Lessor: ABO Enterprises, Inc.
(Jack Katzman, President)

Location: 2035 and 2037 North D Street, San Bernardino

**Amendment No. 3 to Lease Agreement with ABO Enterprises, Inc. for Office Space for the Department of Public Health, Women, Infants and Children Program in San Bernardino
August 25, 2020**

Size: 4,000 square feet of office space

Term: Two years commencing September 1, 2020

Options: Two two-year options to extend the term

Rent: Cost per sq. ft. per month: \$2.01
Monthly: \$8,038
Annual: \$96,456
*Mid-range for comparable facilities in the San Bernardino area per supporting lease comparables on file

Annual Increases: 2%

Improvement Costs: None

Custodial: Provided by Lessor

Maintenance: Provided by Lessor

Utilities: Provided by Lessor, except that County pays for electric costs that exceed the electric utility expense cap

Insurance: The Certificate of Liability Insurance, as required by the Lease, is on file with the RESD.

Right to Terminate: The County has the right to terminate with 90-days' notice

Parking: Sufficient for County needs

PROCUREMENT

On December 1, 2009 (Item No. 43), the Board approved Lease Agreement No. 09-1087, which was procured according to County Policy 12-02 – Leasing Privately Owned Real Property for County Use (Policy) via a Solicitation of Proposals process. Extending the term of the lease for two years and adding two two-year options to extend the term of the lease would normally require a Formal Request for Proposal (RFP) process. The Policy provides that the Board may approve the use of an alternative procedure to the use of a Formal RFP whenever the Board determines that compliance with the Formal RFP requirements would unreasonably interfere with the financial or programmatic needs of the County, or when the use of an alternative procedure would otherwise be in the best interests of the County. RESD completed a competitive analysis of the area and found the negotiated rental rate for the extended term is competitive and the department would avoid considerable moving expenses if the WIC program stays in the current location. The WIC program is requesting the Board approve an alternative procedure as allowed in the Policy, to extend the term of this lease two years for the period of September 1, 2020 through August 31, 2022 and add two two-year options to extend the term of the lease, as this facility best meets the requirements of the department.

REVIEW BY OTHERS

**Amendment No. 3 to Lease Agreement with ABO Enterprises, Inc. for
Office Space for the Department of Public Health, Women, Infants and
Children Program in San Bernardino
August 25, 2020**

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel and Adam Ebright, Deputy County Counsel, 387-5455) on June 26, 2020; Department of Public Health (Corwin Porter, Director, 387-9146) on June 25, 2020; Purchasing Department (Bruce Cole, Supervising Buyer, 387-2464) on June 25, 2020; Finance (Paul Garcia, Administrative Analyst, 387-8392 and Wen Mai, Principal Administrative Analyst, 387-4020) on August 6, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on August 11, 2020.

(JAG: 677-8210)

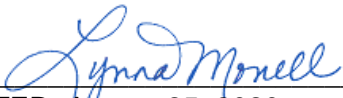
**Amendment No. 3 to Lease Agreement with ABO Enterprises, Inc. for
Office Space for the Department of Public Health, Women, Infants and
Children Program in San Bernardino
August 25, 2020**

Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Josie Gonzales Seconded: Robert A. Lovingood
Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: August 25, 2020



cc: RESD - Thompson w/agree
Contractor - C/O RESD w/agree
File - w/agree
CCM 09/8/2020