

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

October 8, 2019

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

PHALOS HAIRE, Director, Preschool Services Department

SUBJECT

Amendment No. 9 to Lease Agreement with ADURS Investments, LLC for Classroom and Office Space, Playground Area and Parking Area for the Preschool Services Department in Redlands

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. 94-1244 five years and add one additional two-year option, while retaining an existing three-year option to extend the term of the lease (a potential term of 35 years) for the Preschool Services Department.
2. **Approve Amendment No. 9** to Lease **Agreement No. 94-1244** with ADURS Investments, LLC, to extend the term of the lease five years for the period of November 1, 2019 through October 31, 2024, following a 13-month permitted holdover for the period of October 1, 2018 through October 31, 2019, add one two-year option to extend the term of the lease, retain an existing three-year option, adjust the rent schedule, and update standard lease agreement language for 4,400 square feet of classroom and office space, and approximately 2,900 square feet of playground and parking area, at 15 North Center Street in Redlands for the Preschool Services Department in the amount of \$538,736.

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

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). The total cost of this five-year amendment, including a 13-month permitted holdover for the period of October 1, 2018 through October 31, 2019, is \$538,736. Lease payments will be made from the Rents budget (7810001000) and reimbursed from the Preschool Services Department (PSD) budget (591572220). Other costs associated with this lease include custodial, utilities, and minor maintenance costs, which will be paid from the PSD budget. Sufficient appropriation is included in the 2019-20 budget and will be included in future recommended budgets. Annual lease costs are as follows:

<u>Period</u>	<u>Lease Cost</u>	<u>Estimate of Other Costs Associated With This Lease</u>
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<u>Period</u>	<u>Lease Cost</u>	<u>Estimate of Other Costs Associated With This Lease</u>
October 1, 2018 – October 31, 2019	\$ 84,656	\$ 31,326
November 1, 2019 – October 31, 2020	\$ 85,536	\$ 32,266
November 1, 2020 – October 31, 2021	\$ 88,176	\$ 33,234
November 1, 2021 – October 31, 2022	\$ 90,816	\$ 34,231
November 1, 2022 – October 31, 2023	\$ 93,456	\$ 35,258
November 1, 2023 – October 31, 2024	\$ 96,096	\$ 36,316
Total Cost	\$538,736	\$202,631

BACKGROUND INFORMATION

The recommended action will amend the existing lease with ADURS Investments, LLC (AI) through a negotiated extension of the lease, extending the term of the lease for the period of November 1, 2019 through October 31, 2024, following a 13-month permitted holdover for the period of October 1, 2018 through October 31, 2019, adjust the rental rate, add one additional two-year option to extend the term of the lease, retain a three-year option to extend the term of the lease, and update standard lease agreement language because of the continuing need for PSD to provide Head Start services for its clients in the Redlands area.

On December 13, 1994 (Item No. 27), the Board of Supervisors (Board) approved a three-year lease agreement, No. 94-1244, with three three-year options to extend the term of the lease, with Keith R. McIntosh and Michael J. McIntosh (McIntosh) for approximately 4,400 square feet of classroom and office space and 2,900 square feet of playground area and parking area located at 15 North Center Street in Redlands. The original term of the lease was for the period of September 15, 1994 through September 14, 1997. In the 25 years since the lease was originally approved, the Board has approved eight amendments extending the term of the lease through the exercise of options, adjusting the rent schedule, adding additional options to extend the term, adding an In-Kind and Cost Sharing Reporting provision to the lease, reflecting a change of ownership of the premises, and updating standard lease agreement language.

<u>Amendment No.</u>	<u>Approval Date</u>	<u>Item No.</u>
1	December 9, 1997	5
2	July 11, 2000	47
3	December 16, 2003	73
4	September 26, 2006	35
5	October 20, 2009	67
6	November 27, 2012	55
7	January 26, 2016	19
8	September 12, 2017	54

In early 2018, PSD advised the Real Estate Services Department (RESO) of its intent to seek funding from the Federal Head Start program to expand the student capacity of the site located at 15 North Center Street in Redlands by providing additional classroom space through the installation of a modular classroom. PSD requested RESO to open discussions with AI regarding the addition of the modular and an estimate of the costs of construction for the project. Under the federal guidelines for funding the project, a lease term of 15 years was required, as was a provision whereby PSD would exercise an option to purchase the property at the expiration of the lease. On October 1, 2018 during protracted negotiations of the terms of

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the agreement, Lease No. 94-1244 went into holdover status and the County continued to occupy the premises and abide by the terms of the agreement. The County and AI were unable to come to agreement on the terms of the lease and AI withdrew the purchase option consideration, consequently causing the proposed funding to be canceled and the modular project was cancelled. Amendment No. 9 to Lease Agreement No. 94-1244 provides for a negotiated five-year extension of the lease at the rate of \$1.62 per square foot (\$85,536 annually) an increase of \$0.14 from the prior rate of \$1.48 per square foot (\$78,144 annually), for the period of November 1, 2019 through October 31, 2024, following a 13-month permitted holdover, adjusts the rent schedule, adds one two-year option to extend the term of the lease, retains an existing three-year option to extend the term of the lease and updates standard lease agreement language.

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:	ADURS Investments, LLC (Richard C. Smith, Managing Member)
Location:	15 North Center Street, Redlands
Size:	Approximately 4,400 square feet of classroom and office space, and approximately 2,900 square feet of playground and parking area
Term:	Five years commencing November 1, 2019, following a 13-month permitted holdover for the period of October 1, 2018 through October 31, 2019
Options:	One three-year option and one two-year option
Rent:	Cost per sq. ft. per month: \$1.62* modified gross Monthly: \$7,128 Annual: \$85,536 *Mid-range for comparable facilities in the Redlands area per the competitive set analysis on file with RESD
Annual Increases:	3%
Improvement Costs:	None
Custodial:	Provided by County
Maintenance:	Provided by Lessor; County to provide minor maintenance
Utilities:	Provided by County

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

Right to Terminate: County has the right to terminate with 180-days' notice except in the event of loss of funding, County has the right to terminate with 90-days' notice

Parking: Sufficient for County's needs

PROCUREMENT

On December 13, 1994 (Item No. 27), the Board approved a three-year lease agreement, No. 94-1244, with three three-year options to extend the term of the lease, procured using a Solicitation of Proposals process as provided in County Policy 12-02 – Leasing Privately Owned Real Property for County Use (Policy). The Policy also provides that the Board may approve the use of an alternative procedure to the use of a Formal Request for Proposals (RFP) process 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 interest of the County. The Policy also requires a thorough and detailed review by the County Administrative Office or designee to validate the need for and provide a competitive analysis of any lease with a term of more than 20 years. Extending the term of the lease five years will provide for an aggregate term of 30 years. If the three-year option and the two-year option are exercised it will yield an aggregate term of 35 years.

RESD completed a market analysis of comparable sites and found the current rental rate to be competitive. This site best meets the requirements of the department for preschool services in the Redlands area and the department would save moving expenses if it stays in the current location. PSD requests the Board approve RESD's use of an alternative procedure to extend the term of Lease Agreement No. 94-1244 five years for the period of November 1, 2019 through October 31, 2024, following a 13-month permitted holdover for the period of October 1, 2018 through October 31, 2019, add one additional two-year option, and retain the existing three-year option to extend the term of the lease.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel and Adam Ebright, Deputy County Counsel, 387-5455) on September 10, 2019; PSD (Cheryl Adams, Administrative Manager, 383-2017) on August 29, 2019; Purchasing Department (Michael Candelaria, Buyer III, 387-0321) on August 6, 2019; Finance (Wen Mai, Principal Administrative Analyst, 387-4020 and Paul Garcia, Administrative Analyst, 386-8392) on September 20, 2019; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on September 22, 2019.

(KB: 677-7961)

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

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: October 8, 2019



cc: RESD- Thompson w/agree
Contractor c/o RESD w/agree
File- w/agree
vh 10/11/2019