

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

September 12, 2023

**FROM**

**TERRY W. THOMPSON, Director, Real Estate Services Department  
GILBERT RAMOS, Director, Transitional Assistance Department**

**SUBJECT**

Amendment to Lease Agreement with 265 East 4<sup>th</sup>, LLC for Office Space in San Bernardino

**RECOMMENDATION(S)**

1. Find that approval of Amendment No. 6 to Lease Agreement No. 07-247 with 265 East 4<sup>th</sup>, LLC, for Office Space is an exempt project under the California Environmental Quality Act Guidelines, Section 15301 (Class 1).
2. 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. 07-247 with 265 East 4<sup>th</sup>, LLC for five years from June 1, 2029 through May 31, 2034, and add three option periods of one two-year, one three-year, and one five-year terms to extend the term of lease beyond May 31, 2034, for an aggregate term of 36 years if all three option periods are exercised, for approximately 50,082 square feet of office space located at 265 East 4<sup>th</sup> Street in San Bernardino for the Transitional Assistance Department.
3. Approve **Amendment No. 6 to Lease Agreement No. 07-247** with 265 East 4<sup>th</sup>, LLC to extend the term of the lease for a total of 10 years from June 1, 2024 through May 31, 2034, by exercising an existing five-year extension option and a negotiated extension of five additional years, for an aggregate term of 26 years; provide for turnkey tenant improvements to be performed by the landlord; adjust the rental rate schedule; add three option periods of one two-year, one three-year, and one five-year terms to extend the term of the lease; add day porter services and update standard lease agreement language for approximately 50,082 square feet of office space at 265 East 4<sup>th</sup> Street in San Bernardino for the Transitional Assistance Department, in the amount of \$18,570,432.
4. Authorize the Purchasing Department to issue purchase orders, as necessary, for a total amount not to exceed \$100,000, for any contingencies and/or minor change orders that may arise in order to complete the turnkey tenant improvements set forth in Amendment No. 6 to Lease Agreement No. 07-247 (Four votes required).
5. Direct the Clerk of the Board of Supervisors to file and post the Notice of Exemption for the project as required under the California Environmental Quality Act.  
(Presenter: Terry W. Thompson, Director, 387-5000)

**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.**

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**FINANCIAL IMPACT**

Approval of this item will not require additional Discretionary General Funding (Net County Cost). The total cost of Lease Agreement No. 07-247 A6 (Lease), including turnkey tenant improvements amortized monthly over the 10-year extended term of the lease, commencing June 1, 2024 through May 31, 2034, is \$18,570,432. Lease payments will be made from the Real Estate Services Department (RES D) Rents budget (7810001000) and reimbursed from the Human Services (HS) Administrative Claim budget (5015011000). The HS Administrative Claim budget is 71% federal and state funded, 23% realignment revenue, and 6% Net County Cost. Sufficient appropriation is included in the 2023-24 budget and will be included in future recommended budgets. Lease cost are as follows:

<u>Year</u>	<u>Annual Lease Cost</u>	<u>Amortized Tenant Improvements</u>	<u>Total Cost</u>
June 1, 2024 thru May 31, 2025	\$1,586,532	\$38,268	\$1,624,800
June 1, 2025 thru May 31, 2026	\$1,634,124	\$38,268	\$1,672,392
June 1, 2026 thru May 31, 2027	\$1,683,144	\$38,268	\$1,721,412
June 1, 2027 thru May 31, 2028	\$1,733,640	\$38,268	\$1,771,908
June 1, 2028 thru May 31, 2029	\$1,785,648	\$38,268	\$1,823,916
June 1, 2029 thru May 31, 2030	\$1,839,216	\$38,268	\$1,877,484
June 1, 2030 thru May 31, 2031	\$1,894,392	\$38,268	\$1,932,660
June 1, 2031 thru May 31, 2032	\$1,951,224	\$38,268	\$1,989,492
June 1, 2032 thru May 31, 2033	\$2,009,772	\$38,268	\$2,048,040
June 1, 2033 thru May 31, 2034	<u>\$2,070,060</u>	<u>\$38,268</u>	<u>\$2,108,328</u>
<b>Total Cost</b>	<b>\$18,187,752</b>	<b>\$382,680</b>	<b>\$18,570,432</b>

**BACKGROUND INFORMATION**

Recommendation No. 2 will approve RESD’s use of an alternative procedure in lieu of issuing a formal Request for Proposal (RFP) as allowed under County Policy 12-02 – Leasing Privately Owned Real Property for County Use (Policy), to extend the term of the Lease with 265 East 4<sup>th</sup>, LLC for five years from June 1, 2029 through May 31, 2034, and add three option periods of one two-year, one three-year, and one five-year terms to extend the term of the Lease for an additional 10 years, resulting in an aggregate term of 36 years should all extension options be exercised.

Recommendation No. 3 will amend the Lease by extending the term for a total of 10 years for the period of June 1, 2024 through May 31, 2034, by exercising an existing five-year extension option and a negotiated extension of five additional years, add three option periods of one two-year, one three-year, and one five-year terms to extend the term of the Lease, adjust the rental rate schedule, provide for turnkey tenant improvements to be performed by the landlord, add day porter services, and update standard lease agreement language for approximately 50,082 square feet of office space located at 265 E 4<sup>th</sup> Street in San Bernardino (Property) because of the continuing need to provide services in the San Bernardino area.

Recommendation No. 4 will authorize the Purchasing Department (Purchasing) to issue purchase orders, as necessary, for a total amount not to exceed \$100,000 for any contingencies and/or change orders that may arise in order to complete the tenant improvements set forth in the amendment, which requires four votes per Public Contract Code section 20137.

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On April 10, 2007 (Item No. 25), the San Bernardino County Board of Supervisors (Board) approved the 10-year Lease, with two five-year options to extend the term for 48,846 square feet of build-to-suit office space at the Property for the Transitional assistance Department (TAD). The original term of the Lease was from October 1, 2008 through September 30, 2018. In the 15 years since the Lease was originally approved, the Board has approved five amendments to correct the address to 265 E. 4<sup>th</sup> Street, correct the size of the leased facility to 49,212 square feet, amend the rent schedule, change the commencement and termination dates that extend the term of the lease through May 31, 2024, provide for \$261,487 in tenant improvements to expand the lobby, provide \$350,245 in exterior improvements, increase the size of the lobby area by 870 square feet, increase the leased area from 49,212 to 50,082 square feet, reflect a change of property ownership, and update standard lease agreement language. All other terms and conditions of the lease remain unchanged.

<u>Amendment No.</u>	<u>Approval Date</u>	<u>Item No.</u>
1	January 6, 2009	23
2	June 16, 2009	34
3	September 24, 2013	57
4	July 8, 2014	46
5	September 29, 2020	58

TAD requested that RESD process an amendment to the Lease to extend the term for a total of 10 years by the exercise of an existing five-year extension option and a negotiated extension of five additional years. The amendment will provide for the landlord's completion of certain tenant improvements totaling \$1,051,423. The County shall reimburse the landlord for a portion of the total cost of the improvements in the amount of \$382,680, which will be amortized monthly over the 10-year extended term, commencing on June 1, 2024. The improvements will allow TAD to upgrade the interior finishes, remodel and secure the main customer lobby, and make significant upgrades to secure the exterior area around the building.

The total improvement cost is subject to change based on the landlord's submission of final bid for the improvements, which landlord shall obtain within 90 days after the Board approves Amendment No. 6. In the event the final bid less the cost of construction drawings, which shall be at landlord's sole cost (adjusted bid) is less than the total improvement cost, the landlord and County shall execute an amendment to the Lease to proportionately reduce the amount of the County's share of the total improvement cost and the County's monthly amortization amount. In the event the adjusted bid exceeds the total improvement cost, the landlord shall provide County with written notice of such overage within 30 days after the landlord's receipt of the final bid.

If the overage is \$100,000 or less, the parties shall have the opportunity to modify the improvements to reduce or eliminate the overage. Any resulting overage as agreed by the Parties shall be documented as a change order and payable in accordance with the contingency allowance set forth in Recommendation No. 3.

In the event the overage is more than \$100,000, the County shall provide the landlord with written notice to elect, at its sole discretion, one of the following options: 1) negotiate modifications to the improvements to reduce or eliminate the overage, with any agreed overage not exceeding \$100,000 to be documented as a change order and paid through the contingency allowance; 2) agree to pay the entire overage, subject to TAD returning to the Board for

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approval of any overage that exceeds \$100,000; or 3) rescind the 10-year extension of the term of this Lease and the entirety Amendment No 6, provided that the landlord may nullify the County's rescission by agreeing to pay any overage that exceeds \$100,000.

RESD, on behalf of HS, requests that the Board authorize Purchasing to issue purchase orders, as necessary, for a total amount not to exceed \$100,000 for any contingencies and/or minor change orders that may arise in order to complete the turnkey tenant improvements. All change orders will be approved by HS and TAD prior to authorizing any work.

The project to approve the Lease Agreement was reviewed pursuant to the California Environmental Quality Act Guidelines and determined to be categorically exempt under Section 15301 (Class 1) because there is no possibility that the leasing of the subject property will have a significant effect on the environment.

Summary of Lease Terms

Lessor:	265 East 4 <sup>th</sup> , LLC (F. Ron Krausz, President)
Location:	265 East 4 <sup>th</sup> Street, San Bernardino
Size:	50,082 square feet of office space
Term:	10 years, commencing June 1, 2024
Options:	Three option periods of one two-year, one three-year, and one five-year terms
Rent:	Cost per square foot per month: \$2.64* Monthly: \$132,211 Annual: \$1,586,532 *High-range for comparable facilities in the San Bernardino area per the competitive set analysis on file with RESD
Annual Increases:	3%
Improvement Costs:	Provided by Lessor at a cost of \$382,680, which is amortized and reimbursed to landlord over the 10-year extended lease term, and an allocation up to \$100,000 for any contingencies and/or change order work for the turnkey tenant improvements set forth in Amendment No. 6, to be authorized by HS and TAD representatives and paid by purchase orders, as needed
Custodial:	Provided by Lessor
Maintenance:	Provided by Lessor
Utilities:	Provided by Lessor; County to pay electric cost in excess of \$170,744.06 per year or \$0.28 per square foot per month (electrical utility expense cap) subject to 3% annual increases

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every June 1<sup>st</sup>

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

Right to Terminate: Neither party has the right to terminate for convenience

Holdover: County shall have the right to holdover in the premises on a month-to-month basis following the expiration of the lease with either party having the right to terminate the holdover on not less than 90 days' notice

Parking: Sufficient for County needs

**PROCUREMENT**

On April 10, 2007 (Item No. 25), the Board approved the Lease, which was procured in accordance with County Policy 12-02 – Procuring Privately Owned Real Property for County Use (Policy) using a Formal Request for Proposals (RFP) process. The procurement process required by the Policy does not apply to amendments of existing leases, provided the amendment does not exceed the maximum term (including options) of the Lease. Therefore, the Policy does not apply to the County's exercise of the existing five-year option to extend the term of the lease but does apply to the negotiated extension of five additional years and the addition of the three option periods of one two-year, one three-year, and one five-year terms.

The Policy provides that the Board may approve the use of an alternative procedure to the use of a Formal RFP to extend the lease five additional years and add three option periods of one two-year, one three-year, and one five-year terms to extend the lease 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. 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. Approval of Amendment No. 6 will result in an aggregate term of 26 years and a potential aggregate term of 36 years, if all three option periods to extend the term are exercised.

RESD completed a market analysis of comparable sites and found the rental rate for the 10-year extended term to be competitive. This site best meets the requirements of TAD in the San Bernardino area and TAD will save on relocation costs if it remains at this site.

**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 August 3, 2023; Human Services (Gilbert Ramos, Director, 388-0245, and Allen Simmons, Administrative Supervisor II, 388-0367) on August 11, 2023; Purchasing (Michelle Churchill, Supervising Buyer, 387-2070) on August 4, 2023; Finance (John Hallen, Administrative Analyst, 388-0208, and Garrett Baker, Administrative Analyst, 387-3077) on August 28, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on August 28, 2023.

(JAG: 677-8210)

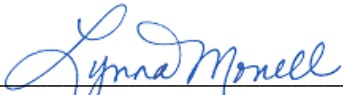
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Record of Action of the Board of Supervisors  
San Bernardino County

**APPROVED (CONSENT CALENDAR)**

Moved: Joe Baca, Jr. Seconded: Curt Hagman  
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: September 12, 2023



cc: RESD - Thompson w/agree w/CEQA & receipt  
Contractor - c/o RESD w/agree  
File - w/agree w/CEQA & receipt  
CCM 10/2/2023