

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

March 1, 2022

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

JOSHUA DUGAS, Director, Department of Public Health

SUBJECT

Amendment to Lease Agreement with Luxor Properties LLC, a California limited liability company, for Office Space for the Department of Public Health in San Bernardino

RECOMMENDATION(S)

Approve **Amendment No. 3** to Lease **Agreement No. 12-831** with Luxor Properties LLC, a California limited liability company, to reflect a change of property ownership from 71-81 Cowan Building, LP to Luxor Properties LLC, extend the term of the lease by five years, which currently expires on December 31, 2025, by concurrently exercising the existing three-year extension option and the two-year extension option, for the period of January 1, 2026 through December 31, 2030, adjust the rental rate schedule, and update standard lease agreement language for 12,888 square feet of office space located at 1505 South "D" Street for the Department of Public Health in San Bernardino in the amount of \$1,630,812.

(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.

FINANCIAL IMPACT

Approval of this item will not require the use of Discretionary General Funding (Net County Cost). The total net cost of this amendment is \$1,630,812, which consists of a total reduction of \$55,284 for a portion of the existing term from January 1, 2023 through December 31, 2025, and an additional \$1,686,096 for the extended term from January 1, 2026 through December 31, 2030. Payments will be paid from the Real Estate Services Department (RES) Rents budget (7810001000) and reimbursed from the Department of Public Health (DPH) budget (9300091000), which is 100% grant funded. Sufficient appropriation is included in the Rents and DPH 2022-23 budgets and will be included in future recommended budgets. Annual lease costs are as follows:

	<u>Original</u> <u>Annual</u> <u>Lease Costs</u>	<u>Net</u> <u>Adjusted</u> <u>Annual</u> <u>Lease</u> <u>Costs</u>	<u>Lease</u> <u>Costs</u> <u>Reduction</u>
<u>Remainder of Existing Term Period:</u>			
January 1, 2023 – December 31, 2023	\$310,332	\$300,996	(\$ 9,036)

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January 1, 2024 – December 31, 2024	\$319,332	\$300,996	(\$18,336)
January 1, 2025 – December 31, 2025	\$328,908	\$300,996	<u>(\$27,912)</u>
Total Net Rent Reduction:			(\$55,284)

<u>Extended Term Period:</u>	<u>Annual Lease Costs</u>
January 1, 2026 – December 31, 2026	\$ 331,200
January 1, 2027 – December 31, 2027	\$ 331,200
January 1, 2028 – December 31, 2028	\$ 331,200
January 1, 2029 – December 31, 2029	\$ 341,136
January 1, 2030 – December 31, 2030	<u>\$ 351,360</u>
Total Cost Extended Term Cost:	\$1,686,096

Total Net Rent Reduction **(\$55,284)**

Total Net Cost **\$1,630,812**

BACKGROUND INFORMATION

The recommended action will amend an existing lease with Luxor Properties LLC, a California limited liability company, (Luxor) to reflect a change of property ownership from 71-81 Cowan Building, LP to Luxor, extend the term of the lease by five years, which currently expires on December 31, 2025, by concurrently exercising the existing three-year extension option and the existing two-year extension option for the period of January 1, 2026 through December 31, 2030, adjust the rental rate schedule, and update standard lease agreement language for 12,888 square feet of office space located at 1505 South "D" Street for the Department of Public Health because of the continuing need to provide Public Health, Women, Infants, and Children program services in the San Bernardino area.

On November 27, 2012 (Item No. 53), the Board of Supervisors (Board) approved a five-year lease agreement, No. 12-831, with one three-year and one two-year option to extend the term, for 11,338 square feet of office space at 1505 South "D" Street in San Bernardino. The original term of the lease was for the period of January 1, 2013 through December 31, 2017. In the nine years since the lease was originally approved, the Board has approved two amendments to extend the lease term, provide for improvements, increase the square footage from 11,338 to 12,888 square feet and reflect a change of property ownership.

<u>Amendment No.</u>	<u>Approval Date</u>	<u>Item No.</u>
1	December 15, 2015	41
2	May 3, 2016	48

On November 2, 2021, RESD was notified of the change of property ownership to Luxor. During discussion with Luxor, Luxor offered an incentive to reduce the rent for a portion of the remaining term from January 1, 2023 through the current expiration date of December 31, 2025 if the County concurrently exercised the existing three-year extension option and the two-year extension option to extend the term from January 1, 2026 through December 31, 2030 and removed the existing right to terminate the lease for convenience. DPH requested RESD prepare an amendment to reflect the change of property ownership, the early exercise of both existing extension options at a savings of \$55,284 over the remaining lease term for the period January 1, 2023 through December 31, 2025, and the removal of the right to terminate for

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convenience during the remainder of the existing term and for the duration of the extended term. RESD also negotiated a reduced rental rate during the extended term for the period of January 1, 2026 through December 31, 2030.

The amendment also permits the RESD Director to execute amendments for the administrative purpose of updating the name of the landlord on the lease to reflect a successor landlord in the event of a sale of the property and assignment of the lease. All other terms and conditions of the lease agreement remain the same.

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:	Luxor (Hank Dayani, Managing Member)
Location:	1505 South "D" Street, San Bernardino
Size:	12,888 square feet
Term:	Existing term expires on December 31, 2025, extended term of 5 years, commencing January 1, 2026
Options:	None
Rent:	Cost per sq. ft. per month: \$1.95* Full-Service Gross Monthly: \$ 25,083 Annual: \$300,996 *Mid-range for comparable facilities in the San Bernardino area per the competitive set analysis on file with RESD
Annual Increases:	Approximately 2%
Improvement Costs:	None
Custodial:	Provided by Lessor
Maintenance:	Provided by Lessor
Utilities:	Provided by Lessor
Insurance:	The Certificate of Liability Insurance, as required by the lease, is on file with RESD
Right to Terminate:	None during the term ending December 31, 2030, except due to Lessor default; if the term is further extended, the County has the right to terminate with 90-days' notice after December 31,

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2030

Parking: Sufficient for County needs

PROCUREMENT

The procurement process required by County Policy 12-02 – Leasing Privately Owned Real Property for County Use (Policy) does not apply to amendments of existing leases provided the amendment does not exceed the maximum term (including options) 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 January 31, 2022; Department of Public Health (Joshua Dugas, Director, 387-6222) on December 21, 2021; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on January 3, 2022; Finance (Paul Garcia, Administrative Analyst, 388-8392 and Carl Lofton, Administrative Analyst, 387-5404) on February 11, 2022; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-4376) on February 11, 2022.

(PN: 677-8321)

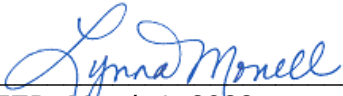
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: March 1, 2022



cc: RESD- Thompson w/agree
Contractor- C/O RESD w/agree
File- w/agree
LA 03/8/2022