

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

June 22, 2021

**FROM**

**TERRY W. THOMPSON, Director, Real Estate Services Department**

**GILBERT RAMOS, Director, Transitional Assistance Department**

**SUBJECT**

Amendment No. 9 to Lease Agreement with Whitacre Investment Company for Office Space for the Transitional Assistance Department in Hesperia

**RECOMMENDATION(S)**

Approve **Amendment No. 9** to Lease **Agreement No. 94-828** with Whitacre Investment Company to extend the term of the lease five years, for the period of July 1, 2021 through June 30, 2026, by exercising the first of two five-year options to extend the term of the lease (for an aggregate term of 26 years), following a permitted month-to-month holdover for the period of April 1, 2021 through June 30, 2021, adjust the rental rate schedule, and update standard lease agreement language for 33,600 square feet of office space for the Transitional Assistance Department at 9655 9<sup>th</sup> Avenue in Hesperia in the amount of \$4,550,136.  
(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**

The total cost of this amendment, including the permitted holdover, is \$4,550,136. Lease payments will be made from the Real Estate Services Department (RESO) Rents budget (7810001000) and reimbursed from the Human Services (HS) Administrative Claim budget (5015011000). The HS Administrative Claim budget is 75% federal and state funded, 20% realignment revenue and 5% Discretionary General Funding (Net County Cost). Sufficient appropriation is included in both the Rents and HS 2020-21 budgets and will be included future recommended budgets. Lease costs are as follows:

<u>Period</u>	<u>Annual Lease Cost</u>
April 1, 2021 thru June 30, 2021	\$ 204,624
July 1, 2021 thru June 30, 2022	\$ 818,496
July 1, 2022 thru June 30, 2023	\$ 843,048
July 1, 2023 thru June 30, 2024	\$ 868,344
July 1, 2024 thru June 30, 2025	\$ 894,396
July 1, 2025 thru June 30, 2026	\$ 921,228
<b>Total Cost:</b>	<b>\$4,550,136</b>

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**BACKGROUND INFORMATION**

The recommended action will amend an existing lease with Whitacre Investment Company to extend the term of the lease five years, for the period of July 1, 2021 through June 30, 2026, following a permitted month-to-month holdover for the period of April 1, 2021 through June 30, 2021, by exercising the first of two five-year options to extend the term of the lease for 33,600 square feet of office space to allow the Transitional Assistance Department (TAD) to continue to provide services to County residents in the Hesperia area.

On August 2, 1994 (Item No. 41), the Board of Supervisors (Board) approved a 10-year lease agreement, No. 94-828, with two five-year options to extend the term of the lease for 33,000 square feet of build-to-suit office space at 9655 9<sup>th</sup> Avenue in Hesperia. The original term of the lease was for the period of June 1, 1995 through May 31, 2005. In the 26 years since the lease was originally approved, the Board has approved eight amendments to approve Subordination, Non-Disturbance and Attornment Agreements between the County, Landlord and Landlord's lender, reflect changes of property ownership, exercise options to extend the term of the lease, provide for tenant improvements to be amortized during the term of the lease, correct the building size from 33,000 to 33,600 square feet of office space, approve modifications to the tenant improvements, reducing the costs from \$197,047 to \$148,455, adjust the rental rate schedule, and update standard lease agreement language.

<u>Amendment No.</u>	<u>Approval Date</u>	<u>Item No.</u>
1	July 18, 1995	30
2	June 22, 1999	11
3	June 22, 1999	11
4	April 19, 2005	42
5	July 14, 2005	63
6	April 13, 2010	84
7	March 22, 2016	67
8	April 30, 2019	56

TAD provides a wide array of federal and state mandated social services and income assistance programs to the residents of San Bernardino County and Hesperia. TAD requested RESD to process an amendment to exercise a five-year extension of the lease because of the need to continue to provide services to local residents. Due to protracted negotiations regarding lease language, the lease went into a permitted holdover on April 1, 2021. Amendment No. 9 to Lease Agreement No. 94-828 extends the term of the lease five years, for the period of July 1, 2021 through June 30, 2026, following a permitted month-to-month holdover for the period of April 1, 2021 through June 30, 2021, due to the County's exercise of an option 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 shall 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: Whitacre Investment Company, a California General Partnership  
(Donald W. Whitacre and Roger W. Whitacre, General Partners)

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Location: 9655 9<sup>th</sup> Avenue, Hesperia

Size: 33,600 square feet of office space

Term: Five years commencing July 1, 2021, following a permitted month-to-month holdover for the period of April 1, 2021 through June 30, 2021

Options: One five-year options remains

Rent: Cost per sq. ft. per month: \$2.03\* full service gross  
Monthly: \$68,208  
Annual: \$818,496  
\* Mid-range for comparable facilities in the Hesperia area per the competitive set analysis on file with RESD

Annual Increases: 3%

Improvement Costs: None

Custodial: Provided by Lessor

Maintenance: Provided by Lessor

Utilities: Provided by Lessor; County to pay electrical costs in excess of \$204,968 per lease year or \$0.51 per square foot per month (electric utility expense cap), which cap is increased 4% annually

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 90 days' notice

Parking: Sufficient for County needs

**PROCUREMENT**

On August 2, 1994 (Item No. 41) the Board approved Lease Agreement No. 94-828, which was procured according to County Policy 12-02 – Leasing Privately Owned Real Property for County Use (Policy 12-02) using a formal Request for Proposals 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.

Policy 12-02 also requires a thorough and detailed review by the County Administrative Office (CAO) 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. 9 to the lease will yield an aggregate term of 26 years.

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RESA, acting in its approved capacity as the CAO designee to review proposed real property leases under Policy 12-02, completed a market analysis of comparable properties and found the current rental rate, including annual increases during the five-year extended term, to be competitive. The site best meets the immediate needs and requirements of the department to continue to provide services in the Hesperia area and would minimize disruption to TAD operations.

**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 May 28, 2021; Human Services Department (John Hallen, Administrative Analyst, 388-0208) on April 30, 2021; Purchasing Department (Bruce Cole, Supervising Buyer, 387-2148) on April 30, 2021; Finance (Carl Lofton, Administrative Analyst, 387-5404) on June 7, 2021, and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on June 7, 2021.

(JAG: 909-677-8210)

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

**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: June 22, 2021



cc: RESD- Thompson w/agree  
Contractor- C/O RESD w/agree  
File- w/agree  
LA 07/2/2021