

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

December 19, 2023

FROM

**TERRY W. THOMPSON, Director, Real Estate Services Department
JEANY ZEPEDA, Director, Children and Family Services Department**

SUBJECT

Lease Amendment with NMSBPCSLDHB for Office Space in San Bernardino

RECOMMENDATION(S)

1. Find that approval of Amendment No. 6 to Lease Agreement No. 01-270 with NMSBPCSLDHB for office space is an exempt project under the California Environmental Quality Act Guidelines Section 15301 – Existing Facilities (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 San Bernardino County Policy 12-02 – Leasing Privately Owned Property for County Use, to extend the term of Lease Agreement No. 01-270 five years, through the use of an extension option, for the period of January 1, 2024 through December 31, 2028, following a 21 month permitted holdover, for the period of April 1, 2022 through December 31, 2023, for a potential aggregate term of 27 years for the Children and Family Services Department.
3. Approve **Amendment No. 6 to Lease Agreement No. 01-270** with NMSBPCSLDHB to extend the term of the lease five years, through San Bernardino County's exercise of an extension option, for the period of January 1, 2024 through December 31, 2028, following a 21 month permitted holdover, for the period of April 1, 2022 through December 31, 2023, adjust the rent schedule, provide for certain turn-key tenant improvements to be completed by the landlord and amortized through the term of the lease and update standard lease agreement language for 25,514 square feet of office space in San Bernardino, in the amount of \$4,737,655.
4. Authorize the Purchasing Agent to issue Purchase Orders, as necessary for a total amount not to exceed \$45,000 for any contingencies and/or minor change orders that may arise in order to complete certain turnkey tenant improvements set forth in the lease amendment (Four votes required).
5. Authorize the Auditor-Controller/Treasurer/Tax Collector to post the necessary 2023-24 budget adjustments as detailed in the Financial Impact section (Four votes required).
6. 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.

FINANCIAL IMPACT

**Lease Amendment with NMSBPCSLDHB for Office Space in San Bernardino
December 19, 2023**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The total cost of this five-year amendment to Lease Agreement No. 01-270 is \$4,737,655, which will be offset by the NMSBPCSLDHB's (NMS) refund of tenant improvement payments of \$14,679 as a result of the County's overpayment of rent. The overpayment was due to continued payment of the amortized tenant improvements required as part of the rent throughout the holdover period while amendment negotiations were completed. Lease payments, including day porter services and amortized tenant improvement costs, 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 refund amount of \$14,679 will be deposited in the HS Administrative Claim Budget (5015011000). Other costs associated with this lease include electrical and gas utility services, which will be paid from the HS budget. Sufficient appropriation is included in the 2023-24 HS budget and will be included in future recommended budgets. RES D requests the Auditor-Controller/Treasurer/Tax Collector to post the following adjustments to the 2023-24 Rents budget:

<u>Cost Center</u>	<u>GL Account</u>	<u>Description</u>	<u>Action</u>	<u>Amount</u>
7810001000	52002905	Rents & Leases-Structures, Improvement & Grounds	Increase	\$8,312
7810001000	55415013	Services & Supplies Transfer In	Increase	\$8,312

Sufficient appropriation will be included in future recommended Rents budgets. Annual lease costs are as follows:

<u>Year</u>	<u>Annual Lease Cost</u>	<u>Tenant Improvement Costs Associated with the Lease</u>	<u>Total Cost</u>
*April 1, 2022 – December 31, 2023	\$1,109,661	**\$14,679.00	\$1,124,340
January 1, 2024 – December 31, 2024	\$653,088	\$38,140	\$691,228
January 1, 2025 – December 31, 2025	\$668,796	\$38,140	\$706,936
January 1, 2026 – December 31, 2026	\$684,516	\$38,140	\$722,656
January 1, 2027 – December 31, 2027	\$700,236	\$38,140	\$738,376
<u>January 1, 2028 – December 31, 2028</u>	<u>\$715,980</u>	<u>\$38,139</u>	<u>\$754,119</u>
Total Cost	\$4,532,277	\$205,378	\$4,737,655

*Permitted holdover period rent

**Included in a portion of the rent payments, tenant improvement costs paid during holdover will be refunded by NMS

BACKGROUND INFORMATION

On April 17, 2001 (Item 42), the Board of Supervisors (Board) approved a seven-year Lease Agreement No. 01-270 (Lease), with two five-year options and one three-year option to extend the term of the Lease, for 25,514 square feet of office space at 1504 Gifford Avenue in San Bernardino for the Children and Family Services Department (CFS). The original term of the Lease was for the period of December 1, 2001 through November 30, 2008.

On May 15, 2001 (Item No. 41), the Board approved Amendment No. 1, which provided a Subordination, Non-Disturbance and Attornment agreement (SNDA) between San Bernardino County and NMS, a California Limited Partnership and Tokai Bank of California for the leased office space.

**Lease Amendment with NMSBPCSLDHB for Office Space in San Bernardino
December 19, 2023**

On February 26, 2002 (Item No. 76), the Board approved Amendment No. 2, which provided a SNDA between San Bernardino County and NMS, a California Limited Partnership and General Electric Capital Business Asset Funding Corporation for the 25,514 square foot office space leased area.

On July 15, 2008 (Item No. 18), the Board approved Amendment No. 3 to extend the term of the Lease five years through the exercise of an extension option, for the period of December 1, 2008 through November 30, 2013, through the exercise of an extension option.

On November 19, 2013 (item No 46), the Board approved Amendment No. 4 (Item No. 46) to extend the term of the Lease five years through the exercise of an extension option, for the period of December 1, 2013 through November 30, 2018, and to provide for certain turnkey tenant improvements to be completed by the landlord, the cost of which, were amortized over the term of the Lease.

On January 8, 2019 (Item No. 33), the Board approved Amendment No. 5 to extend the term of the Lease three years through the exercise of an extension option, for the period of April 1, 2019 through March 31, 2022, following a four-month holdover, for the period of December 1, 2018 through March 31, 2019, add one five-year option to extend the term of the Lease, provide for Day Porter janitorial services for the lease premises, provide for certain turnkey tenant improvements to be completed by the landlord, the cost of which, were amortized over the term of the Lease and to update standard lease agreement language.

CFS requested RESD negotiate to extend the term of the Lease through the exercise of the final five-year option and to negotiate for turnkey tenant improvements to improve security of the leased area. Negotiations ensued with the landlord, and due to the cost of various proposed improvements that were revised several times and extended negotiations with the landlord regarding the terms and provisions of the Lease, the presentation of this amendment to the Board was delayed, during which period, the lease went into holdover on March 31, 2022. During the holdover period, the County continued to occupy the premises and abide by the terms and conditions of the lease, including payment of rent and the tenant improvement amortization. This ongoing payment of the tenant improvement amortization resulted in an overpayment of \$14,679, which NMS is refunding under Amendment No. 6.

RESD requests, on behalf of CFS, that the Board authorize the Auditor/Controller/Treasurer to post the necessary adjustments as detailed in the Financial Impact section (four votes required under Public Contract Code Section 20137) and to authorize the Purchasing Department to issue purchase orders, as necessary for a total amount not to exceed \$5,000, for any contingencies and/or minor change orders that may arise in order to complete the turnkey tenant improvements set forth in the Lease. All change orders and/or contingencies will be approved by CFS prior to authorizing any work or payment to NMS, which requires four votes from the Board, pursuant to Section 14.0114 Informal Bidding Procedures of the California Uniform Public Construction code Accounting Act.

The project to approve Amendment No. 6 to the Lease was reviewed pursuant to the California Environmental Quality Act (CEQA) Guidelines and determined to be categorically exempt under Section 15301 - Existing Facilities (Class 1) because the approval of this amendment to a lease agreement for an existing facility does not expand the use of an activity under CEQA. There is no possibility that the leasing of the subject property will have a significant effect on the environment; therefore, the activity is not subject to the provisions of CEQA.

**Lease Amendment with NMSBPCSLDHB for Office Space in San Bernardino
December 19, 2023**

Summary of Lease Terms

Lessor:	NMS, a California Limited Partnership (Robert Granum II, Trustee of the Granum Family Trust, General Partner)
Location:	1504 Gifford Street, San Bernardino
Size:	25,514 square feet of office space
Term:	Five years, commencing January 1, 2024, and expiring December 31, 2028,
Options:	None
Rent:	Cost per square foot per month: \$2.26* Monthly: \$57,602.31 Annual: \$691,227.72 *Mid-range for comparable facilities in the San Bernardino area per the competitive set analysis on file with RESD
Annual Increases:	Year two: 2.39292%; Year three: 2.33699%; Year four: 2.28184%; Year five: 2.23269%
Improvement Costs:	Provided by Lessor; reimbursed by County through amortized monthly tenant improvement payments
Custodial:	Provided by Lessor
Maintenance:	Provided by Lessor
Utilities:	Electrical and gas utilities paid by County; all other utilities are paid by Lessor
Insurance:	The Certificate of Liability Insurance, as required by the lease, is on file with the RESD
Holdover:	Upon the end of the term, if permitted by Lessor the Lease shall continue on a month-to-month term upon the same terms and conditions which existed at the time of expiration
Right to Terminate:	County has the right to terminate with 90-days' notice
Parking:	Sufficient for County needs

PROCUREMENT

On April 17, 2001 (Item No. 42), the Board approved the Lease, which was procured according to County Policy 12-02 – Leasing Privately Owned Real Property for County Use (Policy 12-02) via an alternative procedure process.

**Lease Amendment with NMSBPCSLDHB for Office Space in San Bernardino
December 19, 2023**

The Policy Exception provides that the Board may approve the five-year term extension of the Lease through the use of alternative procedure instead of a formal Request for Proposal (RFP) process, whenever the Board determines the 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. RESD, acting as the delegated agent of the County Administrative Office, completed a competitive analysis of comparable properties and found the proposed rental rate to be competitive. This location best meets the anticipated requirements of CFS in the San Bernardino area to provide services to the surrounding community, and if the term is extended would minimize disruption to CFS's operations and save moving costs. RESD requests the Board approve the alternative procedure for the five-year term extension to the term of the Lease.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (John Tubbs II, and Kaleigh Ragon, Deputies County Counsel, 387-5455) on November 15, 2023; Children and Family Services (Jeany Zepeda, Director, 387-2792) on November 21, 2023; Purchasing (Ariel Gill, Supervising Buyer, 387-2070) on November 17, 2023; Auditor-Controller/Treasurer/Tax Collector (Charlene Huang, Auditor-Controller Manager, 382-7022) on December 7, 2023; Finance (John Hallen, Administrative Analyst, 388-0208, and Garrett Baker, Administrative Analyst, 387-3077) on November 29, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on November 30, 2023.

(KB: 677-7961)

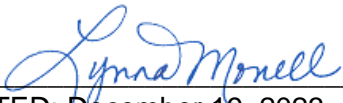
**Lease Amendment with NMSBPCSLDHB for Office Space in San Bernardino
December 19, 2023**

Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: December 19, 2023



cc: RESD - Thompson w/agree w/CEQA & receipt
 Contractor - c/o RESD w/agree
 File - w/agree w/CEQA & receipt
CCM 12/28/2023