

George A. Johnson
George A. Johnson

382



**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Economic Development Agency

SUBMITTAL DATE:
August 20, 2009

SUBJECT: First Amendment to Lease – Transportation Land Management Agency, Desert Permit Assistance Center

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached First Amendment to Lease and authorize the Chairman to execute the same on behalf of the County; and
2. Authorize the Auditor-Controller to adjust the Economic Development Agency's FY 09/10 budget as set forth on Schedule A.

BACKGROUND: (Commences on Page 2)

FISCAL PROCEDURES APPROVED
ROBERT E. BYRD, AUDITOR-CONTROLLER

BY: *Susana Garcia-Bocanegra* 9/17/09
SUSANA GARCIA-BOCANEGRA

Robert Field

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	(\$371,493)	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ -0-	Budget Adjustment:	Yes
	Annual Net County Cost:	\$ -0-	For Fiscal Year:	09/10

SOURCE OF FUNDS: Deposit Based Fees & Permit Fees	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Jennifer Sargent*
Jennifer Sargent

County Executive Office Signature

Policy

Consent

Dept's Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: 04/24/07, 3.12 | District: 4 | Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.45

FORM APPROVED COUNTY COUNSEL
BY: *Synthia M. Gunzel* 9/9/09
DATE: 9/9/09
SYNTHIA M. GUNZEL, Departmental Concurrence

BACKGROUND:

The County entered into a five year lease agreement for 21,372 square feet of office space located at 38-686 El Cerrito Road in Palm Desert in April 2007. The Transportation Land Management Agency's (TLMA) Permit Assistance Center was relocated from the County Administrative Center in Indio to allow for expansion space for criminal justice staffing while continuing services in the Coachella Valley. During the past two years the decline in permit requests and inspections have resulted in reduced income from permit fees required to sustain the staffing and office overhead, including the leasehold expense. Therefore, revisions to the lease terms have been negotiated with the Lessor including a reduced square footage and a substantial rent reduction of 60% for an 18 month period beginning July 1, 2009, through December 31, 2010. This will allow the Permit Center to remain operational in the building for continuity of services in the area. The attached first amendment to lease states the revised terms:

Location: 38-686 El Cerrito Road
Palm Desert, California

Lessor: DBP Investments, L.L.C
c/o Investco Financial Corporation
1302 Puyallup Street
Sumner, WA

Size: Reduced to 11,755 square feet from 21,372.

Term: 18 months, commencing July 1, 2009 – December 31, 2010.

Rent:	<u>Current</u>	<u>New</u>
	\$ 2.41 per sq. ft.	\$ 1.75 per sq. ft.
	\$ 51,528.97 per month	\$ 20,571.25 per month
	\$ 618,347.64 per year	\$246,855.00 per year

Percent Savings per month:	60% decrease
Savings per month:	\$ 30,957.72
Savings per year:	\$ 371,492.64
Total savings per 1 st Amendment:	\$557,238.96

Utilities: Paid by County.

Custodial: Provided by Lessor three (3) days per week.

Maintenance: Provided by Lessor.

Option to Terminate: For loss of funding, with 180 days' written notice and payment of \$309,173.82

(Continued)

BACKGROUND:

Option to Terminate
Penalty: Payment of \$309,173.82.

Market Data:	43100 Cook St., Palm Desert	\$1.75 NNN
	44200 Town Center Plaza, Palm Desert	\$2.25 NNN
	73-061 Fred Waring, Palm Desert	\$1.90 NNN

The attached first amendment to lease has been reviewed and approved by County Counsel as to legal form.

FINANCIAL DATA:

This Lease rate reduction saves TLMA \$371,493.00 in the first year. All associated costs for this First Amendment to Lease will be fully funded through the TLMA budget. TLMA has budgeted these costs in FY 2009/10; however, EDA requires a budget adjustment to its FY 2009/10 budget.

While EDA will front the costs for this amendment with the property owner, TLMA will reimburse EDA for all associated costs.

Schedule A

Decrease Appropriations:

10000-7200400000-526700 – Rent/Lease Buildings (\$371,493)

Decrease Estimated Revenues:

10000-7200400000-778150 – Interfund Leases \$371,493

1 **FIRST AMENDMENT TO LEASE**
2 Transportation Land Management Agency
38-686 El Cerrito Road, Palm Desert, California

3 This First Amendment to Lease (the "Amendment") between the **COUNTY OF**
4 **RIVERSIDE**, herein called "County", and **DBP OFFICE II L.L.C., a Washington limited**
5 **liability company, as successor-in-interest to DBP INVESTMENTS, LLC.**, a Washington
6 limited liability company, herein called "Lessor", hereby agree to amend that certain Lease
dated April 24, 2007, pertaining to the premises located at 38-686 El Cerrito Road, Palm
Desert, California (the "Premises"), as more particularly shown on Exhibit "A" attached to the
Lease as follows:

7 1. **Premises.** Paragraph 2.2 of the Lease shall be amended as follows: For the
8 period commencing July 1, 2009, through December 31, 2010, County shall reduce the actual
9 occupied areas to include the entire first floor and the second floor lunch room and large
10 meeting room. County staff shall vacate all other office space on the second floor. The
11 occupied square footage shall be reduced from the total 21,372 square feet to approximately
eleven thousand seven hundred fifty five (11,755) square feet, consisting of ten thousand six
hundred eighty six (10,686) square feet located on the first floor and one thousand sixty nine
(1,069) square feet located on the second floor.

12 2. **Rent.** Paragraph 5 of the Lease shall be amended as follows:
13 Notwithstanding anything contained in Paragraph 5, for the period July 1, 2009, through
December 31, 2010, the current rent of \$51,528.97 per month shall be reduced to \$20,571.25
per month.

14 3. **Option to Terminate.**

15 **Notice.** Paragraph 6.2.1 of the Lease shall be amended as follows:
16 "Further, County and Lessor agree that in the event County exercises its right to terminate
17 pursuant to Paragraph 6.2. the rent due during the six months prior to the termination date
18 shall revert back to \$51,528.97 per month; provided however, for any additional space leased
pursuant to Paragraph 5 below the rent during the six months prior to the termination date
shall be reduced by an amount equal to the rent paid by County prior to the date County
exercises its right to terminate the Lease."

19 **Satisfaction.** Paragraph 6.2.2 of the Lease shall be amended as
20 follows: "Further, in the event County exercises its right to terminate County shall pay Lessor
21 on the termination date, as full satisfaction of County's obligations under the Lease, six (6)
months of rent (\$51,528.97 x 6 months) equaling \$309,173.82 (the "Termination Fee"). "

22 4. **Custodial Services.** Paragraph 8.1 and Exhibit E of the Lease shall be
23 amended as follows: "For the period July 1, 2009, through December 31, 2010, daily custodial
services shall be reduced to three (3) days per week on the first floor and two (2) days per
week on the second floor."

24 5. **Additional space.** Should the County's space needs increase during the
25 period July 1, 2009, through December 31, 2010; County shall have the right to lease
additional space at a rate of \$1.75 per square foot per month.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

6. **First Right of Opportunity.** During the period July 1, 2009, through December 31, 2010, County shall have a First Right of Opportunity to lease space on the second floor should Lessor procure a prospective tenant.

7. Except as modified or supplemented by this First Amendment to Lease all other terms and conditions of the Lease shall remain in full force and effect.

Dated: _____

DBP OFFICE II L.L.C., a Washington limited liability company

By: Investco Financial Corporation, it's Manager

By: _____
Martin D. Waiss, President

COUNTY OF RIVERSIDE

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: _____
Jeff Stone, Chairman
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:
Pamela J. Walls
County Counsel

By: Synthia M. Gunzel
Synthia M. Gunzel
Deputy County Counsel

HR:jw
08/17/09
PD010
12.832