



Board Agenda Item 32

DATE: August 18, 2020

TO: Board of Supervisors

SUBMITTED BY: Robert W. Bash, Director of Internal Services/Chief Information Officer

SUBJECT: Clovis Center Building 3 Subordination of Lease, Non-Disturbance and Attornment Agreement and Estoppel Certificate

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Director of Internal Services/Chief Information Officer to execute Subordination, Non-disturbance and Attornment Agreement and Estoppel Certificate regarding Lease AGT 17-644/L-327 with Wells Fargo Trust Company, National Association and Pontiac 3 & 5, LLC, a California limited liability company, owner of facilities located at 200 W. Pontiac, Clovis, CA 93612, for a financial transaction between the property owner and Wells Fargo Trust Company, National Association; and,**
- 2. Authorize the Director of Internal Services/Chief Information Officer to approve and execute future Subordination, Non-disturbance and Attornment Agreements and Estoppel Certificates as requested by the Lessor for Lease AGT 17-644/L-327, subject to approval as to legal form by County Counsel.**

The County leases space from Pontiac 3 & 5, LLC (Lessor) for its Department of Social Services. The Lessor requests the approval of the Subordination, Non-disturbance and Attornment Agreement (SNDA) and Estoppel Certificate (Estoppel) to conclude a financial transaction with its bank. The execution of the SNDA and Estoppel does not change any terms of the lease, but rather confirms that the lease will remain in effect, and the County will be undisturbed, if the Lessor defaults under its financial arrangements with the bank, the lease is in force, that neither the Lessor nor County is in default under the lease, and that the County will continue to conform to the terms of the lease. The County is obligated by the terms of the lease to enter into an Estoppel and SNDA. The second recommended action authorizes the Director of Internal Services/Chief Information Officer to approve and execute future SNDA and Estoppel Certificates in regards to this lease, in the event they are requested by the Lessor. This item pertains to a location in District 3.

ALTERNATIVE ACTION(S):

If the SNDA and Estoppel are not approved by your Board, the Lessor will be precluded from relying on the leased property/lease as collateral for its financial transaction with its lender Wells Fargo Trust Company, National Association. Under the terms of the lease, the County is required to enter into an Estoppel and SNDA, if requested by the Lessor.

FISCAL IMPACT:

There is no monetary consideration or fiscal impact to the County associated with the recommended actions.

DISCUSSION:

The County leases space from Pontiac 3 & 5, LLC for its Department of Social Services. The Lessor is requesting the approval of an Estoppel and SNDA to conclude a financial transaction between the Lessor and the bank. The purpose of the SNDA is to subordinate the lease to the bank's interest in the property. However, through the SNDA agreement, the County ensures that the County's lease will remain in place, and the County will be undisturbed, even if the Lessor defaults in its financial obligations to the bank. The Estoppel Certificate confirms that the County has a lease with the property owner, the terms of the lease, and the County is conforming, and will continue to conform to all terms and conditions of the lease, in the event that Lessor's bank succeeds to the interests of the Lessor under the lease.

The Lender's signature is executed at close of escrow, accepting the SNDA and Estoppel, and finalizing the Lessor's financial transaction.

The Department of Social Services occupies space at Clovis Center Building 3, and they have been advised of this action to obtain your Board's approval of the SNDA and Estoppel.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Subordination of Lease, Non-Disturbance and Attornment
On file with Clerk - Estoppel Certificate

CAO ANALYST:

Sonia M. De La Rosa