



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Brian M. Balbas, Public Works Director/Chief Engineer  
Date: November 2, 2021

Subject: Approve the Subordination, Non-Disturbance and Attornment Agreement with First Republic Bank related to the lease at 309 Diablo Road, Danville.

**RECOMMENDATION(S):**

APPROVE the Subordination, Non-Disturbance And Attornment Agreement (SNDA) with First Republic Bank (Lender) that will subordinate the County's lease of office space at 309 Diablo Road, Danville, to the deed of trust that secures a first priority lien by the Lender.

AUTHORIZE the Public Works Director, or designee, to execute on behalf of the County, the SNDA with First Republic Bank.

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

The County has leased a portion of the building located at 309 Diablo Road, Danville, since 1997 for use as the office for the Board of Supervisor in District II. The current lease term ends February 28, 2025. The lessor is in the process of refinancing the property. The new senior lender, First Republic Bank, requires that all the tenants in the building execute a subordination, non-disturbance and attornment agreement (SNDA). The SNDA between the lender, the borrower

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **11/02/2021** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I  
Supervisor  
Candace Andersen, District II  
Supervisor  
Diane Burgis, District III  
Supervisor  
Karen Mitchoff, District IV  
Supervisor

ABSENT: Federal D. Glover, District V  
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 2, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Julin Perez, 925.  
957-2460



### BACKGROUND: (CONT'D)

(the lessor), and the County (lessee), details the rights of the parties in the event the borrower defaults on the loan and the lender forecloses and becomes the property owner/landlord. The SNDA protects the lessee from being evicted if the lender forecloses on the mortgage loan and assures the lender that the County will treat the lender as the lessor if the lender forecloses.

California law follows a “first in time” rule in establishing lien priorities. The County’s lease is in effect and, in the absence of an SNDA that subordinates the lease to the mortgage loan, would be senior to the proposed new first mortgage loan. The terms of the proposed new loan are predicated on the lender being in a first priority lien position. The lessor will not be able to refinance if the County does not agree to subordinate. The SNDA does not harm the County as it ensures that the County cannot be evicted if the lender forecloses and the County is in compliance with its lease.

### CONSEQUENCE OF NEGATIVE ACTION:

If the SNDA is not approved, the owner of the building will not be able to refinance the building.

### ATTACHMENTS

SNDA