



and further assisted MCSO by providing access to one of their rental housing units for the use of this deputy and his family. A housing unit was identified and agreed upon between MCSO, the deputy and CalParks, and repairs and upgrades to the unit were proposed by CalParks. A timeline for the deputy and his family to move to the area was established.

The deputy accepted the assignment in May 2015, and agreed to live in a single person housing unit for a short period of time. Due to the long, wet winter and permitting delays, renovations to the original housing unit selected are still not done. CalParks allowed the deputy to choose a different housing unit so that he and his family could be reunited, and that housing unit is the subject of this MOU and the attached lease agreement.

This MOU is necessary because there is a rental payment on the property, which is paid to CalParks, and a possessory interest tax that will be assessed by the Monterey County Assessor. The need for monthly rental payments and one annual payment was not known at the time that the labor contract was negotiated and was not addressed in the contract. This MOU provides the authority to make these two different types of payment, and adds clarity to a fairly complex and little known area of taxation. The combined total of the rental payment to CalParks (\$293.56 per month) and the anticipated possessory interest tax levied (estimated at \$3600 per year) brings the averaged amount of monthly “payment” on this unit to less than \$625.00 per month, which is still an extremely reasonable rental amount for a family sized rental unit with a fenced yard.

Possessory interest tax exists whenever there is a private, beneficial use of publicly-owned, non-taxable real property. The interest is generated in this case by the below market rent for the housing unit because CalParks does not have to pay property tax and thus their rent charges do not include an increment to recover such taxes. At the same time, the private possessor still receives the services and benefits (fire and police protection, schools and local government) that other similar taxable properties enjoy.

The possessory interest tax helps to pay the holder’s share of those costs. Possessory interest rents reflect only the public's return on its investment and do not include a property tax component. On the other hand, private sector rents include both the owner's return on investment and a property tax component to recover those taxes. As such, the separate collection of possessory interest tax does not result in double taxation, and cannot be avoided by the County because it is codified in State regulations. The possessory interest tax will be billed to and paid by MCSO once a year.

All housing costs are a benefit to this employee, and as such, are subject to payroll taxes, similar to other benefits. The lease was drawn up as a three way lease between CalParks, MCSO and the deputy so that the occupant of the unit could be held responsible for conditions and terms of tenancy required by CalParks and to hold MCSO responsible for the payment of rent, as required by MCSO’s labor obligations. Copies of the MOU and lease agreement are on file with the Clerk to the Board.

OTHER AGENCY INVOLVEMENT:

CalParks has already reviewed, agreed to and signed this MOU. County Counsel has approved as to form and the Auditor-Controller has reviewed as to payment provisions. The Assessor has reviewed the sections regarding possessory interest taxation for accuracy.

FINANCING:

This position was part of the FY 2015-16 budget and is included in the FY 2016-17 baseline budget. There will be no increase in General Fund Contribution as a result of this board action.

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Approved by: Steve Bernal, Monterey County Sheriff, X 3705

Attachment:

CalParks MOU and Lease Agreement