



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: FEBRUARY 7, 2017**

**FROM: GENERAL SERVICES DEPARTMENT      WARD: 6**

**SUBJECT: FIRST AMENDMENT TO CITY OF RIVERSIDE COMMERCIAL LEASE AGREEMENT WITH DUNN ENTERPRISES, INC. DBA ICE TOWN FOR SPACE WITHIN THE BUILDING AT 10540 MAGNOLIA AVENUE, SUITE A, TO AMEND THE TERM BY REMOVING THE TWO, FIVE-YEAR LEASE EXTENSION OPTIONS FOR A LEASE TERM TO END ON JULY 31, 2028**

## **ISSUE:**

Approve the First Amendment to City of Riverside Commercial Lease Agreement with Dunn Enterprises, Inc. dba Ice Town, for space within the building located at 10540 Magnolia Avenue, Suite A, amending the term by removing the two, five-year extension options and expire the Lease on July 31, 2028.

## **RECOMMENDATIONS:**

That the City Council:

1. Approve the First Amendment to City of Riverside Commercial Lease Agreement with Dunn Enterprises, Inc. dba Ice Town for space within the building located at 10540 Magnolia Avenue, Suite A, amending the term by removing the two, five-year extension options and expire the Lease on July 31, 2028; and,
2. Authorize the City Manager, or his designee, to execute the First Amendment to City of Riverside Commercial Lease Agreement with Dunn Enterprises, Inc. dba Ice Town, including making minor and non-substantive changes.

## **BACKGROUND:**

In 2003, the Magnolia Place Shopping Center was purchased by the City of Riverside to establish the Magnolia Police Station on a portion of the property. Ice Town occupies 52,145 square feet of space adjacent to Magnolia Police Station. When the City purchased the property, it assumed the Lease agreement with Ice Town as an anchor tenant. The City twice amended Ice Town's Lease to extend the term and increase monthly rent amounts which Lease was due to expire on April 30, 2016.

On November 18, 2014, City Council approved a new 14 year Lease through July 31, 2028. The monthly rent is at fair market value and within the parameters of the Magnolia Place Shopping

Center Leasing Program approved by City Council on September 6, 2011. The current Lease provides the tenant options to renew for up to two, five year periods through July 31, 2038.

### **DISCUSSION:**

Dunn Enterprises, Inc. dba Ice Town, has requested to amend the Lease to remove the two, five year options to reduce their possessory tax liability. Possessory tax is assessed on a tax exempt property (i.e. city owned) when that property is leased to an entity for a public use (i.e. retail). The County assesses possessory tax based on a complex formula that includes current market rent, and discounted by estimated expenses (approximately 1%) to arrive at a Net Operating Income. The formula then applies a 'discount rate' (usually 10%) over the life of the expected term of a lease which serves as the basis for the taxable interest.

The term of Ice Town's base Lease with the City is 14 years, but it also includes two, five year options, for a possible 24 year term. The County's possessory tax formula includes all 24 years. Removing the two, five year options adjusts the possessory tax calculation and generates an estimated annual savings of approximately 30-35% (or about \$14,000) for Ice Town. All other provisions of the Lease (i.e. monthly rent, Consumer Price Index increases, base term) remain the same.

The original term of the Lease remains unchanged. In addition to monthly rent, the City receives common area maintenance fees monthly in the amount of \$2,373.52. Revenue estimates over the 14 year base Lease period are approximately \$6,377,473.08 (rent plus common area maintenance fees) to be deposited into revenue account 7222000-373100. The revenue generated from this Lease offsets a substantial portion of the debt service incurred by the City to finance the Center purchase.

### **FISCAL IMPACT:**

There is no fiscal impact as a result of the First Amendment to City of Riverside Commercial Lease Agreement.

Prepared by: Carl Carey, General Services Director  
Certified as to  
availability of funds: Scott G. Miller, PhD, Chief Financial Officer/City Treasurer  
Approved by: Marianna Marysheva, Assistant City Manager  
Approved as to form: Gary G. Geuss, City Attorney

Attachment: First Amendment to Lease Agreement