



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: JUNE 25, 2024

FROM: PUBLIC UTILITIES DEPARTMENT WARD: 1

SUBJECT: TERMINATION AGREEMENT WITH DAVID L. HORTON, ESQ. AND ASSOCIATES – MISSION SQUARE OFFICE BUILDING, 3750 UNIVERSITY AVENUE, SUITE 560

ISSUE:

Approve a Termination Agreement between David L. Horton, Esq. and Associates and the City of Riverside effective April 1, 2024 in the Mission Square Office Building located at 3750 University Avenue, Suite 560.

RECOMMENDATIONS:

That the City Council:

1. Approve a Termination Lease Agreement with David L. Horton, Esq. and Associates effective April 1, 2024; and
2. Authorize the City Manager, or designee, to execute the Termination Agreement, including making minor, non-substantive changes, and to sign all documents and instruments necessary to complete the transaction.

BOARD RECOMMENDATION:

On June 10, 2024, the Board of Public Utilities voted unanimously with Members Avery, Polichetti and Montgomery absent to recommend the City Council approve a Termination Agreement between David L. Horton, Esq. and Associates and the City of Riverside effective April 1, 2024 in the Mission Square Office Building located at 3750 University Avenue, Suite 560.

BACKGROUND:

On October 13, 2015, the City acquired the Mission Square Building at 3750 University Avenue (Property), which was funded by Riverside Public Utilities (RPU). The Property consists of approximately 127,533 square feet of rentable office and retail space in a six-story building, plus a basement level and a 490-parking stall garage situated on approximately 2.5 acres of land.

To help market, broker and negotiate lease spaces of the Property, the City Council, on January 26, 2016, approved an Exclusive Authorization of Lease Agreement with Newmark of Southern California, Inc. dba Newmark Knight Frank (NKF) for a five-year term to provide broker leasing services for the Property. On January 5, 2021, the City Council approved a First Amendment to California Exclusive Authorization of Lease Agreement with Newmark of Southern California, Inc., dba Newmark Knight Frank (NKF) which extended the Agreement through December 31, 2025.

Staff have been coordinating the leasing process for the Property with the Real Property Services Division of the Community & Economic Development Department and NKF as the broker for the Property.

On October 1, 2019, the City Council approved a Lease Agreement with David L. Horton Esq. and Associates, for 1,561 square feet of rentable space in the Mission Square Building located at 3750 University Avenue, Suite 560 with an additional three-year term which expires on September 30, 2022.

On October 18, 2022, the City Council approved a First Amendment with David L. Horton Esq. and Associates extending the original lease agreement for a three-year term expiring on September 30, 2025.

DISCUSSION:

David L. Horton has been a tenant in the Property since 2019 and the existing Lease Agreement expires on September 30, 2025.

The Tenant was unable to fully recover after Covid-19 mandatory restrictions and stay at home orders. The Tenant relied heavily on walk in business and was unable to obtain new clients and has decided to cease his current operations and surrendered the location on or about April 1, 2024.

The proposed Termination Agreement and recommend the terms are summarized below:

1. Surrender the Premises by Tenant to Landlord on or before April 1, 2024.
2. Tenant to remove any trade fixtures, equipment, signs and furniture within the space.
3. Tenant and any occupants of the Premises will cease business operations on April 1, 2024.
4. Tenant will leave the Premises in a neat, clean, and orderly condition with no damage, on or before April 1, 2024.
5. Tenant will deliver to Landlord keys to the Premises including any keys to all cabinets, utility rooms equipment devices, alarm codes and Tenant will not have any further access to the Premises.
6. Landlord and Tenant acknowledge and agree that Tenant's Security Deposit in the amount of \$5,345 will be forfeited and Tenant has no further claim to deposit.
7. Landlord and Tenant agree that Tenant's delinquent rent is owed in the total amount of \$36,908. Both parties agree the Security Deposit will be credited against the unpaid rent, resulting in a delinquent balance of \$31,563. Tenant further agrees to pay off the entire

balance of the delinquent rent over a 24-month period beginning on April 1, 2024 of \$1,315 equal monthly payments.

A replacement Tenant has been identified for Suite 560 with a desired move in date of July 1, 2024. It is expected that the Board of Public Utilities and the City Council will receive both the Termination of the Lease with the former Tenant and the new Lease with the new Tenant at the same respective public meetings for review and approval.

STRATEGIC PLAN ALIGNMENT:

This item contributes to the Envision Riverside 2025 City Council Strategic Priority 5 – High Performing Government and Goal 5.4 – Achieve and maintain financial health by addressing gaps between revenues and expenditures and aligning resources with strategic priorities to yield the greatest impact.

The item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – The City conducted business with transparency and good faith. By bringing the Termination Agreement before the Board of Public Utilities, the City is providing a space for open dialogue between the Board and community stakeholders regarding all lease agreement terms at Mission Square.
2. **Equity** – The City acted with inclusion and is adhering to lease terms for all Tenants at Mission Square. Additionally, the City is ensuring that all Tenants are treated fairly and in accordance with the Tenant’s Lease Agreement terms.
3. **Fiscal Responsibility** – The City being a prudent steward of public funds, negotiated in good faith and the although the Tenant vacated the premises, the City is dedicated to recover any past due rent and will propose a new tenant in the vacant space to recover revenue.
4. **Innovation** – The City recognizes the need for accessible small businesses and partnerships to community stakeholders. This City will continue to be cognizant of the community’s changing needs and will continue to be adaptive to the future by engaging in collaborative partnerships.
5. **Sustainability & Resiliency** – Committed to the needs of community stakeholders, the City is devoted to identifying, attracting, and retaining businesses that assist the community to preserve, adapt, and grow during a diverse array of economic cycles. With the current Tenant vacated the Premises, the City is committed to identifying a new Tenant to occupy the vacant space.

FISCAL IMPACT:

The fiscal impact of the Lease Termination Agreement is the three-month vacancy of the space or approximately \$13,609 based on the vacated lease terms. The repayment of the past due charges of \$31,563 will be collected and deposited into the Mission Square Building Property Management Trust Account controlled by RPU and used to pay operating expenses for the Property.

Prepared by: Carlie Myers, Utilities Assistant General Manager/Finance and Administration
Approved by: David A. Garcia, Interim Utilities General Manager

Certified as to

availability of funds: Kristie Thomas, Assistant Chief Financial Officer/Finance Director

Approved by: Rafael Guzman, Assistant City Manager

Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. Termination Agreement – David L. Horton Esq. and Associates

2. Presentation