

Memorandum 11-058 Amended Ground Lease

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MEMORANDUM 11-058

TO: Lease Committee

FROM: Walt Wrede

DATE: April 8, 2011

SUBJECT: Staff Report / Amended Base Ground Lease

The City Attorney has prepared a new, amended base ground lease for City Council review and approval. He did this at the request of both the Council and the administration. The purpose for doing this was to make changes and updates that were necessary and recommended by both the staff and the attorney. It was also done to incorporate some of the recommendations submitted by the Economic Development Commission and the amendments the Council recently made to the Lease Policies. This is the standardized base lease required by the Lease Policies. All lease negotiations begin with this document and it can then be modified to meet specialized requirements of each lease and proposed use of the property.

The draft document before you has been revised several times. A document that included all of the strike outs and all of the underlined new language would have been confusing and difficult to read. Therefore, we have provided you with a clean copy of the old lease and a clean copy of the new one so that you can compare them easily. In this memorandum, I will bring your attention first to the sections of the document which have seen significant and substantive changes. After that, I identify the sections that were changed specifically in response to comments from the EDC. Each section contains a brief summary of what the changes accomplish.

Sections with Significant and Substantive Amendments

1.01 Definitions

3. 02 Options

3.03 Lease Renewals

3.04 Surrender of Possession

4.01 Rent Adjustments

4.03 Taxes and Assessments

4.07 Security Deposit

6.02 Required Improvements

6.03 Construction Prerequisites

6.08 Disposition of Improvements at End of Term

8.01 Assignments and Subleases

Sections Amended in Response to EDC Recommendations

3.03 (b) Lease Renewal: States clearly that a tenant may apply for a new lease after the lease term and all options have expired.

3.04, 6.07, and 6.08 A-C: Ownership of Improvements. These sections state clearly that the tenant owns all of the improvements placed upon the land and can remove them after the lease expires unless other arrangements and understandings were in place.

4.02 (A) Appraisals: Makes it clear that the City will commission group appraisals every five years and pay for the cost of the appraisals.

4.02 (B) Annual Rent Adjustments: Provides that the rent will be adjusted downward if the CPI decreases.

4.03 Taxes and Assessments: States that if the leased property is subject to an assessment for an LID improvement that benefits the property, the assessment is prorated based upon the years remaining in the lease.

4.07 Security Deposit: Removes the requirement that the security deposit must be increased each time the rent is adjusted and also provides that the deposit is refunded to the tenant after five years of good performance and lease compliance.

6.02 Required Improvements: Eliminates the requirement that improvements must, when completed, have an appraised value of not less than the estimate provided in the lease proposal.

6.03 Construction Prerequisites: removes the requirement that the tenant provide an engineer's or architect's

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estimate that the required improvements, when constructed according to the preliminary plans and specifications, will have a minimum value stated in the lease proposal.

8.01 Assignments and Subleases: Makes it clear that the City will charge additional rent for subleases of the land but not for subleases within building improvements financed and constructed by the tenant.

8.01 Assignments: Speeds up the process for getting requests for assignments approved by adding the 30 day criteria and taking such requests directly to the City Council.

9.04 Insurance Requirements: Updates insurance requirements based upon today's standards. Makes the requirement for environmental insurance optional and up to the discretion of the City based upon the type of use and activity proposed.

Related Resolutions **Memorandum - Related Resolutions:** [Resolution 11-041 Amending the Standard Ground Lease Document](#)

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