



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Peter Jensen

**SUBJECT: LEASE RENEWAL FOR THE  
INDEPENDENT POLICE AUDITOR**

**DATE:** 10-29-10

Approved 

Date 11/3/10

**COUNCIL DISTRICT: 3**

## RECOMMENDATION

Approval of a First Amendment to Lease with Legacy Partners for 3,013 square feet of office space located at 75 E. Santa Clara for the Independent Police Auditor for an additional five years beginning on November 1, 2010. The cost of lease payments will be \$4,820.80 per month during the first year of the extended term, \$4,971.45 for the second year, \$5,122.10 for the third year, \$5,272.75 for the fourth year, and \$5,423.40 for the fifth year.

## OUTCOME

By approving this lease amendment, Council authorizes the monthly rent for the ongoing space needs for the Independent Police Auditor.

## BACKGROUND

The Independent Police Auditor has occupied an office in the basement or plaza level of 75 E. Santa Clara since August 2000. The IPA moved to this location as it provided privacy and easy access for customers. The current lease on the space is dated June 14, 2005, and expired on July 31, 2010. From August 1, 2010 to the present, the City has been on holdover status on the space.

## ANALYSIS

The IPA occupies its current site at 75 E. Santa Clara Street, which offers both privacy and ease of access for residents. This downtown location provides excellent access to public transportation, as well as plentiful on-street and off-street parking. The site's location on the basement level can be easily reached by visitors but has limited foot traffic, thereby allowing complaints to be registered in privacy. The site also allows for the Independent Police Auditor's Citizen Group to have access to nearly 800 square feet of conference room space for meetings and hearings.

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The City Council previously approved a renewal of the lease in off-site office space for the Independent Police Auditor as City Hall or other City-owned property do not meet the needs of the IPA for providing confidentiality to residents that make complaints and allegations against police officers. The IPA office needs to provide privacy while still offering easy access. As such, based on consultation with the IPA, City staff recommends continuing to lease office space at the current location.

Staff has negotiated a reduced rate of \$1.60 per square foot for the 2010-2011 lease year which is \$0.05 per square foot less than the current rental rate. This is comparable to the rate charged for other similar properties in the downtown area in terms of size, location and condition which range between \$1.65 and \$1.85 per square foot, with the subject property being currently offered at \$1.85 per square foot in the marketplace. Staff examined several properties in the lower rent range to determine if moving the office would result in a net savings to the City, and concluded that any savings in rent would be more than offset by the cost of moving and associated tenant improvements.

The key features of the recommended First Amendment include:

- A reduction in the current rent by \$0.05 per square foot, saving the City \$18,078 over the five-year term.
- Annual rent increases of 3.1% at the beginning of year two, 3.0% in year three, and 2.9% in years four and five. This accomplishes the City's desire to control rental spending by defining annual increases.
- Tenant improvements to be completed by the landlord include changes to the locations of window film and replacing wallpaper with paint on certain walls.
- The City has the right to cancel the lease upon 180 days prior written notice, but the City has agreed not to exercise that right within the first two years of the lease extension in exchange for the reduced lease rate and landlord-provided tenant improvements described above, unless the City Council determines not to appropriate funds for continuation of this lease. If the City decides to terminate the lease during those first two years based on non-appropriation of funds, a termination fee will be due based on the unamortized balance of the landlord's cost of the tenant improvements and broker commission incurred in relation to the extension.

### **EVALUATION AND FOLLOW-UP**

After the First Amendment to Lease is signed, no follow-up action by the City Council is anticipated until the lease term expires.

### **POLICY ALTERNATIVES**

*Alternative #1: Move the IPA office to City-owned space.*

**Pros:** This would produce General Fund savings by avoiding lease costs for the space.

**Cons:** Visitors to the IPA office might be concerned that their inquiry or complaint would not be confidential, and may be therefore reluctant to come forward.

**Reason for not Recommending:** Based on consultation with the IPA, confidentiality is a very important component of the office space needed for the office. Anything that might discourage residents from coming forward is counterproductive to the IPA's mission. Ease of access is also an important component that the current space provides.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The approval of this amendment does not meet any of the above criteria; however, this memorandum will be posted on the City's website for the November 16, 2010 Council agenda.

### **COORDINATION**

This item has been coordinated with the Offices of the Independent Police Auditor and the City Manager's Budget Office. The City Attorney's Office has reviewed the amendment and approved it as to form.

### **FISCAL/POLICY ALIGNMENT**

This item is consistent with the General Budget Principles in that it protects a vital core City service.

### **COST SUMMARY/IMPLICATION**

Rent for the five years will be \$4,820.80 per month during the first year of the extended term, \$4,971.45 for the second year, \$5,122.10 for the third year, \$5,272.75 for the fourth year, and \$5,423.40 for the fifth year. The total rent for the five-year extended term of this lease is \$307,326. Commencement and payment on this lease extension begins November 1, 2010.

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**BUDGET REFERENCE**

Fund #	Appn #	Appropriation Name	Total Appn.	2010-2011 Adopted Operating Budget-Page	Last Budget Action (Date, Ord. No.)
001	0592	Non Personal/ Equipment – General Services	\$10,631,595	VIII-106	10/19/2010 Ord. 28829

**CEQA**

**CEQA:** Exempt PP10-066(f).

/s/

PETER JENSEN

Director, General Services

For questions please contact MATT MORLEY, DEPUTY DIRECTOR OF GENERAL SERVICES, at 535-1298.