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SEP 21 2015

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MEMORANDUM **Transportation & Development - Memo No. RE16-020**

DATE: SEPTEMBER 21, 2015

TO: MAYOR AND COUNCIL

THRU: MARSHA REED, ACTING CITY MANAGER MR
NACHIE MARQUEZ, ASSISTANT CITY MANAGER NM
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR RJZ

FROM: ERICH KUNTZE, REAL ESTATE MANAGER

SUBJECT: INTRODUCTION AND TENTATIVE ADOPTION OF ORDINANCE NO. 4656 APPROVING THE FIRST AMENDMENT TO THE EXISTING OFFICE LEASE BETWEEN THE CITY OF CHANDLER AND ARIZONA PUBLIC SERVICE COMPANY FOR USE OF SUITE A IN THE CHANDLER CITY HALL LOCATED AT 175 SOUTH ARIZONA AVENUE, CHANDLER, ARIZONA

RECOMMENDATION: Staff recommends introduction and tentative adoption of Ordinance No. 4656 approving the First Amendment to the existing office lease between the City of Chandler and Arizona Public Service Company for use of Suite A in the Chandler City Hall located at 175 South Arizona Avenue, Chandler, Arizona.

BACKGROUND/DISCUSSION: The City and Arizona Public Service Company (APS) entered into a lease agreement on August 23, 2010, granting APS a 25% undivided interest in and use of office space with the City in Suite A of the Chandler City Hall. The office lease was for a five-year period. That lease expires on October 24, 2015. Under the terms of the original lease, APS had the right to exercise two (2) additional 5-year renewal options. However, APS did not exercise the renewal option. Rather, APS requested a one-year extension of the current lease while they review which branch offices they will keep open. APS is currently paying $1,922.04 monthly. The previously agreed to annual rental increase of 2.88% will apply to the one-year extension.

PROPOSED MOTION: Move City Council introduce and tentatively adopt Ordinance No. 4656 approving the First Amendment to the existing office lease between the City of Chandler and Arizona Public Service Company for use of Suite A in the Chandler City Hall located at 175 South Arizona Avenue, Chandler, Arizona.

Attachments: Ordinance No. 4656 and APS Lease Amendment

ORDINANCE NO. 4656

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, APPROVING THE FIRST AMENDMENT TO THE EXISTING OFFICE LEASE BETWEEN THE CITY OF CHANDLER AND ARIZONA PUBLIC SERVICE COMPANY FOR USE OF SUITE A IN THE CHANDLER CITY HALL LOCATED AT 175 SOUTH ARIZONA AVENUE, CHANDLER, ARIZONA.

WHEREAS, the City of Chandler, as Landlord, and Arizona Public Service Company, as Tenant, did enter into an office lease dated August 23, 2010, granting Tenant a 25% undivided interest in and to the use and possession of the premises located on the ground floor of City Hall at 175 South Arizona Avenue, Suite A, Chandler, Arizona; and

WHEREAS, the initial term under the office lease was for five (5) years commencing on October 25, 2010, and expiring on October 24, 2015, but Tenant was granted an option to renew for two (2) additional five-year terms if Tenant provided written notice of said renewal at least 180 days prior to the expiration of the initial term; and

WHEREAS, Tenant has not exercised the option to renew, but has requested that the current term be extended for one (1) additional year; and

WHEREAS, City is willing to amend the office lease to extend the initial term for one (1) additional year to October 24, 2016, and to delete the renewal option provisions of the office lease;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. The City Council of the City of Chandler, Arizona does hereby authorize and approve the First Amendment to Office Lease in substantially the form attached hereto as Exhibit "A".

Section 2. The Mayor of the City of Chandler, Arizona, is hereby authorized to sign the First Amendment to Office Lease.

INTRODUCED AND TENTATIVELY APPROVED by the City of Chandler, Arizona, this _____ day of _____, 2015.

ATTEST:

_____ _____

CITY CLERK MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this _____ day of _____, 2015.

ATTEST:

_____ _____

CITY CLERK MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4656 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on _____ day of _____, 2015, and that a quorum was present thereat.

_____

CITY CLERK

PUBLISHED:

APPROVED AS TO FORM:

_____

CITY ATTORNEY GAB

FIRST AMENDMENT TO OFFICE LEASE
(APS – 175 S. Arizona Avenue, Suite A)

This First Amendment to Office Lease (this **"First Amendment"**) is made effective as of this ____ day of ____, 2015, by and between the CITY OF CHANDLER, an Arizona municipal corporation (**"Landlord"**), and ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation (**"Tenant"**).

Recitals

A. Landlord and Tenant entered into that certain Office Lease dated August 23, 2010 (the **"Lease"**), wherein Landlord leased to Tenant a 25% undivided interest in and to the use and possession of the premises located at 175 South Arizona Avenue, Suite A, Chandler, Arizona 85225, which is situated on the first floor of that certain municipal office building known as Chandler City Hall (the **"Building"**), which is situated upon certain real property described in Exhibit "A" of the Lease (the **"Property"**), together with a non-exclusive right to use the common areas located within the Building or upon the Property.

B. The initial term of the Lease was for a period of five (5) years beginning on the "Commencement Date," and ending at 11:59 p.m., Arizona time, on the day before the five (5) year anniversary date of the Commencement Date (the **"Term"**). However, Tenant was granted the option to renew the Lease for two (2) additional five-year terms, so long as Tenant provided written notice to Landlord at least one hundred and eighty (180) days prior to the expiration of the then existing term of the Lease and was not then in default under the Lease.

C. On or about January 20, 2011, Landlord and Tenant completed the execution of a Certificate of Commencement Date under which they jointly confirmed the Commencement Date of the Term to be October 25, 2010, and its expiration date to be October 24, 2015, subject to the renewal options set out in the Lease.

D. Tenant has not provided timely written notice of its intent to renew the Lease for an additional five year term. However, Tenant has requested that the current term be extended for one (1) additional year, which Landlord is willing to do.

Agreement

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, Landlord and Tenant hereby agree as follows:

1. **One-year extension of current term.** The Term of the Lease, which is set to expire on October 24, 2015, shall be extended for one (1) additional year so as to expire at 11:59 p.m., Arizona time, on October 24, 2016.

2. **Rent adjustment continued.** The Rent Adjustment provision of Subsection 4.2 of the Lease shall apply during the one-year extension of the Term of the Lease.

3. **No option to renew.** The Options to Renew provision of Subsection 3.3 of the Lease is hereby deleted and of no further effect.

4. **No further modifications.** Except as modified or amended hereby, all of the terms and conditions of the Lease shall remain in full force and effect. Any capitalized term not otherwise defined herein shall have the meaning set forth in the Lease.

In WITNESS WHEREOF, Landlord and Tenant have executed this First Amendment as of the day and year first written above.

LANDLORD: THE CITY OF CHANDLER, an Arizona municipal corporation

By: _____

Title: _____

APPROVED AS TO FORM:

_____
City Attorney GAB

TENANT: ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation

By: _____

Title: Manager, Facilities