



Legislation Details (With Text)

File #: ID#15-324 **Version:** 1 **Name:**

Type: Action Item **Status:** Passed

File created: 4/15/2015 **In control:** City Council

On agenda: 4/30/2015 **Final action:** 4/30/2015

Title: Actions pertaining to the Second Amendment to the Tenancy Agreement between the City of Fresno and Kocky's Bar & Grill L.L.C. (Council District 3)

1. Adopt a finding of a Categorical Exemption pursuant to Class 1 of the California Environmental Quality Act (CEQA) Guideline Section 15301 for lease extension
2. Approve the Second Amendment to the Tenancy Agreement between the City of Fresno and Kocky's Bar & Grill L.L.C. and authorize the City Manager to execute the agreement subject to City Attorney approval

Sponsors: Office of Mayor & City Manager

Indexes:

Code sections:

Attachments: 1. Second Amendment to Kocky's Lease - 4_21_15.pdf

Date	Ver.	Action By	Action	Result
4/30/2015	1	City Council	approved	Pass

REPORT TO THE CITY COUNCIL

April 30, 2015

FROM: R. RENENA SMITH, Assistant City Manager
Mayor/City Manager Department

SUBJECT

Actions pertaining to the Second Amendment to the Tenancy Agreement between the City of Fresno and Kocky's Bar & Grill L.L.C. (Council District 3)

1. Adopt a finding of a Categorical Exemption pursuant to Class 1 of the California Environmental Quality Act (CEQA) Guideline Section 15301 for lease extension
2. Approve the Second Amendment to the Tenancy Agreement between the City of Fresno and Kocky's Bar & Grill L.L.C. and authorize the City Manager to execute the agreement subject to City Attorney approval

RECOMMENDATION

Staff recommends that the City Council:

1. Adopt a finding of a Categorical Exemption pursuant to Class 1 of the California Environmental

Quality Act (CEQA) Guideline Section 15301 for lease extension.

2. Approve the Second Amendment to the Tenancy Agreement between the City of Fresno and Kocky's Bar & Grill L.L.C. and authorize the City Manager to execute the agreement subject to City Attorney approval.

EXECUTIVE SUMMARY

The City of Fresno ("City") owns property at 1231 Van Ness, Fresno, CA 93721 ("Premises") that it has been leasing, month to month, to Kocky's Bar & Grill L.L.C. ("Tenant"), since March 31, 2011. City and Tenant amended the term of the lease on September 26, 2014, regarding insurance requirements of the Lease. Tenant has been unable to make regular lease payments but desires to now become current on past due rents. Tenant is requesting that City make desirable improvements to the windows and signage on the Premises in an amount not to exceed \$10,000. City and Tenant now desire to amend the lease to: (1) fix the term to 36 months; (2) include a payment plan for Tenant to become current on past due rents while making current rental payments; and (3) provide for building improvements desired by Tenant.

BACKGROUND

The City of Fresno has leased Premises to Tenant on a month to month basis for four years. Tenant has been seeking improvements to the site that include replacing tinted glass with clear glass windows and removing outdated signage and replacing with modern functional signage. These improvements will enhance the City asset as well as make the downtown business a more attractive draw to customers. As such, the Administration agrees to comply with these requests as noted in the terms of the Agreement.

The Tenant is past due on rent payments. The delinquency totals \$15,512 which includes late fees and interest. It also includes two months of rent that have been disputed due to a lack of maintenance by the Landlord related to the air conditioning. In an effort to remain business friendly and provide this business with the opportunity to succeed staff is recommending the following terms and conditions:

- A 36 month term, effective May 1, 2015.
- Base Monthly Rent: \$2,000.
- Past due Rent through March of 2015 is \$15,512 inclusive of all late fees and interest. The City will waive late fees and interest totaling \$1,778 and write off two months of past due rent totaling \$4,000 leaving a balance owing of \$9,734 to be paid over 36 months or \$270.38 per month. Total Monthly Rent: \$2,270.38 per month.
- Rent due under this agreement is subject to late fees that will be enforced going forward at 1.5% of the amount past due.
- City will make Tenant Improvements replacing the tinted windows with clear glass and install signage. Combined improvements shall not exceed \$10,000. The signage is to be determined in conjunction with the tenant.

- In event of default under this agreement the unpaid balance of past due rent and \$10,000 of Tenant Improvements shall be due and payable immediately.
- Insurance and Business License must remain in good standing with paperwork submitted to the City of Fresno prior to lapse dates.

ENVIRONMENTAL FINDINGS

Staff has performed a preliminary environmental assessment of this project and has determined that it falls within the Class 1 Categorical Exemption set forth in CEQA Guidelines, section 15301 as this lease extension creates no change or expansion of existing use. Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

LOCAL PREFERENCE

Local preference is not applicable because this is not a contract for goods, services, or public work of improvement.

FISCAL IMPACT

The City of Fresno will receive \$72,000 in Base Monthly rent over the next 36 months. Additionally, the City of Fresno will recover \$9,734 in past due rent over the next 36 months. The out of pocket expense of \$10,000 for tenant improvements will increase the value of the asset. The City of Fresno is forgiving late fees and penalties of \$1,778 related to the past due rent and \$4,000 in disputed prior rent.

Attachment: Second Amendment to Lease Agreement