

MEMORANDUM

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

TO: Thomas Thomas, City Manager

SUBJECT: Lease Termination – Watchtower Plaza

DATE: 6/5/13

Over the past several months, staff has been working with the tenants at Watchtower Plaza as they prepare to vacate the property in support of the Wal-Mart development. A lease purchase offer was presented to the tenants at the north end of the plaza in April. Several tenants have accepted a negotiated offer and are in the process of relocating to new locations in Rock Island.

The owner of Express Contracting has accepted the City's lease buyout proposal of \$146,500, which includes moving and relocation expenses. The owner has actively searched for a new site in Rock Island and has found a location in the downtown area. A copy of the signed Lease Termination Agreement is provided for your review.

Staff recommends the approval of this Lease Termination Agreement as it supports the goals to redevelop the former Watchtower Plaza site for the Wal-Mart Project.

Recommendation:

Council approve the Lease Termination Agreement with Express Contracting for \$146,500, and authorize the City Manager to execute the agreement.

**Submitted by: Jeffery A. Eder, Community and Economic Development Director
Mary Chappell, Development Programs Manager**

Approved: Thomas Thomas, City Manager

LEASE TERMINATION AGREEMENT

This LEASE TERMINATION AGREEMENT (the "Agreement") is entered into this _____ day of June, 2013, by and between EXPRESS CONTRACTING and CURTIS WALKER, (hereinafter "Lessees") and THE CITY OF ROCK ISLAND, ILLINOIS, a municipal corporation, hereinafter ("Lessor") and for consideration of the sum of ONE HUNDRED FORTY-SIX THOUSAND FIVE HUNDRED AND No/100ths Dollars (\$146,500.00) the receipt of which is hereby acknowledged by Lessees it is hereby agreed to by the Lessees and Lessor as follows:

1. The Lease dated August 1, 2010, entered into between EXPRESS CONTRACTING and CURTIS WALKER, as Lessees and R OWN PROPERTIES, INC., (Lessor's predecessor in title, a copy of which is attached hereto as Exhibit "A" and identified as the Original Lease) is hereby terminated and cancelled as of July 1, 2013, (hereinafter "Termination Date").

2. From and after the Termination Date neither Lessees nor Lessor will have any further rights or obligations under said Original Lease including any Addendums thereto and also including any rights of automatic renewal or any extensions of said Lease or Addendums thereto.

3. Lessees and Lessor have expressly agreed that on or before the Termination Date, Lessees will vacate and surrender the demised property as is identified in the

Original Lease attached hereto as Exhibit A. Lessees will remove all of their property from the demised premises on or before the Termination Date.

4. The sum of THIRTY-SEVEN THOUSAND ONE HUNDRED FIFTY and no/100's DOLLARS (\$37,150.00) will be paid to Lessees upon Lessees execution of this Agreement and after approval of this Agreement by the Rock Island City Council.

5. Upon execution of the Agreement by Lessees and approval of the Agreement by the Rock Island City Council, the sum of ONE HUNDRED NINE THOUSAND THREE HUNDRED FIFTY and no/100's DOLLARS (\$ 109,350.00) hereinafter ("escrow amount") will be deposited into escrow. Said sum reflects future consideration to be paid by Lessor to Lessees to compensate Lessees for construction labor and materials costs for the remodeling needed to the building to which Lessees will relocate to at 2301-3d Avenue, Rock Island, Illinois. The "escrow amount" will be paid to Lessees as follows:

a. Lessees shall commence work within ten (10) days after the execution of this Agreement. ("Days" as referred to in this Agreement means calendar days not working days, unless otherwise specified. "Working Days" mean any calendar day except Saturday, Sundays or holidays observed by the City of Rock Island.);

b. Payments to Lessees will be made as progress payments. No payment shall exceed 90% of the value of the work satisfactorily completed. Payments due Lessees will be paid within fourteen (14) days after the Planning and Redevelopment Division of Lessor receives the Lessees' invoice for work completed as itemized on Exhibit B attached hereto and incorporated

herein, and any lien waivers for subcontractors, laborers, and material suppliers for completed work or installed materials;

c. Lessor may withhold payment to Lessees in such an amount or amounts as may be necessary to cover:

(i) Payments that may be earned or due for labor or materials furnished;

(ii) Failure of Lessees to make proper payments to subcontractors:

(iii) Reasonable doubt that the contract can be completed for the balance then unpaid.

6. Lessor also reserves the right, even after full completion and acceptance of the work, to refuse payment of the final 10% due Lessees, until Lessor is satisfied that all subcontractors, material suppliers, and employees of the Lessees have been paid in full.

7. Lessees shall be required to furnish evidence of comprehensive public liability insurance in the event of personal injury or property damage to third persons arising out of the work performed by Lessee; and evidence of insurance and other coverage required by state and local law governing Worker's Compensation.

8. Lessees shall obtain and pay for all permits and licenses necessary for the completion of the work to be performed and perform all work in conformance with applicable local codes and requirements, whether or not covered by the specifications and drawings for the work. Lessees shall purchase a building permit prior to starting any work.

9. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and Lessor.

10. Lessees and Lessor, for themselves and their respective parent, subsidiary or related parent corporation, partnerships, affiliates, heirs, successors and assigns, do each hereby and release forever discharge each other and their present and former directors, officers, shareholders, managers, agents, owners, trustees, beneficiaries, attorneys and employees (the "Released Parties") from any and all obligations, damages, losses, costs, expenses and liabilities whether known or unknown contingent or direct, liquidated or unliquidated, and from any claims, demands, judgments, actions or suits of any kind (collectively "Claims") which each may have against one another arising out of or relating to the Original Lease and any Addendums thereto and for the use and occupancy of the demised premises, including, without limitation, any attorney's fees incurred in connection therewith. Both the Lessees and the Lessor acknowledge the possibility that the other party may have unknown claims against the other arising out of or related to the Original Lease or any Addendums thereto, and the use and occupancy of the demised premises, and that by signing this Agreement each party expressly waives such claims. The parties further acknowledge that the consideration for this mutual release takes into account the possibility of such further claims.

11. The parties have read this Agreement and the Releases contained herein and freely and voluntarily enter into this Agreement with the full understanding of its terms.

12. The above recitals are an integral and substantive part of this Agreement and are incorporated herein.

13. If either party commences an action against the other arising out of or in connection with this Agreement, the prevailing party will be entitled to recover attorney's fees and expenses from the other.

14. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

15. This Agreement may be executed in any number of duplicate original or counterparts, each of which will be deemed to be an original, and all of which taken together will constitute one and the same Agreement. The parties agree that their signatures may be delivered by fax or email.

16. The validity, interpretation, construction and performance of this Agreement will be controlled by and construed under the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties have executed this Lease Termination Agreement as of the date first above written.

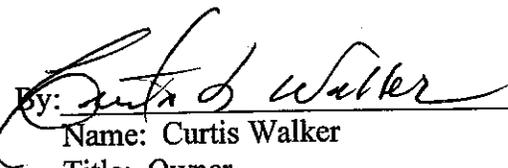
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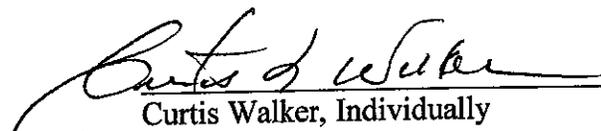
THE CITY OF ROCK ISLAND, ILLINOIS,
a municipal corporation

By: _____
Name: Thomas Thomas
Title: City Manager

LESSEES:

EXPRESS CONTRACTING

By:  _____
Name: Curtis Walker
Title: Owner

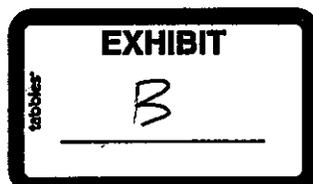
 _____
Curtis Walker, Individually

Express Contracting
928 37th Ave
Rock Island, IL 61201
PH: 309-788-2821 FX: 309-788-2826

For 2301 3rd Ave, Rock Island, IL 61201

List of work to be done:

- HVAC** Remove all old ductwork above ceiling.
New ductwork from new furnace room and new 90+ furnace on 1st floor next to bathroom. All new ductwork, grilles and dampers to meet city codes.
New 5 ton A.C. system to be on roof.
New unit heater in rear bay.
COST \$14,950.00
- Plumbing** Remove existing toilet and lavatory and discard offsite.
Install hot and cold-water piping for laundry sink, and rework other water lines as needed.
Provide and install 30-gallon electric water heater in back room by laundry sink.
Provide and install comfort height elongated toilet and seat.
Provide and install Delta Chrome lavatory faucet on owner's vanity top.
Provide and install wall hung laundry sink and faucet.
COST \$4,100.00
- Electrical** Wiring for new furnace and central air conditioners.
Change some receptacles and adding receptacles.
COST \$1,950.00
- Windows** Change front and side windows.
Tear out existing and replace with fewer new windows.
COST \$6,275.00
- Flooring** Replace existing flooring with tile, carpet, and paint.
COST \$11,785.00
- Ceiling** Replace with new suspended system.
COST \$7,480.00
- Roofing** Tear out existing roof.
Install new system, fiberboard and EPDM.
COST \$28,594.00
- Painting** Paint entire outside of building.
COST \$11,750.00
- Doors** Install office doors, garage door and garage door opener.
COST \$3,750.00



Carpentry Tear out existing interior walls.
Build offices and mechanical rooms, etc.
Dry wall, finish and paint.
COST \$15,936.00

Moving Expenses To move from existing location to new location.
Install phones, setup internet, branding(business cards, letterhead, etc.)
COST \$2,780.00

TOTAL COST \$109,350.00