

Farst, Heide

From: Jennifer Gattey <jgattey@scpmgt.com>
Sent: Thursday, January 09, 2020 11:20 AM
To: Farst, Heide
Subject: RE: Starbuck's Walk-through January 5, 2020

Everything is good and all has been cleared and keys turned over.

Jennifer Gattey
General Manager
Stockdale Management, LLC
324 Horton Plaza
San Diego, CA 92101
619-239-8388 Direct
jgattey@scpmgt.com

From: Farst, Heide <HFarst@san Diego.gov>
Sent: Thursday, January 9, 2020 10:24 AM
To: Jennifer Gattey <jgattey@scpmgt.com>
Subject: FW: Starbuck's Walk-through January 5, 2020

Hi Jennifer,

How did the walk-through with Starbuck's go yesterday?

Heide E. Farst, CSM
Property Agent
City of San Diego
Real Estate Assets Department
1200 Third Avenue' Suite 1700 - MS51
San Diego, CA 92101

T (619) 236-6727
sandiego.gov

CONFIDENTIAL COMMUNICATION

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From: Farst, Heide
Sent: Monday, January 06, 2020 1:30 PM
To: Jennifer Gattey <jgattey@scpmgt.com>
Subject: RE: Starbuck's Walk-through January 5, 2020

Thank you, Jennifer. Please let me know if you are happy with the turnover.

Heide E. Farst, CSM
Property Agent
City of San Diego
Real Estate Assets Department

1200 Third Avenue' Suite 1700 – MS51
San Diego, CA 92101

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From: Jennifer Gattey [<mailto:jgattey@scpmgt.com>]
Sent: Monday, January 06, 2020 1:23 PM
To: Farst, Heide <HFarst@sandiego.gov>
Subject: RE: Starbuck's Walk-through January 5, 2020

It's scheduled for Wednesday afternoon.

Jennifer Gattey
General Manager
Stockdale Management, LLC
324 Horton Plaza
San Diego, CA 92101
619-239-8388 Direct
jgattey@scpmgt.com

From: Farst, Heide <HFarst@sandiego.gov>
Sent: Monday, January 6, 2020 1:09 PM
To: Jennifer Gattey <jgattey@scpmgt.com>
Subject: Starbuck's Walk-through January 5, 2020

Hi Jennifer,

Was a walk-through conducted with Starbuck's?

Heide E. Farst, CSM
Property Agent
City of San Diego
Real Estate Assets Department
1200 Third Avenue' Suite 1700 – MS51
San Diego, CA 92101

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December 10, 2019

Ms. Jean Kerneen
Portfolio Advisor
Starbucks Coffee Company
P.O. Box 34067
Seattle, WA 98134-1067

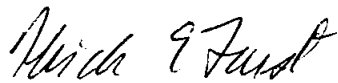
Subject: Lease Surrender and Termination Agreement
324 Horton Plaza, San Diego, CA
Horton Plaza – Pavilion Area – Starbuck's Store #5316

Dear Ms. Kerneen:

Please find enclosed one (1) original executed Lease Surrender and Termination Agreement for the above referenced Starbuck's location.

If you have any questions, you may contact me at hfurst@sandiego.gov or at (619) 236-6727.

Sincerely,



Heide E. Farst, CSM
Property Agent

I:\SUPPORT STAFF GROUP\WPO\2019\FARST\L-Kerneen.docx

o



Starbucks Coffee Company PO BOX 34067, Seattle, WA 98134-1067

Delivery Address: **2401 Utah Avenue South, MS RE3
Seattle, WA 98134**

Via FedEx: **7770 5145 3933**

November 21, 2019

Heide E. Farst, CSM
Property Agent
City of San Diego
Real Estate Assets Department
1200 Third Avenue Suite 1700 – MS51
San Diego, CA 92101
T (619) 236-6727

**Re: *Lease Surrender and Termination Agreement*
 324 Horton Plaza, San Diego, CA
 *Horton Plaza – Pavilion Area - Starbucks Store #5316***

Dear Landlord:

Enclosed are four (4) original counterparts of the above referenced ***Lease Surrender and Termination Agreement*** executed by Starbucks Corporation. Please sign and date each original on behalf of the Landlord, and return one (1) fully executed original to my attention at the following address:

Jean Kerneen
Starbucks Coffee Company (#5316)
2401 Utah Avenue South, Mailstop S-RE3
Seattle, WA 98134-1435

If you should have any questions, concerns or need additional information, please contact me at (206) 318-8932.

Regards,

Jean Kerneen
portfolio advisor

CITY OF SAN DIEGO

LEASE SURRENDER AND TERMINATION AGREEMENT

THIS LEASE SURRENDER AND TERMINATION AGREEMENT ("Agreement") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and STARBUCKS CORPORATION, a Washington corporation ("TENANT" or "STARBUCKS") (collectively referred to herein as the "Parties"), to be effective when executed by the parties and as of the date approved by the San Diego City Attorney (the "Effective Date"), as follows:

RECITALS

- A. CITY, as Owner, and STARBUCKS, as Tenant, entered into that certain LEASE (the "Lease") for improved real property located at 900 4th Avenue, Space FSU2, in the City of San Diego, California and more particularly described in the Lease (the "Premises") to operate and maintain the Premises as a coffee shop for use by the general public, as more particularly specified in the Lease.
- B. The Lease is scheduled to expire on May 31, 2026.
- C. On August 28, 2019, CITY received a letter from Stockdale Management along with an email from TENANT to Stockdale Management dated August 24, 2019, whereby TENANT stated it will be exercising its option for early termination of the Lease pursuant to Section 27.30 as of May 31, 2020.
- D. CITY desires to accept the surrender and termination of the Lease as of January 5, 2020 ("Termination Date"), and as of the Termination Date release each other from their respective rights and obligations under the Lease on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the Recitals stated above and incorporated herein by this reference and of the mutual benefits and obligations of the Parties set forth in this Agreement, the Parties agree as follows:

- 1. Termination of Lease. The Lease shall terminate as of the Termination Date, subject to the terms and conditions set forth below.
- 2. Release. On the Termination Date, CITY and TENANT are released from their respective rights and obligations under the terms and conditions of the Lease, except as to any monetary obligations, claims and remedies accrued thereunder, and rights and obligations that shall normally survive the termination of the Lease, including, but not limited to, indemnity.

3. Surrender. On or before the Termination Date, TENANT shall vacate the Premises and surrender to CITY the Lease and all rights of TENANT in and to the Premises, however acquired, together with all of its right and interest, and title, if any, in and to all improvements, furniture, equipment, and fixtures (except any and all personal property and trade fixtures) contained in the Premises, and all of the right of TENANT in and to the Lease, and shall deliver to CITY all keys possessed and/or controlled by it to the Premises. On or before the Termination Date, TENANT shall remove all of its trade fixtures and personal property from the Premises, upon providing to CITY written receipts or other documentation for the trade fixtures and personal property.
4. TENANT's Release of Claims. TENANT, for itself and its successors and assigns forever releases CITY from any claim, demand, or cause of action against CITY, its successors and assigns, arising after the Termination Date in relation to the Lease, TENANT's use and occupancy of the Premises, or the termination of the Lease and surrender of the Premises.
5. Acceptance of Termination. CITY, for itself and its successors and assigns, accepts the termination of the Lease and the surrender of the Premises by TENANT as of the Termination Date subject to the conditions of this Agreement, and acknowledges that the Premises is in good condition and repair and that TENANT shall have no liability with respect to the Premises or condition thereof.
6. Effect of Termination. CITY and TENANT agree that the Lease, and all obligations thereunder, is to be canceled and the term brought to an end as of the Termination Date with the same force and effect as if the term of the Lease were fixed to expire on the Termination Date by the provisions of the Lease.
7. Prepaid Rent. TENANT shall pay prepaid rents to CITY in the amount of SEVENTY-FOUR THOUSAND EIGHT HUNDRED SEVENTY-TWO DOLLARS AND NINETY CENTS (\$74,872.90) (the "Prepaid Rent") upon the execution of this Agreement for the period January 1, 2020 through May 31, 2020.
8. Failure to Comply. In addition to payment of Prepaid Rent, TENANT shall pay to CITY THREE HUNDRED DOLLARS (\$300.00) per day for failure to comply with the provisions of Section 7.2(a) of the Lease in the amount of FORTY-FIVE THOUSAND THREE HUNDRED DOLLARS (\$45,300.00) for the period from January 1, 2020 through May 31, 2020 (151 days times \$300.00) based on a year defined as 365 days.
9. TENANT Representations and Warranties. TENANT represents and warrants that:
 - a. It is the legal and equitable owner of TENANT's interest in the Lease with full power and authority to terminate it.
 - b. The Lease is not and has not been assigned or transferred and is not and has not been hypothecated, pledged, mortgaged, or in any way encumbered.

- c. No filed, pending, or potential legal claims of any kind related to the Lease or the Premises exist as of the date of this Agreement. All subleases, concessions, and other rights of use and occupancy of the Premises, insurance policies, and maintenance and service contracts which, prior to this Agreement, CITY has not elected in writing to continue have been legally terminated and all charges paid in full and no cause of action against CITY exists as of the date of this Agreement nor will exist subsequent to this Agreement in any party to a sublease, concession, agreement for use, or occupancy or insurance policy, or maintenance or service contract, based on inducing the breach of contract with respect to it.
- d. That it has not made any assignment, sublease, transfer, or other disposition of the Lease or any interest in the Lease or any demand, obligation, liability, or cause of action arising out of the Lease, in any manner.
- e. All charges of those insurance policies and maintenance and service contracts which CITY has elected in writing prior to this Agreement to continue have been paid in full, except those accrued charges which have been approved by CITY and prorated to the Termination Date.
- f. All rent or other payments on any sublease or other agreement for use and occupancy which CITY has elected in writing prior to this Agreement to continue have been paid in full or prorated to the Termination Date, the sublessee's or holders' rights under other agreements are not in default under these agreements, and rent or other charges have been paid in advance, except for rent and other charges which have been approved by CITY and prorated to the date of this Agreement.
- g. All charges for utility service (gas, water, electricity, solid waste disposal, etc.) have been paid in full, except those charged approved by CITY and prorated to the Termination Date.
- h. There are no outstanding contracts for the supply of labor or materials as of the date of this Agreement, and no work has been done or is being done nor have materials been delivered to the Premises for which full payment has not been made or for which a mechanic's lien or stop notice could be asserted or foreclosed under the laws of California.
- i. Neither TENANT nor any of its predecessors in interest under the Lease has done or permitted anything resulting in the Premises or CITY's title to the Premises being in any manner encumbered or charged.
- j. All taxes, charges, assessments, levies, or impositions required by the Lease to be paid by TENANT have been paid in full, except those charges approved by CITY and prorated to the Termination Date.

- k. The Premises are now and will, on the Termination Date, be clean and in good condition and repair, reasonable wear and tear excepted.
 - l. TENANT is the legal and equitable owner of all personal property that will remain and that CITY has permitted to remain on the Premises pursuant to Section 9, below, and that no property other than that permitted by CITY to remain will remain on the Premises as of the Termination Date.
9. Personal Property. TENANT agrees that, if any property or other items which may be considered personal property remain on the Premises as of the Termination Date, that property shall belong to CITY, free and clear of any claim or interest of TENANT or any third party, and this Agreement shall constitute a bill of sale for that property to CITY.
10. Indemnity. TENANT shall protect, defend, indemnify, and hold CITY and its elected officials, officers, employees, representatives, and agents ("City Indemnified Parties") harmless from and against any and all claims asserted and liability established for any breach by TENANT of the representations and warranties made in this Agreement; from TENANT's termination of the Lease; from any lien, charge, encumbrance, or claim against the Premises; from any claim against the City Indemnified Parties for which Lessee is responsible; or from any damages or injuries to any person or property, including injury to TENANT's officers, employees, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with any person or legal entity claiming to hold any right under the Lease and/or in the Premises, and all expenses of investigating and defending against same, including without limitation attorney fees and costs.
11. Construction. The provisions of this Agreement, or this Agreement as a whole, shall not be construed against the drafting party.
12. Waiver. No breach of any provision of this Agreement shall be waived unless in writing. Waiver of any one breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach of the same or any other provision.
13. Entire Agreement. This Agreement contains the entire agreement between the Parties regarding the matters covered in this Agreement and supersedes any and all prior understandings, representations, warranties and agreements between the parties pertaining to this Agreement. There have been no other statements, promises, or representations made by the Parties that are intended to alter, modify, or complement this Agreement. Any further amendments to the Lease or the Termination Date shall require the prior written authorization of the Parties hereto.
14. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, representative, successors and assigns.

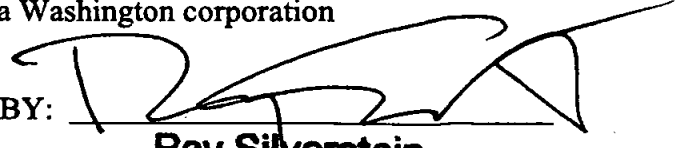
15. Governing Law. This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of California.
16. Titles. The section titles in this Agreement are used for the convenience of the Parties and are not to be taken as part of the instrument or used to interpret this Agreement.
17. Authority. Each individual executing this Agreement on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Agreement on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Agreement is binding upon such person or entity in accordance with its terms. Each person executing this Agreement on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, this Agreement shall be effective as of the Effective Date.

Date: 11/21/19

STARBUCKS CORPORATION,
a Washington corporation

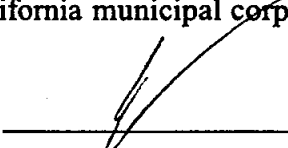
BY: 

Ray Silverstein

vice president

THE CITY OF SAN DIEGO,
a California municipal corporation

Date: 11/26/19

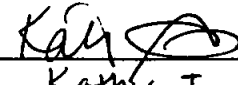
BY: 

Cybele L. Thompson

Director, Real Estate Assets

Approved as to form this 9th day of
December, 2019.

MARA W. ELLIOTT, City Attorney

BY: 

Name: Kathy J. Steinman

Title: Deputy City Attorney

\\FARSTHORTON PLAZA\STARBUCKS\Termination Agreement 10.24.19

STARBUCKS



Lockbox

Transaction 1 Summary

General

Lockbox Number: 847426
Lockbox Name: SCP Park Services LLC
Lockbox Site: LA
Batch Number: 1

Transaction Type: Regular
Transaction Total: \$120,172.90
Deposit Account Number: 4593265218
Sequence Number: 1

Check(s)

Deposit Date: 12/09/2019
Check Number: 1030407643
Check RTN: 061112788

Check Amount: \$120,172.90
Check Account Number: 3359995928

Check 1

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT. CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.

STARBUCKS COFFEE COMPANY
2401 UTAH AVE SOUTH
PO BOX 34087 MAIL STOP S-AC3
SEATTLE WA 98124-1007

1030407643
December 03, 2019
VOID AFTER 180 DAYS
USD

Amount: **One Hundred Twenty Thousand One Hundred Seventy-Two dollars and 90 cents**

Pay to the order of SCP PARK SERVICES LLC
PO BOX 847426
LOS ANGELES CA 90084-7426

Bank of America N.A.
Atlanta, DeKalb County, GA

[Signature]
AUTHORIZED SIGNATURE

⑈ 1030407643 ⑈ ⑆ 061112788 ⑆ 3359995928 ⑈

Back Image

78097531

SECURE DOCUMENT

Standard Register

SECURE DOCUMENT

Standard Register

SECURE DOCUMENT

Standard Register

SECURE DOCUMENT

Standard Register

STARBUCKS COFFEE COMPANY
2401 UTAH AVE SOUTH
PO BOX 34067, MAIL STOP S-AC3
SEATTLE, WA 98124-1067



RETURN SERVICE REQUESTED

Check No. 1030407643
Check Date 12/03/2019
Check Amount \$120,172.90
Vendor No. 965877



US-000057 0001 0001 000058

SCP PARK SERVICES LLC
PO BOX 847426
LOS ANGELES CA 90084-7426

Invoice Date	Invoice Number	Description	Invoice Amount	Discount	Net Amount
12/02/2019	5316-120219-13079774	5316-TF-TERMINATION FEE	\$120,172.90		\$120,172.90
TOTAL					\$120,172.90

PLEASE FOLD ON PERFORATION AND DETACH HERE

Page 1 of 1

