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# MEMORANDUM

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Date: April 27, 2022

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: Jan Leshner   
County Administrator

Re: **Southern New Hampshire University's Early Lease Termination Proposal for 97 E. Congress**

The attached Memorandum from Facilities Management Director Lisa Josker summarizes the impact the COVID-19 pandemic had on Southern New Hampshire University's (SHNU) operations in Tucson. A ten-year lease of Pima County's 97 E. Congress location that began in August 2019 allowed for the first 100+ employees to open the doors in February 2020. In less than two months, a statewide stay-at-home executive order resulted in the employees working from home. During the pandemic, SHNU modified its business model and the vast majority of employees continue to work from home. SHNU is now asking Pima County to approve an early lease termination.

Ms. Josker's Memorandum delineates the loss of lease revenue but also reiterates and expands upon previously articulated plans to use 97 E. Congress as a temporary location for Pima County staff who currently work in the 130 W. Congress building.

I recommend the Board of Supervisors accept SHNU's proposal to:

- Terminate the lease of 97 E. Congress and vacate the premises by May 31, 2022;
- Pay Pima County an early termination fee of \$900,000 to relieve SNHU from its lease obligation from June 1, 2022 to August 31, 2024; and
- Transfer or convey to Pima County all furniture, fixtures, and equipment remaining at 97 E. Congress on the termination date.

JKL/dym

Attachment

c: Mark Napier, Assistant County Administrator  
Lisa Josker, Director, Facilities Management



Date: April 27, 2022

To: Jan Leshner  
County Administrator

From: Lisa Josker  
Director

Re: **Southern New Hampshire University's Early Lease Termination Proposal for 97 E. Congress Lease Agreement CTN-FM-20-032, Amendment 5**

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The impact of the COVID-19 pandemic prompted significant operational changes and needs at Southern New Hampshire University (SNHU). As a result, SNHU has now requested to end its lease early and pay a termination fee to relieve their future lease obligations at 97 E. Congress, exercising its contractual option for early lease termination via CTN-FM-20-032, Amendment 5. With this lease termination, Pima County has an opportunity to utilize this entire building (instead of only the second and third floors) for the temporary relocation of County departments from the Administration-East Building at 130 W. Congress due to the extensive construction effort. County will also have available options for the use of this facility after the renovations project is complete.

### **Background**

The County originally purchased 97 E. Congress for County use in 2004. This building previously housed the Regional Flood Control District, Teen Court, Pima Vocational High School and the Tucson Indian Center. These tenants were relocated in 2016 to other County-owned facilities with the Tucson Indian Center purchasing 160 N. Stone from Pima County. Caterpillar Surface Mining and Technology Division temporarily leased this building from September 1, 2016 to March 31, 2019 as its interim headquarters before moving to its permanent facility.

On August 19, 2019, Pima County approved SNHU for a 10-year lease at 97 E. Congress via CTN-FM-20-032. SNHU hired more than 100 employees and later opened its doors in Tucson on February 19, 2020, less than a month before the COVID-19 pandemic hit Pima County and about a month before Governor Ducey's stay-at-home executive order took effect on March 31, 2020. During the pandemic, nearly all SNHU employees assigned to this location worked remotely. Throughout the pandemic, SNHU surveyed its employees to evaluate whether remote work would be a temporary or permanent solution to its business model, similar to other universities that primarily use an online model for their operations and students. The vast majority of their employees in both Tucson and Manchester, New Hampshire preferred to work remotely, even after the pandemic was over.

Prior to the pandemic, SNHU had anticipated outgrowing the 97 E. Congress location and, due to that anticipation, an early termination clause was included in their initial 10-year lease agreement to allow for early termination on August 31, 2024. Because of their shift to remote work due to the pandemic and an obligation to their students to use non-profit tuition dollars efficiently, SNHU has requested this early termination.

Jan Leshar, County Administrator

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In recognizing the 97 E. Congress building was mostly vacant and the County's need for more office space, the Facilities Management (FM) Department presented SNHU with an option to assist the County during the renovation projects at Administration-East Building. Amendment 4 to the SNHU lease agreement to allow Pima County to use the second and third floors temporarily at 97 E. Congress during the Administration-East Building renovation from June 1, 2022 through March 31, 2024 was approved by the Board of Supervisors on April 19, 2022.

Proposal

With the certainty that SNHU executives will ultimately terminate their lease early, SNHU has offered to pay Pima County a termination fee of \$900,000.00 for relief of contractual obligations, plus \$72,360.48 per month for base rent and fees for the months of April and May 2022, per Amendment 4, and vacate the premises by May 31, 2022. In addition, SNHU plans to leave furniture, fixtures and some equipment including TVs, monitors, appliances and other miscellaneous equipment to Pima County to help reduce their shipping costs of these items. These items and other construction renovations paid by SNHU were valued at approximately \$750,000 when purchased new.

After lease Amendment 4, the rent due from SNHU for lease period June 1, 2022 through August 31, 2024 would be \$974,338.94 plus \$220,500 for garage parking spaces, a total of \$1,194,838.94. The total revenue loss to Pima County due to the pandemic influencing the SNHU early lease termination is shown in the graphic below:

97 E Congress Blvd., Tucson, AZ 85701					
Revenue Reductions Due to COVID-19 Pandemic					
SNHU Lease CTN-20-032	Pandemic Impact Revenue Reduction Period	Reductions	Lost Rent Income	Lost Garage Revenue	Total
Amendment 3	10/1/21 - 8/31/24	230 to 150 spaces	\$ -	\$ 254,960.00	\$ 254,960.00
Amendment 4	4/1/22 - 3/31/24	112 to 60 HVAC hours/week	225,883.88	-	
	6/1/22 - 3/31/24	2nd-3rd Floor	650,969.03	-	
	6/1/22 - 3/31/24	150 to 75 spaces	-	150,750.00	1,027,602.91
Amendment 5	6/1/22 - 8/31/24	Balance not incl. above	974,338.94	220,500.00	1,194,838.94
Subtotal Lease Reductions			\$ 1,851,191.85	\$ 626,210.00	\$ 2,477,401.85
Less Early Termination Income					(900,000.00)
Total Revenue Loss					\$ 1,577,401.85

Jan Leshar, County Administrator

**Southern New Hampshire University's Early Lease Termination Proposal for 97 E. Congress**

**Lease Agreement CTN-FM-20-032, Amendment 5**

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If the County were to accept this offer, revenue forgone due to the pandemic through lease early termination would be \$294,838.94 (\$1,194,38.94-\$900,000), bringing the total loss due to the pandemic to \$1,577,401.85. Terminating the lease effective May 31, 2022 reduces the contract by \$5,000,947.33, which reflects the revenue decrease of \$294,838.94 through the early termination date of August 31, 2024 in the original agreement and a decrease of \$4,706,108.39 for the five years following that early termination date.

**Benefits**

The early lease termination enables the relocation costs of \$250,000 for the Administration-East staff's temporary move to be reduced, as FM would no longer need to build a separate data closet and security/access at 97 E. Congress. In addition, County would have access to the other two floors, allowing FM to reduce the number of temporary locations from four to three during the 130 W. Congress renovation projects. After the renovation is complete, County could continue to use this location for its own staffing needs, as originally intended, or lease this building or available space to other prospective tenants.

**Recommendation**

SNHU has acted in good faith throughout its lease term to date. The effects of the pandemic resulted in SNHU reducing its on-premise workforce and eventually changing its business model to online work. Pima County has a need for additional office space. I recommend Pima County approves lease agreement CTN-FM-20-032, Amendment 5 and accept SNHU's proposal to:

1. Terminate lease and vacate 97 E. Congress premises by May 31, 2022;
2. Pay County an early termination fee of \$900,000.00 to relieve SNHU from its lease obligation from June 1, 2022 to August 31, 2024; and
3. Transfer or convey to Pima County all furniture, fixtures, equipment remaining at 97 E. Congress on the termination date. After the termination date, the abandoned personal property or equipment remaining in 97 E. Congress by SNHU may be sold, destroyed or disposed of by County without any compensation to SNHU and, after SNHU vacates premises, with no liability to County or SNHU.

LJ/lsm

c: Mark Napier, Assistant County Administrator