



Legislation Text

File #: 63565, **Version:** 1

Fiscal Note

The proposed resolution results in a decrease in the City's rent collection by \$121,368 over the lease term. The original term included a \$500,000 grant to Art + Literature Laboratory, Inc. to be paid back in full through a 20-year rental schedule. The proposed resolution also authorizes the City to charge holding costs associated with electric, gas, and water service for a limited period, estimated at \$9,000, to the General Land Acquisition Fund, which includes \$60,000 in 2021 budget authority for holding costs of City property. No additional City appropriation is required.

Title

Authorizing the City's execution of a First Amendment to Lease with Art + Literature Laboratory, Inc. to amend the terms and conditions set forth for the use of commercial space in the City-owned South Livingston Street Garage, located at 111 S. Livingston Street; and, authorizing property holding costs to be charged to the General Land Acquisition Fund. (6th A.D.)

Body

WHEREAS, on September 17, 2019, the City of Madison Common Council adopted Resolution No. RES-19-00683, File ID 57356, which authorized the execution of a lease ("Lease") between Art + Literature Laboratory, Inc. ("Lessee") and the City of Madison ("City") for the use of a City-owned commercial space in the South Livingston Street Garage, located at 111 S. Livingston Street ("Leased Premises"), for the operation of a non-profit arts center by the Lessee; and

WHEREAS, the Lessee obtained a Certificate of Occupancy for the Leased Premises dated July 22, 2020, which sets forth a Lease Commencement Date of August 1, 2020. However, the Leased Premises are currently operating at reduced capacity due to the COVID-19 Coronavirus pandemic and the associated Emergency and Executive Orders set forth by Public Health Madison & Dane County, as well as the State of Wisconsin; and

WHEREAS, the COVID-19 pandemic and resulting economic downturn and uncertainty has delayed and extended the Lessee's fundraising timeline, added unexpected debt service expense, and dramatically reduced revenue streams (donations, grants, program revenue); and

WHEREAS, the City and the Lessee desire to amend certain conditions in the Lease to promote the success of the arts center during this suppressed economic period because of the pandemic and associated Emergency Orders; and

WHEREAS, the estimated \$9,000 of additional holding costs to the City may be paid using funding from the General Land Acquisition Fund, Economic Development Division Capital Budget Project #63060.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Clerk are authorized to execute a First Amendment to Lease with Art + Literature Laboratory, Inc. for the use of commercial space in the City-owned South Livingston Street Garage, located at 111 S. Livingston Street, subject to the following terms and conditions:

1. Paragraphs a, b, c and d of the "Base Rent" provision set forth in numbered Paragraph 6 of the Lease shall be deleted in their entirety and replaced with the following:

Base Rent:

- a. No rent shall be payable by the Lessee to the City for the first twelve (12) calendar months following the Commencement Date.
- b. Beginning in the thirteenth (13th) calendar month following the Commencement Date, the Lessee shall pay to the City Two Thousand Four Hundred Fifty and 00/100 (\$2,450.00) per month ("Base Rent").
- c. Beginning in the nineteenth (19th) calendar month following the Commencement Date, the Base Rent shall increase to Four Thousand Nine Hundred and 00/100 (\$4,900.00) per month.
- d. Beginning in the thirty-seventh (37th) calendar month following the Commencement Date, the Base Rent shall increase to Five Thousand Six Hundred and 00/100 (\$5,600.00) per month.
- e. Beginning in the forty-ninth (49th) calendar month following the Commencement Date, the Base Rent shall increase to Six Thousand Three Hundred and 00/100 (\$6,300.00) per month. Beginning in the sixty-first (61st) calendar month, the Base Rent shall increase by Three Percent (3%) per year compounded annually and rounded to the nearest dollar as shown in the schedule on attached Exhibit A.

2. The following paragraph shall be added to numbered Paragraph 9 of the Lease:

- e. The Lessee understands and is aware that the mop room sink and the elevator lobby spigot, both located in the Common Areas, are attached to the water meter for the Leased Premises, and that minimal charges to the Lessee will accrue because of their use.

3. Paragraph g of the "Lessee's Responsibilities" provision set forth in numbered Paragraph 10 of the Lease shall be deleted in its entirety and replaced with the following:

Lessee's Responsibilities:

- g. The Lessee is responsible for **bi-weekly** waste and recycling removal, or more frequently as needed at its cost. Lessee shall either: (i) haul the trash off site at its cost or (ii) contract with a third party waste disposal company at its cost to have trash and recycling bins placed in the Trash Room Space. Dumpsters must be less than 1.5 cubic yards in size and 100% noncombustible, per City fire code requirements.

4. The "Operating Expenses" provision set forth in numbered Paragraph 11 of the Lease shall be deleted in its entirety and replaced with the following:

Operating Expenses.

As of the Commencement Date, the Lessee will be responsible for these operating costs related to the Leased Premises: ; HVAC; landfill; trash collection service; sewer; storm water and urban forestry service; telephone lines, except the phone line required for the fire alarm system; sprinkler system (with proof of regular maintenance; internet and data charges; routine special assessments levied by the City or others; licenses; commercial liability; worker's compensation; employer's liability, umbrella and property insurance premiums, in accordance with paragraph 30 and 31 herein; interior and exterior window washing/cleaning; and exterior signs.

Gas service will remain the responsibility of City for the first nine (9) calendar months following the Commencement Date. During this period, Lessee shall make a good faith effort to keep gas

use to a minimal level. Beginning in the tenth (10th) calendar month following the Commencement Date, the Lessee shall be responsible for gas service.

Electric service will remain the responsibility of the City for the first twelve (12) calendar months following the Commencement Date. During this period, Lessee shall make a good faith effort to keep electricity use to a minimal level. Beginning in the thirteenth (13th) calendar month following the Commencement Date, the Lessee shall be responsible for electricity.

Water service will remain the responsibility of the City for the first six (6) calendar months following the Commencement Date. Beginning on the seventh (7th) calendar month following the Commencement Date, the Lessee shall be responsible for water.

In the event the Lessee hires a third party contractor to perform work in, on or adjacent to the Leased Premises for activities such as construction, remodeling, unit maintenance or repairs, and cleaning and/or custodial, the City shall review and approve the written contract or agreement before the Lessee executes the contract(s) or agreement(s), if the scope of work is beyond that of routine maintenance. The City shall not be liable or have any duty for reviewing the contract or agreement between the Lessee and a contractor, the Lessee hires, nor shall this Paragraph waive any rights under Paragraph 31 or any other rights or remedies available to the City for damages resulting from the Lessee's contract or agreement with a third party. The Lessee shall obtain a certificate of insurance from the operators naming the City as additional insured, if not already on file with the City, before executing any contracts or agreements. The certificate of insurance forms shall be approved by the City's Risk Manager, and kept active during the term of the operating contracts or agreements.

5. All other provisions of the Lease remain unchanged and in full force and effect.

BE IT FURTHER RESOLVED that staff are authorized to charge temporary holding costs associated with water, electric, and gas service to the General Land Acquisition Fund, Economic Development Division Capital Budget Project #63060.

BE IT FINALLY RESOLVED that the Mayor and City Clerk are hereby authorized to execute the First Amendment to the Lease and all additional documents that may be required to complete this transaction.