



Legislation Text

File #: 73729, **Version:** 1

Fiscal Note

The proposed resolution amends an agreement for Metro Transit's leased space at 1245 E. Washington Avenue to expand into three administrative offices. This will result in \$29,075 in additional rent in 2023 and is included in Metro's 2023 Operating Budget request. Remodeling associated with this space will be handled by City Engineering via a separate resolution.

Title

Authorizing the execution of a first lease amendment between the City and Washington Gilman Limited Partnership and Mullins Family, LLC (collectively, the "Lessor") to provide for the expansion of three administrative offices for Metro Transit at 1245 E. Washington Avenue. (6th AD)

Body

WHEREAS, Washington Gilman, L.P. and Mullins Family, LLC (collectively the "Lessor") is the owner of the building located at 1245 East Washington Avenue (the "Building"); and

WHEREAS, Metro Transit ("Metro") currently leases the entire second floor in the Building (the "Leased Premises") per the lease dated December 1, 2016 (the "Lease"); and

WHEREAS, the Lease expires on December 31, 2031; and

WHEREAS, the City desires to enter into a first amendment to the Lease (the "First Amendment") to expand into three offices on the first level of the Building (the "Expansion Space"). In connection with this First Amendment, the Expansion Space and one of the existing offices on the second level need some remodeling, which will be handled by City Engineering via a separate resolution; and

WHEREAS, the City and the Lessor have signed a Letter of Intent dated September 6, 2022, which substantially outlines the proposed terms of the First Amendment to the Lease at the Property.

NOW, THEREFORE, BE IT RESOLVED that the Common Council authorizes the execution a First Amendment to the Lease with Washington Gilman Limited Partnership and Mullins Family, LLC (collectively, the "Lessor") materially, though not exclusively per the following terms and conditions.

Below are the changed terms to the respective paragraphs in the Lease to be included in the First Amendment:

1. Leased Premises. The following paragraph will be added at the end of Paragraph 1:

Collectively, the three spaces located on the first floor of the Building as depicted in the attached "**Amended and Restated Exhibit A**", which total 2,326 net rentable square feet is defined as the "**Expansion Space**". Commencing on the last date the City signs the First Amendment (the "**FA Effective Date**"), the Expansion Space will be included in the Leased Premises definition, which will increase from 15,325 net rentable square feet to a revised area of 17,651 net rentable square feet, and the current 43 parking stalls (41 unassigned and 2 assigned), will increase by 7 stalls for a new total of 50 parking stalls (48 unassigned and 2 assigned) on the Property.

2. **Term.** The following sentence will be added at the end of the Paragraph 2:

The term for the Expansion Space will commence on the FA Effective Date, and shall be co-terminus thereafter with the Initial Lease Term and any Option Terms, if exercised by the City.

4. **Rent.** The last two paragraphs of Paragraph 4 of the Lease are deleted and replaced with the following updated terms:

Additional Rent is due to the Lessor in connection with the Lessor's Work described in Paragraph 10 below. The monthly additional rent is Two Thousand Nine Hundred and Four dollars and 92/100 (\$2,904.92) (the "Additional Rent"). The Additional Rent commenced when the Lessor's Work as described in Paragraph 10 was completed on August 1, 2017, and will expire upon the one hundred eightieth (180th) consecutive monthly payment is made on July 1, 2032, if Option 1 is exercised by the City. In the event the City does not exercise Option 1, then on December 31, 2031 the City shall pay the Lessor the remaining Additional Rent balance due, which equates to: Five Hundred and Twenty Two Thousand Eight Hundred Eighty Five Dollars and one cent (\$522,885.01) less the total number of Additional Rent payments made by City to Lessor during the Initial Lease Term (the "Additional Rent Balance"). For instance, during the Initial Term if the City makes total payments of Five Hundred and Two Thousand and Five Hundred Fifty One Dollars and sixteen cents (\$502,551.16) as depicted in the "**Amended and Restated Exhibit F-Rent Table**", attached hereto and made part of the Lease, then the City would owe the Lessor an Additional Rent Balance of Twenty Thousand Three Hundred Thirty Three Dollars and eighty five cents (\$20,333.85).

The Additional Rent is not subject to the above-referenced annual rent escalators during the Initial Term or the Option Terms described in Paragraph 5 below. Additional Rent may be prepaid without penalty at any time. Should the City terminate this Lease for any reason prior to December 31, 2031, then the City shall reimburse the Lessor for the unamortized cost of the Lessor's Financed Amount ("LFA"), which has an original principal amount of Three Hundred Forty Four Thousand Two Hundred Forty Three dollars (\$344,243). Said LFA shall be amortized over 15 years based on an interest rate of six percent (6%) per annum for purposes of such amortization. See the attached "**Amended and Restated Exhibit G**", which is made part of this Lease, which should be used to calculate the unamortized cost of the LFA due on the termination date as noted in the Ending Balance column therein.

The following paragraph shall be added at the end of Paragraph 4 of the Lease:

The Gross Rent for the Expansion Space (the "**Expansion Space Gross Rent**") shall commence on March 1, 2023; the City will pay an additional \$2,907.50 each month, for the ten (10) calendar months remaining in 2023 for the Expansion Space. For calendar year 2024, the Expansion Space Gross Rent

will equal an annual rate of \$15.45 per square foot multiplied by the Expansion Space net rentable square feet; this equates to \$2,994.73 per month during calendar year 2024. The Expansion Space Gross Rent shall escalate thereafter at 3% per annum in calendar years nine through ten, and 3.5% per annum in calendar years 11 through 15. The Expansion Space Gross Rent is included in the Amended and Restated Exhibit F Rent Table, and the Option Terms listed therein if exercised by the City.

5. Option to Renew. Paragraph 5 shall be deleted and replaced with the following terms:

If, at the end of the Initial Lease Term, the City is not in default under the terms and conditions of this Lease, then the City shall have three (3) successive options to extend this Lease for additional terms of five (5) years each (individually "**Option Term 1**" and "**Option Term 2**" and "**Option Term 3**"; together the "**Option Terms**"), under the same terms and conditions provided in the Initial Lease Term, except that Gross Rent during the Option Terms shall be as set forth in the Amended and Restated Exhibit F Rent Table.

At least fourteen (14) months prior to the expiration of the Initial Lease Term or Option Term 1 or Option Term 2, if applicable, the Lessor shall advise the City in writing of the impending expiration of the Lease and of the City's right to renew the Lease in accordance with the terms of this paragraph. If the City desires to renew this Lease, the City must give notice in writing to the Lessor a minimum of twelve (12) months prior to the expiration of the Initial Lease Term, and Option Term 1 or Option Term 2, if applicable. All notices under this paragraph shall be given by certified mail, return receipt requested, or by personal delivery to the other party at the addresses specified in Paragraph 25.

7. Common Areas. The following paragraph shall be added to the end of Paragraph 7.

Within 21 months of the FA Effective Date, the Lessor will perform one of the two below options on the Building's elevator (the "Building Elevator") at its cost:

a. Option One Scope of Work

i. Upgrading the Building Elevator to a new control system, which means that the DC motor and motor generator on the driving machine would be discarded and replaced with new modern equipment, an AC motor and VVVF drive. The 74 year old driving machine would be replaced as well.

ii. The door operators will be replaced, and the elevator code requires that the unit be made to be ADA compliant as well.

iii. The entire existing controller, including the relays will be discarded. The new controller would be a solid state microprocessor controller.

b. Option Two Scope of Work

Replace the Building Elevator with a new hydraulic elevator.

The Lessor shall provide the City with advance notice of the date this elevator work will commence, and the estimated duration of the work so it can plan accordingly.

Metro will make off site accommodations for any individuals that need to use an elevator for any services that Metro administers in the Leased Premises

8. Parking. Paragraph 8 is amended and replaced with the following:

The City shall be entitled to the use of fifty (50) parking stalls located on the Property; two (2) of which are reserved and the remaining forty eight (48) on a non-exclusive basis. The Lessor shall maintain a ratio of parking stalls to office space on the Property that will provide fifty (50) parking stalls for the City's use. Parking shall be in common with the other occupants of the Building. The City shall at all times during the term of this Lease, provide the Lessor with a current and complete list of the City's, or its employees, vehicle descriptions and license plate numbers for vehicles which are permitted to park in the parking lot under this Lease to assist the Lessor in its efforts of managing and policing parking. Any non-listed vehicle, and any vehicle over the fifty (50) permitted vehicles, may be ticketed.

10. Construction Work.

The following paragraph will be added after the current paragraph in Paragraph 10.a:

The Lessor shall perform the following work in connection the First Amendment to the Lease:

1. The Lessor shall clean the carpets and paint the existing walls in the Expansion Space at its cost.
2. The Lessor shall install card readers on each of the three doors in the Expansion Space, and provide the City with access cards for the employees working in these rooms.

The following paragraph will be added after the current paragraph in Paragraph 10.b:

The City will be (i) making tenant improvements at its cost to the Expansion Space and the second floor customer services rooms W203A&B and W205A&B as described in the base floor plans prepared by architect Mark A. Henrichs, dated June 16, 2022; and (ii) routing the proper wiring from the existing IT data room (on the 2nd floor) to another point in the lower level-from there to the Expansion Space, potentially three security cameras, and the other noted work (collectively the "**City IT Work**"). The aforementioned work by the City is collectively defined as the "**ES TI Work**").

The City will submit its construction drawings and specifications for the ES TI Work to the Lessor before commencing this work. The Lessor shall provide the City with any written comments within five (5) business days of receipt of the construction drawings for the ES TI Work.

12. Utilities, Maintenance and Repairs. Subsection 12.a (5) of Paragraph 12 is amended and replaced with the following paragraph:

a. Lessor's Responsibilities.

- (5) Prior to February 2017 and each February during the Initial Term, and Option Term 1, Option Term 2, and Option Term 3, if applicable, the Lessor shall provide the City with a report identifying the previous calendar year's utility costs attributable to the Leased Premises,

including heat, electricity and water. If the utilities are not separately metered for the Leased Premises, then the Lessor shall estimate the utility costs based on the ratio of the total leasable square footage of the Leased Premises (i.e., 17,651 sq. ft.) compared to the total leasable square footage of the Building. Such report is required by the City in connection with its annual reporting to the Federal Transit Administration.

BE IT FINALLY RESOLVED that the Mayor and City Clerk are hereby authorized to execute and deliver the First Amendment to the Lease and all additional documents, and take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution in a form approved by the City Attorney.