



Legislation Text

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Fiscal Note

This lease requires the City to pay initial estimated annual rent of \$108,565.54. Rent is subject to a 2% increase every year. Under the terms of the Sublease, CARPC shall pay to the City a pro-rata share of such rent based on the square footage allocation of space between MPO and CARPC staff. Such pro-rata share is estimated to be 50% (which would equate to \$54,282.77 for the first year's rent). Funding for 2019 is included in the Planning Division's 2019 Adopted Operating Budget for the MPO. Funding beyond 2019 will be included in future operating budgets.

Title

SECOND SUBSTITUTE - Authorizing the execution of a lease with Frank Liquors of La Crosse, Inc. for office space located at 100 State Street for the Madison Area Transportation Planning Board - A Metropolitan Planning Organization ("MPO"), and authorizing the execution of a Sublease with the Capital Area Regional Planning Commission ("CARPC") to allow CARPC shared use of such office space. (4th A.D.)

Body

WHEREAS, since January 2000 the City of Madison has been responsible for providing professional staff services to the Madison Area Transportation Planning Board ("MATPB"), the designated metropolitan planning organization ("MPO") for the Madison area, as provided in the MPO designation agreement; and,

WHEREAS, the City of Madison is the administrative and fiscal agent for the MPO and receives federal and state funding, which covers 85% of the MPO budget; and,

WHEREAS, since January 2000, staff of the MPO, part of the City's Planning Division, have been operating from leased office space located at 121 South Pinckney Street; and,

WHEREAS, staff of the Capital Area Regional Planning Commission ("CARPC"), the regional land use and environmental planning agency, currently operate from space in the City-County Building; and,

WHEREAS, the policy boards of the MPO and CARPC recently approved a report of a joint workgroup for the two agencies that was charged with developing ideas for better coordinating and integrating the planning efforts of the two regional planning agencies given the close inter-relationship between land use, transportation, and the environment; and,

WHEREAS, the co-location of staff of the two agencies was one of the short-term actions identified for implementation that could lay the groundwork for further integration of regional planning functions with benefits including: (1) increased staff interaction and resulting understanding of each other's work, increasing the potential for collaboration and joint planning activities; (2) greater sense of identity as staff of partner agencies; (3) increased visibility as partner agencies that communicates a message externally of the importance of integrated regional planning; (4) increased capacity to collaborate with other regional entities; and (5) cost efficiencies over time in sharing equipment, etc. and possibly staff; and,

WHEREAS, the Office of Real Estate Services has assisted both agencies in a site search for shared office space in the downtown core and has identified space in the building at 100 State Street as suitable for the needs of the two agencies; and,

WHEREAS, the terms of a lease have been negotiated between the landlord, Frank Liquors of La Crosse, Inc., and the City's Office of Real Estate Services, and approved by MPO and CARPC staff, **the City Attorney**

and Risk Manager.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Clerk are authorized, on behalf of the MPO, to execute a lease (the "Lease") with Frank Liquors of La Crosse, Inc. (the "Lessor"), subject to, substantially, the following terms and conditions:

1. Leased Premises. The "Leased Premises" shall consist of approximately 4,879 rentable square feet of 4th floor space within the "Building" located at 100 State Street, Madison, Wisconsin (the "Property"). The Leased Premises are depicted on the floor plan attached as Exhibit A. Following execution of the Lease, the City's architect shall verify the actual square foot area of the Leased Premises based on a CAD file to be provided by the Lessor. The legal description of the Property is set forth in attached Exhibit B.
2. Parking. No parking is included.
3. Rent. The Lease shall be a gross lease with rent based on the rentable area of the Leased Premises. Rent shall be payable in equal monthly installments in advance on the first day of each month. Rent shall be prorated for any partial month. Rent during the first year of the Lease shall be \$22.25 per rentable square foot and shall escalate at two percent (2%) annually. The Leased Premises shall be delivered to the City in "turn-key" condition following the completion of the Lessor's Work described in Paragraph 9.c.
4. Initial Term and Lease Commencement. The Lease shall be for an initial term of ten (10) years (the "Initial Term"). The Lease shall commence on the date that the Leased Premises are delivered to the City following the issuance of a Certificate of Occupancy (the "Commencement Date"). The Lessor shall give the City a minimum of one hundred thirty (130) days' written notice of the anticipated Commencement Date to allow the MPO to provide its current landlord with the requisite lease termination notification. In no event shall the Commencement Date be earlier than September 15, 2019 nor later than December 15, 2019.
5. Renewal Options. The City shall have one (1) option to renew the Lease term for a period of five (5) years (the "Renewal Term"). The Lessor shall give the City a minimum of one hundred twenty (120) days' written notice of the impending expiration of the Lease and the City's right to renew. If the City desires to renew the Lease, the City must give notice in writing to the Lessor a minimum of ninety (90) days prior to the expiration of the Initial Term. Rent during the Renewal Term shall continue to escalate at the same terms and escalation as during the Initial Lease Term. Any additional Renewal Options can be negotiated within 180 days of the Lease expiration and shall reflect current market rates.
6. Use.
 - a) The City will occupy and use the Leased Premises as offices for staff of the Metropolitan Planning Organization ("MPO") and Capital Area Regional Planning Commission ("CARPC"), and all activities related thereto, including public meetings.
 - b) The City's normal hours of use of the Leased Premises shall be Monday through Friday, 6:30 a.m. to 6:00 p.m. The Building entry door and elevator shall be open/operable during such time. Except as provided in c.) below, elevator access to the 4th floor shall be locked at all other times for security reasons.
 - c) The City shall have the right, upon a minimum of 24 hours notice, to request that the Lessor arrange for the entry door and elevator to be open/operable during extended hours to accommodate night meetings.

- d) During the City's normal hours of use the Leased Premises shall be cooled or heated within the following range: 70 to 72 degrees Fahrenheit, depending on the season and outside temperature. Periodically, the City's staff will need to work hours different from the aforementioned business hours or will be holding after-hours meetings; as such the City's staff will need to be able to adjust the Leased Premises heating and cooling manual over-ride control settings so the temperatures within the Leased Premises conform to the above-referenced degree range. The Lessor is upgrading the HVAC system and shall, to the best of its ability, cool and heat the Leased Premises to the desired 70 to 72 degrees Fahrenheit for the duration of the Lease Term.
7. Common Areas. The City shall have the right to use the Common Areas within the Building. The term "Common Areas" shall mean the interior hallways, elevators, stairwells, and all other areas or improvements which may be provided by the Lessor for the common use or benefit of occupants of the Building. The Lessor shall be responsible for cleaning, maintaining and repairing the Common Areas and for all utility charges relating to the Common Areas.
8. Assignment and Subletting. The City shall not assign, mortgage, pledge, sell, or in any manner transfer the Lease or any estate or interest thereunder and shall not sublet the Leased Premises or any part or parts thereof, without the prior written approval of the Lessor. Notwithstanding the foregoing, the City may assign the Lease or sublet the Leased Premises without the Lessor's consent to CARPC or another governmental agency or entity or to another similar service agency.
9. Lessor's Responsibilities.
- a) The Lessor shall contract for and pay all operating and maintenance expenses relating to the Building, Common Areas and Leased Premises including, but not limited to, taxes, lighting, electricity, heating, air conditioning, janitorial service, water and sewer service, recycling and refuse removal. Janitorial service for the Leased Premises shall include the emptying of all trash receptacles, dusting, cleaning of counters, and vacuuming/mopping and shall be performed two times (2x) per week during non-business hours Monday through Friday, holidays excepted.
- b) The Lessor shall at all times keep and maintain the Building, Common Areas, and Leased Premises in good order and condition, including the foundations; roof; lighting, electrical, plumbing and sewer systems; heating, ventilating and air conditioning system; all utility lines, appurtenances and meter boxes; water softener; water heater; concrete floors; window frames and windows; structural portions of the walls; all doors, door locks, door closers and door operating devices; and all other structural members, both interior and exterior, of the Leased Premises, and shall make any repairs/replacements as may be required. The term "repairs" shall include replacements or renewals when necessary and all such "repairs" shall be equal in quality and class to the original work. Notwithstanding the foregoing, the City shall be responsible for the cost and expenses of repairs/replacements required by reason of acts or omissions of the City, the City's employees, agents, invitees, vendors, licensees or contractors.
- c) The Lessor shall remodel the Leased Premises as generally shown on Exhibit A and in accordance with plans and specs to be approved by the City ("Lessor's Work"). The Lessor's Work, the cost of which is estimated to be \$181,500, shall be completed prior to the Commencement Date.
- d) The Lessor shall provide the City with sufficient Building and elevator keys and/or access

cards/fobs for each MPO and CARPC staff member. The Lessor agrees to supply the City with the amount of keys and fobs needed to cover all staff. However, the City shall be responsible for all costs pertaining to replacement keys and fobs and any additional keys and fobs that may be needed during the Lease term.

10. City's Responsibilities.

- a. The City shall pay for the installation, use and maintenance of all telephone and computer services, access control system, and any other specialized equipment in the Leased Premises.
- b. The City shall be responsible for maintenance and repair of any personal property installed within the Leased Premises.

11. Insurance by Lessor. Beginning on the Commencement Date and continuing throughout the Initial Term and Renewal Terms, if exercised, of the Lease, Lessor shall maintain at its costs the following insurance coverages: a policy of comprehensive fire, extended coverage, vandalism, malicious mischief and other endorsements deemed advisable by Lessor insuring the Leased Premises and all appurtenances thereto (excluding City's inventory, trade fixtures, furniture, furnishings, equipment and personal property) for the full insurable replacement value thereof, with such a deductible not to exceed ~~\$10,000~~ **50,000**. Additionally, Lessor shall carry commercial general liability insurance covering as insured Lessor and naming the City, its officers, officials, agents and employees as additional insureds, with a minimum limit of \$1,000,000 per occurrence. This policy shall also be endorsed for contractual liability in the same amount, apply on a primary and noncontributory basis, and provide the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to the policy during the term of the Lease. As evidence of this coverage, Lessor shall furnish the City with a certificate of insurance on a form approved by the City, and, if requested by the City's Risk Manager, Lessor shall provide copies of additional insured endorsements or policy. If the coverage required above expires while the Lease is in effect, Lessor shall provide a renewal certificate to the City for approval.

12. Indemnification by Lessor. The Lessor shall be liable to and agree to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officials, officers, agents or employees for damages because of bodily injury, including death at any time resulting there from, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Lessor and/or its officials, officers, agents, employees, assigns, guests, invitees, or subcontractors, in the performance of the Lease, whether caused by or contributed to by the negligent acts of the City, its officers, officials, agents, and employees. This paragraph shall survive termination of the Lease.

13. Insurance by City. The City shall maintain, at its sole cost, throughout the Lease term and any extension thereof, personal property insurance in an amount to cover the City's personal property located within the Leased Premises. In addition, the City shall maintain commercial general liability insurance, in an amount not less than \$1,000,000 per occurrence. Evidence of this coverage can be found at the following website: <http://www.wmmic.com/liability/>

14. Brokerage Costs. The City is not responsible for any brokerage costs in connection with the Lease.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized, on behalf of the MPO, to enter into a Sublease with the Capital Area Regional Planning Commission (CARPC), allowing CARPC to share the use of the Leased Premises with MPO staff, subject to the terms and conditions of

the Lease and, substantially, the following:

1. Sublease Rent. CARPC shall pay to the City a pro rata share of the rent payable under the Lease, which pro-rata share shall be based on the general square foot allocation of office and work areas dedicated to CARPC and MPO staff in the Leased Premises. Prior to the Commencement Date of the Lease, the City and CARPC shall agree in writing as to the space allocation, with rent prorated accordingly. The parties may, from time to time, agree in writing to adjust the space allocation, with rent adjusted accordingly.
2. Sublease Term. The term of the Sublease shall run concurrent with the Initial Term of the Lease.
3. Sublease Renewal Option. CARPC shall have one (1) option to renew the Sublease for a period of five (5) years, which option shall be contingent upon the City's exercise of its renewal option under the Lease for the concurrent period. In the event the City desires to exercise its renewal option under the Lease, it shall first give CARPC a minimum of one hundred eighty (180) days' written notice of the impending expiration of the Sublease and CARPC's right to renew. If CARPC desires to renew the Sublease, CARPC must give notice in writing to the City a minimum of one hundred twenty (120) days prior to the expiration of the Sublease. Rent during the renewal term shall be calculated in the same manner as during the initial term.
4. CARPC's Responsibilities.
 - a. CARPC and the City shall share in the costs of installation, use and maintenance of all telephone and computer services, wiring and access control system and any other specialized equipment in the Leased Premises.
 - a.b. CARPC shall be responsible for contracting for its own computer services.**
 - b.c. CARPC shall be responsible for maintenance and repair of any personal property installed within the Leased Premises.
5. Liability Each party shall be responsible its own acts, errors or omissions and for the acts, errors or omissions of its employees, officers, officials, agents, boards, committees and commissions, and shall be responsible for any losses, claims, and liabilities that are attributable to such acts, errors, or omissions including providing its own defense, arising out of the Sublease. In situations involving joint liability, each party shall only be responsible for such losses, claims, and liabilities that are attributable to its own acts, errors, or omissions and the acts, errors or omissions of its employees, officers, officials, agents, boards, committees and commissions. It is not the intent of either party to waive, limit or otherwise modify the protections and limitations of liability found in Wis. Stat. 893.80 or any other protections available to the parties by law. This paragraph shall survive the termination or expiration of the Sublease.

BE IT STILL FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized, on behalf of the MPO, to execute any and all additional documents that may be required to complete this transaction on forms approved by the City Attorney.