## STAFF REPORT

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| **Agenda Item:** | 8 & 9 | **Name:** | Wendy K. Soo Hoo |
| **Proposed No**.: | 2016-0551  2016-0552 | **Date:** | January 11, 2017 |

**SUBJECT**

**Proposed Ordinance 2016-0552** would authorize execution of a new long-term lease for the Department of Public Defense (DPD). The legislation would enable consolidation of DPD staff at the Dexter Horton Building in downtown Seattle.

**Proposed Ordinance 2016-0551** would make a supplemental appropriation of $4.9 million to the building repair and replacement fund to support tenant improvements and other costs associated with the consolidation of DPD staff at the Dexter Horton Building.

**SUMMARY**

This is a first committee discussion of two ordinances related to consolidating DPD staff at the Dexter Horton Building. Proposed Ordinance 2016-0552 would authorize execution of a new long-term lease beginning at $37.00 PSF to support consolidation of DPD staff at the Dexter Horton Building, located at 710 Second Avenue in Seattle. Proposed Ordinance 2016-0551 would appropriate $4.9 million to support tenant improvements and other costs associated with the consolidation.

Staff analysis is ongoing.

**BACKGROUND**

Beginning in 1969, King County provided public defense services by contracting with non-profit organizations. The number of organizations stabilized at four agencies in 1987. In 2006, a group of employees of the non-profit public defense agencies sued King County, arguing that they were public employees for the purpose of membership in the Washington retirement system.[[1]](#footnote-1) The plaintiffs prevailed in Pierce County Superior Court and the Washington State Supreme Court upheld the decision in 2011.[[2]](#footnote-2)

Subsequently, King County created the new Department of Public Defense (DPD) and employees of the non-profit agencies became regular County employees in July 2013. Since 2013, the County has sought to consolidate approximately 300 DPD employees in a single location.

In 2014, the Executive proposed and the Council approved a $600,000 appropriation (Ordinance 17882) to begin redevelopment of the County-owned Yesler Building. At the time, the intent was to consolidate DPD at Yesler. However, due to challenges in relocating the current tenants of Yesler (the Department of Adult and Juvenile Detention’s Community Center for Alternative Programs and Community Work Program), the redevelopment project was closed out[[3]](#footnote-3) and the Executive now proposes to lease space at the Dexter Horton Building to house DPD.

Ordinance 18425, the omnibus adopted by Council in December 2016, also included $2.0 million to implement a short-term lease at Dexter Horton to support the move of some DPD staff to Dexter Horton space leased on a short-term basis, as well as initial design costs associated with the long-term consolidation. The short term lease allowed the County to mitigate the imminent risk of losing four floors of Dexter Horton to a different lessor, which would have eliminated Dexter Horton as a location for the long term consolidation. The short term lease also prevented a holdover situation with the Prefontaine lease which expires December 31, 2016 and has no options to extend. That short term lease agreement will terminate upon the commencement date of this long term Lease Agreement (if approved).

Proposed Ordinance 2016-0552 has been transmitted to Council pursuant to King County Code 4A.100.070, which requires Council approval of leases with terms lasting longer than five years.

**ANALYSIS OF PROPOSED ORDINANCE 2016-0552 (DEXTER HORTON LEASE)**

Proposed Ordinance 2016-0552 would authorize execution of a new long-term lease to support consolidation of DPD staff at the Dexter Horton Building, located at 710 Second Avenue in Seattle.

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| **Table 1**  **Summary of Proposed Dexter Horton Building Lease** | |
| Square Footage | 86,998 rentable square feet: Suite 1000, Suite 700, Suite 200, Suite 200M, and Suite 125 |
| Cost per Square Foot | $37.00 per rentable square foot in 2017; annual escalation of $1.00 per rentable square foot. DPD would incur no rent costs during the first five months. As part of the negotiated terms, Month 37 would also be reduced. (More detail in Table 2.) |
| Operating Costs | The 2017 $37.00 cost per square foot includes operating costs; after 2017, DPD would pay for increases in controllable operating costs (increases would be capped at 4 percent annually) |
| Term | 10 years and five months for the initial term plus two five-year options to extend |
| Other Considerations | The lease includes the right of first refusal for up to two additional floors – as transmitted, the lease would not require Council approval if the space were leased for DPD. |

The proposed lease would commence on the date when both parties have executed the lease, the first phase (Phase 1) of tenant improvements are substantially complete, and the portion of the premises subject to Phase 1 tenant improvements has been delivered for occupancy to the County.[[4]](#footnote-4) This is anticipated to be on or around June 1, 2017. Council staff is working with Executive staff to understand the scope and schedule for the anticipated construction phases.

Base Rent and Operating Costs

The County would incur base rent charges, increasing $1.00 per square foot annually, as outlined in the lease and reflected in Table 2 below. FMD asserts that these represent fair market costs and were lower than an alternative, less convenient location in north downtown Seattle.

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| **Table 2**  **Base Rent** | | |
|  | Monthly Base Rent | Rent per Square Foot |
| Months 1-5 | $0.00 | $0.00 |
| Months 6-12 | $268,244 | $37.00 |
| Months 13-24 | $275,494 | $38.00 |
| Months 25-36 | $282,744 | $39.00 |
| Month 37 | $161,101 | $22.22 |
| Months 38-48 | $289,993 | $40.00 |
| Months 49-60 | $297,243 | $41.00 |
| Months 61-72 | $304,493 | $42.00 |
| Months 73-84 | $311,742 | $43.00 |
| Months 85-96 | $318,993 | $44.00 |
| Months 97-108 | $326,243 | $45.00 |
| Months 109-120 | $333,492 | $46.00 |
| Months 121-125 | $340,742 | $47.00 |
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In addition, the County would pay annual escalation in controllable operating costs of up to four percent per year. The fiscal note estimates the following financial impacts, including both base rent and estimated operating costs.

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| **Table 3**  **Fiscal Impacts: Base Rent and Estimated Operating Costs** | | |
| **2017-2018** | **2019-2020** | **Out Years (2021 through 2027)** |
| $3,841,163 | $6,745,707 | $26,171,113 |

The 2017-2018 Biennial Budget (Ordinance 18409) assumes $3.8 million in lease costs associated with the Dexter Horton lease. Staff has requested information on how the Dexter Horton lease costs compare to the costs at the existing DPD locations.

**ANALYSIS OF PROPOSED ORDINANCE 2016-0551 (SUPPLEMENTAL APPROPRIATION)**

Proposed Ordinance 2016-0551 would appropriate $4.9 million to Project 1130205 (DPD Consolidation) in the Building Repair/Replacement Fund CIP to support tenant improvements and related costs.

A summary of the Building Repair/Replacement Fund CIP adopted budget for 2015-2016 and supplemental appropriations to date is shown below. (The 2015-2016 budget information is provided, as Proposed Ordinance 2016-0551 would amend the 2015-2016 budget ordinance.)

*Building Repair/Replacement Fund CIP $4,906,809*

*2015/2016 Adopted Budget: $5,339,887*

*Supplemental Appropriations: $22,105,098*

*Cumulative Total Appropriation to Date: $27,444,985*

As noted in the Background section of this staff report, the Council previously approved Ordinance 18425, which included $2.0 million to support the short-term move of some DPD staff into temporary space at the Dexter Horton Building and to begin the design and tenant improvements for the long-term consolidation. Proposed Ordinance 2016-0551 would appropriate an additional $4.9 million. The appropriations are broken out by cost category in the table below.

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|  | **Ordinance 18425 (December 2016 Omnibus)** | **Proposed Ordinance 2016-0551** | **Total** |
| Consultant Design | $423,727 | $293,708 | $717,435 |
| Move costs | $139,308 | $285,856 | $425,164 |
| KCIT | $307,040 | $908,903 | $1,215,943 |
| Decommissioning Existing Buildings | $20,000 | $31,396 | $51,396 |
| Furniture, Fixtures and Equipment | $685,219 | $520,467 | $1,205,686 |
| County Administration | $237,028 | $488,088 | $725,116 |
| 1% for Art | $12,795 | $87,094 | $99,889 |
| Contingency | $178,740 | $855,264 | $1,034,004 |
| Tenant improvements & permit | $46,818 | $5,934,452 | $5,981,270 |
| Landlord Administration | $1,381 | $178,034 | $179,415 |
| Permit, Inspection, Testing | -- | $121,416 | $121,416 |
| Landlord Tenant Improvement Allowance | ($47,000) | ($4,797,869) | ($4,844,869) |
| *Total County Cost* | *$2,005,056* | *$4,906,809* | *$6,911,865* |

As shown above, the total cost to be incurred by the County is estimated at $6.9 million.[[5]](#footnote-5) The landlord would provide a tenant improvement allowance of $4.8 million. The Executive plans to issue bonds to support the $6.9 million County cost. The estimated debt service would be $1.5 million per year for five years and is assumed in the 2017-2018 budget for General Fund debt service.

Staff analysis of the proposed legislation is ongoing.

**ATTACHMENTS**

1. Proposed Ordinance 2016-0551 (and its attachments)
2. Proposed Ordinance 2016-0552 (and its attachments)
3. Proposed Ordinance 2016-0551 Transmittal Letter
4. Proposed Ordinance 2016-0551 Fiscal Note
5. Proposed Ordinance 2016-0552 Transmittal Letter
6. Proposed Ordinance 2016-0552 Fiscal Note

**INVITED**

1. Dwight Dively, Director, Office of Performance, Strategy and Budget
2. Tony Wright, Director, Facilities Management Division
3. Lorinda Youngcourt, Director, Department of Public Defense

1. Dolan v. King County [↑](#footnote-ref-1)
2. 172 Wn.2d. 299 (2011) [↑](#footnote-ref-2)
3. The omnibus ordinance (Ordinance 18425) adopted by Council in December 2016 included $630,000 in General Fund support to pay for close-out costs. [↑](#footnote-ref-3)
4. Phase 1 tenant improvements include improvements to Suites 200, 200M, and 125. [↑](#footnote-ref-4)
5. The estimate was developed based on R.S. Means industry standard benchmarks for similar tenant improvements. [↑](#footnote-ref-5)