## STAFF REPORT

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| **Agenda Item:** | 6 | **Name:** | Erica Newman |
| **Proposed No.:** | 2019-0394 | **Date:** | February 12, 2020 |

**SUBJECT**

An ordinance authorizing the Executive to execute an amendment to an existing lease to support the operations of the Department of Natural Resources and Parks.

**SUMMARY**

The proposed ordinance would authorize the Executive to execute an amendment to an existing lease for the custom-built lab space that is used by the Local Hazardous Waste Management Program at 15 Nickerson St. Suite E, Seattle, WA. The existing lease expired on June 30, 2019, and has since been in holdover status.

The lease amendment would extend the lease term for five years from July 1, 2019 through June 30, 2024 and update the rent schedule. The monthly rent rate would start at $1,800 per month and increase 3% each year for 538 square foot of space. The average biennial cost for the proposed lease amendment would be approximately $40,000, which would include rent and an annual $300 of additional operating expenses. The amendment would also include a new clause under Section 8.3 regarding the county’s responsibility on debris removal and also revise Section 26 to include anti-discrimination provisions which is not included in the expired lease.

The proposed lease amendment had Council legal review and there were no substantive issues with the proposed lease amendment.

**BACKGROUND**

The Local Hazardous Waste Management Program operates as a multi-jurisdictional partnership whose mission is *to protect and enhance public health and environmental quality throughout King County by reducing the threat posed by the production, use, storage and disposal of hazardous materials*. The Program is authorized at the state level by the Department of Ecology and at the local level by the King County Board of Health[[1]](#footnote-1), and fulfills local government responsibilities under state law[[2]](#footnote-2) for managing hazardous waste from residents and “small quantity” generating businesses. The Program serves the county’s 2.1 million residents and 60,000 businesses.

In September 2011, the County executed the lease agreement for 15 Nickerson St. Suite E, Seattle, WA.[[3]](#footnote-3) The leased space is about 538 square feet and home to the custom-built lab and office space for the Local Hazardous Waste Management Program. The lab space provides the Local Hazardous Waste Program with Hazmat Storage, lab hood, ventilation, and safety equipment that are required for labs that process potential hazardous waste. In addition, the lab is used for research projects for interns within the department that are completing their Masters or Doctorate degrees.

According to the lease, the lease term was from July 1, 2011 to June 30, 2019 with an option to renew for one additional five-year term, as long as the County provided a 180 days prior written notice of intent to renew to the Landlord. Table 1 below shows the agreed upon rent schedule for the term of the lease.

**Table 1. Yearly Rent Schedule for Expired Lease (July 2011 – July 2019).**

|  |  |  |  |
| --- | --- | --- | --- |
| **Time Period** | **Monthly Rent** | **Annual Cost** | **% Increase** |
| July 2011 - June 2012 | $1,625 | $19,500 | n/a |
| July 2012 - June 2013 | $1,673 | $20,085 | 3% |
| July 2013 - June 2014 | $1,723 | $20,678 | 3% |
| July 2014 - June 2015 | $1,774 | $21,298 | 3% |
| July 2015 - June 2016 | $1,828 | $21,937 | 3% |
| July 2016 - June 2017 | $1,882 | $22,595 | 3% |
| July 2017 - June 2018 | $1,939 | $23,273 | 3% |
| July 2018 - June 2019 | $1,997 | $23,971 | 3% |

Section 21 of the lease states that if the County holds possession of the premises after the lease expiration date, the County will be a month-to-month tenant and charged a monthly rent equivalent to 125% of the prevailing rent ($2,496).

**ANALYSIS**

Proposed Ordinance 2019-0394 was transmitted by the Executive to the Council in September 2019, pursuant to King County Code 4A.100.070.4.b, which requires Council approval of any lease extensions beyond a cumulative total of five years. The proposed ordinance would authorize the Executive to execute an amendment to an existing lease for a custom-built lab for the Local Hazardous Waste Management Program.

**Fiscal Analysis.** According to the lease amendment, the County notified the Landlord of its intent to renew the lease in written communication dated December 31, 2018. In the intent to renew notice, the County and the Landlord agreed to fair market rent prices. In July 2019, the County and the Landlord negotiated the terms of the lease amendment, which included an extended lease term from July 1, 2019 through June 30, 2024 and an updated rent schedule. The price per square foot for the first year of the proposed extended lease term is $40.15 per square foot, per year, which is a decrease from $44.56 per square foot per year in the fifth year of the expired lease, resulting in an $11,000 savings during the duration of the proposed lease amendment.[[4]](#footnote-4) Table 2 below shows the County’s monthly rent cost upon approval of the lease amendment. There is a 3% increase each year, which is consistent with the rate of increase for each year for the expired lease.

**Table 2. Yearly Rent Schedule for Proposed Lease Amendment**

**(July 2019 – July 2024).**

|  |  |  |  |
| --- | --- | --- | --- |
| **Time Period** | **Monthly Rent** | **Annual Cost** | **% Increase** |
| July 2019 - June 2020 | $1,800 | $21,600 | n/a |
| July 2020 - June 2021 | $1,854 | $22,248 | 3% |
| July 2021 - June 2022 | $1,909 | $22,915 | 3% |
| July 2022 - June 2023 | $1,966 | $23,602 | 3% |
| July 2023 - June 2024 | $2,025 | $24,311 | 3% |

The total cost for the proposed lease amendment is $116,294, which includes the rent and an annual $300 of additional operating expenses. According to the lease property summary, no tenant improvements are needed for extending the term of the lease.

According to the Executive, the Landlord has been charging the County $1,995 a month since July 2019, which is less than the 125% of the prevailing rental rate for month-to-month tenants as required by the terms of the expired lease. According to executive staff, the Landlord has chosen not to enforce the premium rate while the County works to renew the lease with the Landlord. However, it should be noted since July 2019, the County has not been able to take advantage of the newly negotiated $1,800 per month rate which is included in the proposed lease amendment. This rate will apply once the proposed lease amendment is executed through the approval of this proposed ordinance.

**Other Changes.** Also included in the proposed lease amendment is the insertion of Section 8.3 that reads "In the event Tenant requests Landlord to remove debris accumulation in front of Tenant's door way area, Tenant shall reimburse Landlord for reasonable costs of said removal within 30 days following receipt of Landlord's invoice". The insertion of Section 8.3 is to provide clarity to Section 8.2 in the expired lease that described the Landlord's commitment to maintaining the building and premises.

The proposed lease amendment also includes the insertion of anti-discrimination language in Section 26, as the previous lease did not include any anti-discrimination language. Lastly, the proposed lease amendment also includes deletion of the paragraphs entitled as “Representation and Tenant Advisory Fee” under Exhibit C as the language pertains to new leases and not lease amendments.

**Legal Review.** The proposed lease amendment had Council legal review and no substantive issues were identified with the proposed lease amendment.

**INVITED**

* Anthony Wright, Director, Facilities Management Division

**ATTACHMENTS**

1. Proposed Ordinance 2019-0394 (and its attachment)
2. Transmittal Letter
3. Fiscal Note
4. Lease Property Summary
1. Board of Health Code Section 11.04. [↑](#footnote-ref-1)
2. RCW 70.105.220. [↑](#footnote-ref-2)
3. According to Facilities Management Division (FMD) staff, due to an administrative error, the expired lease was not submitted to Council in 2011. The employees who participated in the original lease no longer work for FMD and are unavailable to provide more insight into how this error occurred. Since 2011, FMD staff stated that process improvement measures have been implemented to ensure such an oversight does not happen in the future. [↑](#footnote-ref-3)
4. Lease Property Summary. [↑](#footnote-ref-4)