

Legislation Text

File #: 100132, **Version:** 0

Authorizing the Commissioner of Public Property, on behalf of the City of Philadelphia, to extend the term of a sublease agreement between the Philadelphia Municipal Authority as landlord and the City of Philadelphia as tenant for mailroom operations space at 1628 JFK Boulevard, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Commissioner of Public Property, on behalf of the City of Philadelphia, is hereby authorized to extend the term of its sublease agreement with the Philadelphia Municipal Authority as landlord and the City of Philadelphia as tenant for mailroom operations space at 1628 JFK Boulevard until October 31, 2019.

SECTION 2. The sublease amendment shall be in the form set forth in Exhibit "1" attached hereto with such changes as the City Solicitor deems necessary or appropriate to protect the interests of the City.

Exhibit "1"

FIRST AMENDMENT TO SUBLEASE

THIS FIRST AMENDMENT TO SUBLEASE (this "Amendment") dated _____, 20__, between THE PHILADELPHIA MUNICIPAL AUTHORITY, a municipal authority organized under the Pennsylvania Municipal Authorities Act of 1945 (hereinafter referred to as the "Authority") and the CITY OF PHILADELPHIA, a body politic and corporate organized under the laws of the Commonwealth of Pennsylvania, acting through its Department of Public Property (the "City").

Background

A. The Authority is the tenant under a lease dated April 28, 1999 (the "Master Lease"), in which 8 Penn Center Owner LP, Landlord leased to Tenant approximately 9,736 rentable square feet in the concourse space of Eight Penn Center, 1628 JFK Boulevard, Philadelphia, Pennsylvania (as more particularly described in the Lease, the "Premises").

B. On May 17, 1999, the Authority and the City entered into a Sublease (the "Sublease"), pursuant to which Authority subleased to City, and City subleased from Authority the Premises.

C. The Lease has been amended by the First Amendment of Lease dated _____ 20__; a copy of which is attached hereto as Exhibit "A" ("Master Lease as Amended").

D. The Authority and the City now desire to amend the Sublease as set forth herein.

NOW THEREFORE, in consideration of the covenants and conditions hereinafter contained, and intending to be legally bound hereby, the parties hereto hereby agree as follows:

1. Background Incorporated; Defined Terms. The Background section above is hereby incorporated herein by reference. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Sublease.

2. Term. The Term of the Sublease shall be concurrent with the term of the Master Lease as Amended, minus one (1) day, unless sooner terminated, as provided in the Sublease.

3. Rent and Other Payments. Rent and other payments shall be made by the City in accordance with the Master Lease as Amended.

4. Notices. The address for the Commissioner of Public Property provided in Paragraph 6 of the Sublease shall be amended to read as follows:

Commissioner
City of Philadelphia Department of Public Property City Hall
Room 790
Philadelphia, PA 19107

5. Ratification. Except as expressly amended hereby, the Sublease shall remain in full force and effect in accordance with its terms and is hereby ratified and confirmed.

IN WITNESS WHEREOF Landlord and Tenant have executed this Amendment on the respective dates set forth below, to be effective as of the day and year first above written.

LANDLORD:

THE PHILADELPHIA MUNICIPAL
AUTHORITY

By: _____
Name: Albert A. Childs
Title: Executive Director

TENANT:

Approved as to form: CITY OF PHILADELPHIA, acting through Shelley R.
Smith, City Solicitor its Department of Public Property

Per: _____
Deputy City Solicitor

By: _____
Joan Schlotterbeck
Commissioner

EXHIBIT "A" (to Sublease)

AMENDMENT TO LEASE AGREEMENT

THIS AMENDMENT TO LEASE AGREEMENT (the "Amendment") made _____, 20__ by and between 8 Penn Center Owner, L.P. a Pennsylvania limited partnership (the "Landlord") and Philadelphia Municipal Authority, a body politic and corporate organized under the laws of the Commonwealth of Pennsylvania (the "Tenant").

BACKGROUND

WHEREAS, Landlord and Tenant entered into a certain Lease dated the 28th day of April, 1999 (the "Lease") with respect to certain space defined as the Premises in the Lease, consisting of 9,736 rentable square feet "in the concourse space of Eight Penn Center, 1628 JFK Boulevard, Philadelphia, Pennsylvania";

WHEREAS, Tenant and the City of Philadelphia (the "Subtenant") entered into a Sublease dated May 17, 1999, pursuant to which Tenant subleased to Subtenant and Subtenant subleased from Tenant the Premises (the "Sublease");

WHEREAS, Landlord and Tenant desire to amend and modify the Lease so as to provide for extension of the Lease Term, modification of the Base Rent, and in certain other respects as hereinafter provided;

WHEREAS, Concurrently with this Amendment, Tenant and the City of Philadelphia will execute the First Amendment to Sublease attached hereto as Exhibit "A".

WHEREAS, Landlord and Tenant desire to amend the Lease in the manner set forth below.

NOW, THEREFORE, in consideration of the mutual promises herein contained and intending to be legally bound, the parties agree as follow:

1. Background; Definitions. The Background section above is hereby incorporated herein by reference. Each capitalized term used herein and not otherwise defined shall have the meaning given to such term in the Lease.

2. Extension of Term.

a. The term of the Lease is hereby extended for an initial period commencing on November 1, 2009 and terminating on October 31, 2010 ("Initial Term").

b. Following the Initial Term, subject to the passage of an ordinance by the City Council of the City of Philadelphia ("City Council") approving the City of Philadelphia's subleasing the Premises from the Tenant for an additional nine (9) year term ("Extended Term") pursuant to the Sublease, the term of the Lease and the Sublease shall continue for an additional term of nine (9) years commencing on November 1, 2010 and terminating on October 31, 2019.

c. If City Council does not pass an ordinance approving the City of Philadelphia's subleasing the Premises from the Tenant pursuant to the Sublease for the Extended Term then this Lease may be renewed at the sole discretion of the Tenant by written notice of such renewal to Landlord no less than 90 days prior to the date of termination of the Initial Term or Renewal Term, if any, for one (1) year periods (each such one-year periods shall be called a "Renewal Term").

3. Tenant Improvement Work. Landlord shall have no obligation to perform any work nor incur any expense in preparation for Tenant's continued use and occupancy.

4. Base Rent; Base Operating Expenses; Base Tax Factor.

a. Despite anything to the contrary contained in the Lease, commencing on August 1, 2009, the annual Base Rent and the monthly installment of the annual Base Rent for the Premises shall be the following amounts:

<u>Period</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
8/1/2009 - 10/31/2010	\$131,436.00	\$10,953.00*

11/1/2010 - 10/31/2011	\$134,064.72	\$11,172.06*
11/1/2011 - 10/31/2012	\$136,790.80	\$11,399.23*
11/1/2012 - 10/31/2013	\$139,516.88	\$11,626.41*
11/1/2013 - 10/31/2014	\$142,340.32	\$11,861.69*
11/1/2014 - 10/31/2015	\$145,163.76	\$12,096.98*
11/1/2015 - 10/31/2016	\$148,084.56	\$12,340.38*
11/1/2016 - 10/31/2017	\$151,005.36	\$12,583.78*
11/1/2017 - 10/31/2018	\$154,023.52	\$12,835.29*
11/1/2018 - 10/31/2019	\$157,139.04	\$13,094.92*

* In addition to the above annual Base Rent, Tenant agrees to pay for all of its electric usage.

b. Tenant shall pay (monthly, in advance) its proportionate share of any increases in the Base Operating Expenses and Real Estate Taxes for the property in excess of a 2009 base year ("Base Year"). Accordingly, Base Year of the Base Tax Factor and Base Operating Expenses are hereby amended to be calendar year 2009.

5. Notices. The address of the Commissioner of Public Property in the Fundamental Lease Provisions shall be amended and restated as follows:

Commissioner of Public Property
City of Philadelphia
Room 790 City Hall
Philadelphia, PA 19107

6. Additional Provisions.

a. Landlord and Tenant represent to each other that they have not dealt with any broker(s) other than M.S. Fox Real Estate Group in connection with this Amendment and insofar as they know, no other broker(s) negotiated this Amendment or is entitled to any commission in connection therewith other than M.S. Fox Real Estate Group. Landlord and Tenant agree to indemnify, defend and hold each other harmless from and against any claims for a commission or other compensation in connection with this Amendment made by any other broker or finder who claims to have dealt with or communicated to them in connection with this Amendment.

b. Landlord and Tenant hereby waive trial by jury in any action, proceeding on any matter whatsoever arising out of, or in any way connected with, the Lease and this Amendment, the relationship of Landlord and Tenant, Tenant's use of or occupancy of the Existing and Additional Premises, or any claim of injury or damage in any emergency statutory or any other remedy.

c. This Amendment may not be changed orally, but only by a writing signed by the party against which enforcement thereof is sought.

d. All of the other terms, covenants and conditions of the Lease not inconsistent herewith shall remain in full force and effect and unchanged hereby. Except for the modifications herein as set forth in this Amendment, and, as so modified, the Lease is hereby reinstated and reaffirmed and in full force and effect and fully binding upon the parties hereto and Tenant's occupancy is hereby ratified and confirmed in all respects and shall be binding upon the parties hereto and their respective assigns.

e. The submission of this Amendment to Tenant or its broker or other agent, does not constitute an offer to Tenant to amend the Lease. This Amendment shall have no force and effect until it is executed and delivered by Tenant to Landlord and (b) executed by Landlord; provided, however, that, upon execution of this Amendment by Tenant and delivery to Landlord, such execution and delivery by Tenant shall, in consideration of the time and expense incurred by Landlord in reviewing the Lease and Tenant's credit, constitute an offer by Tenant to amend the Lease upon the terms and conditions set forth herein (which offer to amend shall be irrevocable for twenty-four (24) business days following the date of delivery).

[The remainder of this page left blank intentionally; signature page attached.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment the day first above written.

LANDLORD:

8 PENN CENTER OWNER, L.P.
a Pennsylvania limited partnership
By: 8 Penn Center Owner-GP, LLC
a Delaware limited liability company,
its General Partner

By: _____
Alex Schwartz, Managing Member

TENANT:

PHILADELPHIA MUNICIPAL AUTHORITY,
a body politic and corporate organized under the laws of the
Commonwealth of Pennsylvania,

By: _____
Authorized Signatory

Name: _____

Title: _____