

June 10, 2022

MEMORANDUM

To: Finance and Housing Committee
From: Lise Kaye, Analyst
Subject: CB 120340: Royal Brougham Lease

On June 15, 2022, the Finance and Housing Committee will discuss and possibly vote on Council Bill 120340, which would authorize the Director of the Department of Finance and Administrative Services (FAS), or the Director's designee, to execute a proposed lease with the Washington State Department of Transportation (WSDOT) on behalf of the Seattle Department of Transportation (SDOT). This memo provides background on development of the lease and summarizes its key provisions. Staff have not identified any policy issues with the proposed lease.

Background

SDOT began storing vehicles and equipment on WSDOT property at Airport Way South and South Royal Brougham Way in 2017, following closure of a homeless encampment on the site. The site is across Airport Way South from SDOT's Charles Street road maintenance facility (as shown on Exhibit A of the proposed lease). SDOT received a draft lease from WSDOT in January 2020. Further delay resulted from the City's need to respond to the COVID-19 pandemic and negotiation of issues such as usable space, credit for the City's cleanup of the site, and the start date for rent payments. The lease requires Council approval due to its duration and the property size.¹

Key Lease Conditions

Airspace Lease

This is an airspace lease, rather than a ground lease, because the property is beneath WSDOT's I-5 and I-90 elevated access ramps. As such, SDOT may not excavate on the site, so as not to disrupt the bridge infrastructure. For the same reason, SDOT may only use the space up to 22 feet 7 inches above the ground, without WSDOT's prior approval.

Term of the Lease

The lease provides for an initial six-year term, starting retroactively on April 1, 2017, and it may be renewed for two additional five-year periods. Either party may terminate the lease with 30 calendar days prior written notice, for any reason.

¹ [SMC 3.127.020](#) authorizes the FAS Director to enter into lease agreements on behalf of other City departments which are less than five years in duration (this lease is six years, with two five-year extension options) and less than 18,000 square feet for unimproved land (lease covers 63,544 square feet).

Rent

SDOT must pay rent of \$14,900 per month, starting retroactively to January 1, 2021. The lease waives rental payments between April 1, 2017 and December 31, 2020 in exchange for rehabilitation and construction work performed by SDOT during that period. The monthly rent equates to about \$2.81 per square foot per year. As a comparison, SDOT currently leases the Charles Street property from WSDOT for its maintenance facility at a rate of about \$4.10 per square foot per year. WSDOT may increase the rent by two percent each year or by an amount supported by a market evaluation conducted by WSDOT.

Allowable Use

Exhibit B to the lease provides SDOT's operational plan for the site, which may only be used for storage of equipment and small amounts of construction related material.² SDOT is allowed to construct improvements including leveling, paving, electrical connections, fencing and landscaping. SDOT has already installed landscaping.

Environmental Requirements – Indemnification

WSDOT is indemnified against claims, causes of action, demands and liability associated with the removal or remediation of any hazardous substances released or found on the site or migrated from the site to adjacent WSDOT property caused by or resulting from SDOT's activities on the site. The lease certifies that WSDOT and SDOT have jointly examined the site and accept it in its present condition.

Security

SDOT must maintain or increase the existing level of security and must mitigate potential negative effects from proposed improvements to WSDOT's satisfaction.

Restoration of Premises

Prior to termination of the lease, SDOT must, if directed by WSDOT, restore the site to its condition prior to occupancy at the City's expense.

Budget Authority

SDOT has sufficient budget appropriation for all rent due through 2022. FAS will request budget authority for the pass-through payment in the mid-year supplemental budget. Appropriations for the 2023 rental payments will be included in the SDOT 2023 base budget.

cc: Esther Handy, Director
Aly Pennucci, Deputy Director
Brian Goodnight, Lead Analyst

² Equipment may include backhoes, pavers, excavators, rollers, asphalt grinders, dump trucks, trailers and message boards. Construction related material includes signage and steel forms.