

ORDINANCE No. 122477

COUNCIL BILL No. 115964

Richard J. McIver

The City of Seattle--Legislative Department

AN ORDINANCE authorizing the Fleets and Facilities Director for The City of Seattle to execute a lease between the City and Einstein and Noah Corp., a Delaware Corporation, for establishment of a bakery and café at City Hall.

Date Reported and Adopted _____

REPORT OF COMMITTEE

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____ report that we have considered the same and respectfully recommend that the same:

8-15-07 RJM DD JG Passed

9-4-07 Passed 60 (Excused: Conlin, Drago, Steinbreuch)

COMPTRROLLER FILE No. _____

Introduced: <u>8-6-07</u>	By: <u>McIver</u>
Referred: <u>8-6-07</u>	To: <u>Finance and Budget</u>
Referred:	To:
Referred:	To:
Reported: <u>9-4-07</u>	Second Reading:
Third Reading: <u>9-4-07</u>	Signed: <u>9-4-07</u>
Presented to Mayor: <u>9-5-07</u>	Approved: <u>9-7-07</u>
Returned to City Clerk: <u>9-7-07</u>	Published: <u>Title 2</u>
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Law Department

Committee Chair



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

July 24, 2007

Honorable Nick Licata
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am pleased to transmit the attached proposed Council Bill that authorizes the Fleets and Facilities Department to enter into a lease agreement with Einstein and Noah Corp. for a Noah's Bakery in City Hall. Noah's would provide a bakery/café in the vacant retail space on the plaza level at Fourth Avenue and Cherry Street.

The vision for City Hall contained in the 1999 Civic Center Master Plan includes retail tenants that help draw the public to the building. Location factors such as limited street frontage, certain City requirements such as signage restrictions, and potentially high build-out cost have made the Fourth Avenue and Cherry Street site difficult to market. Over the last three years, the City Council has authorized \$235,000 for improvements to finish the space to commercial retail standard. These improvements are currently underway and helped attract Einstein and Noah Corp. to the building.

Noah's Bakery is an established brand in Seattle that will complement and expand City Hall's appeal to the public. The company will spend approximately \$500,000 above the City's expenditure to design and build out an attractive eatery, which will enhance City Hall.

The proposed ten-year lease agreement, with two five-year extensions, will generate revenue to recover the City's contribution to improvement costs and provide City Hall visitors and the general public with bakery and café services. Thank you for your consideration of this legislation. Should you have questions, please contact Hillary Hamilton at 684-0421.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels", written over a circular stamp.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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ORDINANCE 122477

1
2 AN ORDINANCE authorizing the Fleets and Facilities Director for The City of Seattle to
3 execute a lease between the City and Einstein and Noah Corp., a Delaware Corporation,
4 for establishment of a bakery and café at City Hall.

5 WHEREAS, Resolution 29795, adopted July, 1998, provides guidance for the creation of a
6 Municipal Civic Center Master Plan, and

7 WHEREAS, the Civic Center Master Plan includes a goal of enhancing and creating a 24-hour
8 downtown and calls for City Hall to include retail, service and food vendors that provide
amenities and draw people to the building; and

9 WHEREAS, the Fleets and Facilities Department has sought retail tenants to provide food
10 services in the space located on the L-1 level in City Hall at the corner of Fourth Avenue
and Cherry Street; and

11 WHEREAS, Einstein and Noah Corp. seeks to lease space in City Hall at 600 Fourth Avenue for
12 the operation of a Noah's Bagel's bakery and café; and

13 WHEREAS, Einstein and Noah Corp. agreed to a Letter of Intent on January 19, 2007, as
14 amended on May 20, 2007, with the Fleets and Facilities Department identifying the
15 business terms of a lease; and

16 WHEREAS, SMC 3.18.160 requires City Council approval for Fleets and Facilities leases with
17 terms longer than five years; NOW, THEREFORE,

18 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

19 Section 1. As requested by the Fleets and Facilities Director and recommended by the
20 Mayor, said Director or her designee is hereby authorized to execute, for and on behalf of the
21 City of Seattle, a lease with Einstein and Noah Corp. providing for occupancy by Noah's Bagels
22 of a portion of the lower level of Seattle City Hall, 600 Fourth Avenue, Seattle, Washington.

23 Section 2. The Fleets and Facilities Director shall use a lease form prepared with the
24 assistance or advice of the City Attorney reflecting the terms outlined in the Letter of Intent, as
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26
27
28



1 amended (Exhibit A) , between Einstein and Noah Corp, with such minor additions, deletions
2 and modifications as the Director deems are in the City's best interest.

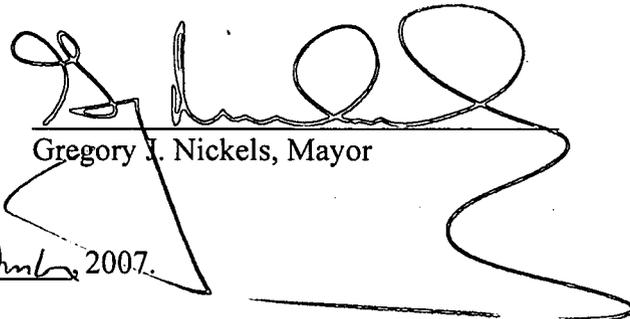
3 Section 3. Any act by the Fleets and Facilities Department consistent with the authority
4 of this ordinance taken prior to the passage of the ordinance is hereby ratified and confirmed.

5 Section 4. This ordinance shall take effect and be in force thirty (30) days from and after
6 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
7 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.
8

9
10 Passed by the City Council the 4th day of September, 2007, and signed by me in open
11 session in authentication of its passage this 4th day of September, 2007.

12
13 
14 President _____ of the City Council

15
16 Approved by me this 7th day of September, 2007.

17
18 
19 Gregory J. Nickels, Mayor

20
21 Filed by me this 7th day of September, 2007.

22
23 
24 City Clerk

25 Exhibit A - Letter of Intent, as amended

26 (Seal)
27
28

**Terms of the Letter of Intent (LOI)
between the City of Seattle and Einstein and Noah Corp.
for Retail Lease in City Hall
Original LOI executed January 19, 2007, amended LOI executed May 20, 2007**

LEASED

PREMISES: Northeastern corner of 4th Avenue and Cherry Street. The area shall be outlined on a site plan to be attached by Landlord which shall consist of 2,561 rentable sq. ft. Landlord to provide CAD drawings.

TENANT'S

TRADE NAME: Noah's New York Bagels.

LEASE TERM:

Ten (10) years base term, with two (2) five (5) year options to extend the term.

RENT SCHEDULE:

	<u>Sq Ft</u>	<u>Monthly</u>	<u>Annually</u>
Years 1-5	\$25.00	\$5,208.00	\$65,500
Years 6-10	\$28.00	\$5,833.33	\$70,000
Years 11-15	\$31.36	\$6,533.33	\$78,400
Years 16-20	market rate		

SECURITY

DEPOSIT: Tenant will pay a security deposit equal to \$7,500 on Lease execution.

CONTINUOUS

OPERATION: It is understood and agreed that Tenant will not enter into any form of continuous operation clause although the Tenant will be expected to be open minimum business hours of Mon-Fri 6am to 4 pm except for National and State holidays.

RADIUS

RESTRICTION: It is understood and agreed that Tenant will not enter into any form of radius restriction.

ANTICIPATED

POSSESSION: On or before May 1, 2007 (due to the City of Seattle ordinance require for the Lease). Landlord to provide at least sixty (60) days advance written notice of estimated possession date. In the event the Landlord does not deliver the premises by June 1, 2007 then Tenant will be



given two (2) days free rent for every day that premises are not delivered per the terms of this LOI and Lease. In addition, in the event that Landlord does not deliver the premises by July 1, 2007 then Tenant has the right to terminate the Lease upon written notice to Landlord.

RENT

COMMENCEMENT: Rent will commence (i) either ninety (90) days after Landlord has substantially completed Landlord's work as per Exhibit C (if applicable) and delivered possession of the space to Tenant, or (ii) the date Tenant opens for business.

TENANT

CONTINGENCIES: Tenant shall have ninety (90) days from signed Letter of Intent by both parties to complete all necessary due diligence, governmental approvals, licenses and necessary feasibility for Tenant's intended use of the premises.

**TENANT'S USE/
OPERATION:**

Tenant may use the leased Premises for the operation of a bakery/café restaurant or other food-related use, provided Landlord consents to such use, not to be unreasonably conditioned, withheld or delayed. Tenant acknowledges that this building is the ceremonial government building for the City of Seattle and the bakery/café restaurant must be appropriate for City Hall. Tenant's use shall include but not be limited to the preparation and sale of bagels, breads and other baked goods, drip and gourmet coffee, whole bean coffee, espresso based drinks, specialty teas, hot and cold sandwiches, soups and salads, wraps, bagel melts, pizza bagels, pretzels, soft drinks, fruit/juice drinks, frozen drinks and dessert items all for in-store consumption, take-out or delivery.

**EXCLUSIVE
RIGHTS:**

During the Term, Landlord shall not sell or lease any portion of the building, other than the Premises, to any company or person whose primary business is a "quick casual" or "quick serve" bakery café, which includes, without limitation, the retail sale of bagels, breads, pastries and related bakery products in a "quick casual" or "quick serve" format for on or off premises consumption (the "Restricted Use"). In addition, it is understood and agreed that the Restricted Use shall preclude, without limitation, concepts such as "Panera Bread", "Bruegger's Bagels", "Corner Bakery", "COSI" and "Atlanta Bread Co.", as well as other similar "quick casual" or "quick serve" concepts. The parties agree that for purposes hereof, Primary Business shall mean that at least ten percent (10%) of the respective tenant's gross sales are from the sale of bakery items, such as breads, bagels, pastries, sandwiches or related bakery products, However,

other tenants in the Building will have the right to sell these items as an incidental use to their primary business. The coffee cart in the upper lobby may stay.

COMMON AREA EXPENSES:

No property taxes, property insurance or CAM's will be charged to the Tenant for the Lease on the Premises. The Tenant will pay Leasehold Excise Tax in lieu of property taxes, as required by Washington State Law. The current Leasehold Excise Tax rate is 12.84 percent of the rent paid for the Premises. In addition, the Tenant will pay all utilities and services directly metered or attributable to the space on a prorate basis.

TAXES AND INSURANCE:

See above.

DELIVERY CONDITIONS:

Landlord shall deliver the Premises As Is with some additional work as described in attached Exhibit C no later than sixty (60) days from Lease execution.

TENANT IMPROVEMENT ALLOWANCE:

In addition to those improvements as outlined in the attached Exhibit C, Landlord shall provide Tenant an allowance in the amount of twenty five dollars (\$25.00) per sq ft of leased space, which shall be paid to Tenant within ten (10) days of Tenant's opening for business and the delivery to Landlord of unconditional lien waivers for Tenant's work. The Landlord will have the TI's go to work they consider long term value to the Premises.

WAIVER OF LANDLORD'S LIEN:

Landlord agrees to waive its statutory lien rights with respect to Tenant's fixtures, equipment, personal property and inventory.

ASSIGNMENT/ SUBLETTING:

Tenant shall have the unrestricted right to assign or sublet its interest in the lease to an affiliated entity operating a bakery/café restaurant. Upon Landlord's reasonable consent, Tenant may assign or sublet its interest in the Lease to a third party. In either case, these rights are subject to Landlord's reasonable approval for a use that is appropriate for the City Hall. Tenant agrees to take a guarantor position, if such assignment or sublet is approved. Any assignment to a non-bakery/café is subject to Landlord's sole discretion, due to the nature of this location as the ceremonial City government building.



SIGNAGE: Tenant shall be entitled to install its standard signs and logos on the building in accordance with the building sign criteria and Landlord will approve Tenant's standard signage. Landlord will provide Tenant approved sign criteria within thirty (30) days of lease execution. Attached is a list of signage opportunities that the City will consider.

MAINTENANCE: Tenant shall repair and maintain the leased premises in good tenantable condition, except that portion of the leased premises to be maintained by Landlord. Landlord shall repair and maintain in good and tenantable condition the roof (including membrane), foundation, exterior and structural portions of the building, demising walls, floor slab, pipes and conduits outside the leased premises and any retail glass, provided by Landlord.

UTILITIES: Tenant shall pay its own utilities and Landlord shall provide separate metering or will prorate the utilities for the same. Tenant will be responsible for the maintenance and operation of the sewer ejection pump.

NON-DISTURBANCE: Landlord shall obtain non-disturbance agreements from all existing lien holders in form satisfactory to Tenant prior to Tenant taking possession of the premises. Tenant acknowledges there are no lien holders on the City Hall building.

OTHER ITEMS: None.

BROKER COMMISSION: Landlord shall be responsible for payment of a real estate commission payable to Dan McGinnis and Gretchen Hamm of CB Richard Ellis, and Tom Graff and Damian Sevilla of Ewing and Clark upon successful completion of this transaction. Said commission shall be 6%, 3% split to each Broker for years 1 - 5 and 3%, 1.5% split between each broker for years 6 - 10 of the base term. Landlord further agrees to hold Tenant harmless against any and all brokerage claims. Tenant acknowledges that it has not utilized a broker in this transaction except Dan McGinnis and Gretchen Hamm.

CONFIDENTIALITY: The terms of this letter shall be strictly confidential and neither party shall disclose or divulge to any third party, except for each party's lenders, attorneys, brokers and financial advisors. For a period of sixty (60) days, Landlord and Tenant shall each negotiate with the other in good faith to execute a lease agreement. During that period, Landlord shall not negotiate or enter into a letter of intent or agreement to lease all or a part of the leased premises to any third party other than Tenant. Each party reserves the right to terminate

this letter and all negotiations without cause at any time after that period.

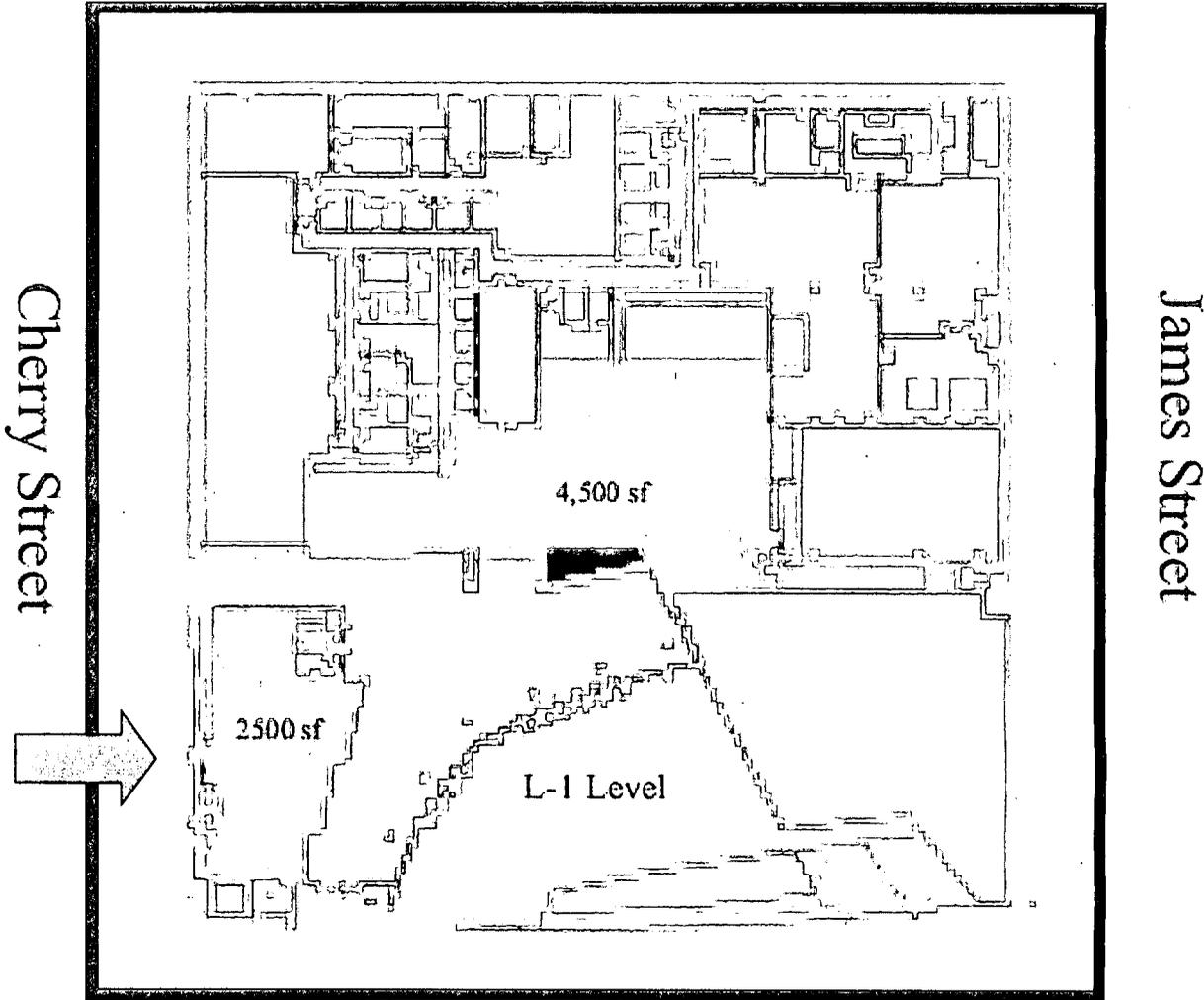
This letter is neither contractual in nature, nor an offer, but is an expression of the principal terms proposed by both parties to enter into a lease agreement. Only a fully executed lease shall constitute a lease for the premises. Except for the obligations in the "Confidentiality" section above, neither Landlord nor Tenant shall have any obligation to one another until they both have signed a lease.

Attachments: Site Plan
 Exhibit C



Site Plan (for location purposes only)

5th Avenue



4th Avenue

EXHIBIT C

I. LANDLORD'S WORK

Building Shell

1. Structure
 - a) Floor – Level clean concrete slab, ready for tenant finish. Concrete to be free of any curing compounds or sealers.
 - b) Demising Partitions – All demising walls to be constructed per code, sheet rocked and taped on tenant's side up to the roof structure.
 - c) Storefront/Service Doors - One (1) set of double doors or single entry door with side window panels to align with the red glass doors in the south wall to be provided in a mutually agreeable location agreed upon by Tenant and Landlord. If required by local municipalities, Landlord shall provide a second set of doors, landings, ramps and sidewalks to satisfy any emergency egress due to use of premise or size. Hardware on all Landlord installed doors will meet building code and ADA codes. Building standard window system, double pane glass, including a front door directly to 4th Avenue.
 - d) Restrooms – Two common ADA handicapped accessible bathrooms available for customers during working hours sized for Tenant's use. Security arrangements will be coordinated by Fleets and Facilities.
 - e) HVAC – Landlord shall provide one (1) ton per 150 square feet. Minimum of two units ducted to space. Location of units to be coordinated with Tenant's plans to avoid conflict with Tenant's exhaust fans. All electrical and plumbing connections (including power from tenants panel, gas pipe and condensate drain) installed per code and manufacturers specifications. All supply and return drops into premises. No distribution.
 - f) Exhaust – Landlord shall provide clear access to exterior for Tenant's oven exhaust (minimum of two exhaust ducts) at sites to be determined. Landlord to have approval over design and camouflaging of any exhaust equipment located on roof.
 - g) Signage - Landlord to provide conduit and "j" box to sign band for each sign elevation available if appropriate.
 - h) Satellite Dish –

- i) Architectural lighting – Architectural lighting on outside storefront (this work has been completed)

2. Utilities

- a) Plumbing – Landlord to provide 1- 1/2” domestic water supply line stub-out into leased space, with shutoff valve, backflow, and pressure reducing valve assembly if required by code. If permitted by city, separate water meter to be provided for leased space or at Landlord’s cost, sub-meter water meter to Tenant’s space. Landlord to provide sewage injection pump (installed) with stub-out; maintenance to be responsibility of Tenant.
- b) Gas – Gas meter and natural gas service to tenants leased space sized at 2,600 MBTUH and a 1 ½” gas line. Meter to be installed at time of turnover.
- c) Grease Trap – If required, Tenant will install.
- d) Electrical Service – Landlord shall provide one (1) separately metered 400 amp 102 volt / 208 volt 3 phase service connected to main building or local utility company power supply. Service will include disconnect, CT block, meter and any items required by code. Landlord to install 400 amp panel with (2) 200 amp sub-panels at location specified by Tenant.
- e) Telephone – Landlord to provide and install 2” conduit with pull wire from main phone service and stubbed to Tenant’s specified location.
- f) Fire Sprinkler System – Landlord to provide code approved fire protection / sprinkler system as required by code.
- b) Waste – Landlord shall provide a suitable dumpster location to adequately service Tenant.

II. SPECIAL CONDITIONS

Landlord shall be responsible for all utility, traffic signal, water, sewer, storm water or other tap fees, permit fees, impact fees and plant investment fees charged or incurred upon or in connection with the Landlord’s Work described herein.



III. LOI AMENDMENT DATED APRIL 25, 2007, AGREED TO BY EINSTEIN & NOAH, INC. ON May 20, 2007

1. City authorizes and will pay for relocation of Tenant's demising wall to the Lobby per proposal from Tenant dated April 18, 2007 , or per mutual agreement to a modified design providing a southern edge mirroring the curvilinear wall of the 4th Avenue Lobby.
2. Tenant to pay rent on additional store area created by the relocation of the demising wall as specified in the proposed lease. Additional area estimated to be approximately ___ square feet. Final calculation of store area will be made per the terms of the proposed City lease.
3. Tenant shall receive a rent credit (abatement) of 15% off the base rent plus leasehold excise tax each month that a coffee cart is operating in City Hall.
4. The Landlord will complete the following improvements to the 4th Avenue Lobby prior to Tenant's opening for business at Landlord's expense:
 - (a) Paint or sheathe the columns by the red glass wall.
 - (b) Provide furniture (six tables/twelve chairs, or more at Landlord's discretion) in the 4th Avenue Lobby
 - (c) Add approximately six plants in 18-24' pots.
 - (d) Add lighting to neutralize the red glow cast by the southern glass lobby wall and separately, add pendant or wall-mounted fixtures to increase lighting over Lobby seating area to approx. 15-20 foot-candles.
 - (e) Stamp and/or stain the lobby floor.
 - (f) Add more glazing to the Tenant's demising wall to the Lobby in addition to windows and doors the Landlord is installing as part of Landlord's work.
 - (g) Permit Tenant to add a door to the demising wall to the Lobby for deliveries.
 - (h) Subject to City building and fire code, permit Tenant to remove door to north corridor at Tenant's discretion.
 - (i) Add art work subject to approval of Seattle Arts and Cultural Affairs Office.



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Fleets & Facilities Dept.	Hillary Hamilton / 4-0421	Ellen Schroer / 3-7841

Legislation Title:

An ordinance authorizing the Fleets and Facilities Director for The City of Seattle to execute a lease between the City and Einstein and Noah Corp., a Delaware Corporation, for establishment of a bakery and café at City Hall.

• **Summary of the Legislation:**

This legislation authorizes the Fleets and Facilities Department (FFD) to enter into a lease agreement with Einstein and Noah Corporation (a subsidiary of New World Restaurant Group, Inc.) for a Noah's Bakery in City Hall. Noah's Bakery would provide a bakery/café in the vacant retail space on the plaza level of City Hall at Fourth Avenue and Cherry Street. The lease requires legislation, because the length of the lease term exceeds FFD's statutory authority for leasing under Seattle Municipal Code 3.18.160.

• **Background:**

TENANT SELECTION CRITERIA

In 1997-1998, the City Council passed a series of resolutions to guide development of the Municipal Civic Center. Resolution 29789 authorized development of a Civic Center Master Plan that was completed in June, 1999. The Plan's vision for City Hall included retail tenants to help draw the public to the building.

In 2002, the Client Group established program and business objectives for City Hall and criteria for tenant selection. One objective is to attract self-sustaining businesses that have histories of sufficient revenue generation. One selection criteria is that tenants should be unique enterprises or ones with regional and/or national corporate identities that reflect the dignity of the building entrance. These enterprises should foster extended use of the building and plaza beyond the standard work day.

LEASING STRATEGY

The space to be leased under this legislation consists of approximately 2,806 rentable square feet of retail space on the plaza level of City Hall at the Northwest Corner of Fourth Avenue and Cherry Street. The site has limited frontage and certain signage restrictions and is not yet finished to the standard found in most commercial retail or mixed use buildings.



In 2005, Ordinance 121882 authorized \$116,000 to finish walls and interior partitions, build out storefront doors, and provide limited mechanical and electrical improvements that brought the space closer, but not yet equal, to commercial leasing standard. These improvements supported a leasing strategy developed by retail specialist Tom Graff, President of Ewing & Clark, Inc. However, the financial burden to prospective tenants to build out the space still remained higher than market, and no tenant was found. In 2006, Ordinance 122226 authorized an additional \$125,000 from the Cumulative Reserve Subfund-Real Estate Tax I Subaccount (00163) to finish the space to commercial retail standard, and that work is currently underway.

AGREEMENT

Ewing & Clark, Inc. and FFD searched for a tenant for over two years before securing an agreement with Noah's Bagels. Noah's is a registered trademark of Einstein and Noah Corp., a wholly-owned subsidiary of New World Restaurant Group (NWRG), a publicly-traded corporation. NWRG is the largest operator of bagel bakeries in the U.S, with 639 company-owned, licensed and franchised locations in 34 states and the District of Columbia. Noah's is headquartered in Walnut Creek, California and in Golden, Colorado. Noah's has over 70 restaurants located in the major markets of California, Oregon and Washington. Locally, Noah's has stores in Capitol Hill, Queen Anne, University Village QFC, Mercer Island and Kirkland.

The proposed lease has an initial ten-year term, with two five-year options. The lease rate for the initial five-year term is \$25 per square foot per year and is reflective of market rates for retail space in downtown Seattle. Those market rates range from \$18 to \$30 per square foot per year. The tenant will pay leasehold excise tax of 12.84% to be passed on to the State of Washington in lieu of property tax. The tenant will also pay all utilities and services directly metered or attributable to the space on a prorated basis. No common area expenses are passed on to the tenant.

An independent coffee cart is currently located in City Hall and competes with Noah's for coffee sales. While this condition exists, the City will credit Noah's an amount equal to 15% of the monthly rental amount.

Partly due to the difficulty in attracting a qualified tenant for the space, the City will provide Noah's with a \$70,154 (\$25 per square foot) tenant improvement (TI) allowance. FFD will reallocate resources available within the Civic Center Fund to fund this TI allowance. Noah's estimates that it will spend up to \$500,000 on its build-out, in addition to the \$70,154 allowance provided by the City.

X This legislation has financial implications.

Appropriations: None

Notes: No appropriations are required under this legislation. The 2007 expenditures shown in the **Spending/Cash Flow** table will be paid from FFD's existing 2007 budget authority and associated cash balances.

Anticipated Revenue/Reimbursement: Resulting From This Legislation:

Fund Name and Number	Department	Revenue Source	2007 Revenue	2008 Revenue
Fleets and Facilities Operating Fund (50300)	FFD	Lease Payments	\$14,907	\$59,628
TOTAL			\$14,907	\$59,628

Notes: 2007 Revenue reflects only three months of rent, because the anticipated Rent Commencement Date is October 1st. Per the lease, the Tenant begins paying rent ninety (90) days following lease execution and substantial completion of the Landlord's improvements.

Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE Impact:

Notes: No positions are created or abrogated through this legislation.



Spending/Cash Flow:

Fund Name and Number	Department	Budget Control Level*	2007 Expenditures	2008 Anticipated Expenditures
Municipal Civic Center Non-bond Subfund (34225)	FFD	Civic Center Master Plan (A34200-2)	\$70,154	\$0
Fleets and Facilities Operating Fund (50300)	FFD	Facility Operations (A3000)	\$32,830	\$0
TOTAL			\$102,984	\$0

Notes: Expenses include 1) a tenant improvement allowance and 2) broker's commission. The tenant improvement allowance is \$70,154 (\$25 per square foot), payable in 2007 or within ten days of the tenant's opening for business. The total broker's commission is approximately \$32,830 (calculated at 6% of the value of the lease for the first five years, and 3% of the value of the lease in years six through ten). The City will pay this commission to Ewing & Clark, who will then split the total commission with the broker representing Einstein and Noah Corp. One-half of the total commission is to be paid upon execution of the lease, and the remaining one-half of the total commission is to be paid upon occupancy by the tenant. Both the tenant improvement allowance and broker commission are one-time expenses that do not recur in 2008.

What is the financial cost of not implementing the legislation?

The cost of not implementing the legislation is foregone revenue from not leasing the Noah-specific retail space in City Hall.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

No viable alternative tenants have been identified. Since construction, the retail space at Fourth Avenue and Cherry Street has been difficult to rent. Prospective tenants must reflect the civic nature of City Hall and are screened according to City selection criteria. In addition, location factors and potential build-out cost have restricted site marketability. For example, the Columbia Center normally covers all costs of building out retail spaces, providing that building with a substantial competitive advantage over City Hall.

Is the legislation subject to public hearing requirements:

No public hearings are required.

Other Issues

None.

Please list attachments to the fiscal note below:

None.

STATE OF WASHINGTON – KING COUNTY

--SS.

215478
CITY OF SEATTLE, CLERKS OFFICE

No. TITLE ONLY

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122476-478,80-82

was published on

09/14/07

The amount of the fee charged for the foregoing publication is the sum of \$ 76.73, which amount has been paid in full.



Samela Oglesky

Subscribed and sworn to before me on
09/14/07
[Signature]

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on September 4, 2007, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us/>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 122482

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payments thereof.

ORDINANCE NO. 122481

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 122480

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payments thereof.

ORDINANCE NO. 122478

AN ORDINANCE relating to City employment commonly referred to as the Second Quarter 2007 Salary Ordinance; designating three positions as exempt from Civil Service status; and authorizing creation of ten Apprentice positions; all by a 2/3 vote of the City Council.

ORDINANCE NO. 122477

AN ORDINANCE authorizing the Fleet and Facilities Director for The City of Seattle to execute a lease between the City and Einstein and Noah Corp., a Delaware Corporation, for establishment of a bakery and cafe at City Hall.

ORDINANCE NO. 122476

AN ORDINANCE relating to the Department of Neighborhoods; authorizing implementation of certain Neighborhood Matching Fund (NMF) projects in 2007; authorizing the allocation of unspent funds from 2003 and 2004 to fund NMF projects in 2007; authorizing the administration and execution of Neighborhood Matching Fund public works projects or contracts; and authorizing and providing that 2007 appropriations for the Neighborhood Matching Subfund shall carry forward automatically to future budget years.

Publication ordered by JUDITH PIPPIN,
City Clerk

Date of publication in the Seattle Daily
Journal of Commerce, September 14, 2007.
9/14/215478