

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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September 3, 2013

Donald W. McClintock
Ashburn & Mason, P.C.
1227 W. 9th Ave., Ste. 200
Anchorage, AK 99501

Dear. Mr. McClintock:

Please find as follows a section-by-section response to your August 30, 2013, 11:51 a.m. draft Lease. Unless otherwise noted we agree with your proposed changes subject to AHFC's review and approval as our technical advisor in construction and leasing matters.

P. 3, 1.1(b): Current AS 36.30.083 only allows a 10-year extension of the Lease. Your proposed end date of May 31, 2024, exceeds the authority in AS 36.30.083 to extend for 10 years.

P. 3, 1.1(c)(2): Currently there is no interim office space discussion or space identified in Exhibit B. Given the anticipated deadline for signing this Lease, this matter must be addressed expeditiously so the Agency and Legal Services can review it.

P. 3, 1.1(c)(2)(ii): We propose the following language as a substitute for yours: The base monthly rental rate paid on November 1, 2013, per the provisions of Renewal of Lease Number 5.

P. 4, 1.2: First paragraph: This section does not fully state the language of AS 36.30.083. We request that AHFC state the exact language of AS 36.30.083(a).

P. 4, 1.2: Second paragraph: I would prefer that the first sentence read: "Under AS 36.30.083(a), Legislative Council has approved the extension of this Lease as legally required."

P. 5, Sec. 3: The payment under this section of the Lease by the Lessee is not for renovation of the premises, but is for "tenant improvements" as provided in Exhibit A. I note that tenant improvements at this point have not been adequately addressed in Exhibit A by the Lessor and AHFC.

P. 8, Sec. 8: Based on the versions of Exhibits A and B, there is no provision for window covering requirements. A section needs to be added to either Exhibit A or B, or both, to

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address this oversight. We also request that window coverings will be replaced every 10 years or sooner if reasonably required under the terms of the Lease as set out in Exhibits A and B.

P. 9, Sec. 9: Exhibits A and B, or both, need to contain a section or sections addressing floor covering requirements. Currently, only the Lease itself addresses floor coverings.

P. 9, Sec. 10: Exhibits A and B identify the importance of sound proofing. However, neither exhibit identifies the standard of sound proofing. A standard suitable to AHFC and the Chair of Legislative Council must be addressed and included.

P. 9, Sec. 11: Exhibits A and B do not discuss partition requirements to a sufficient level of detail. The Agency's experience is that partition requirements in conjunction with acoustical requirements are critical to our legislator clients and must be addressed by AHFC and included in these exhibits in sufficient detail so that the Chair of Legislative Council can approve the Lease.

P. 10, Secs. 12 and 13: Exhibits A and B are deficient and do not adequately discuss painting and door hardware requirements. AHFC needs to address this matter with the Lessor.

P. 10, Sec. 15: Currently the parking provided in the current Lease is 86 parking spaces. Exhibit A confirms this count. At p. 3, Sec. 1.1(a), the Lease suggests there are 103 parking spaces. In the Agency's view, the garage is not capable of reasonably being striped for 103 spaces, and the Lease should be modified to reflect 86 parking spaces.

P. 10, Sec. 15: Signage requirements for the parking area need to be added to Exhibits A and B.

P. 11, Sec. 21: Same comment as with regard to sec. 15.

In addition, we request that after "not the responsibility of Lessor." that the clause, "as provided in sections 4(a), 8, 9 and 12, and as provided in Exhibits A and B," be included.

P. 14, Sec. 33: After reviewing the changes made from "reasonable time" in the draft Lease provided by Legal Services and amended by AHFC (v. 8/19/13), we request that the 30-day provisions added to this section be returned to "reasonable time." The basis for this request is that "reasonable time" is a flexible standard that allows for a shorter response by the Lessor to a heating or plumbing problem in contrast to a less time sensitive matter.

P. 18, Sec. 36: The changes to Sec. 36 in v. 8/29/13 (A & M) do not, in my judgment, adequately address the protection of either party, especially the Lessee. I note that Legal Services' Draft 3, Sec. 36, included substantial discretion for the supply and procurement officer to resolve delay issues in a collaborative way with the Lessor. I request that the

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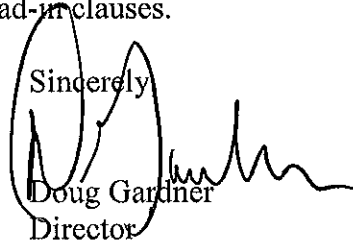
Delay in Performance provision, in Legal Services' proposed Lease, Draft 3, be put back in the Lease in place of the Lessor's proposed language.

P. 18, Sec. 37: Editing note: Second to last line, there are two periods following the reference by section (1)(d).

P. 20, Sec. 43: Editing note: In the second to last line, there should be a space between "Term" and "as." Note also that the phrase "Notwithstanding the above rights to terminate" needs to be included in the Lease, with the addition of "by the legislature" after non-appropriation. I hope that this change addresses the Lessor's concern.

P. 21, Sec. 49: After "Lessee takes occupancy," insert "provided that AHFC has inspected the Premises for compliance with all the terms and specifications in Exhibits A and B of the Lease and provided a written recommendation to the Chair of Legislative Council and the Executive Director of compliance."

Clean-up: Secs. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 22, 23, 24, 25, 30, 31, and 33, all included two colons after the lead-in clauses.

Sincerely

Doug Gardner
Director

DDG:plm
13-078.plm

cc: Representative Mike Hawker
Pamela Varni
Nola Cedergreen
Mike Buller
Doc Crouse