

Bill No. 2644-06

No. 16-06-02

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania authorizing the County to enter onto a new lease agreement for premises it currently occupies in the County's portion of the City-County Building.

Whereas, the County of Allegheny (hereinafter "County") has the obligation to provide office space to the Allegheny County Bar Association (hereinafter "ACBA") necessary for the public services provided by the ACBA pursuant to 42 Pa.C.S.A. §3721(a)(7); and

Whereas, County currently leases 6,000 rentable square feet on the 9th floor of the City-County Building to the Allegheny County Bar Association for the aforesaid purposes under a ten (10) year lease agreement from September 1, 1995 to August 31, 2005; and

Whereas, the County and the ACBA desire to enter into a new lease agreement effective September 1, 2005 whereby the County will continue to lease to ACBA the space it occupies on the 9th floor of the City-County Building for an additional five (5) years effective September 1, 2005 for a rent of \$1,750.00/month (\$21,000.00/year) full service per the terms and conditions of the lease attached hereto, marked Exhibit "A" and incorporated herein (hereinafter the "Lease"); and

Whereas, Article IV Section 2(k) of the Allegheny County Home Rule Charter vests County's Council with the power and duty by ordinance to approve the lease or use of County owned property.

The Council of the County of Allegheny hereby enacts as follows:

Section 1. Incorporation of the Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

Section 2 Authorization To Lease County Owned Property.

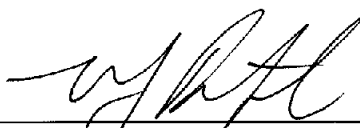
A. The County Council of Allegheny County hereby does approve the terms and conditions of the Lease. The appropriate County officers and officials are authorized to execute the Lease and any other documents required under the Lease and take such other action as is necessary to carry out the purpose of the authorization granted herein.

Section 3. Severability. *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.*

Section 4. Repealer. *Any resolution or ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Resolution.*


Enacted in Council, this 5th day of July, 2006.

Council Agenda No. 2644-06.



Rich Fitzgerald
President of Council

Attest:



John Mascio
Chief Clerk of Council

Chief Executive Office

July

11


, 2006.

Approved:



Dan Onorato
Chief Executive

Attest:



Donna Beltz
Executive's Secretary

SUMMARY

The County is required to provide "accommodations and supporting facilities and services" to the offices of the Allegheny County Bar Association ("ACBA") "necessary for public services performed by the bar association," pursuant to 42 Pa.C.S.A. § 3721 (a) (7).

The ACBA has occupied its space on the 9th floor for over 30 years and entered into a 10 year lease agreement with the County commencing September 1 1995 whereby the ACBA agreed to pay the County rent in order to offset operating expenses as follows:

9/1/1995-12/31/1995 - \$ 2,500.00 (\$625.00/mth)
1/1/1996-8/31/2000 - \$12,000.00/year
9/1/2000-8/31/2005 - \$15,000.00/year

The County and ACBA have agreed to enter into a new five (5) year lease commencing 9/1/2005 for the same space on the 9th floor of the City County Building the ACBA has historically occupied at a new rent of \$21,000.00/lease year (\$1,750.00/month) per the term and conditions as more particularly set forth in the lease agreement which is attached to the Ordinance as Exhibit "A".

LEASE

This agreement (hereinafter the "Lease") made and entered into as of the first day of December, 2005, between the COUNTY OF ALLEGHENY, a political subdivision of the Commonwealth of Pennsylvania, hereinafter referred to as "Lessor",

A
N
D

THE ALLEGHENY COUNTY BAR ASSOCIATION, 400 Koppers Building, Pittsburgh, Pennsylvania 15219, hereinafter referred to as "Lessee" or "Bar Association."

WITNESSETH:

WHEREAS, the Lessor, in its capacity as a County has the obligation to provide offices for the Bar Association necessary for public services performed by the Bar Association pursuant to the Judiciary Repealer Act, Section 3721(a)(7); and

WHEREAS, the Lessor currently leases to Lessee 6,000 rentable square feet of space on the 9th Floor of the City-County Building, (hereinafter the "Building") under Lease Agreement No. 35254; and

WHEREAS, Lessor and Lessee desire to renew the lease per the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties do hereby covenant to and with each other as follows:

1. Lessor hereby grants a lease and Lessee hereby accepts a lease of a portion of the 9th Floor of the City-County Building containing approximately 6,000 rentable square feet (hereinafter the "Leased Premises"), which is presently occupied by Lessee.

2. (a) Lessor and Lessee agree that the term of this Lease is for five (5) years beginning September 1, 2005 through August 31, 2010 (hereinafter the "Term").

(b) Lessee shall have the privilege to terminate this Lease at any time during the Term by giving to the Lessor a sixty (60) day written notice to cancel and at the expiration of said sixty (60) days, this Lease is to terminate.

3. (a) Lessee hereby agrees to pay as rent to Lessor the sum of TWENTY ONE THOUSAND (\$21,000.00) DOLLARS per lease year, in twelve equal monthly installments of \$1,750.00/month by the tenth (10th) day of each calendar month, without demand or setoff.

(b) Lessee further covenants to pay as Additional Rent, any and all other sums that may become due by Lessee under the covenants, terms and conditions of this Lease.

4. INTENTIONALLY DELETED

5. Except as otherwise set forth herein, Lessee agrees that Lessor shall be under no obligation to rebuild, replace, or alter the Leased Premises during the Term or any renewal thereof.

6. Lessor will make all repairs necessary to maintain the plumbing, air conditioning and electrical systems, windows, floors (excluding floor covering), and all other items which do not constitute a part of the Leased Premises and are installed or furnished by Lessor, except repairs of Lessee's trade fixtures and property and installations which Lessee was obligated to make or which were performed by Lessor or others at Lessee's request. It is provided, however, that Lessor shall not be obligated for any of such repairs until the expiration of a reasonable period of time after receipt of written notice from Lessee that such repairs are needed. In no event shall Lessor be obligated under this Paragraph to repair any damage caused by any act, omission or negligence of the Lessee or its employees, agents, invitees, licensees, subtenants, contractors, subcontractors or assignees.

Lessor shall not be liable by reason of any inconvenience, injury to, or interference with Lessee's business arising from the making of any repairs, alterations, additions or improvement in or to the Leased Premises, the land or the Building or to any appurtenances or equipment therein unless such inconvenience, or injury or interference shall be occasioned by the negligence or intentional acts of the Lessor, its agents, servants, and/or employees. Lessor covenants to use its reasonable efforts to implement such repairs, alterations, additions or improvements in a timely and expeditious manner.

7. Building Services. Lessor shall provide, within its standards on each item, and without any charge other than the rent reserved in section 3(a) the following services and facilities:

(a) Heat (to the extent reasonably possible utilizing existing equipment) as, in the option of Lessor, is required by weather conditions. Lessor shall not be liable for any failure, not due to Lessor's negligence, to supply heat.

(b) Janitorial service as currently supplied;

(c) Elevator services;

(d) Electricity for illumination, air conditioning and normal 110v office machines.

(e) Cooled air (to the extent reasonably possible utilizing existing equipment) as, in the opinion of Lessor, is required by weather conditions. No cooled air shall be provided to storage areas;

(f) Water and lavatory services.

8. Lessee's Affirmative Covenants. Lessee covenants and agrees that it will, at its own cost and expense:

(a) Care of Leased Premises – take good care of the Leased Premises

and the fixtures and appurtenances therein. Lessee shall, at its sole cost and expense, repair and replace all damage or injury to the Leased Premises and Building and to fixtures and equipment caused by Lessee or its employees, agents, invitees, licensee, subtenants, contractors, subcontractors, or assignees as the result of all or any of them moving in or out of the Building or by installation or removal of furniture, fixtures or other property, which repairs or replacements shall be in quality and class equal to the original undamaged condition other than normal wear and tear. If Lessee fails to make such repairs or replacements after sixty (60) days prior written notice, the same may be made by Lessor and such expense shall be collectible as Additional Rent and paid by Lessee within fifteen (15) days after rendition of a bill therefore.

(b) Conditions at Surrender – at the expiration or other termination of the Term hereof, surrender the Leased Premises in the same condition in which Lessee has herein agreed to keep the same during the Term of this Lease (normal wear and tear and damage by fire or casualty excepted);

(c) Requirements of Public Authorities – promptly fulfill and comply with all laws, ordinances, regulations and requirements of the City, County, State and Federal Governments and any and all departments thereof having jurisdiction over the Building, relating to the Leased Premises, Lessee's occupancy of the Leased Premises or the business conducted therein and comply with all new rules, orders and regulations of the National Board of Fire Underwriters or Lessor's fire insurance rating organization or other bodies having similar functions in connection with the prevention of fire or the correction of hazardous conditions, which apply to the Leased Premises;

(d) Fire Precaution – use every reasonable precaution against fire and notify Lessor of any condition which may have a negative impact on fire security or safety;

(e) Accident – give to Lessor prompt written notice of any accident, fire or damage occurring on or to the Leased Premises;

(f) Use - use the Leased Premises only for the purposes of carrying out the functions and duties of the Bar Association and activities and programs reasonably related to those functions and duties and for the activities necessary for public services performed by the Bar Association.

9. Lessee's Negative Covenants. Lessee covenants and agrees that it will not do any of the following things without Lessor's prior written consent:

(a) Signs – place or allow to be placed any stand, booth, sign, or showcase or device or projection of any kind upon the doorsteps, vestibules or outside walls, pavements or windows of the Leased Premises or Building which consent shall not be unreasonably withheld or delayed;

(b) Alterations – make any alterations, improvements, or additions to the Leased Premises. All existing alterations, improvements, additions or fixtures shall remain upon the Leased Premises upon termination of this Lease and shall

become the property of Lessor. All new alterations, improvements, additions or fixtures, installed after the signing of the Lease, shall remain upon the Leased Premises at the expiration or sooner termination of this Lease and shall become the property of Lessor, unless Lessor, shall have agreed with Lessee in writing at or prior to installation of the alternations, improvements and additions that Lessee will remove such in which event Lessee, at its sole cost and expense, will remove such alterations, improvements and additions and restore the Leased Premises to the same good order and condition in which they were prior to the commencement of this Lease (normal wear and tear and damage by fire or casualty excepted);

(c) Machinery – use or operate any machinery that, in Lessor's opinion, is harmful to the Building or disturbing to Lessor, City of Pittsburgh or other tenants or occupants of the Building;

(d) Floor Loads – place any weights in any portion of the Leased Premises beyond the safe carrying capacity of the Building;

(e) Fire Insurance – do or suffer to be done, any act, matter or thing objectionable to any insurance company covering the Leased Premises or any part thereof, or cause such insurance to become void or suspended, or cause the Building to be rated as a more hazardous risk than at the date of execution of this Lease, or employ any person or persons objectionable to such fire insurance company or carry or have any hazardous or explosive matter of any kind in and about the Leased Premises;

(f) Flammable Materials – use or keep in the Building any kerosene, gasoline, or inflammable, toxic, flammable or other hazardous substances, or use any method of heating other than that supplied by Lessor.

10. Defaults/Remedies.

(a) Event of Default Defined. Any one or more of the following events shall constitute an Event of Default:

(1) The sale of Lessee's interest in the Leased Premises under attachment, execution or similar legal process.

(2) The filing of a petition proposing the adjudication, covenant or any guarantor of Lessee's obligations hereunder as a bankrupt or insolvent or the reorganization of Lessee or any such guarantor or an arrangement by Lessee or any such guarantor with its creditors, whether pursuant to the Federal Bankruptcy Act or any similar federal or state proceeding; unless such petition is filed by a party other than Lessee or any such guarantor and is withdrawn or dismissed within thirty (30) days after the date of its filing.

(3) The admission in writing by Lessee or any such guarantor of its inability to pay its debts when due.

(4) The appointment of a receiver or trustee or trustee for the business or property of Lessee or any such guarantor, unless such appointment shall be vacated within ten (10) days of its entry.

(5) The making by Lessee or any such guarantor of an assignment for the benefit of its creditors.

(6) The failure of Lessee to pay any Rent, Additional Rent, or other sum of money within thirty (30) days after the same is due hereunder.

(7) Any assignment or subletting of the Leased Premises (or any portion thereof) which is not in strict compliance with Paragraph 18, herein.

(8) Failure by Lessee in the performance or observance of any covenant or agreement of this Lease, which failure is not cured within thirty (30) days after the giving of notice thereof by Lessor, unless such failures of such nature that it cannot be cured within such thirty (30) day period, in which case Lessor shall not exercise the remedies described below so long as (i) Lessee shall commence the curing of the default within such thirty (30) day period (ii) Lessee shall thereafter diligently prosecute the curing of same and (iii) Lessee shall complete curing such failure within sixty (60) days after such initial notice by Lessor of such failure.

(9) Lessee should default in performance of any other particular covenant of this Lease more than three (3) times in any period of twelve (12) months, then, notwithstanding that such defaults shall have each been cured within the period after notice as above provided, any further similar default shall be deemed to be deliberate and Lessor thereafter may serve the said written seven (7) day notice of termination (and/or excuse any and all other rights set forth in this Lease, or available in law or at equity), without affording to Lessee an opportunity to cure such further default.

(b) Remedies. At any time after the occurrence of an Event of Default, Lessor, without notice to Lessee in any instance (except where expressly provided for below) may do any one or more of the following:

(1) Perform, on behalf and at the expense of Lessee, any obligation of Lessee under this Lease which Lessee has failed to perform and of which Lessor shall have given Lessee notice, the cost of which performance by Lessor, together with interest thereon at the Default Rate from the date of such expenditure, shall be deemed Additional Rent and shall be payable by Lessee to Lessor upon demand.

(2) Terminate this Lease.

(3) The immediate right of re-entry and may remove all persons and property from the Leased Premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of the Lessee.

(4) Exercise any other legal or equitable right or remedy which it may have.

Notwithstanding the provisions of Paragraph 10(b) above and regardless of whether an Event of Default shall have occurred, Lessor may exercise the remedies described in Paragraph 10(b)(1) or 10(b)(4) without any notice to Lessee if Lessor, in its good faith judgment, believes it would be materially injured by failure to take rapid action or if the unperformed obligation of Lessee constitutes an emergency.

(c) If this Lease is terminated pursuant to Paragraph 10(b), Lessor may relet the Leased Premises or any part thereof, alone or together with other premises, for such terms or terms (which may be greater or less than the period which otherwise would have constituted the balance of the Term) and on such terms and conditions (which may include concessions or free rent and alterations of the Leased Premises) as Lessor, in its reasonable discretion, may determine, but Lessor shall not be liable for, nor shall Lessee's obligations hereunder be diminished by reason of, any failure by Lessor to relet the Leased Premises or any failure of Lessor to collect any Rent due upon such reletting.

(d) No reference to any specific right or remedy shall preclude Lessor from exercising any other right, or from having any other remedy or from maintaining any action to which it may otherwise be entitled by law or in equity. No failure by Lessor to insist upon the strict performance of any agreement, term, covenant or condition hereof, or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach, agreement, term, covenant or condition. No waiver by Lessor of any breach by Lessee under this Lease or of any breach by any other tenant under any other lease of any portion of the Building shall affect or alter this Lease in any way whatsoever.

11. Lessee agrees to indemnify Lessor and hold it harmless from and against any and all claims, actions, demands, liability and expenses in connection with loss of life, personal injury to damage to property arising from or out of any occurrence in, upon or at the Leased Premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, its agent, contractors, employees, servants or concessionaires.

12. Lessee shall, during the entire term of this Lease keep in full force and effect a policy of public liability and property damage insurance with respect to the Leased Premises in amounts acceptable to the Lessor. Certificates evidencing the maintenance of such insurance shall be furnished to the Lessor upon request which certificates shall reflect the Lessor as an additional insured.

13. Force Majeure. In the event that either party shall be delayed or hindered in, or prevented from the performance of any work, service or other acts required under this Lease to be performed by the party and such delay or hindrance is due to strikes, lockout, acts of God, governmental restriction, enemy act, civil commotion, unavoidable fire or other casualty, or other causes of a like nature beyond the control of Lessor, then performance of such work, service or other act shall be excused for the period of such delay and the period for the performance of such work, service or other act shall be extended for a period equivalent to the period of such delay and Lessee's rent shall not be abated.

14. Fire or Other Casualty.

(a) Should the Leased Premises (or any part thereof) be damaged or destroyed by fire or other casualty insured under the standard fire and casualty insurance policy with approved standard extended coverage endorsement applicable to the Leased Premises, Lessor shall, except as otherwise provided herein, and to the extent it recovers proceeds from such insurance, repair and/or rebuild the same with reasonable diligence. Lessor's obligation hereunder shall be limited to the Building and improvements originally provided by Lessor at the Commencement Date of the Term of this Lease. If there should be a substantial interference with the operation of Lessee's business in the Leased Premises as a result of such damage or destruction, which requires Lessee to temporarily close its business to the public, the Rent shall abate. Unless this Lease is terminated by Lessor as hereinafter provided, Lessee shall, at its cost and expense, repair, restore, redecorate and refixture the Leased Premises in a manner and to at least a condition equal to that existing prior to such damage or destruction, except for the Building and improvements to be reconstructed by Lessor as above set forth, and the proceeds of all insurance carried by Lessee on the property, decorations and improvements, as well as fixtures and contents in the Leased Premises, shall be held in trust by Lessee for such purposes. Lessee agrees to commence such work within a reasonable period of time after the date of such damage or destruction, whichever date is later, and Lessee shall diligently pursue such work to its completion.

(b) Notwithstanding anything to the contrary contained in the preceding subsection (a) or elsewhere in this Lease, Lessor, at its option, may terminate this Lease on sixty (60) days notice to Lessee, given within ninety (90) days after the occurrence of any damage or destruction if (1) the Leased Premises be damaged or destroyed as a result of a risk which is not covered by Lessor's insurance or for which the insurance proceeds will be inadequate, or (2) the Leased Premises be damaged and the cost to repair the same shall in Lessor's sole opinion be financially prohibitive, or (3) the Leased Premises be damaged during the last one (1) year of the Term of this Lease (excluding any renewals hereof), or (4) the Building in which the Leased Premises are located shall be damaged to the extent of twenty-five percent (25%) or more of the then monetary value thereof (whether the Leased Premises be damaged or not), or (5) if the Building in which the Leased Premises are located is damaged (whether or not the Leased Premises are damaged) to such an extent that, in the sole judgment of Lessor, the Building cannot be operated as an integral unit.

15. The rules and regulations in regard to the Building, and such reasonable alterations, additions and modifications thereof, consistent with the proper and rightful enjoyment by Lessee of the Leased Premises, as may from time to time be made by Lessor, shall be considered a part of this Lease, with the same effect as through written herein, and Lessee covenants that said rules and regulations shall be faithfully observed by Lessee, the employees of Lessee, and all persons invited by Lessee into the Building, the right being expressly reserved to Lessor to add to alter reasonably, modify, or rescind, from time to time, such rules and regulations.

16. Notices.

(a) All notices and rental payments to be made by Lessee under this Lease shall be sent to the Lessor at the following address:

County Manager
119 Courthouse
Pittsburgh, Pennsylvania 15219

with a copy to:

Allegheny County Law Department
445 Fort Pitt Boulevard, Suite 300
Pittsburgh, PA 15219

(b) All notices to be made by Lessor under this Lease shall be sent to the Lessee at the following address:

Allegheny County Bar Association
4th Floor, Koppers Building
Pittsburgh, PA 15219

Attention: Ann Ewart, Senior Vice President—Operations and Human Resources

17. It is hereby agreed that if the Lease is not terminated at the end of the term, it shall continue on a month to month basis until either party gives the other party sixty (60) days prior written notice of termination.

18. Lessee shall not be permitted to sublease or assign the Leased Premises without the prior written consent of Lessor.

19. Lessee agrees to allow Lessor to inspect the Leased Premises periodically during the term of this Lease, which inspections shall be conducted so as not to interfere with the operation of Lessee's business in the Leased Premises.

20. No Joint Venture. Any intention to create a joint venture or partnership

or any relationship other than Lessor and Lessee between the parties hereto is hereby expressly disclaimed.

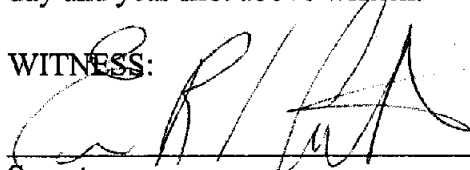
21. Severability. If any term or provision, or any portion thereof, of this Lease, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

22. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

23. It is expressly understood and agreed by and between the parties hereto that this Lease sets forth all the promises, agreements and undertakings between the Lessor and the Lessee relative to the Leased Premises. There are no promises, agreements or undertakings, either oral or written between them other than are herein set forth. It is further agreed that except as herein otherwise provided, no amendment, change or addition to this Lease shall be binding upon the Lessor or Lessee, unless reduced to writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

WITNESS:


Secretary

ALLEGHENY COUNTY BAR ASSOCIATION


President

ATTEST:

COUNTY OF ALLEGHENY

James M. Flynn, Jr.
County Manager

APPROVED AS TO FORM:

County Solicitor

Assistant County Solicitor

Authorized by Ordinance No.

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

TO: John Mascio
Chief Clerk

FROM: James M. Flynn, Jr. *JM Flynn*
County Manager

DATE: June 15, 2006

RE: Proposed Ordinance

Attached is an Ordinance authorizing the County to enter onto a new lease agreement for premises it currently occupies in the County's portion of the City-County Building.

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

Please place this on the next agenda for County Council approval.

Thank you.

ALLEGHENY COUNTY COUNCIL

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