

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager on behalf of the City of Lowell to enter into a Lease Agreement with Degmar Development Corporation with a principal place of business at 258 West Manchester St. Lowell, MA 01852, for property located at 399-401 Bridge Street, Lowell, MA 01850.

-----

The City of Lowell issued its request for proposals for commercial office space for the purpose of housing a community police substation in the Lower Centralville area; and

Degmar Development Corporation is the owner of the premises at 399-401 Bridge Street, Lowell, Massachusetts; and

The City of Lowell has accepted the proposal by Degmar Development Corporation.

BE IT VOTED BY A TWO-THIRDS VOTE BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

The City Manager is hereby authorized on behalf of the City of Lowell to execute said Lease Agreement with Degmar Development Corporation of 258 West Manchester St. Lowell, MA 01852, for property located at 399-401 Bridge Street, Lowell, MA 01850; and

BE IT FURTHER VOTED:

Degmar Development Corporation has agreed to lease the commercial unit located at 399-401 Bridge Street in Lowell, MA, to the City for a period from July 1, 2018 to June 30, 2021, in exchange for monthly rent payments of three thousand two hundred dollars (\$3,200.00) for a total of thirty-six (36) months, subject to annual appropriation on a

fiscal year basis, an amount not to exceed One-Hundred and Fifteen Thousand Two Hundred Dollars (\$115,200.00).

The City of Lowell shall, at its sole discretion, have the option to renew this lease for one additional term commencing July 1, 2021 and terminating June 30, 2022, on the same terms and conditions set forth in the 3<sup>rd</sup> year of this Lease. Such option to renew shall be exercised by the LESSEE by written notice to LESSOR no later than May 1, 2021.

Said Lease Agreement shall be in the form or substantially the form attached hereto, marked "A"

BE IT FURTHER VOTED:

That the Lease Agreement shall contain such other terms and conditions as the City Manager deems to be in the best interest of the City of Lowell.

V:degmardevcorp./centralvillepoliceprecinct

LEASE

THIS INDENTURE made this 16th day of May, 2018, by and between DEGMAR DEVELOPMENT CORPORATION, having an address of 258 West Manchester Street, Lowell, 01852, Middlesex County, Commonwealth of Massachusetts, hereinafter called the LESSOR, which term shall be deemed to mean and include its heirs, executors, administrators, successors and assigns whenever the context hereof so requires or admits, and CITY OF LOWELL, a municipal corporation duly established by law and located in said County and Commonwealth, acting by and through its Acting Superintendent of Police, hereinafter called "LESSEE", which term shall be deemed to mean its heirs, executors, administrators, successors and assigns whenever the context hereof so requires or admits.

1. PREMISES

Subject to the terms and provisions herein contained, LESSOR hereby agrees to lease to LESSEE the following described premises at 399-401 Bridge Street, Lowell, Massachusetts, 01850, being at street level and containing approximately 2000 square feet, together with the right to use in common with others entitled thereto, at no additional rent, the second floor conference room, hallways, stairways, and elevators, necessary for access to said leased premises, and lavatories nearest thereto.

2. USE OF THE LEASED PREMISES

LESSEE shall use the leased premises for the purpose of a COMMERCIAL OFFICE SPACE FOR THE PURPOSE OF HOUSING A COMMUNITY POLICE SUBSTATION IN THE LOWER CENTRALVILLE AREA.

3. TERM

The term of this lease shall be for three (3) years, commencing July 1, 2018 and terminating June 30, 2021, subject to annual appropriation. The Request for Proposals, the Specifications, and the Proposal, annexed hereto and marked "A", "B" and "C", respectively, are made a part of this Lease.

4. RENT

The LESSEE shall pay to the LESSOR an amount not to exceed ONE HUNDRED FIFTEEN THOUSAND TWO HUNDRED (\$115,200.00) DOLLARS during the entire lease period, subject to annual appropriation. Such payments shall be made in accordance with the provisions of Section 15 of this lease, as follows:

1st year-	-	\$38,400.00 (\$3,200.00 per month - \$19.20 per s.f.)
2nd year	-	\$38,400.00 (\$3,200.00 per month - \$19.20 per s.f.)
3rd year	-	\$38,400.00 (\$3,200.00 per month - \$19.20 per s.f.)

In the absence of appropriation, this Lease shall be terminated by the City immediately without liability of the City for damages, penalties, or other charges arising from early termination.

Until further notice such monthly payments shall be made to:

Degmar Development Corporation  
258 West Manchester Street  
Lowell, MA 01852

5. OPTION TO RENEW

LESSEE shall, at its sole discretion, have the option to renew this lease for one additional term commencing July 1, 2021 and terminating June 30, 2022, on the same terms and conditions set forth in the 3<sup>rd</sup> year of this Lease. Such option to renew shall be exercised by the LESSEE by written notice to LESSOR no later than May 1, 2021.

6. LESSEE'S COVENANTS

LESSEE hereby covenants and agrees to the following:

(a) To pay the rent, and other charges as herein reserved, promptly during the term hereof and for such further time as LESSEE shall hold the leased premises.

(b) The LESSEE shall not make structural alterations or additions to the leased premises, but may make non-structural alterations provided the LESSOR consents thereto in writing, which consent shall not be unreasonably withheld or delayed. All such allowed alterations shall be at LESSEE's expense and shall be in quality at least equal to the present construction. LESSEE shall not permit any mechanics' liens, or similar liens, to remain upon the leased premises for labor and materials furnished to LESSEE or claimed to have been performed at the direction of LESSEE and shall cause any such lien to be released of record forthwith without cost to LESSOR. Any alterations or improvements made by the LESSEE shall become the property of the LESSOR at the termination of occupancy as provided herein.

(c) To keep the leased premises and all appurtenances thereto in as good order and condition as they may be upon the commencement of the term hereof, ordinary use and wear, damage by accidental fire or unavoidable casualty only excepted; and to keep and maintain in good order and condition all glass in the leased premises and in the event of damage thereto to replace with glass of equal quality within twenty-four (24) hours. LESSEE acknowledges that the leased premises are now in good order and the glass whole.

(d) To make arrangements for and shall pay when due all charges for telephone services which are attributable to the leased premises and to save the LESSOR harmless from any damage or failure to so pay.

(e) That the LESSEE shall not do, or suffer to be kept, or omit to do anything in, upon or about the leased premises which may prevent the LESSOR from obtaining, or cause the revocation of, any government license, permit, certificate of right or authority, or other document necessary for the LESSOR to operate the building of which the leased premises is a part. If as a direct or indirect result of the LESSEE's business, an addition to or change in the facilities of the building of which the leased premises is a part shall be required by law, ordinance, by-law or other governmental regulation, the addition or change shall be installed and paid for entirely by LESSEE.

(f) That the LESSEE will not make or suffer to be made any strip or waste of the leased premises, nor lease, nor sublease or assign, nor permit them to be used by any other persons except with written consent of the LESSOR, which shall not be unreasonably withheld.

(g) To comply with all laws, orders, regulations, ordinances and the like of any governmental authority with respect to its operation, occupation and use of the leased premises without expense to the LESSOR.

(h) That the LESSEE shall not do, or suffer to be done, or keep, or suffer to be kept, or omit to do anything in, upon or about the leased premises which may prevent the obtaining of any insurance including, but without limitation, fire extended coverage, and public liability insurance, on the leased premises or any other premises in the building of which the leased premises is a part or on any property therein, or which may make void or voidable such insurance or which may create any extra premiums for, or increase the rate of, any such insurance.

If anything shall be done or kept, or omitted to be done, in, upon or about the leased premises which shall create any extra premiums for, or increase the rate of, any such insurance, the LESSEE will pay the increased cost of the same to the LESSOR on demand.

(i) Neither the LESSOR nor the LESSEE shall be liable to the other for any business interruption or any loss or damage to the property or injury to or death of persons occurring at the leased premises or the premises of which the leased premises is a part, or any manner growing out of or connected with the LESSEE's use and occupancy of the leased premises, or the condition thereof, or the premises of which the leased premises is a part, whether or not caused by the negligence or other fault of the LESSOR or the LESSEE or their respective agents, employees, sub-tenants, licenses or assignees. This release shall apply only to the extent that such business interruption, loss or damage to property, or injury to or death of persons is covered by insurance, regardless of whether such insurance is payable to or protects the LESSOR or the LESSEE or both. Nothing in this paragraph shall be construed to impose any other or greater liability upon either the LESSOR or the LESSEE than would have existed in the absence of this Paragraph. This release shall be in effect only so long as the applicable insurance policies contain a clause to the effect that this release shall not affect the right of the insured to recover under such policies. Such clauses shall be obtained by the parties whenever possible.

(j) That all furniture, fixtures, machinery, inventory and all other personal property of every nature belonging to the LESSEE or its agents, or servants or which may be at any time during the term hereof upon the leased premises, shall be at the sole risk of the LESSEE.

(k) The LESSEE shall not dump, flush, or in any way introduce any hazardous substances or any other toxic substances into the sewage or other waste disposal system serving the premises; or generate, store or dispose of hazardous substances in or on the premises or dispose of hazardous substances from the premises to any other location except in compliance with the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Sec. 6901 et seq., the Massachusetts Hazardous Waste Management Act, M.G.L. c.21C, as amended, the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c.21E, as amended, and all other applicable codes, regulations, ordinances and laws; and to notify LESSOR of any incident which would require the filing of a notice under Chapter 232 of the Acts of 1982; and to comply with the orders and regulations of all governmental authorities with respect to zoning, building, fire, health, environmental and other codes, regulations, ordinances or laws applicable to the premises. "Hazardous Substances" as used in this Paragraph shall mean "Hazardous Substances" as defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 and regulations adopted pursuant to said Act. LESSEE shall provide LESSOR with such information legally

required by governmental authorities as LESSOR may reasonably request from time to time with respect to compliance with this Paragraph.

(l) The LESSEE shall not assign, mortgage, or encumber this Lease, nor sublet or permit the leased property or any part thereof to be used by others, without the prior written consent of the LESSOR in each instance.

(m) LESSEE shall not injure, overload, deface or otherwise harm the premises; nor commit any nuisance; nor permit the emission or release of any objectionable chemical substance, noise, vibration or odor; nor make allow or suffer any waste; nor make any use of the premises which is improper, offensive or contrary to any law or ordinance or which will invalidate any of LESSOR's insurance or LESSEE's insurance required hereunder.

(n) LESSEE shall defend, with counsel approved by LESSOR all actions against LESSOR, any partner, trustee, stockholder, officer, director, employee or beneficiary of LESSOR, holders of mortgages secured by the premises and any other party having an interest in the premises (Indemnified Parties) with respect to, and to pay, protect, indemnify and save harmless, to the extent permitted by law, all Indemnified Parties from and against, any and all liabilities, losses, damages, costs, expenses (including reasonable attorney's fees and expenses) causes of action, suits, claims, damages or judgments of any natures (a) to which any Indemnified Party is subject because of the wrongful act or negligent conduct of LESSEE before or during the term of this Lease, or (b) arising from (i) injury to or death of any person or damage to or loss of property, on the premises or on adjoining sidewalks, streets or ways, negligently or wrongfully caused by LESSEE during the term of this Lease, unless caused by the negligence of LESSOR or its servants or agents, or (ii) violation of this Lease by LESSEE. The Parties acknowledge that LESSEE's liability is determined pursuant to M.G.L. c. 258.

(o.) The LESSEE agrees that this Lease and the LESSEE's interest in the premises shall be subject and subordinate to any and all mortgages given by the LESSOR to recognized lending institutions, covering the real estate of which the premises are a part, and to any renewal, modification, consolidation, replacement, and extension thereof. Upon the request of the LESSOR, the LESSEE shall promptly execute any documents required by the LESSOR or lending institutions for the purpose of confirming said subordination.

## 7. LESSOR'S COVENANTS

The LESSOR hereby covenants and agrees as follows:

(a) That the LESSOR has good right to lease the said premises, and that if the LESSEE shall faithfully perform and observe all of his undertakings in this Lease contained, LESSEE shall peaceably hold the same premises without molestation, hindrance or eviction by the LESSOR.

(b) So long as the LESSEE shall perform and observe all the covenants, agreements and undertakings of this Lease on the LESSEE's part to be performed and observed, the LESSEE shall have quiet, peaceful, and uninterrupted use and enjoyment of the premises.

(c) The LESSOR shall, at its sole cost and expense, make all necessary repairs to the exterior of the building in which the premises are located and to common areas thereof. The LESSOR shall, at its sole cost and expense, also make necessary repairs to the interior of the building, which may be of structural nature.

(d) Any alterations or rearrangements within the demised premises shall be performed only with the written consent of the LESSOR. At LESSOR's option, any work

involved in such alterations or rearrangements shall be performed by the LESSOR and the reasonable costs thereof shall be paid by the LESSEE upon presentation of a bill.

(e) The LESSOR shall furnish the necessary heat and air conditioning for the premises, subject to any interruptions of use caused by mechanical failure, lack of materials or other conditions beyond the control of the LESSOR. The LESSOR shall maintain and keep in good repair the furnaces, boilers, air conditioning, heating, electrical and plumbing systems, and the pipes and equipment connected thereto or used therewith.

(f) The LESSOR shall be responsible for the removal of snow from all alley ways in front of and adjoining the building in which the premises are located including passageways, entrance, sidewalks, common areas and public areas abutting land upon which the building is situated, as well as parking areas.

(g) To maintain in good order and condition during the term of this Lease the roof, walls and structural parts of the leased premises, including the sprinkler system (if any), located in the premises upon the commencement of the term hereof.

(h) To maintain in good and proper condition the heating apparatus and air-cooling system installed in the leased premises. In the event that the heating or air-cooling systems or any of their appliances shall be damaged or injured or not in the proper working condition, the LESSOR shall forthwith make such repairs as may be needed and restore the systems to a good working condition. On default of the LESSOR in making such repairs, the LESSEE may, but shall not be required to, make such repairs for the LESSOR's account, and the expense thereof shall be an offset and a deduction from the rent.

#### 8. MUTUAL COVENANTS

It is mutually agreed and understood between the parties:

(a) The LESSEE shall, prior to the installation or erection of any sign, size, construction and placement thereof, obtain the approval of the LESSOR, which approval however and consent shall not be unreasonably withheld. All such signs shall be maintained by the LESSEE in a neat and orderly condition. The LESSEE shall pay in full upon demand that portion of municipal real estate taxes attributable to any such signs.

(b) On default of either LESSEE or LESSOR in making repairs or replacements for either LESSEE's or LESSOR's account, and the expense thereof shall be an offset to or addition to any rent due from LESSEE to LESSOR.

#### 9. FIRE, CASUALTY, EMINENT DOMAIN

Should a substantial portion of the leased premises, or of the property of which they are a part, be substantially damaged by fire or other casualty, or be taken by eminent domain, the LESSOR may elect to terminate this lease. When such fire, casualty, or taking renders the leased premises substantially unsuitable for their intended use, a just and proportionate abatement rent shall be made, and the LESSEE may elect to terminate this lease if:

(a) The LESSOR fails to give written notice within thirty (30) days of intention to restore leased premises, or

(b) The LESSOR reserves, and the LESSEE grants to the LESSOR, all rights which the LESSEE may have for damages or injury to the leased premises for any taking by eminent domain, except for damage to the LESSEE's fixtures, property, or equipment.

10. DEFAULT AND BANKRUPTCY

In the event that:

(a) the LESSEE shall default in the payment of any installment of rent or other sum herein specified and such default shall continue for ten (10) days after written notice thereof; or

(b) the LESSEE shall default in the observance or performance of any other of the LESSEE's covenants, agreements, or obligations hereunder and such default shall not be corrected within twenty (20) days after written notice thereof; or

(c) the LESSEE shall be declared bankrupt or insolvent according to law, or if any assignment shall be made of LESSEE's property for the benefit of creditors, or

(d) the LESSEE shall abandon the demised premises or suffer this Lease to be taken under any writ of execution, then LESSOR, in addition to any and all rights or remedies it may have, shall have the immediate right to re-entry and may peaceably remove all persons and property from the demised premises, and such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of LESSEE, or to retain same under LESSOR's control or to sell at public or private sale and to apply the net proceeds of such sale to the payment of any sum due hereunder, or to destroy such property, all without service of notice or resort to legal process and all without being deemed guilty of trespass or becoming liable for any loss which may be occasioned thereby.

Should LESSOR elect to re-enter as herein provided or should it take possession pursuant to any notice provided for by law, it may either terminate this Lease or may from time to time without terminating this Lease, make such alterations and repairs as may be necessary to re-let the demised premises, and re-let said demised premises or any party thereof for such term or terms and at such rental or rentals which are reasonable. Upon each such re-letting all rentals received by the LESSOR from such re-letting shall be applied in the order set forth below:

(1) To the payment of any indebtedness other than rent due hereunder from LESSEE to LESSOR.

(2) To the payment of any costs and expenses of such re-letting including brokerage fees, attorneys' fees and costs of such alterations and repairs.

(3) To the payment of rent due and unpaid hereunder.

(4) The balance, if any, shall be held by the LESSOR and applied in payment of future rents or expenses if the same may become due and payable in accordance with the order set forth above.

If such rentals received from such re-letting during any month shall be less than the amount to be paid during that month by LESSEE pursuant to this Lease, then LESSEE shall pay to LESSOR any such deficiency, said deficiency to be calculated and paid monthly. No such re-entry or taking possession of the demised premises by LESSOR shall be construed as an election on its part to terminate this Lease unless a written notice of such intention shall be given to LESSEE or unless the termination of this Lease shall be decreed by a Court of competent jurisdiction.

Notwithstanding any such re-letting without termination, LESSOR may at any time thereafter elect to terminate this Lease for any breach. In addition to any other remedies it may have, it may recover from LESSEE all damages it may incur by reason of such breach, including the worth at the time of such termination of the excess, if any, of the amount of rent, including additional rent, reserved in this Lease for the remainder of the stated term over the then reasonable rental value of the leased premises for the remainder for said stated term, all of which accounts shall be immediately due and payable by LESSEE to LESSOR.



11. NOTICE

Any notice from the LESSOR to the LESSEE relating to the leased premises or to the occupancy thereof, shall be deemed duly served, if left at the leased premises addressed to the LESSEE, or if mailed to the leased premises, registered or certified mail, return receipt requested, postage prepaid, addressed to the LESSEE. Any notice from the LESSEE to the LESSOR relating to the leased premises or to the occupancy thereof, shall be deemed duly served, if mailed to the LESSOR by registered or certified mail, return receipt requested, postage prepaid, addressed to the LESSOR at 258 West Manchester Street, Lowell, MA 01852.

12. LESSOR'S ACCESS

The LESSOR or agents of the LESSOR may, at reasonable times, enter or view the leased premises and may remove placards and signs not approved and affixed as herein provided, and make repairs and alterations as LESSOR should elect to do and may show the leased premises to others, and at any time within three (3) months before the expiration of the term, may affix to any suitable part of the leased premises or property of which the leased premises are a part and keep the same so affixed without hindrance or molestation.

13. SURRENDER

The LESSEE shall at the expiration or other termination of this Lease remove all LESSEE's goods and effects from the leased premises, (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the LESSEE, either inside or outside the leased premises). LESSEE shall deliver to the LESSOR the leased premises and all keys, locks thereto, and other fixtures connected therewith and all alterations and additions made to or upon the leased premises, in the same condition as they were at the commencement of the term, or as they were put during the term thereof, reasonable wear and tear and damage by fire or other casualty only excepted. In the event of the LESSEE's failure to remove any of LESSEE's property from the premises, LESSOR is hereby authorized without liability to LESSEE for loss or damage thereto, and at the sole risk of LESSEE to remove and store any of the property at LESSEE's expense, or to retain same under LESSOR's control.

14. CONSTRUCTION AND GOVERNING LAW

This Lease is made in the Commonwealth of Massachusetts for premises located in Massachusetts and is to be construed in accordance with the Laws of the Commonwealth of Massachusetts.

15. ADDITIONAL PROVISIONS

- (a) LESSEE will be responsible for all signs.
- (b) The LESSOR agrees that its attention has been called to the provisions of the "Reserve System" Ordinance of the City of Lowell, which is now incorporated in the "The Code of Ordinances City of Lowell, Massachusetts", passed by the City Council on December 23, 2008 and Amendments Thereto and that each purchase order, so-called, issued in accordance with Section 28-32 of said Code to cover the services to be rendered under this Agreement shall be made a part hereof by reference. It is further agreed that no obligation shall be considered to

have incurred under this Agreement unless and until a purchase order shall have been duly issued and approved.

And further, that the obligation incurred shall be limited to the amount set forth in purchase order or purchase orders duly issued and approved.

16. The undersigned certifies under penalties of perjury that all municipal fees, including real estate taxes, due and owing to the City of Lowell have been paid in full.

IN WITNESS WHEREOF, the parties hereto have hereto and to a duplicate and triplicate hereof, caused their corporate seals to be affixed and these presents, together with said duplicate and triplicate, to be signed in their name and behalf by their duly authorized officers the day and year first above written.

LESSEE:

LESSOR:

\_\_\_\_\_  
City of Lowell  
Jonathan Webb  
Acting Superintendent of Police

\_\_\_\_\_  
Degmar Development Corporation  
  
Federal I.D. or Social Security No.  
  
\_\_\_\_\_

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Christine P. O'Connor  
City Solicitor

\_\_\_\_\_  
Eileen M. Donoghue  
City Manager

Date: \_\_\_\_\_

\_\_\_\_\_  
Bryan Perry  
City Auditor

\_\_\_\_\_  
P. Michael Vaughn  
Chief Procurement Officer

Jonathan C. Webb  
*Acting Superintendent*

Deborah Friedl  
*Deputy Superintendent*

Raymond Kelly Richardson  
*Deputy Superintendent*

To: Eileen Donoghue  
City Manager

From: Jonathan C. Webb  
Acting Superintendent of Police

Date: May 24, 2018

Re: Lease Agreement, Centralville Community Police Substation

---

I respectfully request a vote of the City Council for the attached lease agreement for the Centralville Community Police Precinct located at 399-401 Bridge Street. The cost of the agreement with Degmar Development Corporation would be \$3,200.00 per month for a period of 36 months.

For the past three years, the police substation at this location has served as a key piece of the Lowell Police Department's community policing initiative. The office serves as the base of operations for the Captain directing community based policing programs in Police Sector A, including the Pawtucketville, Centralville, Belvidere, and Downtown sections of the city. Two Lieutenants, crime analysts, and several Directed Response officers also serve the above neighborhoods from this location. The department's volunteer coordinator is also based at this precinct. The Centralville Precinct serves as a resource for neighborhood residents, and provides for much needed police presence and visibility in the area.

Thank you for your consideration in this matter.