

Selectboard Executive Session  
Downstairs Meeting Room, 1 Avenue A, Turners Falls, MA  
Monday, September 23, 2019  
7:40 PM

**RE: Executive Session under G.L. c.30A, §21 (a)(6) to consider the lease of 382 Deerfield Street, Greenfield, MA; Votes may be taken**

Present were Selectpersons Chris Boutwell, Michael Nelson, and Rich Kuklewicz, Town Administrator Steven Ellis, and Executive Assistant Wendy Bogusz.

Documents and Exhibits:

- Draft GMTA Operations Facility Lease

Ellis:

- At the Advisory Meeting last week it was brought up that Mayor Martin had floated Greenfields proposal, (which wasn't GMTA's proposal) to extend the lease period.
- I checked with our counsel and he said they are in much better shape and have better protection if they have a lease rather than if FRTA is on a 30 day notice. This is better for continuity.
- They agreed to an 8% increase in the rent, which reflects the increase in valuation that Greenfield had for the building.
- A new heating system was put in last year and the building needs a new roof
- Greenfield suggested taking Article 7 out of the lease. This 1) removes the possibility that Greenfields building inspection office from looking at the building and saying it requires repair or I'm going to close it, which would create sudden liability to GMTA and therefore the Town of Montague (that could be used to end the lease on very little notice), 2) Prevents FRTA from saying waters pouring in, we're making a complaint and withholding rent because you're not maintaining the leased facility to reasonable standards as per the lease.
- The Town of Montague and GMTA do not have any capital reserves to pay for any capital improvements, we are only opening and maintaining the building for the convenience of FRTA at this point, so expect us to place the onus on FRTA.

*Nelson makes the motion to extend the lease of 382 Deerfield Street, Greenfield, MA with the amendment to remove Montague and GMTA from Liability for future capital expenses during the term of the lease, amending the language in the general spirit to the information suggested by Greg Corbo. Seconded by Boutwell, unanimously approved.*  
*Nelson - Aye, Boutwell - Aye, Kuklewicz - Aye*

*Nelson makes the motion to adjourn Executive Session at 7:45 p.m. Seconded by Boutwell, unanimously approved.*  
*Nelson - Aye, Boutwell - Aye, Kuklewicz - Aye*

☒ Boutwell

☒ Kuklewicz

☒ Nelson

Release to the Public:

☒ Yes

☐ Not Yet

8/23/21 Date

Date Released to the Public: 9/15/21

## GMTA OPERATIONS FACILITY LEASE

This Lease is entered into this       day of       2019 by and between the Greenfield Montague Transportation Area (hereinafter "GMTA"), a body politic and corporate and political subdivision of the Commonwealth of Massachusetts established under M.G.L. Ch. 161, hereinafter called LESSOR, which expression shall include successors, and assigns where the context so admits; and, the **Franklin Regional Transit Authority**, (hereinafter "FRTA"), a body politic and corporate and political subdivision of the Commonwealth of Massachusetts established under M.G.L. Ch. 161B, hereinafter called LESSEE, which expression shall include successors, executors, administrators, and assigns where the context so admits.

In consideration of the mutual covenants herein, the GMTA does hereby lease to and the FRTA hereby leases on the terms and conditions set forth herein the property at 382 Deerfield Street, Greenfield, MA.

### ARTICLE ONE

- (A) **DESCRIPTION OF LEASED PREMISES:** The maintenance and operations facility located at 382 Deerfield Street, Greenfield, MA consisting of approximately 1.36 acres of land with certain improvements thereon including the terminal building of approximately 15,646 square feet, parking lots, sidewalks, and roadways, as more particularly described on Exhibit A attached hereto. So long as LESSEE is not in default hereunder, LESSEE shall have exclusive use and possession of the premises as herein described subject to the terms of this Lease, all matters of record and other agreements to which this Lease is or may hereafter be subordinated.

### ARTICLE TWO

- (A) **TERM:** The term of this lease shall be commencing on June 1, 2019 and terminating on June 30, 2020 unless extended or terminated as hereinafter provided.

The LESSEE shall have the option to extend this lease for an additional term of six (6) months by written notice to the LESSOR not less than thirty (30) days prior to the expiration of the previous term.

- (B) **TERMINATION CLAUSE:** If the Lease is not extended for a successive term then tenancy under this Lease shall become month-to-month, terminable by either party on One Hundred and Twenty (120) days written notice.
- (C) **TERMINATION DUE TO LACK OF FUNDING:** LESSOR and LESSEE acknowledge that both parties are political subdivisions of the Commonwealth of Massachusetts established pursuant to law and that they are funded in large part through Federal, State and local funding programs.



Notwithstanding any other provision in the Lease, both parties shall have the right, exercise in its discretion, to cancel this Lease by written notice to the other in the event a lack of governmental funding makes it so that lease obligations cannot be performed.

### **ARTICLE THREE**

(A) RENT: For exclusive use of the leased premises, LESSEE shall pay to the LESSOR rent as follows:

(1) Rent shall be paid at the rate of \$6,200.00 per month. All personal property taxes, utilities, including but not limited to water, heat, telephone, other communication related costs, electricity, permits and all insurance related to LESSEES operations conducted on the leased premises shall be paid by the LESSEE. Real Estate Taxes and property casualty insurance on the building will be paid by the LESSOR.

(B) PAYMENT OF RENTS: All monthly payments are to be in United States Currency, payable in monthly installments on the first day of each calendar month, the first monthly payment to be made on execution of this lease, including payment in advance of appropriate fractions of a monthly payment for any portion of a month at the commencement of said term or at the termination of this lease. All payments to be made to LESSOR or agent, c/o the City of Greenfield at 14 Court Square, Accounting Department, Greenfield, MA 01301 or at such other place, as LESSOR shall from time to time in writing designate.

(C) LATE CHARGES: Any rent payments received after thirty (30) days of the due date will be assessed a late charge or one percent (1%) per month, unless withheld for cause.

### **ARTICLE FOUR**

(A) ATTORNEY'S FEES: Each party will be responsible for its own Attorney's fees and costs incurred in connection with any action arising out of or as a result of this lease.

### **ARTICLE FIVE**

#### **USE OF THE PREMISES**

(A) GENERAL USES: Use of the premises shall, at all times, be conducted in an orderly manner consistent with the purposes of the FRTA and its operating companies, including but not limited to the maintenance, fueling, storage, administration and operations of its public transportation service and equipment and any and all other legal uses related to delivery of public transportation services, including the storage of fuel and other petroleum products.

## **ARTICLE SIX**

(A) **INSURANCE** : LESSOR agrees to have in full force and effect during the entire term of this lease agreement the following insurance with limits of coverage not less than the amounts hereinafter set forth:

(i) Storage tank pollution liability not less than:

\$2,000,000 Each claim

\$2,000,000 Total for all claim

General Liability Limits:

\$2,000,000 General Aggregate

\$2,000,000 Operations Aggregate

\$1,000,000 Personal Injury

\$1,000,000 Each Occurrence

\$50,000 Fire Damage

(ii) **Mutual Waiver of Subrogation:** Each party hereto waives any and every claim which arises or may arise in its favor against the other party hereto during the term of this lease for any and all loss or damage to, and of these properties, real or personal, located within or upon or constituting a part of the leased premises to LESSEE hereunder, which loss or damage is covered by valid and collectible fire and extended coverage insurance policies to the extent that such loss or damage is recoverable under said insurance policies. Said insurance waivers shall be in addition to and not in limitation or derogation of any other waiver or release contained in the lease with respect to any loss of, or damage to the parties hereto.

(iii) **Certificates/Policies:** A copy of each insurance policy or certificate required herein issued by a responsible and solvent corporation or association authorized to issue such policy or policies under the laws of the Commonwealth of Massachusetts shall be delivered to the LESSEE prior to the execution of said lease. All said policies or certificates shall provide for a minimum (10) ten days notice to the LESSEE in the event of cancellation or material change in the terms thereof. All policies or certificates shall include the LESSEE as additional named insured. If sub-leases are permitted, all sub-lessees shall be required to provide the same insurance and name the LESSEE as additional named insured and provide certificates of same.



## **ARTICLE SEVEN**

### **(A) REPAIRS AND MAINTENANCE:**

- (i) **REPAIR OF DAMAGE:** LESSEE shall be responsible for repair of any damage to the leased premises or the fixtures or appurtenances in the leased premises not caused by the careless, malicious, willful, or negligent acts of LESSOR, or its officers, agents or employees. LESSEE agrees to maintain the lease premises in the same condition as it is at the commencement of the term or as it may be put in during the term of this lease, normal wear and tear and damage by fire or other casualty only excepted. LESSEE will properly deposit all waste in appropriate receptacles and shall not cause the area surrounding the leased premises to be in other than a neat and clean condition. LESSEE shall be solely responsible for any damage to plumbing equipment, sanitary lines, or any other portion of the building, which results from the discharge, or use of any acid or corrosive by LESSEE. LESSEE shall not permit the leased premises to be overloaded, damaged, stripped or defaced, nor suffer any waste, and will not keep animals within the leased premises. LESSEE shall maintain sufficient heat to prevent freezing of pipes or other damage.
- (ii) **LIGHTING:** LESSEE shall at its sole expense, repair and replace as may be required, all incandescent bulbs or florescent tubes or lighting devices located within the leased premises.
- (iii) **JANIITOR AND CLEANING SERVICES:** LESSEE shall provide janitorial and cleaning services, at its sole expense for the premises, and keep the same, in a clean, neat and attractive condition at all times, and may repaint the interior when it deems necessary.

### **(B) CAPITAL REPAIRS AND IMPROVEMENTS:**

- (i) LESSOR shall be responsible for all capital repairs and improvements to the property during the term of the lease.

## **ARTICLE EIGHT**

- (A) **ALTERATIONS:** LESSEE shall not make structural alterations or additions of any kind to the leased premises, but may make non-structural alterations provided LESSOR consents thereto in writing. All such allowed alterations shall be at LESSEE'S expense and shall conform to LESSOR'S specifications. LESSEE shall not permit any mechanics' liens, or similar liens, to remain upon the leased premises in connection with work of any character performed or claimed to have been performed at the direction of LESSEE and shall cause any such lien to be released or removed or bonded or insured over forthwith

without cost to LESSOR. Any alterations or improvements shall become part of the real estate and the property of LESSOR. Any alterations completed by LESSEE shall be "Building standard" unless noted otherwise.

- (B) APPROVAL OF ALTERATIONS: Alterations conforming to construction and/or aesthetic standards by LESSEE will not be unreasonable denied by LESSOR. Alterations granted by written approval of LESSOR to LESSEE, must be performed in accordance with any and all laws and codes of the City of Greenfield and the Commonwealth of Massachusetts. LESSEE shall, at its own expense, obtain all licenses and permits by reason of any maintenance, repairs, construction, or use of the FRTA maintenance facility herein provided.

#### **ARTICLE NINE**

- (A) UTILITIES: LESSEE shall be responsible for payment of any and all utilities included but not limited to, heat, electricity, gas, water and sewer charges.
- (B) REAL ESTATE TAXES: LESSOR shall be responsible for payment of all Greenfield Real Estate Taxes and/or other costs/assessments.

#### **ARTICLE TEN**

- (A) SIGNS: LESSEE may install signs for the purpose of identification or information, at its sole cost and expense. The size, type, design, style, and location of such signs shall be subject to any applicable local by-laws or regulations.

#### **ARTICLE ELEVEN**

- (A) INDEMNIFICATION: The LESSEE will indemnify and hold harmless the LESSOR from and against any and all claims, actions, damages liability and expense including reasonable attorney's fees and costs, in connection with loss of life, personal injury and/or damage to property arising from or related to the occupancy or use by LESSEE of the premises occasioned solely by any negligence of LESSEE, its agents, contractors, invitees, or employees.
- (B) The LESSOR will indemnify and hold harmless the LESSEE from and against any and all claims, damages liability and expense including reasonable attorney's fees and costs, in connection with loss of life, personal injury and or damage to property occasioned by any negligence of LESSOR, its agents, contractors, invitees, or employees.



## **ARTICLE TWELVE**

- (A) QUIET ENJOYMENT: The LESSOR agrees that if the LESSEE shall pay the rent as aforesaid and perform the covenants and agreements herein contained on its part to be performed, the LESSEE shall peaceably hold and enjoy the said rented premises without hindrance or interruption by the LESSOR or by any other person or persons acting under or through the LESSOR.

## **ARTICLE THIRTEEN**

- (A) ACCESS TO PREMISES BY LESSOR: LESSEE shall permit LESSOR, its agents, employees and contractors to enter the premises, and all parts thereof, during business hours to inspect the same and to enforce or carry out any provision of this Lease.

## **ARTICLE FOURTEEN**

- (A) SURRENDER: LESSEE shall at the expiration or other termination of this lease remove all of LESSEE'S goods and effects from the leased premises. LESSEE shall deliver to LESSOR the leased premises and all keys, locks thereto, and other fixtures and equipment connected therewith, and all alterations, additions and improvements made to or upon the leased premises, including but not limited to any offices, partitions, floor coverings (including computer floors), plumbing and plumbing fixtures, air conditioning equipment and ductwork of any type, exhaust fans or metal shelving, and all electrical work including but not limited to lighting fixtures of any type, wiring, conduit, EMT, distribution panels, bus ducts, raceways, outlets and disconnects. LESSEE shall deliver the leased premises broom clean and in the same condition as it was at the commencement of the term, or as it was put in during the term hereof, reasonable wear and tear and damage by fire or other casualty only excepted.

## **ARTICLE FIFTEEN**

- (A) COMPLIANCE WITH LAWS: In all of its activities hereunder and in its occupancy of the Premises, LESSEE shall comply with all applicable Federal, State and local laws, regulations and ordinances. The LESSOR in any activities related hereto will comply with the law.
- (B) NON-DISCRIMINATION: LESSEE shall not discriminate against any person in its activity on the premises including employees or applicants for employment because of race, color, creed, national origin, age, sex, sexual orientation, sexual identity, disability, veteran status, ancestry or any other legally protected status. With respect to its exercise of all rights and privileges herein granted, the parties shall undertake affirmative action as required by Federal and State laws, rules and regulations pertinent to Civil Rights and Equal Opportunity unless LESSEE is otherwise exempted there from.

LESSEE agrees that it shall comply with any and all affirmative action plans submitted pursuant to the directives on any Federal agency and in accordance with Federal Law.

LESSEE agrees to execute such assurances and certifications as may from time-to-time be required by the parties the funding agencies including the U.S. Dept. of Transportation, Federal Transit Administration and the Massachusetts Executive Office of Transportation, or successors.

(C) If any term or provision of this Lease shall be judged invalid and unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and shall be enforced to the extent permitted by law so long as the Lease continues to reflect the intent of the parties.

(D) This Lease shall be governed, construed, and interpreted in accordance with the laws of the Commonwealth of Massachusetts. Any action brought pursuant to this Lease shall be brought in the Courts of Franklin County, Massachusetts.

(E) FEDERAL TERMS AND CONDITIONS: The operation and improvement of the premises was funded in part with grants from the U.S. Department of Transportation, Federal Transit Administration and the Commonwealth of Massachusetts. FRTA's operations are funded in part with grants from the U.S. Department of Transportation, Federal Transit Administration and the Commonwealth of Massachusetts. Therefore, this Lease is subject to the terms of the financial assistance contracts between the LESSOR and the LESSEE and these entities. The parties agree to abide by all terms and conditions of said grant contracts and to provide whatever documentation of compliance as may be required so long as the parties provide each other with the terms and conditions of said contracts.

## **ARTICLE SIXTEEN**

(A) ASSIGNMENT or SUBLEASING: It is acknowledged by the LESSOR that the LESSEE engages Franklin Transit Management, Inc. as its operating company and that occupancy of the premises may be sublet to said operating company or such other operating company as may be engaged by FRTA during the term of this lease. With respect to each assignment or sub-lease, if any, the assignee or sub lessee shall be required to promptly execute, acknowledge and deliver to LESSOR an agreement in form and substance reasonably satisfactory to LESSOR whereby the assignee or sub lessee shall assume and agree to perform and to be bound by and upon, all the covenants, agreements, terms, provisions and conditions set forth in the Lease on the part of the LESSEE to be performed or observed.



**ARTICLE SEVENTEEN**

(A) NOTICE: Any notice required under this Lease or relating to the leased premises or to the occupancy thereof, shall be deemed duly served, if sent by certified mail, return receipt requested, postage prepaid, addressed to LESSEE and LESSOR at the addresses below or to any other address designated in writing to the other party:

To: FRTA      John W. Olver Transit Center  
12 Olive Street – Suite 1  
Greenfield, MA 01301  
Attn: Tina Cote, Administrator

To: GMTA      City of Greenfield  
Accounting Department  
14 Court Square  
Greenfield, MA 01301  
Attn: Angelica Desroches, Assistant City Accountant

(B) LESSEE and LESSOR represents, warrants and covenants that the execution, delivery, and performance of this Lease and the transactions contemplated herein are within the power, and authority of LESSEE and LESSOR and the person or persons executing this Lease on their behalf have been duly authorized to do so.

IN WITNESS WHEREOF, LESSOR AND LESSEE have hereunto set their hands and common seals and intend to be legally bound hereby this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

LESSOR: \_\_\_\_\_

LESSEE: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

## ATTACHMENTS

### EXHIBIT A

#### DESCRIPTION OF PREMISES

Maintenance and operations facility premises located at 382 Deerfield Street, Greenfield, MA 01301. Premises consist of approximately 1.36 acres of land. The building has approximately 15,646 sq. ft., parking lots, sidewalks, and roadways.

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