



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein

SUBJECT: SEE BELOW

DATE: January 22, 2024

Approved

Date

1/29/24

COUNCIL DISTRICT: 3

SUBJECT: LEASE AGREEMENT WITH BSREP II SJ TOWERS, LLC FOR CITY OWNED PROPERTY LOCATED AT 4 NORTH SECOND STREET, SEVENTH FLOOR LEASE AGREEMENT

RECOMMENDATION

Adopt a resolution authorizing the City Manager, or her designee, to negotiate and execute a lease agreement, and all documents necessary to effectuate the lease, between BSREP II SJ TOWERS, LLC, a Delaware limited liability company, as Landlord, and the City of San José, a municipal corporation of the State of California as Tenant, for the use of approximately 17,845 square feet of office space located at 4 North Second Street, Seventh Floor for 70 months at a rental rate of \$414,394.56 for the first 12 months, \$569,311.60 for months 13-24, \$879,145.80 for months 25-36, \$906,422.40 for months 37-48, \$933,699 for months 49-60, and \$800,813 for months 61-70, totaling \$4,503,786.36 for the term in addition to other costs associated with the lease agreement.

SUMMARY AND OUTCOME

Approval of this recommendation will allow the City of San José to negotiate and execute a lease agreement with BSREP II SJ TOWERS, LLC, a Delaware limited liability company, to use approximately 17,845 square feet of office space located at 4 North Second Street, Seventh Floor, to be occupied by the Energy Department (ED).

BACKGROUND

ED was established in 2017 and currently occupies approximately 6,075 square feet of space in the Fourth Street Garage, which is owned by the City of San José (City). The existing office has been used since June 2021 and supports approximately 45 staff. Since then, ED has grown

exponentially and needs a larger office to accommodate its growing team. ED currently has 53 total staff, and over time, ultimately plans to grow to roughly 80 total employees.

ED cannot expand to accommodate its planned growth within a City-owned property due to the space constraints at City Hall and other City-owned office properties. ED prefers to be in the downtown San José area, within walking distance of City Hall, to make it convenient for visitors and staff.

The Towers @ 2nd property is comprised of two high-rise office towers located on the north side of Santa Clara Street between North Second Street and North Third Street, 0.3 miles from City Hall. The two buildings are located at 75 East Santa Clara Street and 4 North Second Street. The buildings were constructed in 1978 and fully renovated in 2018. The buildings have common amenities, including a large conference room, an outdoor plaza, a training room, a gym with private showers and lockers, and 24-hour on-site security.

ANALYSIS

To accommodate ED's planned growth, staff within the Real Estate Division of the Office of Economic Development and Cultural Affairs located multiple sites in the area ranging from 12,000 to 17,500 square feet. Asking rates for office space in downtown San José ranged from \$3.95 per square foot to \$4.95 per square foot per month for full-service leases. In November 2023, ED and the Real Estate staff toured the offices and determined that the office space located on the seventh floor of 4 North Second Street best suits ED's needs.

This proposed lease agreement is priced at \$3.95 per square foot per month. However, in light of recent market conditions, the lease will provide 20 months of 50% abated rent. The blended rental rate, inclusive of the abated rent period, is equivalent to \$3.50 per square foot per month full service, which is competitive for a building with the attributes of 4 North Second Street.

The property is owned by BSREP II SJ TOWERS, LLC, a Delaware limited liability company (Landlord), and consists of 17,485 square feet of office space. The City will not need to pay for parking as the property is adjacent to a City-owned parking lot that will accommodate ED's parking needs.

Staff negotiated a non-binding letter of intent outlining the following terms of the potential lease agreement:

Property Address: 4 North Second Street, Seventh Floor San José, CA 95113.

Landlord: BSREP II SJ TOWERS, LLC, a Delaware limited liability company.

- Agency and Commissions:** Landlord and City acknowledge that Cushman & Wakefield U.S., Inc. (Listing Broker) is acting solely as the agent for Landlord. The landlord shall pay a commission to Listing Brokers per a separate agreement. The City is representing itself and shall not pay any commission related to this lease transaction.
- Rentable Area of Premises:** Approximately 17,485 square feet.
- Term:** 70 months.
- Commencement Date:** April 1, 2024.
- Tenant Improvements:** Landlord, at Landlord's sole cost, shall install new carpet, provide new paint, demolish a wall, replace interior window film, and fix any broken/damaged ceiling tiles, lights, and window shades throughout the property.
- Early Access:** City shall be entitled to no less than three weeks early access to the property at no charge, after installation of carpet and prior to the commencement date. This early access will be used primarily for cubicle build-out, but allows ED to begin moving into any completed spaces.
- Rent Start Date:** April 1, 2024. City shall prepay one month of rent upon execution of the lease agreement, which shall be applied toward the first month that rent is due.
- Expiration Date:** January 31, 2030.
- Allowed Uses:** General office and any legal, conforming uses.
- Operating Expenses:** Operating expenses are included in the base rent. Increases in operating expenses shall be capped at 5% above base year expenses escalated by 3% annually, except for expenses outside the Landlord's control.

Base Rent:

Months:		Base Rent/SF:	Monthly Base Rent:
1 – 12	April 1, 2024 – March 31, 2025	\$3.95	\$34,532.88*
13 – 20	April 1, 2025 – November 30, 2025	\$4.07	\$35,581.98**
21 – 24	December 1, 2025 – March 31, 2026	\$4.07	\$71,163.95
25 – 36	April 1, 2026 – March 31, 2027	\$4.19	\$73,262.15
37 – 48	April 1, 2027 – March 31, 2028	\$4.32	\$75,535.20
49 – 60	April 1, 2028 – March 31, 2029	\$4.45	\$77,808.25
61 – 70	April 1, 2029 – January 30, 2030	\$4.58	\$80,081.30

**Rent abated by 50%. Original rent is \$69,065.65.*

*** Rent abated by 50%. Original rent is \$71,163.95.*

EVALUATION AND FOLLOW-UP

Upon City Council approval, staff will negotiate and execute an agreement to lease 4 North Second Street, Seventh Floor for 70 months on the terms stated in this memorandum. No additional action by the City Council is anticipated until the lease term expires.

COST SUMMARY/IMPLICATIONS

The total base rent for the 70-month term at 4 North Second Street, Seventh Floor, beginning April 1, 2024 through January 31, 2030, is \$4,503,786.36. The total base rent in 2023-2024 is \$103,598.64; base rent for the remaining term of the 70-month agreement (\$4,400,187.72) is subject to City Council-approved appropriation of funds.

BUDGET REFERENCE

The table below identifies the fund and appropriation to fund the lease agreement recommended as part of this memorandum.

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2023-2024 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
501	0782	Non Personal/Equipment	\$12,680,534	\$103,598.64	1051	10/7/23 Ord. No. 30966

HONORABLE MAYOR AND CITY COUNCIL

January 22, 2024

Subject: Lease Agreement with BSREP II SJ TOWERS, LLC for City Owned Property Located at 4 North Second Street, Seventh Floor Lease Agreement

Page 5

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, ED, and the Planning, Building, and Code Enforcement Department.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the February 13, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, Public Project File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

NANCI KLEIN
Director of Economic Development and
Cultural Affairs
Director of Real Estate

For questions, please contact Kevin Ice, Senior Real Estate Manager, at kevin.ice@sanjoseca.gov.