



COUNCIL AGENDA: 6/18/24
FILE: 24-147317
ITEM: 2.11

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein
Kerrie Romanow

SUBJECT: SEE BELOW

DATE: May 28, 2024

Approved

Date

6/6/24

COUNCIL DISTRICT: 3

SUBJECT: LEASE AGREEMENT BETWEEN THE CITY OF SAN JOSÉ AND THE COUNTY OF SANTA CLARA FOR ITS CONTINUED USE OF CITY-OWNED PROPERTY LOCATED AT 1608 LAS PLUMAS AVENUE AS A HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY

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 the City of San José, a municipal corporation of the State of California, as Landlord, and the County of Santa Clara, a political subdivision of the State of California, as Tenant, for the continued use of approximately 10,000 square feet of space at the City-owned property located at 1608 Las Plumas Avenue allowing for an initial term of three years at a rental rate of \$314,000 per year plus operations and maintenance costs of \$78,000 for the first year, \$80,340 for the second year, and \$82,750.20 for the third year, totaling \$1,183,090.20 for the initial term, with four options to extend for an additional three years each at a rental rate of \$314,000 for each year of the option terms, exclusive of the operations and maintenance cost, which shall be determined upon the commencement of each option term.

SUMMARY AND OUTCOME

Approval of this recommendation will allow the County of Santa Clara (County) to continue operating the household hazardous waste (HHW) collection facility at the San José Environmental Innovation Center (EIC) and result in lease revenue to the City of approximately \$314,000 annually and payments to offset operations and maintenance expenditures of approximately \$78,000 for the first year, \$80,340 for the second year, and \$82,750.20 for the third year. The County administers all operational aspects of the HHW Program on behalf of the City and is responsible for recycling and waste disposal. The lease of the HHW collection

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facility will allow the facility to continue to provide important community services to participating cities in the county, including San José residents and small businesses utilizing the HHW drop-off service. The facility will also continue to provide a means for reducing the amount of toxins that enter the City's landfills, recycling facilities, storm sewers, and sanitary sewers and prevent toxins from threatening the San Francisco Bay and local groundwater.

BACKGROUND

City staff first approached the County to explore opportunities to operate a permanent HHW collection facility at the EIC in 2006. The previous waste collection facility closed due to improvements to the Central Service Yard. The City coordinated with the County to ensure that the design of the new EIC facility would meet the needs of the HHW program operation, as well as serve a growing level of participation from San José residents. An environmental review process was completed for the EIC, with a mitigated negative declaration adopted in December 2009. On December 8, 2011, the Technical Advisory Committee of the County's Recycling and Waste Reduction Commission approved a funding strategy to support the lease charged by the City to the County for use of the HHW portion of the San José EIC. The funding strategy consists of a cost share between the fixed cost allocation of the Assembly Bill 939 Implementation Fee, which would support approximately half of the anticipated lease charge, and a facility use surcharge to each participating city in the program to equitably distribute the remainder of the lease charge. The facility use surcharge would be adjusted annually based on actual participation at the facility.

The collection facility consists of approximately 7,000 square feet of covered building space and 3,000 square feet of canopy space over open working areas, providing the County with 10,000 square feet of operational space. The City originally occupied the EIC as a master tenant pursuant to a lease agreement with EIC QALICB, LLC, executed on November 8, 2011. The County originally occupied the EIC pursuant to a sublease agreement with the City, with an initial term that commenced on January 1, 2014 and expired June 30, 2015, subject to County options to extend the term. The County ultimately exercised its options to extend the sublease for three years at a time on June 30, 2015, June 30, 2018, and June 30, 2021. The City purchased the EIC in 2018, and the former sublease accordingly became a lease between the City as Landlord and the County as Tenant. The lease is now set to expire on June 30, 2024.

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ANALYSIS

The negotiated terms of the lease arrangement between the City and County are as follows:

Property Address:	1608 Las Plumas Avenue San José, CA 95133
Landlord:	City of San José, a municipal corporation of the State of California
Tenant:	County of Santa Clara, a political subdivision of the State of California
Rentable Area of Premises:	Approximately 10,000 square feet
Term:	36 months
Commencement Date:	July 1, 2024
Expiration Date:	June 30, 2027
Operations and Maintenance Expenses:	\$0.65 per square foot per month (\$6,500 per month) for the first year of the initial term and shall increase by 3% annually
Options to Extend:	Four options to extend for an additional three years for each. Operations and maintenance expenses shall be determined prior to the commencement of each option term. The term would total 15 years if all option terms are exercised.

Initial Term Rent Schedule (7/1/2024 – 6/30/2027)			
	7/1/2024 to 6/30/2025	7/1/2025 to 6/30/2026	7/1/2026 to 6/30/2027
Annual Base Rent	\$314,000	\$314,000	\$314,000
Annual Operations and Maintenance	\$78,000	*\$80,340	*\$82,750
Annual Total Base Rent + Operations and Maintenance	\$392,000	\$394,340	\$396,750
Quarterly Amounts to be Invoiced:	\$98,000	\$98,585	\$99,188

**Operations and maintenance costs subject to 3% annual increase.*

The base rental amount is calculated by adding the amortized value for project build out costs on a 40-year amortization schedule, and any interest accrued on the remaining balance. The projected lease revenue to the City is approximately \$1,183,090.20 for the initial term, which consists of \$314,000 in annual base rent throughout the term, and \$78,000 for operations and maintenance costs for the first year, \$80,340 for the second year, and \$82,750.20 for the third year. Operations and maintenance costs for the option terms shall be determined upon the commencement of each term based on the City's reasonable estimated operations and maintenance costs for the upcoming term and the County's agreement with the estimate. Maintenance services at the EIC are provided by the City's Public Works department.

The lease is expected to begin on July 1, 2024. As rent payments are due in arrears, the County will make the initial quarterly payment on July 1, 2024. The County will accept the premises in "as-is" condition.

The County will open the HHW collection facility to the public no less than four days per week. The lease will make available to the County, 50 non-exclusive parking spaces for staff and guests.

The HHW collection facility lease will allow it to continue to provide important community service to participating cities in Santa Clara County, including San José. The HHW facility is compatible with and contributes to the vitality of the surrounding light industrial area and is complementary to the other tenants of the EIC, the Habitat for Humanity ReStore and work2Future.

Climate Smart San José

The HHW program supports the goals of Climate Smart San José and the Clean Water Act by helping to divert hazardous waste from landfills and by protecting the ecological integrity of the San Francisco Bay and the City's drinking water supply. The program also provides a legal means for residents to dispose of hazardous materials, as well as products classified as Universal Wastes such as batteries, fluorescent tubes, and compact fluorescent lamps that contain mercury, lead, cadmium, copper, and other substances hazardous to human health and the environment if not properly handled.

EVALUATION AND FOLLOW-UP

The lease of this property is expected to be effective on or about July 1, 2024. Thereafter, the City will monitor lease compliance through the term of the lease.

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COST SUMMARY/IMPLICATIONS

The projected lease revenue to the City is approximately \$1,183,090.20 for the initial term, which consists of \$314,000 in annual base rent throughout the term, and \$78,000 for operations and maintenance costs for the first year, \$80,340 for the second year, and \$82,750.20 for the third year. Base rent for each year of the optional terms will also be \$314,000, exclusive of the operations and maintenance costs. The operations and maintenance costs for the option terms shall be determined upon the commencement of each option term based on the City's reasonable estimated costs for the upcoming term and the County's agreement with such estimate. The lease revenue will accrue to the Integrated Waste Management Fund (Fund 423).

COORDINATION

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 18, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. The proposed action is not a project pursuant to California Environmental Quality Act Guidelines Section 15378 because there is no potential for either a direct or a reasonably foreseeable indirect physical change in 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.

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/s/

NANCI KLEIN

Director of Economic Development and
Cultural Affairs

/s/

KERRIE ROMANOW

Director of Environmental Services

For questions, please contact Kevin Ice, Assistant to the City Manager, Senior Manager, Real Estate Services at kevin.ice@sanjoseca.gov.