



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein

**SUBJECT: AMENDMENT TO THE LEASE
FOR THE POLICE VEHICLE AND
EVIDENCE WAREHOUSE**

DATE: June 13, 2022

Approved

Date

06/16/22

COUNCIL DISTRICT: 7

RECOMMENDATION

Adopt a resolution authorizing the City Manager, or her designee, to negotiate and execute a Fourth Amendment, to the lease dated May 12, 2003, between Sun Garden Center 3, LLC, as Landlord, and the City of San José, as Tenant, extending the lease for an additional five-year period (expiring June 30, 2031) for the continued use and operation of approximately 30,015 square feet of warehouse space for the Police Evidence Warehouse Unit, and for the continued use and operation of approximately 69,804 square feet of warehouse space for the Police Vehicle Warehouse unit, totaling approximately 99,819 square feet of warehouse space located at 1598 Monterey Road in San José, for a rental rate of \$1,093,708.44 for the first and second years, \$1,129,643.28 for the third and fourth years, and \$1,165,578.12 for the fifth year, totaling \$5,612,281.56 for the term, and all other necessary documents.

OUTCOME

Approval of this recommendation will allow the City of San José to negotiate and execute a Fourth Amendment to the Lease (Fourth Amendment) dated May 12, 2003 with Sun Garden Center 3, LLC (Landlord), allowing for the continued use and ongoing operation of the Police Vehicle and Evidence Warehouse at its current location at 1598 Monterey Avenue in San José.

BACKGROUND

State, county, and municipal laws require law enforcement agencies to safeguard and maintain the integrity of all property seized, found, or recovered. Proper storage is essential to protect the work of the criminal justice system. Investigators, crime labs, and all others involved in a case must be assured that crime scene evidence and any property seized, found, or recovered, be handled with the utmost care and that the 'chain of custody' of the evidence is never broken.

Courts, parties charged with crimes, as well as victims of crimes must be assured that the evidence delivered or seized by law enforcement agency personnel during the investigation be recorded, safeguarded, and stored in a secure facility. The consequences of mismanagement of property and evidence can be severe, including dismissal of charges in cases. Therefore, adequate secured storage space must be made available to the Police Department.

On May 12, 2003, the City of San José (City) executed a ten-year lease with Sun Garden Tenants in Common (now Sun Garden Center 3, LLC) (Landlord), which included two, three-year options to extend (Lease) for use and operation of approximately 99,819 square feet of warehouse space located at 1598 Monterey Road in San José, CA (Premises). On May 3, 2013 the City exercised its First Renewal Option to extend the Lease for an additional three years through May 31, 2016. In 2015, City and Landlord executed a First Amendment to the Lease to extend the term of the Lease through May 31, 2019. On May 22, 2019, the City and the Landlord executed a Second Amendment to the Lease to extend the term through May 31, 2021. On June 29, 2021, City and Landlord executed a Third Amendment to the Lease to extend the term of the lease for an additional five-year period (expiring June 30, 2026) for the continued use and operation of the approximately 30,015 square feet of warehouse space for the Police Evidence Warehouse Unit, and an additional 18 months (expiring December 31, 2023), with one option to extend for an additional three and a half years, for the continued use and operation of approximately 69,804 square feet of warehouse space for the Police Vehicle Warehouse unit. The City exercised its option to extend for an additional three and a half years for the Police Vehicle Warehouse unit, extending the lease to June 30, 2026.

During both the original and the first renewal option term, the Landlord redeveloped the property surrounding the Police Evidence Warehouse into what is now known as The Sun Garden Shopping Center. The Landlord's planned future development for the property includes the demolition and replacement of the Police Evidence Warehouse building with large-scale retail space. The City's term in the Third Amendment was limited to 2026 due to this potential redevelopment. However, the Landlord recently notified City staff of its decision to not develop the property until 2031 and offered an additional five-year extension of the lease.

ANALYSIS

Staff began negotiations with the Landlord and have reached an agreement to extend the Police Department Warehouse lease for an additional five years based on the following terms:

Building Address:	1598 Monterey Road, San José, CA
Landlord:	Sun Garden Center 3, LLC
Rentable Area of Premises:	Approximately 99,819 SF (\pm 30,015 SF for the evidence unit and approximately 69,805 SF for the vehicles unit)

Term: Additional five-year extension

Commencement Date: July 1, 2026

Expiration Date: June 30, 2031

Options to Extend: None

Rent for Evidence Unit (approximately 30,015 SF):

Year:	Adjustment Date:	Monthly Rent:	Rent/SF:
1	July 1, 2026 – June 30, 2027	\$29,714.85	\$0.99
2	July 1, 2027 - June 30, 2028	\$29,714.85	\$0.99
3	July 1, 2028 - June 30, 2029	\$30,615.30	\$1.02
4	July 1, 2029 - June 30, 2030	\$30,615.30	\$1.02
5	July 1, 2030 - June 30, 2031	\$31,515.75	\$1.05
Total Evidence Unit 5-Year Rent:		\$1,826,112.60	

Rent for Vehicles Unit (approximately 69,805 SF):

Year:	Adjustment Date:	Monthly Rent:	Rent/SF:
1	July 1, 2026 – June 30, 2027	\$61,427.52	\$0.88
2	July 1, 2027 - June 30, 2028	\$61,427.52	\$0.88
3	July 1, 2028 - June 30, 2029	\$63,521.64	\$0.91
4	July 1, 2029 - June 30, 2030	\$63,521.64	\$0.91
5	July 1, 2030 - June 30, 2031	\$65,615.76	\$0.94
Total Vehicles Unit 5-Year Rent:		\$3,786,168.96	

Total Combined Rent for Evidence and Vehicles Unit (approximately 99,819 SF):

Year:	Adjustment Date:	Monthly Rent:	Rent/SF:
1	July 1, 2026 – June 30, 2027	\$91,142.37	\$0.91
2	July 1, 2027 - June 30, 2028	\$91,142.37	\$0.91
3	July 1, 2028 - June 30, 2029	\$94,136.94	\$0.94
4	July 1, 2029 - June 30, 2030	\$94,136.94	\$0.94
5	July 1, 2030 - June 30, 2031	\$97,131.51	\$0.97
Total Rent for 5-Year Extended Term:		\$5,612,281.56	

The monthly rent for the Fourth Amendment will continue to be a gross lease rate that includes property taxes, operating expenses, and building maintenance. Although the current lease term does not expire until June 30, 2026, staff recommends executing the Fourth Amendment to lock in the long-term rental rate currently offered by the Landlord. Current market rates for warehouse space in San José are \$1.00-\$2.50 per square foot, with an additional monthly triple net cost of approximately \$0.15-\$0.35 per square foot. The proposed combined rental rate for the Fourth Amended Term is significantly less than the potential market rate increase that would be associated with a new lease at a different facility in the future, which could be an increase of approximately 60-90%.

Staff recommends the City enter into the Fourth Amendment to extend the term of the lease for the Police Department's Vehicle and Evidence Warehouse.

CONCLUSION

Approval of this recommendation will direct staff to negotiate and execute a Fourth Amendment to the Lease dated May 12, 2003, between the Landlord and the City to extend the term of the lease for the Police Department's Vehicle and Evidence Warehouse at 1598 Monterey Road in San José.

EVALUATION AND FOLLOW-UP

After the Fourth Amendment to Lease is executed, no follow-up action by the City Council is anticipated until the extended lease term expires, at which time staff will locate and negotiate a lease on a suitable alternative space for City Council's consideration.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 28, 2022 City Council meeting.

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 Police Department.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This action aligns with Economic Strategy #5 "Increase San José's Influence in Regional, State, and National Forums in Order to Advance City Goals and Secure Resources."

COST SUMMARY/IMPLICATIONS

As indicated above, the rental rate structure of the lease extension is \$1,093,708.44 for the first and second years, \$1,129,643.28 for the third and fourth years, and \$1,165,578.12 for the fifth year. The total rental cost is \$5,612,281.56 for the five-year term of this lease extension.

BUDGET REFERENCE

The table below identifies the fund and appropriation to support the annual lease payment for 2022-2023, consistent with the previously approved Third Amendment to the lease agreement for the Police Department's Vehicle and Evidence Warehouse. Adjustments for future lease obligations, per the recommended Fourth Amendment to the lease agreement, will be incorporated as part of the 2026-2027 Base Budget development process, subject to the appropriation of funds.

Fund #	Appn #	Appn. Name	2022-2023 Proposed Total Appn.	Amt. for Contract	2022-2023 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
001	2064	Property Leases	\$1,905,142	\$969,979	795	N/A

*The 2022-2023 Proposed Operating Budget was released on May 5, 2022 and is scheduled to be reviewed and approved by City Council on June 14, 2022 and adopted on June 21, 2022.

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

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

/s/

NANCI KLEIN

Director of Economic Development and
Cultural Affairs

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