


CITY COUNCIL ACTION REQUEST

Department: Office of Economic Development and Cultural Affairs	CEQA: Not a Project, File No. PP17-003 Agreements/Contracts (new or amended) resulting in no physical changes to the environment.	Coordination: Planning, Building, and Code Enforcement; Environmental Services; City Manager's Budget Office; and the City Attorney's Office.	Dept. Approval: /s/ Nanci Klein
Council District: 2			CMO Approval:  12-19-2022

SUBJECT: LEASE AGREEMENT FOR 5225 HELLYER AVENUE, SUITE 265, SAN JOSE MUNICIPAL WATER OFFICES

RECOMMENDATION:

Adopt a resolution authorizing the City Manager, or their designee, to negotiate and execute a lease between SFIII Hellyer, LLC, a Delaware limited liability company, and SFIII FOS Hellyer Holding, LLC, a Delaware limited liability company, and the City of San José, a municipal corporation, for use of the Suite 265 located at 5225 Hellyer Avenue for an initial period of three years for a total cost of \$878,773.92.

BASIS FOR RECOMMENDATION:

San José Municipal Water (Muni Water) seeks a temporary location for engineering and administrative staff during the redevelopment of its permanent offices on Tuers Road. Muni Water's engineering and administrative staff require a site that will accommodate office space for approximately 30-40 on-site staff, overnight parking for City-owned vehicles, a server room, and a large conference space for all-staff meetings and training courses to adhere to water utility permit and safety requirements, maintain required levels of operator certification, and emergency response training and preparation.

The property, located at 5225 Hellyer Avenue in San José, is improved with an approximately 179,017 square foot multi-tenant building containing office suites of varying size and common space areas. Muni Water will lease a space known as Suite 265 (Premises), approximately 12,150 square feet of office space, located on the second floor of the multi-tenant building. SFIII Hellyer, LLC, a Delaware limited liability company, and SFIII FOS Hellyer Holding, LLC, a Delaware limited liability company (Landlord) own the property and the Premises is listed for lease by Cushman and Wakefield. The Premises will be used primarily by Muni Water's administration and engineering staff. The Premises is located within Muni Water's service area and is an approximately 10-minute drive to the Muni Water operations and maintenance staff building located at 3870 Charter Park Drive.

The City executed a non-binding letter of intent agreement with the Landlord outlining the following key terms:

- Term: Initial three-year term.
- Renewal Option: One City option to renew the lease for a period of one year at the then fair market value.
- Lease Rate: \$1.95 per square foot, triple-net, escalating 3% annually on the anniversary of the lease commencement date.
- Common Area Maintenance and Direct Expenses. City will pay all common area maintenance charges which are currently estimated at \$0.80 per square foot per month for the 2023 calendar year. Common area maintenance charges shall include PG&E, janitorial service, garbage, and sewer. City shall be responsible for all direct expenses, including internet services.
- Lease Commencement Date: February 1, 2023, or upon the substantial completion of tenant improvements.

- **Tenant Improvements:** Landlord will install one additional conference room to accommodate all-staff meetings and Landlord shall manage the construction and installation of the improvements in accordance with a mutually agreed upon plan.
- **Maintenance and Repairs:** Landlord shall be responsible at its sole expense for (i) maintaining in good and working condition and repair and replacing, as necessary, the roof structure and membrane, structural components, foundation, fire protection system, exterior walls, surface parking, and all common areas so that they remain in good and safe repair throughout the term. City shall be responsible at its sole cost and expense for preventative maintenance and minor repairs and adjustments to those items within the interior of the Premises. City's responsibility will include, but not be limited to, interior lamp replacement and minor repair and maintenance of all non-structural parts of the interior of the Premises. City will keep the Premises free of trash and debris from City's use.
- **Condition of Leased Premises:** All systems, including but not limited to mechanical, electrical, plumbing, lighting, overhead doors, and life safety systems are to be delivered in good working order and in accordance with all local codes as of the lease commencement date. Any issues discovered by City will be addressed to Landlord in writing within 90 days of the lease commencement date, with the problem components to be repaired or replaced by Landlord (provided such is a Landlord's responsibility) at Landlord's sole cost and expense.
- **Restoration:** At the expiration or early termination of the lease agreement, City shall not be obligated to remove or restore any leasehold improvements including the installation of conference space by the Landlord. City shall only be responsible for removing its personal property items installed for its exclusive use.
- **Subleasing/Assignment:** City shall have the right to sublease/assign all or any portion of its Premises during the term of the lease to a qualified subtenant or subtenants, subject to Landlord's approval. If there are any sublease profits, profits will be split 50% / 50%.

Muni Water staff toured the Premises and determined it to be suitable for the temporary relocation of its administration and engineering staff during the redevelopment of its permanent offices on Tuers Road.

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

Commission Recommendation/Input: No commission recommendation or input is associated with this action.

COST AND FUNDING SOURCE:

First-year rent totals \$284,310 and shall increase by 3% annually on the anniversary of the lease commencement date. The total cost of the three-year term is \$878,773.92. The City shall have the right to renew the lease for a period of one year at the then fair market value. Based on current common area maintenance charges estimated for 2023, the amount will total approximately \$9,720 per month for the Premises, totaling approximately \$116,640 for the first year. Common area maintenance charges are estimated on the Landlords yearly operating expenses and charged to tenants based on the square footage of tenant's leased space. Landlord will provide notice to tenants if common area maintenance charges increase.

The rent schedule is as follows:

Year	1	\$23,692.50/ month	\$284,310.00 annual
Year	2	\$24,403.28/ month	\$292,839.36 annual
Year	3	\$25,135.38/ month	\$301,624.56 annual

Costs to be incurred in 2022-2023 for the rental of the Premises will be supported by the existing ESD Non-personal/Equipment appropriation to the Water Utility Fund. Funding for future year costs will be factored into the respective budget development processes and is subject to appropriation.

FOR QUESTIONS CONTACT: Kevin Ice, Senior Manager, Real Estate Services, at kevin.ice@sanjoseca.gov.