

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** John Ristow

**SUBJECT:** SEE BELOW

**DATE:** November 25, 2019

Approved

Date

12-6-19

**COUNCIL DISTRICT: 3**

**SUBJECT: AGREEMENT FOR OPERATION AND MAINTENANCE OF  
AUTOMATIC PUBLIC TOILETS**

## RECOMMENDATION

Approve an agreement with JCDecaux San Francisco, LLC (JCDecaux) for the operation and maintenance of up to six automatic public toilets in the Downtown San José, for an initial term commencing January 1, 2020 through June 30, 2021; with up to five one-year extension periods.

## OUTCOME

Continued operation and maintenance of currently installed automatic self-cleaning public toilets in the Downtown.

## BACKGROUND

In January 1988, the prior Redevelopment Agency of the City of San Jose (Redevelopment Agency) and JCDecaux entered into an agreement for the installation, operation, and maintenance of six automatic self-cleaning public toilets (APTs) in Downtown San Jose. In March 1988, the agreement was amended to install an additional toilet. The APTs were installed for the benefit of residents and visitors, and to help minimize the inadequacy of public restrooms in the downtown.

In March 2017, the APT located on San Pedro Street was removed to accommodate nearby development activities. Attachment A highlights the locations of the remaining six APTs.

Since the dissolution of redevelopment agencies in California in 2012, responsibility for the APTs transferred to the Successor Agency to the Redevelopment Agency (SARA) through the effective term date of the prior agreement that was initially executed with the Redevelopment

Agency. The term for each of the APTs under the prior agreement was for an approximate 20-year period after installation of each APT. The 20-year term for five of the remaining APTs expired at various dates during 2019. The 20-year term for the remaining sixth APT expires in January 2021.

During this past year, the Department of Transportation (DOT) and the Finance Department have negotiated with JCDecaux on the terms of a new short-term agreement for continued operation of the APTs. In anticipation of this agreement, JCDecaux has continued to provide operating and maintenance services on the APTs currently installed in the Downtown.

The short-term nature of this agreement will serve as a bridge until City staff can develop a strategy, including a long-term funding source, for the continued operation of public toilets Downtown.

### **ANALYSIS**

The proposed agreement between the City and JCDecaux will provide for continued operation of up to six APTs. The initial term of the agreement will be between January 1, 2020 through June 30, 2021. The agreement includes provisions to extend the term for up to five one-year periods, upon mutual agreement of both the City and JCDecaux.

JCDecaux will provide services to ensure that each APT is operational and well-maintained, including: inspection of each APT at least twice daily; provision of any necessary cleaning and maintenance; and repair of any damage, vandalism, or graffiti. If an APT is destroyed and cannot be repaired, JCDecaux will remove the APT and restore the site. Due to the short-term nature of this agreement, installing a new toilet would be cost prohibitive.

The cost to the City during the first year of the agreement will be \$360,000 (\$72,000 per APT). This cost represents an approximate 25% discount from the current cost of the prior Redevelopment Agency agreement. The terms of the proposed agreement also provide for an annual CPI adjustment, provisions for adjustments to the rent payments if an APT is not operational 24-hours after JCDecaux has been noticed, and that payments will be made on a quarterly basis. The City will also be responsible for costs associated with water, electrical, sanitary sewer, and telephone services. These costs are estimated to be \$9,000 per year for the five APTs.

Attachment B identifies the term and commencement period of each APT as part of this proposed agreement. The term for five of the APTs are proposed to be retroactive as JCDecaux continued to operate and maintain these units after the end of their service terms with the prior Redevelopment Agency. Upon execution of the proposed agreement, a retroactive payment of approximately \$222,000 will be made to compensate JCDecaux for the continued operation and maintenance of these APTs through December 31, 2019.



Lastly, the agreement reflects that the term for the APT located at 296 Almaden Blvd. may expire earlier than June 30, 2021 to accommodate construction activities. Specifically, it is anticipated that during the summer of 2020, this APT will need to be removed due to the Museum Place project development. All costs associated with the removal, storage, and potential reinstallation of this APT will be the developer's responsibility.

### **CONCLUSION**

Approval of the agreement with JCDecaux will provide for continued operation of the APTs in the Downtown through an initial term of June 30, 2021.

### **EVALUATION AND FOLLOW-UP**

No follow-up is anticipated with this agreement.

### **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 website for the December 17, 2019 City Council meeting.

### **COORDINATION**

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

### **COMMISSION RECOMMENDATION/INPUT**

General Purpose Parking Funding for the automatic public toilets was discussed with the Downtown Parking Board at their May 1, 2019 meeting.

**COST SUMMARY/IMPLICATIONS**

The first-year cost of the proposed agreement will be \$360,000. Upon execution of the Agreement, an approximate retroactive payment of \$222,000 will be made to compensate JCDecaux for the continued operation of the APTs after the end of the agreement term with the prior Redevelopment Agency. Funding for the short-term bridge contract, through the initial term of the agreement will be provided by the General Purpose Parking Fund. If the agreement is extended for any of the one-year option periods, an ongoing source of funding will need to be identified.

**BUDGET REFERENCE**

Fund #	Appn #	Appn Name	Total Appn	Amount for Contract	2019-2020 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
533	200W	Downtown Public Restrooms	\$500,000	\$402,000*	X-44	06/18/2019, 30286

\* This amount reflects the costs of the contract during FY 2019-2020

**CEQA**

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

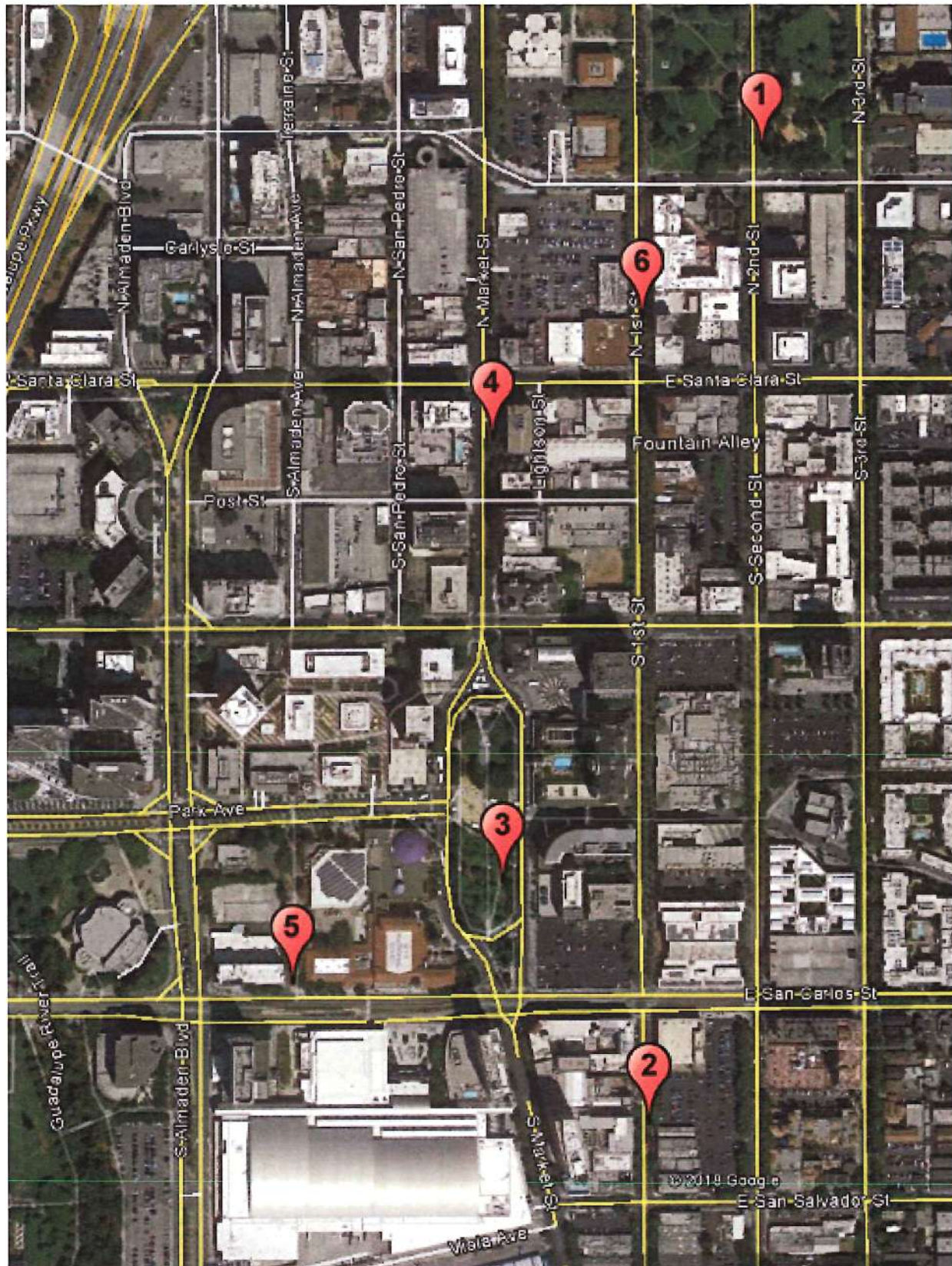
/s/  
JOHN RISTOW  
Director of Transportation

For questions, please contact Laura Wells, DOT Assistant Director at 408-975-3725.

Attachments



## AUTOMATIC PUBLIC TOILET LOCATIONS



**COMMENCEMENT OF TERM**

- |  |                  |
|--|------------------|
| 1. 110 N. Second Street<br><i>(at St. James Park)</i>              | February 2, 2019 |
| 2. 350 S. First Street<br><i>(across from California Theatre)</i>  | April 7, 2019    |
| 3. 221 S. Market Street<br><i>(at Plaza de Cesar Chavez)</i>       | May 27, 2019     |
| 4. 6 S. Market Street<br><i>(at W. Santa Clara St)</i>             | July 14, 2019    |
| 5. 296 Almaden Blvd.<br><i>(near Civic Auditorium/Hyatt Hotel)</i> | August 27, 2019  |
| 6. 8 N. First Street<br><i>(at E. Santa Clara Street)</i>          | January 13, 2021 |