


**CITY COUNCIL ACTION REQUEST**

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| <b>Department(s):</b><br>Office of Economic Development | <b>CEQA:</b><br>Not a Project.<br>File No. PP17-003,<br>Agreements and Contracts<br>or (New or Amended)<br>resulting in no physical<br>changes to the environment. | <b>Coordination:</b><br>Dept. of Environmental<br>Services, City Attorney's<br>Office, Planning, Building,<br>& Code Enforcement, and<br>the City Manager's Budget<br>Office | <b>Dept. Approval:</b><br>/s/ Nanci Klein  |
| <b>Council District(s):</b><br>3                        |  |  | <b>CMO Approval:</b><br><br>5/26/21 |

**SUBJECT: AMENDMENT TO THE LEASE AGREEMENT WITH THE COUNTY OF SANTA CLARA FOR USE OF THE ENVIRONMENTAL INNOVATION CENTER AS A HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY**

**RECOMMENDATION:**

Adopt a resolution authorizing the City Manager to negotiate and execute a Fourth Amendment to the Lease Agreement with the County of Santa Clara for the Household Hazardous Waste Collection Program's use of the City's Environmental Innovation Center property.

**BASIS FOR RECOMMENDATION:**

The City's Environmental Innovation Center ("EIC") is currently leased to three tenants, Habitat for Humanity, Prospect Silicon Valley, and the County of Santa Clara ("County"). The City originally leased the EIC from EIC QALICB Inc. On May 22, 2012, the City and the County entered into the Sublease Agreement for the premises located at 1608 Las Plumas Avenue, San Jose, CA 95133, for the purpose of operating the Household Hazardous Waste ("HHW") collection facility. The HHW leased premises consists of approximately 10,000 square feet of space, including 7,000 square feet of office and 3,000 square feet of material collection and shop space.

On April 30, 2013, the City and the County entered into the First Amendment to the Sublease to reflect a new delivery date (August 5, 2014) of the leased premises to the County and to adjust the rent payment schedule. On June 22, 2015, the City and the County of Santa Clara entered into the Second Amendment to the Sublease to exercise the first option to extend the term from July 1, 2015 through June 30, 2018 as well as additional changes to the Sublease Agreement to clarify facility maintenance responsibilities, and time to vacate premise if the Sublease is terminated. On June 5, 2018, the City and the County entered into the Third Amendment to the Sublease pursuant of Section 4 of the Sublease to exercise the second of four options to extend the term of the Sublease from July 1, 2018 through June 30, 2021 and to clarify the City's share of the cost of utilities and provision of minor building improvements and operational items. The City subsequently purchased the EIC in 2018, and the former sublease accordingly became a lease between the City as landlord and the County of Santa Clara as tenant.

On March 15, 2020, the HHW facility was shut down by public health directive due to COVID-19 and was not authorized to resume operations until approximately June 12, 2020. This represents a closure for 25% of the program's operational year. In terms of overall community participation, it represented an outsized impact to the program as the facility was closed during its busiest months, including during spring cleaning and annual earth day outreach. Although services and revenues are reduced, the County HHW program's financial obligations remain the same, including lease payments and other fixed costs. This results in increased program costs for all partners, including the City of San Jose. COVID-19's operational and economic impacts on the program are expected to continue while the economy continues to recover during the next year. In order to help mitigate these impacts on the program, the Office of Economic Development, the Environmental Services Department, and the County propose a 12.5% rent reduction for the upcoming year.

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| <p>The program’s lease term will be extended from July 1, 2021 to June 30, 2024, and the lease rate will be modified according to the rent schedule in Exhibit A.</p> <p>Commission Recommendation/Input: No commission recommendation or input is associated with this action.</p> <p>Climate Smart San José: The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.</p> <p>Conclusion: The amendment of the Household Hazardous Waste collection facility sublease will allow the facility to continue to provide an important community service to participating cities in the County, including San Jose.</p> |
| <b>COST AND FUNDING SOURCE:</b>  |
| <p>Proceeds from the Fourth Amendment to the Sublease Agreement with the County HHW program will total \$1,016,792.52 over the next three years. Proceeds will be deposited into the Integrated Waste Management Fund.</p>   |
| <p>For questions, please contact Nanci Klein, Director of Economic Development, at (408) 535-8184</p>  |

**Exhibit A**

| Fourth Amendment to HHW Sublease Payment Schedule              |                          |                          |                          |
|--|--------------------------|--------------------------|--------------------------|
| 3-year term  | 7/1/2021 to<br>6/30/2022 | 7/1/2022 to<br>6/30/2023 | 7/1/2023 to<br>6/30/2024 |
| Annual Base Rent   | \$314,000.00             | \$314,000.00             | \$314,000.00             |
| Annual Operations & Maintenance (O & M)<br>of each option term | \$36,896.22              | \$38,003.10              | \$39,143.20              |
| Annual Base Rent and O & M                                     | \$350,896.22             | \$352,003.10             | \$353,143.20             |
| COVID Rent Relief (basis in footnote)                          | \$39,250 <sup>1</sup>    | \$0                      | \$0                      |
| Final Mitigated Annual Base Rent and O & M                     | \$311,646.22             | \$352,003.10             | \$353,143.20             |
| <b>Quarterly amounts to be invoiced</b>                        | \$77,911.55              | \$88,000.78              | \$88,285.80              |

<sup>1</sup>12.5% base rent reduction in year 1 for 25% facility closure during FY20