



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein

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

DATE: June 14, 2021

Approved		Date	06/17/21
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COUNCIL DISTRICT: 7

RECOMMENDATION

Adopt a resolution authorizing the City Manager, or his designee, to negotiate and execute a Third 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 July 31, 2026) for the continued use and operation of ±30,015 square feet of warehouse space for the Police Evidence Warehouse Unit, and an additional 18 months (expiring December 31, 2023), for a cost of \$1,127,132 for the first year, \$729,249 for the second year, and \$341,307 for each of the third, fourth, and fifth years for a total rental cost of \$2,880,302 for the initial term, with one option to extend for an additional three and a half years, for the continued use and operation of ±69,804 square feet of warehouse space for the Police Vehicle Warehouse unit, totaling ±99,819 square feet of warehouse space located at 1598 Monterey Road in San José, for an additional cost of \$238,730 for the second year, and an additional cost of \$636,612 for each of the third, fourth, and fifth years, for a total rental cost of \$5,008,988 for the full term of the lease including the option period, and all other necessary documents.

OUTCOME

Approval of this recommendation will allow the City to negotiate and execute a Third Amendment to the Lease (“Third 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 Jose.

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

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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 Jose 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 ±99,819 square feet of warehouse space located at 1598 Monterey Road in San Jose, 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, City and Landlord executed a Second Amendment to the Lease to extend the term through May 31, 2021.

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. City staff have been notified of Landlord’s planned future development and have worked to identify possible locations for relocation and conducted analyses to determine rental costs, building and parking arrangements, and the amount of tenant improvements that would be required.

The Police Department and staff toured the limited number of alternative locations that were feasible for possible relocation. However, many challenges were involved in the relocation effort including private sector competition for similar buildings, significantly increased rental costs, and the Police Department’s increased space needs for both Vehicle and Evidence units. Given the pending expiration of the term of the Second Amendment to the Lease and the limited options that were available in the amount of time needed to relocate, staff began working with the Landlord to extend the lease to provide staff more time to find a suitable space to relocate the Police Evidence and Vehicle Warehouse. The lease is currently on a month to month status, with a monthly rent subject to a holdover rate of 125% of the previous base rent, or \$88,837.50 a month. The Landlord is not willing to continue leasing at the holdover rate because it is below market.

ANALYSIS

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

- Building Address:** 1598 Monterey Road, San Jose, CA
- Landlord:** Sun Garden Center 3, LLC
- Rentable Area of Premises:** ±99,819 SF (±30,015 SF for the evidence unit and ±69,805 SF for the vehicles unit)
- Term:**
- Sixty (60) months for the ±30,015 SF for the evidence unit
 - Eighteen (18) months for the ±69,805 SF for the vehicle's unit
- Commencement Date:** July 1, 2021
- Expiration Date:**
- June 30, 2026 for the ±30,015 SF for the evidence unit
 - December 31, 2023 for the ±69,805 SF for the vehicle's unit
- Options to Extend:** One option to extend the ±69,805 SF for the vehicle's unit for an additional three and a half years (term with the exercised option would total five years and run until June 30, 2026)

Rent for Evidence Unit (±30,015 SF):

Year:	Adjustment Date:	Rent:	Rent/SF:
1	July 1, 2021 – June 30, 2022	\$27,613.80/month	\$0.92
2	July 1, 2022 – June 30, 2023	\$27,613.80/month	\$0.92
3	July 1, 2023 – June 30, 2024	\$28,442.21/month	\$0.95
4	July 1, 2024 – June 30, 2025	\$28,442.21/month	\$0.95
5	July 1, 2025 – June 30, 2026	\$28,442.21/month	\$0.95
Total		\$1,686,650.76	

Rent for Vehicles Unit (±69,805 SF):

Months:	Adjustment Date:	Rent:	Rent/SF:
1-12	July 1, 2021 – June 30, 2022	\$66,313.80/month	\$0.95
13-18	July 1, 2022 – December 31, 2022	\$66,313.80/month	\$0.95
Total		\$1,193,648.40	

Rent for Vehicles Unit (±69,805 SF) if Option Term is Exercised by December 31, 2021:

Year:	Adjustment Date:	Rent:	Rent/SF:
2	July 1, 2022 – June 30, 2023	\$53,051.04/month	\$0.76
3	July 1, 2023 – June 30, 2024	\$55,703.59/month	\$0.80
4	July 1, 2024 – June 30, 2025	\$55,703.59/month	\$0.80
5	July 1, 2025 – June 30, 2026	\$55,703.59/month	\$0.80
Total		\$2,641,941.72	

The monthly rent for the Third Amendment will continue to be a gross lease rate that includes property taxes, operating expenses and building maintenance. Although the rental rates of the Third Amendment are considerably higher than the previous rental rate (\$0.71 per square foot), it is significantly less than the market rate increase that would be associated with a new lease at a different facility, which could be an increase of approximately 60-90%. Current market rates for warehouse space in San Jose are \$1.00-\$1.35 per square foot, with an additional monthly triple net cost (“NNN”) of \$0.15-\$0.35 per square foot.

While this lease extends the evidence unit for five years, the shorter term for the vehicle’s unit gives the opportunity for staff to relocate the unit to a larger space. During the initial 18-month term of the vehicle’s unit, staff will continue to look for a long-term solution to relocate the unit. If no suitable relocation opportunity is found during that time, staff will exercise the option to extend the vehicle’s unit an additional 3.5 years.

Staff recommend the City enter into the Third 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 Third Amendment to the Lease dated May 12, 2003 between Landlord and City to extend the term of the lease for the Police Department’s Vehicle and Evidence Warehouse at 1598 Monterey Road, San Jose, CA.

EVALUATION AND FOLLOW-UP

After the Third 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 Council’s consideration. Should staff identify a suitable relocation site for the vehicle unit, the option to extend the vehicle unit’s lease for three and a half additional years would not be exercised. If a suitable relocation site is not found, the option would be exercised, which would extend the vehicle unit’s lease to five total years.

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 29, 2021 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 the Economic Strategy #5 “Increase San Jose’s Influence in Regional, State, and National Forums in Order to Advance City Goals and Secure Resources.”

COST SUMMARY/IMPLICATIONS

If the City does not elect to exercise its option to extend the lease term for the Vehicle Warehouse Unit for an additional four years, the rental rate structure of this lease extension is \$1,127,132 for the first year, \$729,249 for the second year, and \$341,307 for the third, fourth, and fifth years for which only the Evidence Warehouse Unit is located at the Premises. The total rental cost is \$2,880,302 for this option.

If the City elects to exercise its option to extend the lease term for the Vehicle Warehouse Unit for an additional four years, keeping both warehouse units at the same location for the next five years, the rental rate structure of this lease extension is \$1,127,132 for the first year, \$967,979 for the second year, and \$977,919 for the third, fourth, and fifth years. The total rental cost is \$5,008,988 for this option.

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BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the contract recommended as part of this memo and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn. Name	Current Total Appn.	Amt. for Contract	2021-2022 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
001	2064	Property Leases	\$1,768,820	\$1,127,132	IX-13	N/A

*The 2021-2022 Proposed Operating Budget was released on May 4, 2021 and is scheduled to be reviewed and approved by City Council on June 15, 2021 and adopted on June 22, 2021.

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

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