



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: 05-31-11

Approved

Date

6/7/11

COUNCIL DISTRICT: # 3
SNI: NA

SUBJECT: APPROVAL OF AN AGREEMENT WITH HABITAT FOR HUMANITY SILICON VALLEY FOR THE LEASE OF REAL PROPERTY LOCATED AT 1608 LAS PLUMAS AVENUE

RECOMMENDATION

Execute an agreement with Habitat for Humanity Silicon Valley, a California nonprofit corporation for the lease of space in real property located at 1608 Las Plumas Avenue known as the San Jose Environmental Innovation Center for purposes of operating a ReStore business, for rental revenue to City as follows: Commencement Date through Month 28 \$0; Month 29 through month 60 \$6,572.70 per month; Month 61 through 72 \$6,704.15 per month; Month 73 through month 84 \$6,838.24 per month for total compensation to the City of \$372,480.

OUTCOME

The lease of space at the San Jose Environmental Innovation Center (EIC) to Habitat for Humanity Silicon Valley (Habitat) will allow for the operation of a ReStore retail outlet selling quality used and surplus building materials at a fraction of normal prices. The ReStore will generate sales tax revenue and support the City's Green Vision Goals #1, #4, and #5 and the Urban Environmental Accords Action # 4. This particular tenant also makes the EIC a more attractive investment and enhances the City's ability to secure additional funding from the sale of New Markets Tax Credits. The seven-year projected lease revenue to the City would be \$372,480.

BACKGROUND

City staff first approached Habitat to explore opportunities to open a ReStore Facility at the EIC in early 2007. In the City's 2008 Zero Waste Strategic Plan staff identified local construction and demolition reuse opportunities as an important resource for contractors and residents. On

February 15, 2011, Council adopted a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding between the City and Habitat to develop a lease to occupy approximately 15,000 square feet at the EIC to operate a building materials reuse store.

The City and Habitat for Humanity Silicon Valley were able to reach mutually agreeable terms for a ground lease of 14,606 square feet to open and operate a ReStore, in the San José EIC located at 1608 Las Plumas Avenue. The ReStore will be the only operation of its kind in the south Bay Area.

A market analysis was conducted by staff which showed that a ReStore in San Jose would be the only operation of its kind in the south Bay Area. Habitat developed a detailed Business Plan which also demonstrated that a ReStore would be a successful business operation in San Jose at this location.

ANALYSIS

The ReStore will sell quality new and nearly new construction materials to the general public. There are two local stores in San Francisco and Oakland they are very successful. The inventory will be donated by home improvement/building supply businesses and home building firms. The proposed terms to lease approximately 14,606 square feet for the operation of a retail store will commence on July 1, 2011 and terminate on June 30, 2018 with one five year option to extend. The rental revenue to the City is as follows: Commencement Date through Month 28 \$0; Month 29 through month 60 \$6,573 per month; Month 61 through 72 \$6,704 per month; Month 73 through month 84 \$6,838 per month for total compensation to the City of \$372,480,

Habitat proposes to make tenant improvements including interior painting and lighting. As consideration for the tenant improvements being provided by Habitat, rent will not commence until the beginning of the 29th month following commencement. Habitat proposes to use experienced volunteers to complete tenant improvements in accordance with Building Code requirements. Habitat shall have nonexclusive right to use the parking and other common areas, as shown in Attachment A, and the tenant may mark off up to 12 spaces for pick ups and drop offs for Habitats customers. Habitat shall pay directly for gas, electricity and garbage and the City will pay all utilities that have a common account including water and sewer services.

The lease ensures that a new business, in a growth area will locate and operate in San Jose at a currently underutilized site. The ReStore will: (a) generate new tax revenue; (b) be compatible with, and contribute to the vitality of, the surrounding light industrial area; (c) be a complementary use to the existing Household Hazardous Waste Drop Off facility and proposed Clean Tech Development Center.

EVALUATION AND FOLLOW-UP

The lease of this property is expected to be effective on or about July 1, 2011. Thereafter, City staff will monitor lease compliance through the term of the lease.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The subject lease agreement does not meet any of the above criteria; however, this memorandum will be posted on the City's website for the June 21, 2011 Council agenda.

COST SUMMARY/IMPLICATIONS

There are no cost implications to the General Fund as a result of this action.

The lease revenue will be used to cover the City's maintenance costs associated with the ReStore and will be budgeted specifically for this purpose in the Integrated Waste Management Fund (Fund 423). In addition, the 2007-2008 Adopted Operating Budget included \$100,000 in ongoing Environmental Services Department non-personal funding for maintaining the facility as well as funding for a permanent full-time facility manager. The City estimates that no more than \$25,000 per year will be incurred in operating expenses to maintain Habitat's share of indoor and outdoor common areas, water and sewer services. Operating expenses that Habitat is responsible for include metered utilities (gas and electricity), garbage, supplies, information technology, and insurance. Sales tax revenue will also be generated for the General Fund.

SOURCE OF FUNDING:

Integrated Waste Management Fund (423)

Habitat acknowledges the EIC Facility will be under construction with a completion and delivery date anticipated to occur on December 1, 2012. In the event Habitat does not receive delivery of the property by March 13, 2013, Habitat has the right to terminate this agreement without recourse or damage to the City. Habitat has agreed to accept the premises in "as-is" condition substantially consistent with the permit set signed by the Director of Public Works on December 16, 2010.

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COORDINATION

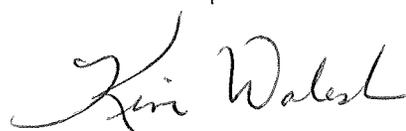
This item has been coordinated with the Department of Environmental Services, and the City Attorney and City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

The seven-year projected lease revenue to the City would be \$372,480.

CEQA

Mitigated Negative Declaration for San Jose Environmental Innovation Center adopted 12/1/09, file no. PP09-138.



KIM WALES
Director of Economic Development,
Chief Strategist

For questions please contact NANJI KLEIN, Deputy Director, at 408-535-8181.

Attachment A -- Site Map

EXHIBIT "A"

PREMISES AND COMMON AREAS

Building Plan

