



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: March 26, 2012

Approved

Date

3/29/12

COUNCIL DISTRICT 3

SUBJECT: APPROVAL OF AN AGREEMENT WITH THE COUNTY OF SANTA CLARA FOR THE SUBLEASE OF REAL PROPERTY LOCATED AT 1608 LAS PLUMAS AVENUE

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute an agreement with the County of Santa Clara (County) for the sublease of space in real property located at 1608 Las Plumas Avenue known as the San Jose Environmental Innovation Center for the purpose of operating a household hazardous waste (HHW) collection facility, resulting in rental revenue of approximately \$344,000 annually to the City.

OUTCOME

The sublease of space at the San Jose Environmental Innovation Center (EIC) to the County will allow for the operation of a permanent HHW collection facility and result in lease revenue to the City of approximately \$344,000 annually. The County administers all operational aspects of the HHW Program on behalf of the City and is responsible for recycling and waste disposal. By providing the collection facility the City will be able to accommodate the growing number of San Jose and County residents and small businesses utilizing the HHW drop-off service. The City will also continue to provide a means for reducing the amount of toxins that enter the City's landfills, recycling facilities, storm sewers, sanitary sewers, and prevent the toxins from threatening both San Francisco Bay and local groundwater.

BACKGROUND

The HHW program supports the goals of the City's Green Vision, Zero Waste Plan, and Urban Environmental Accords by helping to divert hazardous waste from landfills and by protecting the ecological integrity of the Bay and the City's drinking water supply. This program also provides

March 26, 2012

Subject: County of Santa Clara Lease Agreement

Page 2

a legal means for residents to dispose of hazardous materials, as well as products classified as Universal Wastes (UW) such as batteries, fluorescent tubes, and compact fluorescent lamps that contain mercury, lead, cadmium, copper, and other substances hazardous to human health and the environment if not properly handled.

City staff first approached the County to explore opportunities to operate a permanent HHW collection facility at the EIC in 2006, since the previous facility closed due to the master plan schedule of the Central Service Yard. The City had coordinated with the County to ensure that the design of the new facility would meet the needs of the HHW program operations, as well as serve a growing level of participation from San José residents. An environmental review process was completed for the EIC, with a mitigated negative declaration adopted in December 2009.

On December 8, 2011, the Technical Advisory Committee (TAC) of the County's Recycling and Waste Reduction Commission (RWRC) approved a funding strategy to support the lease charged by the City to the County for use of the HHW portion of the San José Environmental Innovation Center. The funding strategy consists of a cost share between the fixed cost allocation of the AB939 Implementation Fee, which would support approximately half of the anticipated lease charge, and by a facility use surcharge to each participating city in the program to equitably distribute the remainder of the lease charge. The facility use surcharge would be adjusted annually based on actual participation at the facility.

Construction of the EIC began in the fall of 2011 and is expected to be complete in December 2012. The lease with the County for the HHW collection facility at the EIC is expected to begin on January 1, 2013. No tenant improvements within the HHW collection facility are anticipated from the County, however, any future improvements that are reasonably necessary for the operation of the HHW collection facility will be reviewed and approved by the City. The County will transition some equipment and operational materials into the space and will be available to begin receiving HHW drop-off appointments in early 2013.

ANALYSIS

As the master tenant of the EIC, the City will offer the County a sublease to operate the HHW collection facility at the site. The collection facility consists of approximately 7,000 square feet of covered building space and 3,000 square feet of canopy space over open working areas, providing the County 10,000 square feet of operational space. The initial term of the lease will cover the period of January 2013 through June 2015. At the completion of the initial term, the County will have the option to extend the term of the lease, under the same terms and conditions, for up to four additional terms of three years each.

The rental amount is calculated by adding the amortized value for project build out costs on a 40-year amortization schedule, any interest accrued on the remaining balance, and operation and maintenance costs. The projected lease revenue to the City is approximately \$344,000 annually

for the initial term, which consists of approximately \$314,000 in base rent and \$30,000 for operations and maintenance. Rent for each year of the optional terms will be \$314,000 in base rent exclusive of the operating and maintenance cost. In addition, the operation and maintenance costs will be based on an annual amount of \$30,000 with a forecasted 3% escalation each year during the optional terms.

The lease is expected to begin on January 1, 2013. As rent payments are due in arrears, the initial quarterly payment will be made by the County on April 1, 2013. In the event that the City does not deliver the facility to the County by April 1, 2013, the County has the right to terminate the lease agreement without recourse or damage. The County will accept the premise in "as-is" condition substantially consistent with the permit set signed by the Director of Public Works on December 16, 2010.

The County will open the HHW collection facility to the public no less than four days per week. The lease will make available to the County 50 non-exclusive parking spaces for staff and guests. The County shall be responsible for such utilities as electricity, natural gas, and solid waste collection.

The lease ensures that a permanent HHW collection facility will be located and operated in San José at a currently underutilized site. The HHW facility will be compatible with, and contribute to the vitality of, the surrounding light industrial area, and be a complementary use to the Habitat for Humanity ReStore space and proposed Clean Tech Development Center.

EVALUATION AND FOLLOW-UP

Upon approval, the lease agreement will require RWRC approval on April 25, 2012, and County Board of Supervisors approval on May 22, 2012. The lease of this property is expected to be effective on or about January 1, 2013. Thereafter, the City 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)**

HONORABLE MAYOR AND CITY COUNCIL

March 26, 2012

Subject: County of Santa Clara Lease Agreement

Page 4

Although this item does not meet the criteria listed above, this program has been discussed at publicly noticed meetings of the TAC and RWRC. Agendas for these meetings are distributed to representatives of all cities in the county and to other interested parties. Agendas and minutes are also posted on the Commission's website. In addition, this memorandum is posted on the City's website for the Council Agenda of April 17, 2012.

COORDINATION

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

FISCAL/POLICY ALIGNMENT

This action aligns with the City's Economic Development Strategy #1 "Encourage Companies and Sectors that Can Drive the San Jose/Silicon Valley Economy and Generate Revenue for City Services and Infrastructure".

COST SUMMARY/IMPLICATIONS

The rent owed by the County is calculated by adding the amortized value for the project on a 40-year schedule with accrued interest and operation and maintenance costs. The projected lease revenue to the City is approximately \$344,000 annually for the initial term, comprised of base rent of \$314,000 and operations and maintenance costs of \$30,000. Base rent for each year of the optional terms will also be \$314,000, exclusive of the operation and maintenance cost. The operation and maintenance costs will be based on an annual amount of \$30,000 with a forecasted 3% escalation each year during the optional terms.

The lease revenue will accrue to the Integrated Waste Management Fund (Fund 423).

CEQA

File No. PP09-138, Mitigated Negative Declaration for the San Jose Environmental Innovation Center, adopted December 1, 2009.

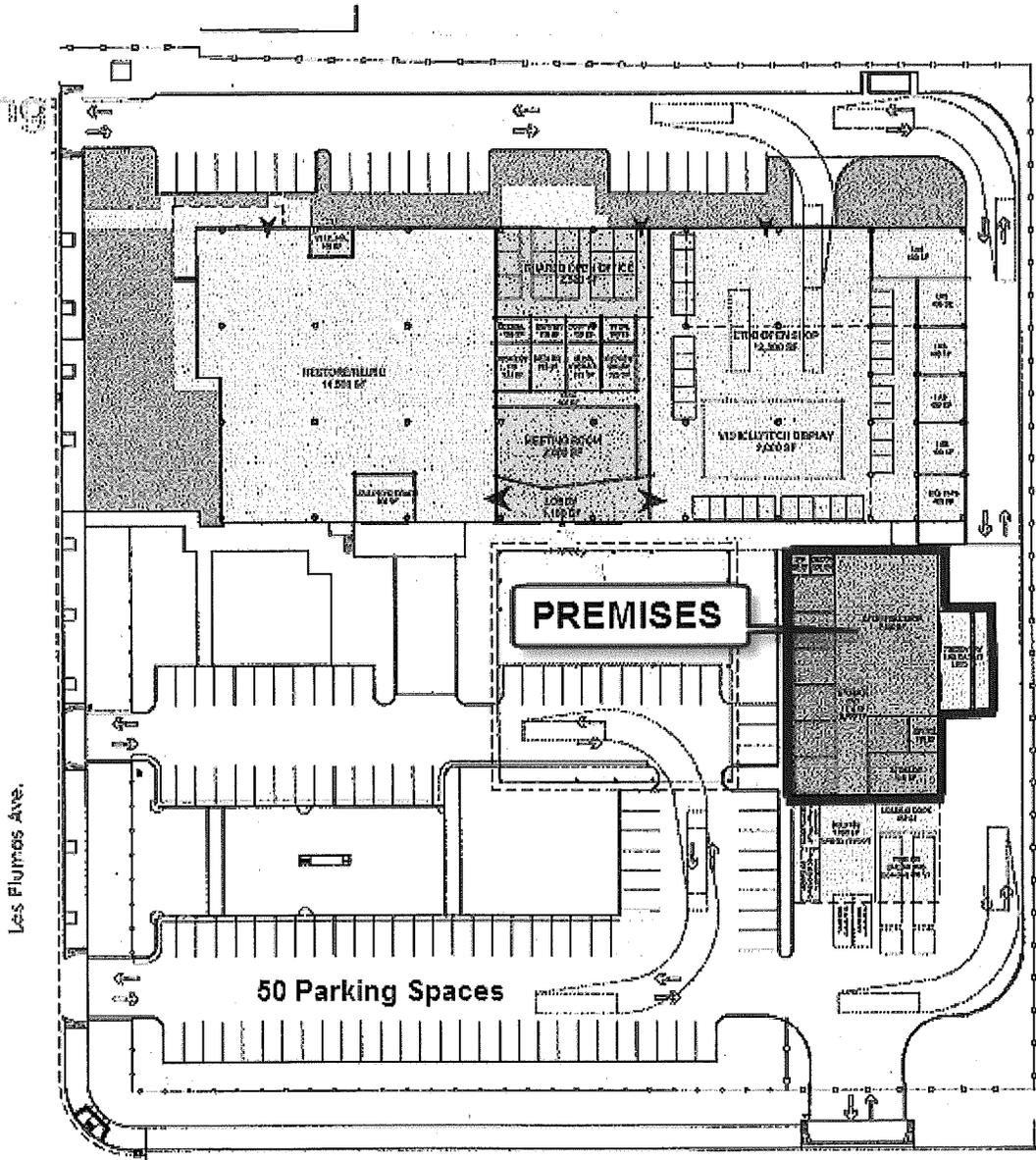
/s/

KIM WALESH
Director of Economic Development
Chief Strategist

For questions please contact Nanci Klein, Deputy Director, at 535-8184.

ATTACHMENT A - SITE MAP

SJEC
Building
Plan



Nipper Ave.