



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: JUNE 20, 2023

FROM: PUBLIC UTILITIES DEPARTMENT WARDS: ALL

SUBJECT: FIRST AMENDMENT TO COMMERCIAL LEASE AGREEMENT WITH WATTEV SB1, INC., TO AMEND RENT COMMENCEMENT DATE TO OCTOBER 1, 2023 AND LEASE EXPIRATION DATE TO SEPTEMBER 30, 2038 FOR CITY-OWNED PROPERTY LOCATED AT 1388 SOUTH E. STREET, SAN BERNARDINO, CALIFORNIA; AND SECOND AMENDMENT TO COMMERCIAL LEASE TO EXTEND RENT COMMENCEMENT DATE TO NO LATER THAN DECEMBER 31, 2023 AND EXPIRATION DATE TO NO LATER THAN DECEMBER 31, 2038, IF NECESSARY

ISSUE:

Approve a First Amendment to the Commercial Lease Agreement with WattEV SB1, to amend the Rent Commencement date to October 1, 2023 and the Lease Expiration date to September 30, 2038 for City-owned Property located at 1388 South E. Street, San Bernardino, California; and authorize City Manager to execute a Second Amendment to the Commercial Lease Agreement to extend Rent Commencement Date to no later than December 31, 2023 and Expiration Date to no later than December 31, 2038, if necessary.

RECOMMENDATIONS:

That the City Council:

1. Approve a First Amendment to the Commercial Lease Agreement with WattEV, SB1, Inc., to amend the Rent Commencement Date to October 1, 2023 and Lease Expiration date to September 30, 2038 for City-owned Property located at 1388 South E. Street, San Bernardino, California;
2. Authorize the City Manager, or designee, to execute the First Amendment, including making minor, non-substantive changes, and to sign all documents and instruments necessary to complete the transaction; and
3. Authorize the City Manager, or designee, to execute a Second Amendment to extend the Rent Commencement Date to no later than December 31, 2023 and the Expiration Date to no later than December 30, 2038, if necessary.

BOARD RECOMMENDATION:

On May 22, 2023, the Board of Public Utilities with all members present, voted unanimously to recommend that the City Council approve the First Amendment to the Commercial Lease Agreement with WattEV SB1, Inc., amending the Rent Commencement to October 1, 2023 and the Expiration Date to September 30, 2038, for the City-owned Property located at 1388 South E. Street, San Bernardino, California.

BACKGROUND:

Riverside Public Utilities (RPU) controls the vacant land located at 1388 South E Street, San Bernardino, adjacent to the 215 Freeway south of Orange Show Road ("Property"). For approximately 37 years, the Property was leased from RPU as an auto dealership, first to Holiday Oldsmobile and later to Center Chevrolet which was terminated in 2008 under its own terms. Upon Center Chevrolet's vacancy, the existing buildings, which were in need of repair, became a magnet for graffiti, vagrancy, and vandalism. To mitigate these issues, RPU had the buildings demolished in 2010 and the Property has remained vacant ever since.

On October 12, 2021, the City Council approved a Commercial Lease Agreement with WattEV, SB1, Inc., for an initial 15-year term plus three optional five-year extensions for City-owned property located at 1388 South E. Street, San Bernardino, California.

DISCUSSION:

On February 15, 2023, staff received notification from WattEV SB1, Inc., requesting to amend their Rent Commencement Date due to delays directly related to obtaining entitlements from the City of San Bernardino and relinquishing easements with San Bernardino Municipal Water Department. The Commercial Lease Agreement allowed six months from the Effective Date of the Agreement to obtain entitlements. WattEV SB1, Inc., was unable to obtain their entitlements and building permits within the permitted timeframe. Therefore, staff is proposing a First Amendment to the Commercial Lease Agreement.

Staff has reviewed the proposed First Amendment to Commercial Lease Agreement and recommends the Rent Commencement Date and Expiration Date be amended under the terms summarized below:

1. Term: October 1, 2023 to September 30, 2038.
2. Expiration Date: Will be amended from February 11, 2038 to September 30, 2038.
3. Other: All terms and conditions of the Lease that are not inconsistent with this First Amendment shall remain in full force and effect and are incorporated herein by this reference as if set forth in full.

Staff is also recommending preapproval for potential Second Amendment to extend the Rent Commencement Date to no later than December 31, 2023, and the Expiration Date to no later than December 31, 2038, if necessary, if WattEV, SB1, Inc., is unable obtain all their entitlements and permits to finalize construction before the end of the year.

The Community & Economic Development Director concurs with the recommendations in this report.

STRATEGIC PLAN ALIGNMENT:

This item contributes to **Strategic Priority 5 - High Performing Government** and **Strategic Priority 6 - Infrastructure, Mobility & Connectivity** and the following goals:

Goal 5.4 - Achieve and maintain financial health by addressing gaps between revenues and expenditures and aligning resources with strategic priorities to yield the greatest impact.

Goal 6.2 - Maintain, protect and improve assets and infrastructure within the City's built environment to ensure and enhance reliability, resiliency, sustainability, and facilitate connectivity.

The item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – The Lease and First Amendment confirms that the City is a good steward of real property assets for the benefits of RPU's ratepayers.
2. **Equity** – The Lease and First Amendment demonstrates that Riverside is equitable in distribution of services, which ensures that every member of the community has equal access to share the benefits of community progress.
3. **Fiscal Responsibility** – The Lease and First Amendment demonstrates that Riverside is a prudent steward of public funds and ensures responsible management of the City's financial and property resources.
4. **Innovation** – The Lease and First Amendment demonstrates that Riverside is innovative by partnering with Watt-EV SB 1, Inc. to offer charging stations for medium and heavy-duty electric vehicles, which will reduce the carbon footprint in a neighboring city and demonstrates that Riverside is on the forefront of innovative strategies for clean businesses.
5. **Sustainability & Resiliency** – The Lease and First Amendment will ensure present and future reliability, resiliency, and sustainability for this City-owned property. Moreover, the Lease and First Amendment as previously noted, also demonstrates the City's commitment to reducing the carbon footprint in a neighboring city.

FISCAL IMPACT:

There is no fiscal impact report associated with this amendment: the original fifteen (15) year lease term will remain intact with a slight delay in the commencement of \$2,370,000 rental income generated over the term of the lease.

Prepared by: Todd M. Corbin, Utilities General Manager
Certifies availability
of funds: Edward Enriquez, Interim Assistant City Manager/Chief Financial
Officer/City Treasurer
Approved by: Rafael Guzman, Assistant City Manager
Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. First Amendment to Lease Agreement – WattEV, SB1, Inc., a California Corporation
2. Presentation