



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER

File #: 21-017

Board Meeting Date: 1/5/2021

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Michael P. Callagy, County Manager
Subject: Memorandum of Understanding with Atherton re Lease/Leaseback Transaction

RECOMMENDATION:

Adopt a resolution authorizing and directing the County Manager, or the County Manager's designee, to execute the Memorandum of Understanding with the Town of Atherton to enter into a December 2021 Lease/Leaseback Transaction.

BACKGROUND:

On November 10, 2020, the Board adopted Resolution No. 20-865 authorizing the County's execution of a Memorandum of Understanding with the San Mateo County Flood and Sea Level Rise Resiliency District, the City of Redwood City, the City of Menlo Park, and the Town of Atherton (the "Bayfront MOU") with respect to construction and operation of the Bayfront Canal and Atherton Channel Flood Protection and Ecosystem Restoration Project (the "Bayfront Project") for up to \$7,455,000. The Bayfront Project will consist of a series of projects that provide flood protection and other benefits to the region. The Bayfront Project entails completing design; securing all permits and property rights; completing construction; and conducting operations and maintenance of new facilities, and monitoring, maintaining, and reporting on mitigation actions required by environmental regulatory permits. The Bayfront MOU requires monetary payments from each of the parties to finance the Bayfront Project.

Atherton has requested that the County make funds available to finance the amount of Atherton's required monetary contribution to the Bayfront Project, which totals \$1,350,000.

Pursuant to State law, the County may provide financial assistance to cities located within the county to the extent that the parties enter into lease-leaseback agreements with respect to real property situated within the county. A lease/leaseback transaction would enable the County to provide funds to Atherton in the amount of its monetary contribution to the Bayfront Project, while securing repayment to the County with interest. However, Atherton has indicated that it is not able to encumber and lease property, as required for the lease/leaseback transaction to proceed, until approximately December 1, 2021.

DISCUSSION:

The County has negotiated a Memorandum of Understanding with Atherton to establish their intention to cooperate to enter into the anticipated lease/leaseback transaction by on or about December 1, 2021 (the "Lease/Leaseback MOU"). Under the terms of the Lease/Leaseback MOU, Atherton agrees to fully cooperate in the provision to the County of requested information, documents and the completion of any actions as the County determines may be necessary or appropriate to permit the Parties to enter into the lease/leaseback transaction. The County agrees to consider any such information, documentation and actions provided and reserves all rights to reasonably determine their sufficiency. Under the Lease/Leaseback MOU, the County remains free to elect not to enter into the lease/leaseback transaction for good cause shown, including if Atherton fails to meet the conditions and requirements of closing.

In connection with the Lease/Leaseback MOU, the County and Atherton concurrently negotiated the proposed lease/leaseback agreement, to be finalized and entered into by on or about December 1, 2021, whereby Atherton would lease to the County and the County would lease back to Atherton certain designated property for which the County would make a one-time up-front lease payment in an amount not to exceed one million three hundred fifty thousand dollars (\$1,350,000), which Atherton would repay through annual rental payments over a lease term of five (5) years, at a fixed interest rate of 2% per annum.

If Atherton satisfies the conditions and requirements of closing and other conditions stated in the Lease/Leaseback MOU and the proposed lease/leaseback agreements, the Board will be asked to approve the final lease/leaseback transaction agreements in or about December 1, 2021. At this time, the Board is asked only to authorize and direct the County Manager, or the County Manager's designee, to execute the Lease/Leaseback MOU.

County Counsel has reviewed and approved the resolution and the Lease/Leaseback MOU as to form.

FISCAL IMPACT:

There is no Net County Cost associated with the execution of the Lease/Leaseback MOU, which does not itself obligate the County to incur cost or revenue. If the proposed lease/leaseback transaction contemplated by the Lease/Leaseback MOU is entered into by on or about December 1, 2021, the County's lease payment obligation shall not exceed one million three hundred fifty thousand dollars (\$1,350,000) and will be included in the FY 2021-22 Budget with the funds provided through the County's One-Time Expense Fund. The County will absorb the corresponding rental payments from Atherton, including interest at a fixed rate of 2% per annum, which approximates one million four hundred eighty-five thousand dollars (\$1,485,000) over the 5 year term of the proposed lease/leaseback transaction.