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R-22-56  
Meeting 22-08  
April 28, 2022

**CONSENT ITEM #C3**

To: Board of Directors  
Open Space Authority

From: Andrea Mackenzie  
General Manager

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**SUBJECT**

Approval of the Lease Amendment Between AgCo Hay, LLC, and the City of San José for Tulare Meadows; Assessor's Parcel Numbers 708-25-002, -004, -005, 708-26-001, -002, 708-27-001, -002, -007, -014, 708-28-002

**REVENUE/COST**

The rent for the lease is \$10,500 per year. However, the amended lease provides for a rate reduction of \$35.00 per acre should land be taken out of production for restoration, as approved by the Authority's Management.

**BACKGROUND**

On November 6, 2019, the Santa Clara Valley Open Space Authority's (Authority) Board of Directors (Board) unanimously approved Resolution 19-45, granting permission for the Authority to enter into an agricultural lease (Lease), as property manager, with the City of San José (Lessor) and AgCo Hay, LLC (Lessee) on the subject property (Property) known informally as Tulare Meadows, located at the northeast corner of Bailey Avenue and Santa Teresa Boulevard, comprised of approximately 326 acres. As part of the Property acquisition, the Lessor granted the Authority a Conservation Easement to prevent development which could result in flooding and water quality contamination, and to protect certain conservation values. The Lessor and the Authority agreed that Property uses shall be subject to, and consistent with, the Conservation Easement, through which the Authority retained management and certain access rights to ensure proper uses. The Authority entered the existing Lease (Exhibit C) to maintain and support existing agricultural uses on the Property. Lease terms allow for dry land farming of hay on 320 acres of the Property for the term of two years. Rent revenue is collected by the Authority and used for property management.

**DISCUSSION**

The Amendment to the Lease (Exhibit D) retains the original conditions except as follows: replacement of Subsection 1 c), 1 e), Section 5, and Exhibit C, and a revision to the Lease term in Section 2.

The "Use of Property" has been amended such that the Lessee is to maintain a five-foot buffer from the coyote brush, which is habitat and cover for wildlife, and adds approximately 30 acres, formerly known as "Fisher Flats" (APNs: 708-25-004, -005). Fisher Flats is comprised of almost all non-native invasive species and will benefit from farming as a weed management strategy. The amended "Lessor's and Manager's Use", states that the Authority, upon written notice to Lessee, may modify the Lease Area for restoration purposes. Restoration shall only occur after the Lessee has had an opportunity to harvest hay, and rent shall be reduced by \$35.00 per acre "for such land taken out of production". The "TERM"

of the Lease has been extended to, and includes, November 15, 2024, to align with the Coyote Valley Areas Master Planning that is underway. The section detailing “HAZARDOUS SUBSTANCES AND PESTICIDES”, has been amended to include language that Lessee may spot spray thistle between June 1 and September 30 and apply herbicide in January and February, upon prior written consent of Lessor and the Authority. Consent for spot spray of thistle may be withheld or restricted in the duration and location for each application. The ability to spray helps the tenant manage weeds in their hay production and prevent the spread of weeds on the Property. The Exhibit C property map has been replaced in its entirety, reflecting the addition of Fisher Flats and updated Assessor’s Parcel Numbers for the Property.

#### **RECOMMENDATION**

It is recommended that the Board approve the Amendment to the Agricultural Lease Agreement attached hereto with AgCo Hay, LLC, and City of San José for Tulare Meadows; Assessor’s Parcel Numbers 708-25-002, -004, -005, 708-26-001, -002, 708-27-001, -002, -007, -014, 708-28-002.

Prepared by:

Isabella Kressman, Real Property Coordinator

*Attachment(s): Resolution 22-44 -- A Resolution of the Governing Board of the Santa Clara Valley Open Space Authority Approving an Amendment to the Agricultural Lease with AgCo Hay, LLC, and the City of San José for Tulare Meadows – Coyote Valley Conservation Focus Area – Santa Clara County Assessor’s Parcel Numbers 708-25-002, -004, -005, 708-26-001, -002, 708-27-001, -002, -007, -014, 708-28-002*

*Exhibit C – Tulare Meadows Agricultural Lease  
Exhibit D – Amendments to Agricultural Lease*