

**CHEHALIS CITY COUNCIL MEETING
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Jill Anderson, City Manager

BY: Brandon Rakes, Airport Operations Coordinator

DATE: June 28 , 2021

SUBJECT: Consideration of Agreement to Lease Tract 8 at 1800 NW Louisiana Avenue to KEM Northwest, an Washington LLC

ISSUE

The Chehalis-Centralia Airport has prepared an agreement to lease Tract 8 by the KEM Northwest, LLC, an Washington corporation, to develop this parcel. This parcel is located on the airport's property at 1800 NW Louisiana Avenue between I-5 Toyota and Dutch Bros Coffee.

INTRODUCTION

Attorney John Elias has been in negotiations with the Chehalis-Centralia Airport on behalf of his client, KEM Northwest, LLC, to lease an additional site for a development over the last several weeks. This tract totals approximately 3.2 gross acres of land and is adjacent to their currently leased site.

This 3.2 acres site was contemplated in the previous lease agreement the City Council authorized in March of 2021 and provided for a Right of First Refusal for this site. KEM Northwest, LLC has since decided to increase its investment in our community and to pursue a lease for the adjacent 3.2 acres with a Right of First Refusal for the adjacent parcel to the south. They are requesting terms consistent with the terms negotiated in their previous lease agreement with the City from March of this year.

KEM Northwest, LLC has extensive dealership experience. They have interests in several locations around the United States, representing multiple vehicle brands.

This transaction's structure is slightly different from the City's models used in the past for lease agreements with the exception of the O'Brien/KEM Northwest LLC lease recently approved by the City Council. The proposed transaction includes two parts. The purpose of this revision is to provide more structure throughout the transaction.

First, there is an Agreement to Lease that lays out the proposal's terms and provides an initial engagement during which initial due diligence may occur. There is earnest money during this part of the transaction, and it is very similar in nature to the inspection period when purchasing a residential home. This document provides more structure and clarity than a formal Letter of Intent.

Second, there is the Ground Lease. Upon Closing the Agreement to Lease, which will occur no later than four months from the effective date of the Agreement to Lease, unless the Agreement to Lease is terminated, the Ground Lease will become effective. The Ground Lease establishes additional indemnity clauses and other legal provisions for the term of the Ground Lease. No further action would be required by the City Council to transition from the Agreement to Lease to the Ground Lease.

TERMS OF THE PROPOSAL

The Chehalis-Centralia Airport ordered a Determination of Market Rent in October of 2020 for Tract 9 and a portion of Tract 8. This information was used to negotiate the final Agreement to Lease and Ground Lease submitted for consideration at this time. O'Brien Auto Team has agreed to the following provisions included in the Agreement to Lease:

- **Effective Date (Effectiveness):** The Agreement to Lease commences when all parties have signed the Agreement to Lease. Part 4 of the Agreement to Lease establishes a closing date. The closing date shall occur on the 30th day after the end of the Inspection Period or on such earlier date upon five days written notice by Tenant to Landlord. This period will not exceed four months.
- **Earnest Money and Escrow:** The City will receive the amount of \$74,339.50, which shall be credited towards payment of rent described in Section 1.3 of the proposed Agreement to Lease.
- **Inspection:** Ninety (90 days) following the Agreement to Lease commencement as stated in Section 3.3 of the Agreement to Lease.
- **Rent:** Rent is addressed in terms of the Ground Lease that will be in effect after the Closing Date defined in Section 4.1 of the Agreement to Lease.
- **Term:** The term of the Agreement to Lease concludes at Closing which is defined in Section 4.1 of the Agreement to Lease as occurring on the 30th day after the end of the Inspection Period or on such earlier date upon five days written notice by Tenant to Landlord.

The Lease also includes indemnity clauses and other legal provisions that set forth both parties' rights during the course of the lease term. The executed Ground Lease will guide both parties in the process of developing the property.

KEM has agreed to the following provisions included in the Ground Lease for your consideration:

- **Effective Date (Effectiveness):** The closing date of the Agreement to Lease will be the Ground Lease's Effective Date.
- **Deposit:** The City will receive the amount of \$74,339.50, which shall be credited towards payment of rent described in Section 4.1a of the proposed Ground Lease. As stated in Section 8.2 of the Lease, if the Tenant terminates the Lease after the 90 day inspection period, the deposit shall not be refunded.
- **Inspection:** Ninety (90 days) following the Effective Date of the Ground Lease for Tenant to complete due diligence work described in Section 8.2 of the proposed Lease.
- **Rent:** Amount of rent and rent commencement date as described in Section 4 of the proposed Ground Lease. Rent will begin when the Tenant is issued a certificate of occupancy for its new car dealership, but **no later than 30 months** following the Effective Date of the Ground Lease.
- **Term:** Length of the lease term is 20 years with five additional and consecutive 10-year terms; with additional extension clauses described in Section 3.1 of the proposed Ground Lease.

The City Attorney has carefully reviewed the agreement and made modifications as needed to protect the rights of the City.

FISCAL IMPACT

If the proposed Lease is accepted, the City will receive an initial lease revenue of \$74,339.50 annually restricted for the operation of the Chehalis-Centralia Airport. This initial revenue is subject to a schedule of upward rent adjustments to maintain fair market value over the term of the Lease. Sales tax revenue

from any retail activity would be used to fund the City's general operations, including the provision of police and fire services.

RECOMMENDATION

It is recommended that the City Council approve acceptance of the Lease for Tract 8 at 1800 NW Louisiana Avenue by KEM Northwest LLC, and authorize the City Manager to execute the documents.

SUGGESTED MOTION

I move that the City Council approve acceptance of the Lease for Tract 8 at 1800 NW Louisiana Avenue by KEM Northwest LLC, and authorize the City Manager to execute the documents.

REVIEWED FOR APPLICABLE TAXES
 APPROVED FOR RECORDING
 LEWIS COUNTY TREASURER'S
 BY CB DATE 12-7-20

3538510

