



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: APPROVAL OF AN AMENDMENT
TO THE LEASE WITH ROSIES AND
POSIES DOWNTOWN FLORIST

DATE: 02-25-08

Approved

Christine J. Shipp

Date

2-28-08

COUNCIL DISTRICT: 3

RECOMMENDATION

Approval of the first amendment to a lease agreement with Leyla Naderjah and Jon Hellesoe, owners of Rosies and Posies Downtown Florist for their use of City-owned property located at 98 Paseo de San Antonio amending said lease to provide for the terms, provisions, and conditions for installing and maintaining an exterior sign on the Leased Premises pursuant to a signage agreement with the Redevelopment Agency.

OUTCOME

By approving this amendment, Council removes prohibitions from the lease that would preclude the installation of exterior signage on the kiosk structure that is the subject of the lease agreement.

BACKGROUND

On October 1, 1999, the San José Redevelopment Agency (Agency) entered into a lease agreement with Malak Naderjah and Khosrow Rakhshanifar for their operation of a full service florist shop in an Agency-owned structure located at 98 Paseo de San Antonio. In October 2003, the Agency transferred ownership of the property covered under the lease to the City of San José.

On November 2, 2005, Leyla Naderjah and Jon Hellesoe entered into a purchase agreement for business assets with Malak Naderjah and Khosrow Rakhshanifar for the business commonly known as Rosies and Posies Downtown Florist of which the lease is a part. On January 11, 2006, the City as assignee of the Agency consented to the assignment of the lease to the purchasers under the aforementioned agreement.

In June 2007, Public Works Real Estate staff was contacted by representatives from the Agency asking staff to sign a grant application to assist the owners of the florist shop in obtaining a sign grant from the Agency. Upon further review, it was determined that the sign proposed in the grant application would be a violation of the terms of the existing lease agreement.

ANALYSIS

At the request of the Agency, Public Works Real Estate staff in conjunction with the City Attorney's Office drafted an amendment to the lease to provide for the terms, provisions and conditions for the installation and maintenance of an exterior sign on the leased premises pursuant to the signage agreement with the Agency.

The proposed signage agreement with the Agency requires that the Lessee get all necessary permits and approvals for the sign. The amendment to the lease contains wording that defines the types of signs that may be installed and requires that the signs be removed and the building restored to its previous condition upon termination of the tenancy.

Approval is recommended because there is no negative impact to the City owned asset.

EVALUATION AND FOLLOW-UP

Agency staff shall review and approve the final plans for the signage prior to fabrication and installation in accordance with the signage agreement.

POLICY ALTERNATIVES

Not applicable.

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)**

The approval of this agreement amendment does not meet any of the criteria identified by the Sunshine Reforms Work Plan. This memorandum will be posted on the City's website for the March 18, 2008 Council agenda.

HONORABLE MAYOR AND CITY COUNCIL

02-25-08

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Page 3

COORDINATION

This memorandum has been coordinated with the San José Redevelopment Agency. The City Attorney's Office has reviewed the agreement and approved it as to form.

COST SUMMARY/IMPLICATION

There are no direct costs to the City associated with this item.

CEQA

CEQA: Not a project



KATY ALLEN
Director, Public Works Department

For questions please contact PHIL PRINCE, DEPUTY DIRECTOR, at 408-535-8300.

NS:pp;rlc

