

MINUTES OF THE SAN JOSÉ FINANCING AUTHORITY

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 24, 2004

The Council of the City of San José convened in joint session at 5:19 p.m. with the San José Financing Authority, in City Council Chambers at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

- 2 (a) **Adoption of a resolution by the City Council:**
 - (1) **Approving a Purchase Agreement with FMC Corporation for the purchase of no less than 51.54 acres of property located at 1125 Coleman Avenue at a price of twenty-five dollars (\$25.00) per square foot or \$56,242,500.**
 - (2) **Approving the terms of a loan of Airport funds not to exceed \$3,735,000 for annual debt service payments on the Section 108 loan, for a term from January 1, 2005 to June 30, 2018, with interest payable by the City to Airport funds accruing on a monthly basis at the City's rate of return on its invested pool of funds.**
 - (3) **Authorizing the City Manager to:**
 - (a) **Exercise authority on behalf of the City to complete the acquisition of up to 23.23 additional acres of the property pursuant to the Purchase Agreement, for up to 25 months following the close of escrow, for a total additional price not to exceed \$25,297,475; and**
 - (b) **Execute Covenants, Conditions and Restrictions (CC&Rs) for the property located at 1125 Coleman Avenue at the close of escrow for the purchase of the property; and**
 - (c) **Negotiate and execute a Right of Entry Agreement and Easement for all portions of the property located at 1125 Coleman Avenue acquired by the City pursuant to this Purchase Agreement for purpose of permitting continued access by FMC to perform environmental remediation; and**
 - (d) **Execute all documents and agreements necessary to secure a Section 108 loan for the purchase of the additional 23.23 acres of the property, including a Note and Contract with the Secretary of the United States Department of Housing and Urban Development.**
 - (e) **Negotiate and execute all other documents and agreements necessary to complete this transaction.**
 - (4) **Directing staff to proceed with the development of the bond financing documents for the issuance of lease revenue bonds to finance the acquisition of the Property.**

- 2 (b) **Adoption of the following 2004-2005 appropriation ordinance amendments in the General Fund:**
- (1) **Establish a City-Wide appropriation to the Office of the City Manager in the amount of \$563,000 for the FMC Property Deposit.**
 - (2) **Reduce General Fund Contingency Reserve by \$563,000.**
- (c) **Adoption of a resolution of the City of San José Financing Authority stating its intent to issue debt to finance the acquisition of 51.54 acres of land located at 1125 Coleman Avenue.**

**CEQA: Resolution No. 71716, PDC98-12-104. (Economic Development/Airport/City Manager's Office)
(Referral from 8/17/04)**

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, Director of Aviation Ralph Tonseth, and Budget Director Larry Lisenbee, dated August 12, 2004, recommending adoption of resolution, appropriation amendments, and authorization for the City Manager as dictated above. (2) Supplemental memorandum from Director of Economic Development Paul Krutko, dated August 16, 2004, transmitting additional information.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72281, entitled: "A Resolution of the Council of the City of San José: (1) Approving an Agreement with the FMC Corporation for the Purchase of Not Less Than 51.54 Acres of Property Located at 1125 Coleman Avenue at a Price of 25 Dollars Per Square Foot; (2) Approving the Terms of a Loan of Airport Funds Not To Exceed \$3,735,000 for Annual Debt Service Payments on a Section 108 Loan Used for the Property Acquisition; (3) Authorizing the City Manager to Take Actions Related to Completion of the Property Acquisition Including Actions Required to Secure a Section 108 Loan; and (4) Directing Staff to Proceed with the Development of the Bond Financing Documents for the Issuance of Lease Revenue Bonds to Finance the Acquisition of the Property"; Ordinance No. 27230, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund for the FMC Property Deposit; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and City of San José Financing Authority Resolution No. 65, entitled: "A Resolution of the Council of the City of San José Financing Authority Stating Its Intent to Issue Tax-Exempt Debt to Finance the Acquisition of Land Located at 1125 Coleman Avenue", were adopted, with Staff requested to consider obtaining an outside counsel service who specializes in closing escrow actions. (11-0).

ADJOURNMENT

The Joint City of San José Financing Authority meeting was adjourned at 5:20 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

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