



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Peter Jensen

SUBJECT: ASSIGNMENT OF LEASE WITH
ROSIES & POSIES DOWNTOWN
FLORIST

DATE: November 21, 2005

Approved

Ray Wimer

Date

11/30/05

COUNCIL DISTRICT: 3

RECOMMENDATION

Adoption of a resolution authorizing the Director of General Services to negotiate and execute the assignment of the existing lease for the Kiosk at 98 Paseo de San Antonio from the current Tenants, Malak Naderjah & Khosrow Rakhshanifar, owners of Rosies & Posies Downtown Florist, to the purchasers of that business, Leyla Naderjah and Jon F. Hellesoe.

BACKGROUND

On October 1, 1999 the Redevelopment Agency of the City of San Jose entered into a lease with Malak Naderjah & Khosrow Rakhshanifar, the owners of "Rosies & Posies Florists" in Campbell, for a 930 square foot kiosk located on the Repertory Theater Plaza at 98 Paseo de San Antonio. This lease was for the establishment and operation of a flower shop "Rosies & Posies Downtown Florists". The lease was for an initial term of five years with two five year options to extend. The lease is currently in the second year of the first 5-year option period.

In October 2003, the Redevelopment Agency transferred the ownership of the plaza and the kiosk to the City. The current owners of the flower shop now wish to sell the business and assign the lease to Leyla Naderjah and her husband Jon F. Hellesoe.

ANALYSIS

The owners of "Rosies and Posies Downtown Florists" contacted General Service's property management staff to determine the steps necessary to assign the existing lease to a new purchaser. In order to be assured of the viability of the shop under its new ownership, staff asked the proposed purchaser for the following items, which have been provided:

- A business plan for operation of the florist shop.
- A financial statement showing the personal assets and liabilities of the purchaser.
- A profit and loss statement for the operations of the shop during the past 12 months.

Escrow has been opened with the Business Escrow Service Center, and the assignment of the lease will take place through escrow following compliance with the California Bulk sales law, which includes a Uniform Commercial Code Clearance from the Secretary of State and the transfer of the fictitious business name to the purchaser.

Staff will receive the following in escrow at the time the assignment of the lease is executed:

1. A copy of the written agreement showing:
 - The terms and conditions of the proposed transfer of ownership
 - An inventory of assets being transferred
 - A list of corporate accounts including the account names and other pertinent identifying information.
 - Evidence of sales volume attributable to wire service sales, separate from the Campbell store location.
2. A payment bringing all rent arrears current.

Staff will review all the documentation provided, and will proceed to negotiate and execute the lease assignment with the new owners. If the documentation indicates concerns about the viability of the business, General Services staff will work with Redevelopment Agency staff to develop recommended actions for Council's approval.

OUTCOME

Approval of this item will result in the assignment of the existing lease to the new owner of Rosies and Posies Downtown Florists.

PUBLIC OUTREACH

Not applicable.

COORDINATION

This item has been coordinated with the Redevelopment Agency and the City Attorney's Office.

COST IMPLICATIONS

There are no new costs associated with this item, as the terms of this existing lease would remain in effect.

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CEQA

Not a Project



PETER JENSEN

Interim Director of General Services