

RESOLUTION NO.

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ
APPROVING A HISTORIC LANDMARK PRESERVATION AGREEMENT
WITH STEVE COHEN, DBA MOJMIR PROPERTIES, LLC, FOR THE
BURNS HOUSE (CITY LANDMARK NO. HL12-204) LOCATED AT 255
NORTH FIFTH STREET**

MA12-004

WHEREAS, California Government Code Section 50280, et seq. and Chapter 13.48 of Title 13 of the San José Municipal Code authorize the City of San José to enter into agreements with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so to retain its characteristics as property of historical significance; and

WHEREAS, Steve Cohen, dba Mojmir Properties, LLC, possesses fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at the street address 255 North Fifth Street, City Landmark No. HL12-204 (hereinafter referred to as the "Historic Landmark"); and

WHEREAS, on November 27, 2012, the City Council of the City of San José adopted its Resolution No. _____ thereby declaring and designating the Historic Landmark as a historic landmark structure pursuant to the terms and provisions of Chapter 13.48 of the San José Municipal Code; and

WHEREAS, the City of San José and Steve Cohen, dba Mojmir Properties, LLC, for their mutual benefit, now desire to enter into an agreement both to protect and preserve the characteristics of historical significance of the Historic Landmark and to qualify the Historic Landmark for an assessment of valuation pursuant to the provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code; and

WHEREAS, within the time and in the manner provided by said Chapter 13.48 of Title 13, the Historic Landmarks Commission did, on November 7, 2012 at 6:00 p.m., conduct a public hearing on a Historic Landmark Preservation Agreement for the

DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

Historic Landmark and recommend approval of that agreement (hereinafter “Agreement”); and

WHEREAS, a copy of the Agreement upon which such recommendation was made is on file in the Office of the City Clerk of the City of San José; and

WHEREAS, the subject property upon which the Historic Landmark is situated is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein (“Historic Landmark Property”); and

WHEREAS, within the time and in the manner provided by said Chapter 13.48 of Title 13, the Council did give notice that on November 27, 2012 at 1:30 p.m., or as soon thereafter as said matter could be heard, this Council would, in the City Hall of the City of San José, 200 East Santa Clara Street, San José, California, hold a public hearing on said Agreement at which hearing any and all persons interested in said Agreement could appear and avail themselves of an opportunity to be heard and to present their views with respect to said proposed Agreement; and

WHEREAS, at the aforesaid time and place set for hearing, or to which the hearing was continued, this Council duly met, convened, and gave all persons full opportunity to be heard to present their views with respect to said proposed Agreement.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSÉ THAT:

SECTION 1. In accordance with the provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, this Council does hereby approve the Historic Landmark Preservation Agreement with Steve Cohen, dba Mojmir Properties, LLC, owner of the Burns House (City Landmark No. HL12-204) located at 255 North Fifth Street and makes the following findings:

- a. The Agreement is consistent with the General Plan, in that preservation of specific structures or special areas is a part of the San Jose 2040 General Plan

DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

Policy LU -13.13 to foster the rehabilitation of buildings, structures, areas, places, and districts of historic significance; utilize incentives permitting flexibility as to their uses; transfer of development rights; tax relief for designated landmarks and districts; easements; alternative building code provisions for the reuse of historic structures; and financial incentives;

- b. The Agreement would provide greater protection for the Historic Landmark Property than is otherwise provided by the provisions of San José Municipal Code Chapter 13.48 in that the owner, in partnership with the City, may use property tax relief to rehabilitate and maintain the Historic Landmark Property in accordance with the preservation plan, attached as Exhibit “C” to the Agreement; and

- c. The Agreement complies with the requirements of Section 13.48.520 of Chapter 13.48 of Title 13 of the San José Municipal Code, Historical Property Contracts, and incorporates the Municipal Code’s required provisions for Historical Property Contracts, including the following: a description of the Historic Landmark Property subject to the Agreement, a provision that the term of the Agreement is a minimum period of ten years, specific conditions requiring preservation of the Historic Landmark, provision for the periodic examination of Historic Landmark Property, a requirement that the property owner annually expend an amount equal to a minimum of 10% of the annual tax savings resulting from the Agreement, and a provision that the Agreement is binding upon and shall inure to the benefit of all successors in interest of the owners in the Historic Landmark Property.

///

///

DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

SECTION 2. Pursuant to the San José Municipal Code, Chapter 13.48, the City Clerk is hereby directed to notify the owner of the Historic Landmark Property subject to the Agreement of this Resolution and directed to record the Agreement in the Office of the Recorder of the County of Santa Clara.

ADOPTED this day of 2012, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk