

RESOLUTION NO. 73217

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ACCEPTING THE SUMMARY OF COSTS AND FINDINGS OF THE SUMMARY 33433 REPORT AND THE ESTIMATED REUSE VALUATION PURSUANT TO THE CALIFORNIA HEALTH AND SAFETY CODE SECTION 33433 FOR THE LEASE TO BIJAN BAKERY, INC. OF APPROXIMATELY 3,471 SQUARE FEET OF REDEVELOPMENT AGENCY-OWNED RETAIL SPACE LOCATED AT 170 SOUTH MARKET STREET IN THE FAIRMONT ANNEX, MAKING CERTAIN FINDINGS AND APPROVING THE LEASE

WHEREAS, the Redevelopment Agency of the City of San Jose ("Agency") is presently engaged in redevelopment activities in the San Antonio Plaza Redevelopment Project Area ("Project Area"); and

WHEREAS, on April 8, 2003, the Agency Board approved a lease with Bijan Bakery & Café ("Bijan Bakery") to occupy 3,471 square feet of ground floor retail space adjacent to McCormick & Schmick in the Fairmont Hotel Annex, which required Bijan Bakery to develop the space and open for business by May 1, 2004 ("Original Lease"); and

WHEREAS, on November 8, 2004, the Agency sent Bijan Bakery a Notice of Default for failure to perform under the terms of the Original Lease, and the Original Lease was subsequently terminated; and

WHEREAS, the proposed new lease with Bijan Bakery ("Lease") is consistent with the terms and conditions contained in the Original Lease; and

WHEREAS, Community Redevelopment Law provides in Section 33433 that (1) before any property acquired, in whole or in part, with tax increment monies is sold or leased for development pursuant to a redevelopment plan, such sale or lease shall first be approved by the City Council, after a duly noticed public hearing of the City Council, and

(2) the Agency shall make available for public inspection a copy of the proposed sale or lease and a summary which describes the financial aspects of the transaction; and

WHEREAS, a Summary Report and an Estimated Reuse Valuation have been prepared by Agency's consultant, Keyser Marston Associates, Inc., pursuant to Health & Safety Code Section 33433, that analyzes the project's financial structure, costs, revenues, and other information required by Section 33433, and said report and copies of the proposed Lease were made available to the public for inspection prior to the hearing, as required by Community Redevelopment Law; and

WHEREAS, notice of a joint public hearing by the City Council and the Agency Board on the proposed Lease has been duly published in accordance with the Community Redevelopment Law; and

WHEREAS, the joint public hearing of the Agency Board and the City Council was held on June 13, 2006.

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

1. Accepts the summary of costs and findings of the 33433 Summary Report for the lease of 3,471 square feet of retail space at 170 South Market Street in the Fairmont Annex; and

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2. Finds that the lease of the property: (a) will assist in the elimination of blight by addressing the Agency's urban design goals of enlivening streetscapes, tenanting a vacant retail space and attracting a destination business to the downtown; (b) is consistent with the Implementation Plan for the San Antonio Plaza Redevelopment Project Area which encourages retail/entertainment activity; and (c) that the consideration for the property is not less than the fair lease value for the site.

ADOPTED this 13th day of June, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS; GONZALES

NOES: NONE

ABSENT: YEAGER

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk