

RESOLUTION NO. 74895

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ APPROVING THE REVISED BUSINESS TERMS FOR THE AMENDED AND RESTATED OPTION AGREEMENTS AND THE PURCHASE AND SALE AGREEMENTS WITH COLEMAN AIRPORT PARTNERS, LLC AND FWSH PARTNERS, LLC FOR THE PROPERTY LOCATED AT 1125 COLEMAN AVENUE AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AMENDED AND RESTATED OPTION AGREEMENTS AND A PURCHASE AND SALE AGREEMENTS FOR THE PROPERTY LOCATED AT 1125 COLEMAN AVENUE

WHEREAS, in May 2008, the City Council authorized staff to enter into an Memorandum of Understanding (“MOU”) with Coleman Airport Partners, LLC, and FWSH Partners, LLC (“Developers”) for the terms of sale of the approximately 75-acre, City of San José (“City”) owned, Airport West property located at 1125 Coleman Avenue (“Airport West”); and

WHEREAS, on June 20, 2008 the City entered into Option Agreements (“Agreements”), which included proposed Purchase Agreements, with the Developers for the purchase of the Airport West Property (“Property”) based on the terms of the MOU; and

WHEREAS, to date the Developers have paid \$6 million in required option payments and have provided the required Letter of Credit (“LOC”) which is in effect until October 2009; and

WHEREAS, in December 2008, the Developers notified City that they would terminate the Agreements prior to April 1, 2009 to avoid a draw on the LOC, due to the changed economic environment making the current Agreements an unviable business transactions; and

WHEREAS, on March 24, 2009, the City Council approved the elimination of the LOC so that the City and the Developers could negotiate new business terms for the Property that reflects the current economic circumstances; and

WHEREAS, the new business terms are more specifically set forth in a memo to the City Council by the Chief Development Officer dated April 8, 2009, and include a reduced purchase price, reduced amount for option payments, and if the Developers do not close escrow on the Property prior to 2011, the Property will be re-appraised and the City will share in any appreciation of the property; and

WHEREAS, the City desires to negotiate and execute amended and restated option agreements and purchase and sale agreements to revise the business terms with the Developers for the Airport West Property that reflect current economic circumstances;

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

1. The revised business terms for the Amended and Restated Option Agreements and the Purchase and Sale Agreements with Coleman Airport Partners, LLC, and FWSH Partners, LLC for the property located at 1125 Coleman Avenue as more specifically set forth in the memo to the City Council are hereby approved; and
2. The City Manager is hereby authorized to negotiate and execute Amended and Restated Option Agreements and Purchase and Sale Agreements for the property located at 1125 Coleman Avenue for the development of
 - a) 1.5 million square feet of office R&D development, 300 hotel rooms, (95,000 square feet of retail space and the required parking for all uses including a proposed soccer stadium; and

- b) a major league soccer stadium on 14 acres.

ADOPTED this 5th day of May, 2009, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA,
LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CHIRCO.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk