



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein

SUBJECT: SEE BELOW

DATE: April 8, 2024

Approved

Date

4/17/24

COUNCIL DISTRICT: 3

SUBJECT: FIRST RESTATEMENT OF THE LEASE AGREEMENT BETWEEN THE CITY OF SAN JOSE AND LEYLA NADERJAH, DBA ROSIES AND POSIES DOWNTOWN, FOR THE CITY-OWNED PROPERTY LOCATED AT 98 PASEO DE SAN ANTONIO

RECOMMENDATION

Adopt a resolution authorizing the City Manager, or her designee, to negotiate and execute:

- a. A first restatement of the lease dated December 1, 2015 between the City of San José and Leyla Naderjah, an individual doing business as Rosies and Posies Downtown, for the use of approximately 930 square feet of space in the City-owned building located at 98 Paseo De San Antonio, San José, California providing for an initial term of five years at a rate of \$2,604 per month for the first year with an initial annual base rent escalator rate of 2.25%, and one five-year tenant option to extend at the then-current fair market rent; and
- b. All other documents or agreements necessary to effectuate the first restatement of the lease.

SUMMARY AND OUTCOME

Approval of this recommendation will direct staff to negotiate and execute a restatement of the lease dated December 1, 2015, between the City of San José and Leyla Naderjah, doing business as Rosies and Posies Downtown (Rosies and Posies). The first restatement of the lease agreement (restated lease) will allow Rosies and Posies continued use of an

approximately 930 square foot City-owned building known as 98 Paseo De San Antonio to operate as a full-service florist serving the downtown area.

BACKGROUND

The property, located at 98 Paseo De San Antonio, is an all-glass retail structure that was constructed in 2003 by the San José Redevelopment Agency and later conveyed to the City. The property faces the public square at Paseo de San Antonio. It is situated on a parcel with three other occupants in separate structures, including the Hammer Repertory Theater, Campus Burgers, and Whispers Café & Creperie.

Rosies and Posies has occupied the property since 2003, operating as a full-service florist under its original lease agreement with the City, which expired in September 2014. A second lease was executed in December 2015 with a term of 61 months, with an additional option to extend for a period of five years. This lease is in the extension option period and is set to expire in November 2025.

Rosies and Posies currently owes \$38,390.69 in unpaid back rent that accrued during the COVID-19 eviction moratorium period. Rosies and Posies anticipate receiving a back rent relief grant in the amount of \$5,000 to help address the outstanding balance. Any grant funding for back rent relief shall be paid to the City. Rosies and Posies also applied for a Storefront Improvement Grant in the amount of \$10,000. However, the City requires a minimum of three years remaining on their lease agreement to qualify to receive this grant funding. The current lease does not have sufficient term remaining to be eligible for the grant. Restating the lease will provide Rosies and Posies with sufficient term to be eligible to receive the grant.

ANALYSIS

Rosies and Posies has served the downtown community for over 20 years, and the City desires to continue its business relationship with an extended lease agreement.

A non-binding letter of intent for the restated lease has been executed, outlining the following terms:

Building Address:	98 Paseo De San Antonio, San José, CA 95113
Landlord:	City of San José, a municipal corporation of the State of California.
Tenant:	Leyla Naderjah, an individual, DBA Rosies and Posies Downtown.
Rentable Area of Premises:	Approximately 930 square feet.

April 8, 2024

Subject: First Restatement of the Lease Agreement Between the City of San José and Leyla Naderjah, DBA as Rosies and Posies Downtown, for the City Property Located at 98 Paseo De San Antonio

Page 3

- Term:** Five years.
- Commencement Date:** Upon lease execution.
- Expiration Date:** Five years from the commencement date.
- Options to Extend:** One five-year option at the then-current fair market value.
- Rent:** \$2,604 monthly (\$2.80 a foot), initially escalating 2.25% annually for years two and three and 3% for years four and five.
- Past Due Rent:** The tenant currently owes \$38,390.69 in unpaid rent to the City. Any unpaid rent owed by the tenant to the City under the current lease, in an amount greater than \$38,390.69, will be due in full prior to lease execution. Tenant will remit to City any rent relief grant funds that it receives. This grant is anticipated to be in the amount of \$5,000. After the payment of the rent relief grant funds is received by the City, half of the remaining past-due rent balance (anticipated to be \$33,390.69) shall be forgiven, provided that tenant pays half over the first three years of the lease term. If tenant makes all anticipated payments, the City will forgive approximately \$16,695.35 at the end of the third year of the lease term.
- Rent Schedule:** Below is the anticipated rent schedule. The monthly past due rent payment assumes Rosies and Posies tenders a \$5,000 past due rent relief grant to the City and makes timely monthly rent payments under the current lease until the restated lease is signed. If Rosies and Posies fails to make timely payments or receives a grant amount different than \$5,000, the monthly past-due rent payment outlined below would change accordingly.

Year	Escalator	Monthly Base	Monthly Base	Monthly Past	Total	Annual Rent
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April 8, 2024

Subject: First Restatement of the Lease Agreement Between the City of San José and Leyla Naderjah, DBA as Rosies and Posies Downtown, for the City Property Located at 98 Paseo De San Antonio

Page 4

		Rent Rate \$/SF	Rent	Due Rent Payment	Monthly Rent	
1		\$2.80	\$2,604.00	\$463.76	\$3,067.76	\$36,813.12
2	2.25%	\$2.86	\$2,662.59	\$463.76	\$3,126.35	\$37,516.20
3	2.25%	\$2.93	\$2,722.50	\$463.76	\$3,186.26	\$38,235.10
4	3%	\$3.02	\$2,804.17	\$0	\$2,804.17	\$33,650.08
5	3%	\$3.11	\$2,888.30	\$0	\$2,888.30	\$34,659.58

The current lease has a monthly payment of \$2,445.17 and runs until December 31, 2025. The current lease will terminate upon execution of the restated lease, and the tenant will immediately begin paying the higher rent amount.

Utilities: Tenant pays all utilities.

Condition of Premises "AS IS"

In regard to the City's forgiveness of unpaid back rent, any forgiveness is contingent on the tenant making back rent payments consistent with the table above.

EVALUATION AND FOLLOW-UP

Staff will negotiate and execute a restated lease with the tenant consistent with the terms outlined in this memorandum.

COST SUMMARY/IMPLICATIONS

The estimated five-year rental revenue to the General Fund under this First Restatement is anticipated to be \$180,874.08. The projected revenue for Fiscal Year 2024-2025 will be \$36,813.12.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the Department of Planning, Building, and Code Enforcement.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the April 30, 2024 City Council Meeting.

HONORABLE MAYOR AND CITY COUNCIL

April 8, 2024

Subject: First Restatement of the Lease Agreement Between the City of San José and Leyla Naderjah, DBA as Rosies and Posies Downtown, for the City Property Located at 98 Paseo De San Antonio

Page 5

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

NANCI KLEIN

Director of Economic Development
and Cultural Affairs

Director of Real Estate

For questions, please contact Kevin Ice, Assistant to the City Manager, Senior Real Estate Manager, at (408) 535-8197.