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OFFICE OF THE CITY CLERK
OAKLAND
2003 MAY 22 PM 4:25

OAKLAND CITY COUNCIL
RESOLUTION NO. 77855 C.M.S.

INTRODUCED BY COUNCIL MEMBER _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR DISCOUNTED REPAYMENT OF \$1,550,000 OF OUTSTANDING LOANS WITH JUST REAL ESTATE LLC AND JUST DESSERTS, INC., PROVIDED THAT 1) THE MAXIMUM DISCOUNT ON THE LOANS SHALL NOT EXCEED \$750,000, 2) JUST REAL ESTATE LLC SHALL REPAY THE CITY NOT LESS THAN \$800,000 OF THE OUTSTANDING LOAN BALANCES DUE, AND 3) DAWN FOOD PRODUCTS ACQUIRES JUST DESSERTS, INC. AND THE REAL PROPERTY INTERESTS OF JUST REAL ESTATE LLC.

WHEREAS, the City Council on July 25, 2000 approved Resolution No. 75919 C.M.S. authorizing two loans to Just Real Estate, LLC ("Just Real Estate") and one loan to Just Desserts, Inc. ("Just Desserts"), (collectively, "Borrowers"), totaling \$1,550,000 (collectively "City Loans"), which consist of the following:

- 1) a loan of HUD 108 Enhanced Enterprise Community ("EEC") revolving loan funds in the amount of \$800,000 to Just Real Estate ("Just Real Estate HUD 108 Loan") for the purchase of unimproved real estate located at 85th & Edes Avenues ("Project Real Estate");
- 2) a loan of Economic Development Initiative ("EDI") funds in the amount of \$650,000 to Just Real Estate ("Just Real Estate EDI Loan") for the purchase of the Project Real Estate; and
- 3) a loan of EDI funds in the amount of \$100,000 to Just Desserts ("Just Desserts EDI Loan") for the purchase of machinery and equipment related to Just Desserts operation of a wholesale bakery ("Project Business") in the Project Real Estate it leases from Just Real Estate; and

WHEREAS, Just Desserts has experienced declining sales and operational problems that have resulted in its failure to repay its EDI loan and make lease payments to Just Real Estate, resulting in Just Real Estate's failure to repay its HUD 108 and EDI loans as required; and

WHEREAS, Just Real Estate has also defaulted on a \$5 million loan with California Bank and Trust (CB&T) that is senior to the City Loans and a \$1 million loan with the Small Business Administration ("SBA") that is subordinate to the Just Real Estate HUD 108 Loan, but senior to the Just Real Estate EDI and Just Dessert EDI Loans; and

WHEREAS, CB&T has the legal right to foreclose on its defaulted loan to Just Real Estate; and

WHEREAS, it is possible that the City could lose most or all of the approximately \$1,721,762 of outstanding principal and accrued interest on the City Loans in the event of CB&T's foreclosure on its loan to Just Real Estate; and

WHEREAS, Dawn Food Products ("Dawn Food"), an established food processing and manufacturing company, has recently offered to purchase the Project Business from Just Desserts and the Project Real Estate from Just Real Estate for \$6.5 million; and

WHEREAS, acceptance of Dawn Food's offer would result in 1) the full payment to the City of the Just Real Estate HUD 108 Loan principal balance, plus accrued interest, penalties and fees in the total approximate amount of \$912,606, and 2) in payment to the City of approximately 60% of the principal balance on the \$100,000 Just Desserts EDI Loan; and

WHEREAS, acceptance of Dawn Food's offer would effectively result in no repayment to the City on the principal balance or accrued interest on the \$650,000 Just Real Estate EDI Loan; and

WHEREAS, if Dawn Food were to acquire the Project Business and Real Estate it would retain the Business' existing 67 jobs and expect to create 123 new jobs; and

WHEREAS, Dawn Food has expressed its commitment to the hiring of local residents for the 123 new jobs it expects to create after its acquisition of the Project Business and Real Estate; and

WHEREAS, the City Council, meeting in closed session on May 6, 2003, authorized the City Manager to negotiate an agreement with the Borrowers, Dawn Food, CB&T, and SBA, subject to Dawn Food's acquisition of Just Desserts, Inc. and the real property interests of Just Real Estate LLC, for a discounted payment of the City Loans such that the total discount on the \$1,550,000 outstanding cumulative principal balance on the City Loans does not exceed \$750,000;

NOW, THEREFORE BE IT


RESOLVED: That the City Council does hereby authorize the City Manager to negotiate and execute, modify and extend terms of the documents associated with the discounted payment of the City Loans, as authorized by City Council on May 6, 2003, and be it

FURTHER RESOLVED: That the City Attorney shall approve such documentation related to the discounted payment of the City Loans as to form and legality, and such documents shall be filed with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA JUN 03 2003, 2003

PASSED BY THE FOLLOWING VOTE:

AYES-	BROOKS, BRUNNER, CHANG,
	NADDEL, REID, QUAN, WAI WAI AN
NOES-	AND PRESIDENT DE LA FUENTE -5
ABSENT- 0	BROOKS, NADDEL, De La Fuente -3
ABSTENTION- 0	

ATTEST: 
 CEDA FLOYD
 City Clerk and Clerk of the Council
 of the City of Oakland, California