

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
PARKS AND RECREATION DEPARTMENT**

TO: Mayor and City Council

FROM: Malcolm Matthews, Director, Parks and Recreation Department

THROUGH: Terry M. Brechtel, City Manager

COPIES: Christopher J. Brady; Finance; Management and Budget; Legal; File

SUBJECT: Ordinance Approving the Assignment and Amendment of an Eight (8) Year El Mercado Lease Agreement from Monica Ruiz and Liza Riddle d/b/a Jorge's Mexican Imports to Magali Velazquez d/b/a Silver Twins

DATE: December 4, 2003

SUMMARY AND RECOMMENDATIONS

This ordinance approves the assignment of an eight (8) year El Mercado Lease Agreement from Monica Ruiz and Liza Riddle d/b/a Jorge's Mexican Imports to Magali Velazquez d/b/a Silver Twins in Market Square in City Council District 1. In addition, the agreement is amended to reflect current lease terms and conditions.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

On May 18, 2000, the City Council approved thirty-four lease agreements in the City's El Mercado, located at 514 West Commerce in City Council District 1 in Market Square. One agreement was with Jorge Ruiz, Monica Ruiz and Liza Riddle, a sole proprietorship d/b/a Jorge's Mexican Imports. This agreement was for lease of store N-2 with approximately 498 square feet of space used for retail. Monica Ruiz and Ms. Riddle are now the current sole interest owners and have requested the City to grant an assignment of their current lease to Ms. Magali Velazquez, a sole proprietorship d/b/a Silver Twins.

Ms. Ruiz and Ms. Riddle have maintained their lease account with the City in good standing and Ms. Velazquez has provided the Parks and Recreation Department with financial information and personal references. Ms. Velazquez is a new business owner and does not have an established business credit history. She has provided the City with a check for the first year's rent, which will be held as credit for a period of two years.

Ms. Velazquez will take over the lease payments and use of the space after approval by City Council. Term will be from November 1, 2003 through December 31, 2007. She will be required to pay utility costs and garbage collection fees, abide by use clauses and minimum hours of operation, provide for all improvements and maintenance of the leased space and provide insurance levels specified by the City's Risk Manager as set forth in the original agreement.

The lease agreement is amended to update lease language to include more current provisions regarding operation of the business, such as an "owner presence" requirement and limiting events of default by tenant.

POLICY ANALYSIS

It is the long-standing policy of the City of San Antonio to lease public property in the El Mercado for retail sales purposes, under regulations established in Chapter 32, Article II of the City Code of the City of San Antonio. The assignment of a lease agreement requires passage of a City ordinance.

FISCAL IMPACT

Ms. Velazquez will continue payments according to the original lease agreement, when an eight-year rental rate schedule was established. The present Year 3 rate is \$1.38 per square foot per month or \$687.24 per month. This will increase gradually to a rental rate of \$722.10 per month in the last year of the lease agreement (2007). This does not include the cost of utilities. Anticipated calendar year revenues are:

Year 3 - \$8,246.88

Year 5 - \$8,426.16

Year 7 - \$8,665.20

Year 4 - \$8,366.40

Year 6 - \$8,485.92


The assignment application required a fee of \$1,000.00 that will be deposited into the City's General Fund.

COORDINATION

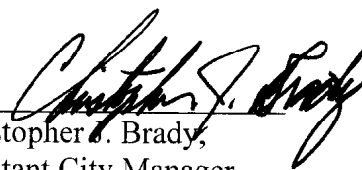
This assignment was coordinated with the City Attorney's Office, Risk Management and the Department of Asset Management.

SUPPLEMENTARY COMMENTS

A Discretionary Contracts Disclosure Form completed by Ms. Velazquez is attached.

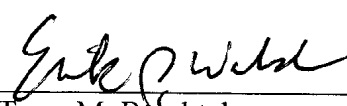


Malcolm Matthews,
Director of Parks and Recreation



Christopher J. Brady,
Assistant City Manager

Approved:



Terry M. Brechtel
City Manager

City of San Antonio

Discretionary Contracts Disclosure*

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2
Attach additional sheets if space provided is not sufficient.
State "Not Applicable" for questions that do not apply.

* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the city in the enforcement of provisions contained in the City Charter and the code of ethics, an individual or business entity seeking a discretionary contract from the city is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any **individual** who would be a party to the discretionary contract;

Magali Velasquez

(2) the identity of any **business entity**¹ that would be a party to the discretionary contract:

and the name of: The Silver Twins

(A) any individual or business entity that would be a *subcontractor* on the discretionary contract;

N/A

(B) any individual or business entity that is known to be a *partner*, or a *parent* or *subsidiary* business entity, of any individual or business entity who would be a party to the discretionary contract;

N/A

(3) the identity of any *lobbyist* or *public relations firm* employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

N/A

¹ A *business entity* means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

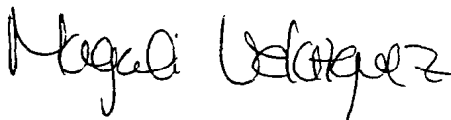
Political Contributions

Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any *current or former member of City Council*, any *candidate for City Council*, or to any *political action committee* that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

To Whom Made:	Amount:	Date of Contribution:
N/A		

Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, reasonably understood, raise a question² as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

N/A		
Signature: 	Title: Owner Company: The Silver Twins	Date: 10-02-03

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

**ASSIGNMENT AND AMENDMENT OF LEASE AGREEMENT
(WITH LANDLORD'S CONSENT)**

WHEREAS, Monica Ruiz and Liza Riddle, Sole Proprietorship d/b/a Jorge's Mexican Imports, desire, as ASSIGNOR, to convey and assign the below described leasehold interest to **Magali Velazquez, owner, d/b/a Silver Twins, ("ASSIGNEE");** and

WHEREAS, said assignment is authorized under **Article 16** of the LEASE (Exhibit A) with prior approval of CITY and such approval has now been granted by the City Council by Ordinance No. _____, passed and approved by the City Council on _____; and

WHEREAS, the City of San Antonio, a Texas Municipal Corporation, acting by and through its City Manager pursuant to Ordinance No. 91799, passed and approved by the City Council on May 18, 2000, as LANDLORD ("CITY") whose mailing address is P.O. Box 839966, San Antonio, Texas 78283-3966, entered into that certain Lease effective **January 1, 2000** ("LEASE") with **Monica Ruiz and Liza Riddle, Sole Proprietorship d/b/a Jorge's Mexican Imports, ("ASSIGNOR"),** whose mailing address is 514 W. Commerce, San Antonio, Texas 78207 for the lease of the following described tract or parcel of real property situated in Market Square Plaza, El Mercado, San Antonio, Bexar County, Texas to-wit:

All the real property and improvements, which contain approximately 498 square feet of space, owned by City located at 514 W. Commerce, Market Square's, El Mercado, San Antonio, Bexar County, Texas, and identified as store **N-Two (N-2),** in El Mercado and in Exhibit B, attached hereto and incorporated by reference herein for all purposes, and

WHEREAS, ASSIGNEE desires to assume from ASSIGNOR all of ASSIGNOR'S rights, title and interest as TENANT in and to the LEASE, and all of ASSIGNOR'S benefits and obligations thereunder; and

WHEREAS, ASSIGNEE has satisfied the CITY that they are financially able to undertake the obligations of TENANT under said LEASE and CITY desires to give its consent to ASSIGNOR'S assignment of ASSIGNOR'S interest in the LEASE to ASSIGNEE and to ASSIGNEE'S assumption of TENANT'S obligations thereunder;

WHEREAS, CITY desires to affirm lease language to include current provisions regarding the operation of the business in an "**owner presence**" capacity, and events of default by tenant and, ASSIGNEE AND ASSIGNOR, as consideration for CITY'S consent to the assignment agreement to be bound by such amendments to the original lease agreement; NOW THEREFORE, the parties mutually agree as follows:

AGREEMENTS AND ACT

1. AMENDMENT; The Lease is hereby amended to include the following standard provision regarding "owner presence:" The owner or his/her immediate representative must be available during business hours and be able to address concerns addressed by the City.
2. CONVEYANCE AND ASSIGNMENT. ASSIGNOR does hereby grant, bargain, sell, convey, assign, transfer, set over and deliver to ASSIGNEE, all of ASSIGNOR'S rights, title and interest in and to the LEASE, including and also without limitation, all of the rights, duties, obligations, and liabilities of ASSIGNOR in, to, and under the LEASE to pay rent and to observe and perform all other covenants and duties of TENANT thereunder.
3. ASSUMPTION. By its execution hereof, ASSIGNEE hereby assumes and agrees to perform all of the terms, covenants, and conditions of the LEASE on the part of the TENANT therein required to be performed arising from and after the date hereof, and ASSIGNEE releases ASSIGNOR from all liability for such obligations.

ASSIGNEE hereby accepts the assignment of said ASSIGNOR'S rights, title and interest in and to the LEASE and; ASSIGNEE recognizes the superior fee title in and to the land and premises held by the CITY OF SAN ANTONIO, as Landlord, hereafter "CITY," and CITY'S right of reversion at the end of the LEASE term, whether occasioned by default or passage of time, as well as, the rights and benefits of every description whatsoever belonging to or accruing to the benefits of the CITY under the LEASE.

3. CONSENT. CITY hereby consents to the assignment by **Monica Ruiz and Liza Riddle, a Sole Proprietorship d/b/a Jorge's Mexican Imports**, as ASSIGNOR, and the assumption by **Magali Velazquez, owner, d/b/a Silver Twins**, as ASSIGNEE of said ASSIGNORS' liability and obligations as TENANT, in that certain Lease Agreement between the CITY and **Monica Ruiz and Liza Riddle, a Sole Proprietorship d/b/a Jorge's Mexican Imports**, originally approved by City Council pursuant to Ordinance No. 91799, passed and approved on **May 18, 2000**.
4. USE OF PREMISES. ASSIGNEES agree that the Leased Premises shall be utilized for the sole purpose of retail sales of products reflecting an open market with a Mexican Market theme and excluding alcoholic goods and beverages in accordance with applicable statutes, laws, ordinances, rules and regulations of the United States, the State of Texas and the City of San Antonio, Texas.

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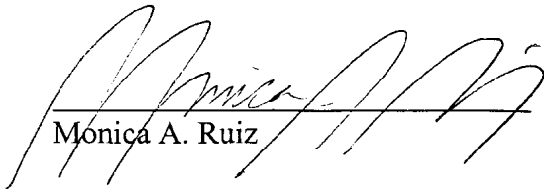
EXECUTED this _____ day of _____, 2003. EFFECTIVE 1st Day of June, 2003.

ASSIGNOR:

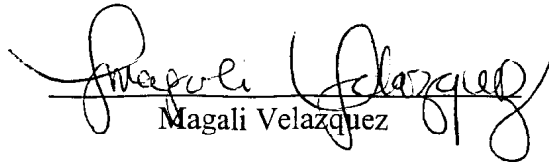
**Monica A. Ruiz and Liza A. Riddle,
Sole Proprietorship
d/b/a Jorge's Mexican Imports**

ASSIGNEES:

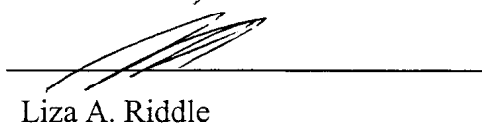
**Magali Velazquez,
a Sole Proprietorship
d/b/a Silver Twins**



Monica A. Ruiz



Magali Velazquez



Liza A. Riddle

LANDLORD:

**CITY OF SAN ANTONIO, a Texas
Municipal Corporation**

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney