

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
ASSET MANAGEMENT DEPARTMENT**

TO: Mayor and Council

FROM: Rebecca Waldman, Director, Department of Asset Management

THROUGH: Terry M. Brechtel, City Manager

COPIES: Erik J. Walsh, Milo Nitschke, Andrew Cameron, Andrew Martin, file

SUBJECT: Ordinance Consenting to the Assignment of the Lease Agreement with Sunset Station Group, L.L.C.

DATE: April 1, 2004

SUMMARY AND RECOMMENDATIONS

An ordinance consenting to the assignment of the Lease Agreement between the City of San Antonio and Sunset Station Group L.L.C. for five buildings on Commerce and Heiman Streets within Council District 2, to East Commerce Realty, L.L.C. and authorizing the execution of all documents related to such assignment.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

In May 1996 the City entered into a Lease Agreement with Sunset Station Group L.L.C. (SSGLLC) for the five city-owned buildings adjacent to Sunset Station. These buildings are located at 119 and 123 Heiman and 1156, 1164, and 1170 E. Commerce. SSGLLC also owns or leases many surrounding properties, including Sunset Station. Under the terms of this forty-five year Lease Agreement with the City, the Tenant is able to sublease space to other entities as well as operate meeting and event space. Rent is payable to the City at an escalating flat rate, currently \$75,000 annually, and upon reaching a threshold of \$8 million in annual gross revenues, Sunset will pay supplemental percentage rent. In 2003 the Leased Premises had gross revenues of \$2.6 million.

The Sunset Station portion of this operation is focused on entertainment and food and beverage sales. As this business has different financial needs and insurance requirements, the owners formed a new entity in 2003 to separate their general real estate functions from the entertainment function. This new entity, East Commerce Realty, L.L.C., is intended to operate their leased and/or owned properties that are available to be leased to third parties as well as those that are earmarked for future development. SSGLLC would continue to be responsible for the remaining properties, including Sunset Station. The majority owner of both entities is Zachry Realty, Inc., a wholly owned affiliate of Zachry Construction Corporation. The assets totaling approximately \$17 million were equally

divided between the two entities. The two entities operate with the same management staff.

SSGLLC has requested the consent of the City of San Antonio to assign the Lease Agreement for the five city-owned buildings to the newly formed East Commerce Realty. Staff considered several factors prior to recommending approval of this request. While SSGLLC has experienced negative cash flow for the past four years, the properties associated with East Commerce Realty are far closer to achieving a breakeven status than the remaining properties and the lower insurance premiums for this entity's assets will result in an improved cash flow status. In addition, Sunset's significant investment in capital improvements to these city-owned buildings evidences a commitment to the project. Third, the Lease Agreement provides that non-payment of any monies owed to the City is an event of default and the City has the right to take back the property and lease it to another entity. The Tenant would be responsible for reimbursing the City for all costs associated with this action as well as full rent for ten years (if the lease is terminated on or before 2006) or full rent for five years (if the lease is terminated after 2006). In connection with this consent, the City will execute a Consent to Assignment document.

POLICY ANALYSIS

This action is consistent with the City's policy to consent to assignments of Lease Agreements if such action is not detrimental to the City's interests.

FISCAL IMPACT

There is no fiscal impact associated with this proposed action.

COORDINATION

This item was coordinated with the following departments: City Attorney's Office, Finance, and Housing & Community Development.

SUPPLEMENTAL COMMENTS

A Discretionary Contract Disclosure form is attached.

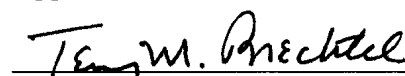


Rebecca Waldman, Director
Department of Asset Management



Erik J. Walsh
Assistant to the 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.

None

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

Sunset Station Group, L.L.C.
East Commerce Realty, L.L.C.

and the name of:

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

None

and the name of:

(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.

Zachry Realty Inc., a Delaware corporation

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.

(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.

None

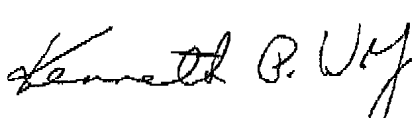
Political Contributions

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 the 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 (b), (c), or (d) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether salary or otherwise. Indirect contributions by an entity include, but are not limited to, contributions made through the entity's officers, owners, attorneys, or registered lobbyists of the entity.

To Whom Made:	Amount:	Date of Contribution:
See attached Exhibit "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 question as to whether any city official or employee would violate Section 1 of Part E, Municipal Economic Benefit, by participating in official action relating to the discretionary contract.

Signature: 	Title: Company: Zachry Realty, Inc.	Date: 1/27/04

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.

Sunset Station Group, L.L.C.
January 23, 2002 through January 23, 2004
Exhibit A

To Whom Made		AMOUNT	DATE
Flores	Roger	\$500	11/26/03
Perez	Richard	\$100	6/18/03
Perez	Richard	\$500	6/10/03
Williams	Joel	\$250	5/14/03
Williams	Joel	\$100	5/8/03
Williams	Joel	\$150	5/7/03
Hall	Art	\$150	5/7/03
Haass	Chip	\$150	5/7/03
Flores	Roger	\$250	5/7/03
Radle	Patti	\$150	5/6/03
Haass	Chip	\$200	5/6/03
Castro	Julian	\$250	4/30/03
Schubert	Carroll	\$500	3/31/03
Castro	Julian	\$500	3/31/03
Barrera	Enrique	\$500	3/31/03
Castro	Julian	\$100	3/25/03
Barrera	Enrique	\$100	3/25/03
Schubert	Carroll	\$250	3/25/03
Barrera	Enrique	\$250	3/25/03
Garza	Ed	\$1,000	2/17/03
Garza	Ed	\$250	2/12/03
Garza	Ed	\$500	2/10/03
Garza	Ed	\$1,000	2/3/03
Barrera	Enrique	\$250	9/26/02
Schubert	Carroll	\$250	9/23/02
Barrera	Enrique	\$250	9/23/02
Sanders	John	\$250	9/23/02
Perez	Bobby	\$250	9/23/02
Schubert	Carroll	\$250	9/18/02
Schubert	Carroll	\$250	9/17/02
Schubert	Carroll	\$100	8/7/02
Garza	Ed	\$500	5/22/02
Garza	Ed	\$250	5/13/02
Garza	Ed	\$250	5/1/02
Garza	Ed	\$1,000	4/30/02
Garza	Ed	\$2,500	4/22/02
Garza	Ed	\$2,500	4/22/02
Garza	Ed	\$500	2/18/02

Sunset Station – Use of Space

1. 1170 E. Commerce	9,453 sq. ft.	Ruth's Chris Restaurant Banquet and Meeting Space
2. 1164 E. Commerce	9,900 sq. ft.	Ruth's Chris Restaurant Banquet and Meeting Space
3. 1156 E. Commerce	5,251 sq. ft.	Available for Lease
4. 123 Heiman	6,464 sq. ft.	Available for Lease *
5. 119 Heiman	5,845 sq. ft.	Available for Lease **

* Sunset is currently using the space for Storage Area, Studio Space for Art Exhibits and Sunset Banquet/Meeting Rooms

** Sunset is currently using the space for: Catering Dept, Sales/Marketing, Kitchen and Property Management

