

**CITY OF SAN ANTONIO  
INTERDEPARTMENTAL MEMORANDUM  
AVIATION DEPARTMENT**

CONSENT AGENDA  
ITEM NO. 44

**TO:** Mayor and City Council

**FROM:** Kevin C. Dolliole, Aviation Director

**THROUGH:** Terry M. Brechtel, City Manager

**COPIES TO:** J. Rolando Bono, Deputy City Manager, Asset Management, Budget, Legal, Finance and File

**SUBJECT:** Amendment to Concession Contracts at San Antonio International Airport

**DATE:** June 24, 2004

**SUMMARY & RECOMMENDATION**

This ordinance authorizes the amendment of the existing Concession Agreements by reducing the minimum annual guarantees for Fresquez Concessions Texas, HMSHost, Duty Free San Antonio and News and Gift Shops International (DFSA-NGSI San Antonio Partnership), J.R. Management and Porter & Britton GP, L.L.C. as successor in interest to Gerardo Sanchez in Terminal Two to mitigate the impact of declining passenger traffic at San Antonio International Airport, Terminal Two.

Staff recommends the approval of this ordinance.

**BACKGROUND INFORMATION**

Ordinance Number 95351, passed and approved by City Council on February 21, 2002, awarded concession contracts in Terminal 2 of San Antonio International Airport to Fresquez Concessions Texas for spaces 242 and 248; HMSHost for space 244; Duty Free San Antonio and News and Gift Shops International (DFSA-NGSI San Antonio Partnership) for spaces 260 and 262; J.R. Management for space 250.

Ordinance Number 94214, passed and approved by City Council on June 28, 2001, awarded concession contract in Terminal 2 of San Antonio International Airport to Gerardo Sanchez which was subsequently assigned to Porter & Britton GP, L.L.C. for space 206.

The Request for Proposal, which was released for the Terminal Two locations, included enplanement projections based on historical trends. All proposals were delivered prior to the events of September 11, 2001 and the second Gulf War and could not anticipate the impact of those two events on the Aviation and Travel Industry. Even though the RFP stated the historical data was for informational purposes only, most Proposers relied heavily on this information and based sales projection on the anticipated growth trends.

The sales history of each concession location demonstrates an overall weakness in sales, which can be partially attributed to the overall decline of passenger enplanements since September 11, 2001 and the Gulf War. The decline in enplanements since September 11<sup>th</sup> has continued into 2002 and 2003 with total year decreases for Terminal Two of 5.6% in 2002 and 6.2% in 2003 as compared to Terminal Two activity in 2001. As compared to the sales projections provided by the Concessionaires in their RFP responses, the concessions achieved between 15% and 86% of their sales projections in 2003. Compared to the sales projections developed for the new concession program, the concessions achieved between 17% and 82% of those sales projections.

The concession operators that will be impacted by the proposed modification will be Duty Free San Antonio/ News and Gifts Shops International partnership (DFSA/NGSI-San Antonio), which operates Alamo Extra Space 260 and Alamo Books and Café Space 262; Fresquez Concessions Texas which operates Baskin Robbins Space 242 and Quizno's Subs and Salads Space 248; J.R. Management which operates Taste of Orient Space 250; HMSHost which operates Tribute Sports Bar Space 244 and Porter & Britton GP, L.L.C. which operates Frullati Café and Bakery Space 206.

Each of the locations has been in operation for a period of approximately two years and has documented sales that are significantly less than the original projections as provided in the tenant's response to the respective Request for Proposal offering and less than the expectations of the Concession Program. The rental relief amendments allow the tenants to moderate their cost and reinvest in their concession locations to increase sales.

The rental relief amendment provides for a termination of the adjustment in rents, if certain sales or enplanement benchmarks are achieved. The following information details the benchmarks for termination of relief in each amendment.

- Concessionaire achieves a sales level equal to Ninety Percent (90%) of either the Concessionaires sales projections as provided in the Request for Proposal Response for the location or Ninety Percent (90%) of the Airport's sales projections, whichever sales projection is less and sustains the elevated sales level for a continuous three (3) month period.
- Enplanements in Terminal 2 achieve a monthly traffic count equal to or greater than the corresponding monthly traffic counts of year 2000, and the elevated enplanements continue for a period of three (3) continuous months.

At such time that either of the aforementioned benchmarks are achieved, all rental relief will be discontinued and all rents will return to the contractual amounts as promulgated in the Concession Agreements.

Rental relief will be given in a reduction of the Minimum Annual Guarantee retroactive to October 1, 2003. The percent reduction varies and ranges between 20% to 75%. Factors that determine the various level of rent relief include, but are not limited to, sales performance versus projections, occupancy cost, customer service as determined by secret shopper scores, location and concepts.

The rental relief package for each concession is as follows:

Duty Free of San Antonio/News and Gifts Shops International (DFSA/NGSI-San Antonio)

The amendment for Alamo Books and Café, Space 262 will provide for a 30% decrease in the contractual rental amount, reducing the monthly rental from \$6,333.33 per month to \$4,433.33 per month.

The amendment for Alamo Extra, Space 260 will provide for a 20% decrease in the contractual rental amount, reducing the monthly rental from \$4,500.00 per month to \$3,600.00 per month.

Fresquez Concessions Texas, Inc.

The amendment for Baskin Robbins, Space 242 will provide for a 75% decrease in the contractual rental amount, reducing the monthly rental from \$4,583.33 per month to \$1,145.83 per month.

The amendment for Quizno's Subs and Salads, Space 248 will provide for a 20% decrease in the contractual rental amount, reducing the monthly rental from \$6,350.00 per month to \$5,080.00 per month.

J.R. Management

The amendment for Taste of Orient, Space 250 will provide for a 30% decrease in the contractual rental amount, reducing the monthly rental from \$3,333.33 per month to \$2,333.33 per month. The 30% reduction will apply to all future rental increase as provided in the Concession Agreement. Additionally, the amendment will modify the existing definition of a lease year to allow for the commencement of all subsequent lease years and rental increases to be based on the anniversary of the commencement date of the agreement.

HMSHost

The amendment for Tribute Sports Bar, Space 244 will provide for a 50% decrease in the contractual rental amount, reducing the monthly rental from \$4,800.00 per month to \$2,400.00 per month.

Porter & Britton GP, L.L.C.

The amendment for Frullati Café and Bakery, Space 206 will provide for a 25% decrease in the contractual rental amount, reducing the monthly rental from \$5,133.33 per month to \$3,850.00 per month.

### **POLICY ANALYSIS**

This ordinance is consistent with prior policy, as evidenced by the City Council approved Concession Procedures Manual and Policy Statement of January 11, 2001.

### **FISCAL IMPACT**

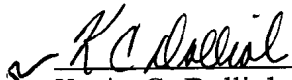
The projected decline in revenue to the City as a result of the modification of the Minimum Guaranteed Rent will not exceed \$142,000.00 for the fiscal year 2003-2004. The anticipated impact of the relief amendments in subsequent years will be reduced as sales and enplanements increase in the strengthening economy and concessionaires are phased out of the rental relief program.


### **COORDINATION**

This item has been coordinated with the City Attorney's Office.


### **SUPPLEMENTARY COMMENTS**

The Discretionary Contracts Disclosure forms completed by the Concessionaires are attached.

  
\_\_\_\_\_  
Kevin C. Dolliole  
Aviation Director

  
\_\_\_\_\_  
J. Rolando Bono  
Deputy 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;

Charles L. Fresquez  
Linda Fresquez  
Avery Johnson

(2) the identity of any **business entity**<sup>1</sup> that would be a party to the discretionary contract:  
Fresquez Concessions Texas, Inc.  
and the name of:

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

None

(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.

Serna & Serna (210)225-6700  
120 Villita  
San Antonio, Texas 78205-2729

<sup>1</sup> 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.

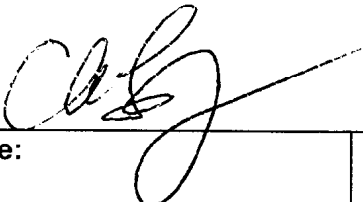
### Political Contributions

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:
NONE	—	—

### 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<sup>2</sup> 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.

		
<b>Signature:</b>	<b>Title:</b> CEO/COO	<b>Date:</b>
Charles L. Fresquez	<b>Company:</b> Fresquez Concessions Tx, Inc.	05-28/04

<sup>2</sup> 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.

# 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;

JERRY SRISUNAKORN

- (2) the identity of any **business entity**<sup>1</sup> that would be a party to the discretionary contract:  
J.R. MANAGEMENT, INC., DBA/ TASTE OF ORIENT  
and the name of:

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

NONE

- (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.

NONE

<sup>1</sup> 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.

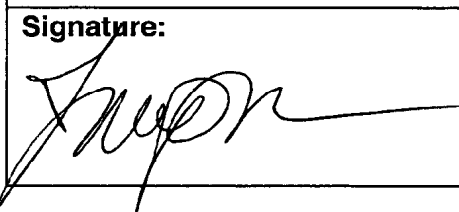
### Political Contributions

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:
<i>None</i>	<i>-</i>	<i>-</i>

### 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<sup>2</sup> 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.

<i>N/A</i>		
Signature: 	Title: <i>President</i> Company: <i>State of Oregon Airport Inc.</i>	Date: <i>5/28/04</i>

<sup>2</sup> 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.



# 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;

NOT Applicable

(2) the identity of any business entity<sup>1</sup> that would be a party to the discretionary contract:  
DFSA / NGSI - SAN ANTONIO PARTNERSHIP  
and the name of:

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

NOT Applicable

(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;

DUTY FREE OF SAN ANTONIO, INC  
NEW & GIFT SHOPS INTERNATIONAL, LLC

(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.

JANE MACON  
Bill Kaufman

<sup>1</sup> 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.

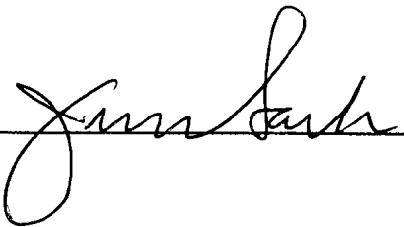
### Political Contributions

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	N/A	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 question<sup>2</sup> 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.

NOT Applicable		
Signature: 	Title: Company: DFGA / NC91 - San Antonio Partnership	Date: 6-4-04

<sup>2</sup> 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.

**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;

KEVIN PORTER

(2) the identity of any **business entity**<sup>1</sup> that would be a party to the discretionary contract:  
PORTER & BRITTON, LP  
and the name of:

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

(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;

(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.

<sup>1</sup> 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:
NONE	—	—

### 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<sup>2</sup> 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.

<hr/>		
Signature: 	Title: MANAGER Company: PORTER & BRITTON, LP	Date: 06/04/04

<sup>2</sup> 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.

**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;

N/A

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

Host International, Inc.  
and the name of: Bernard N. Brown, Vice President

(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

<sup>1</sup> 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.

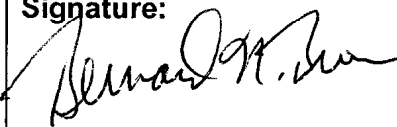
### Political Contributions

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	N/A	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 question<sup>2</sup> 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.

Signature: 	Title: Vice President Company: Host International, Inc.	Date: 6/1/04

<sup>2</sup> 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.