

**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 Consenting to Sublease of Public Space on the River Walk from San Antonio 2000, Ltd. to Elegant Trader, Inc. and John Kangethe d/b/a Ice Cream and Chocolates by the River

**DATE:** August 5, 2004

**SUMMARY AND RECOMMENDATIONS**

This ordinance consents to a sublease of approximately 252 square feet of public space on the River Walk in City Council District 1 from San Antonio 2000, Ltd. to Elegant Trader, Inc. and John Kangethe d/b/a Ice Cream and Chocolates by the River.

Staff recommends approval of this ordinance.

**BACKGROUND INFORMATION**

On August 23, 1990, through Ordinance 72148, City Council approved a forty-five year Non-Exclusive Lease Agreement with San Antonio 2000, Ltd. (SA 2000) for use of public property along the Paseo del Alamo. Subsequently, on June 12, 1997, Ordinance 86121 authorized an amendment to allow SA 2000 to sublease space in the River Walk Atrium portion of the Paseo del Alamo for retail purposes. The approved amendment specifies that the City must give prior approval and, in return, the City receives 50% of the gross proceeds from the sublease.

This five-year sublease that has been submitted for City approval will sublease approximately 252 square feet of space adjacent from SA 2000 to Elegant Trader, Inc. and John Kangethe d/b/a Ice Cream and Chocolates on the River. The area will be utilized for outdoor dining, including the service of food and alcoholic and non-alcoholic beverages. There is an option to renew the agreement for an additional five-year term.

SA 2000 has maintained their lease account with the City in good standing. SA 2000 will collect rent of \$200.00 per month for this sublease area. Per the Lease Agreement amendment, SA 2000 will pay the City fifty percent (50%) of this amount.

## **POLICY ANALYSIS**

The Non-Exclusive Lease Agreement with SA 2000 for use of public property along the Paseo del Alamo was authorized through Ordinance 72148, passed and approved on August 23, 1990. On June 12, 1997, Ordinance 86121 authorized an amendment to allow SA 2000 to sublease space in the River Walk Atrium portion of the Paseo del Alamo for retail purposes. This action is consistent with these prior authorizations.

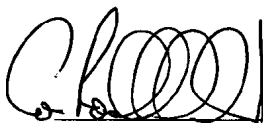
## **FISCAL IMPACT**

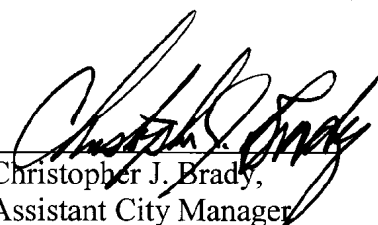
The sublease rental rate is \$200.00 per month or \$2,400.00 per lease year for the five-year agreement. The rental rate will increase to \$250.00 per month or \$3,000.00 per year if the sublessee initiates a one-time five-year extension. The City will receive fifty percent (50%) of all revenues collected.

Anticipated lease year revenues to the City will be \$1,200.00 for each of the first five years and \$1,500.00 for the lease years during the extension term.


## **COORDINATION**

This has been coordinated with the City Attorney's Office and the Department of Asset Management.

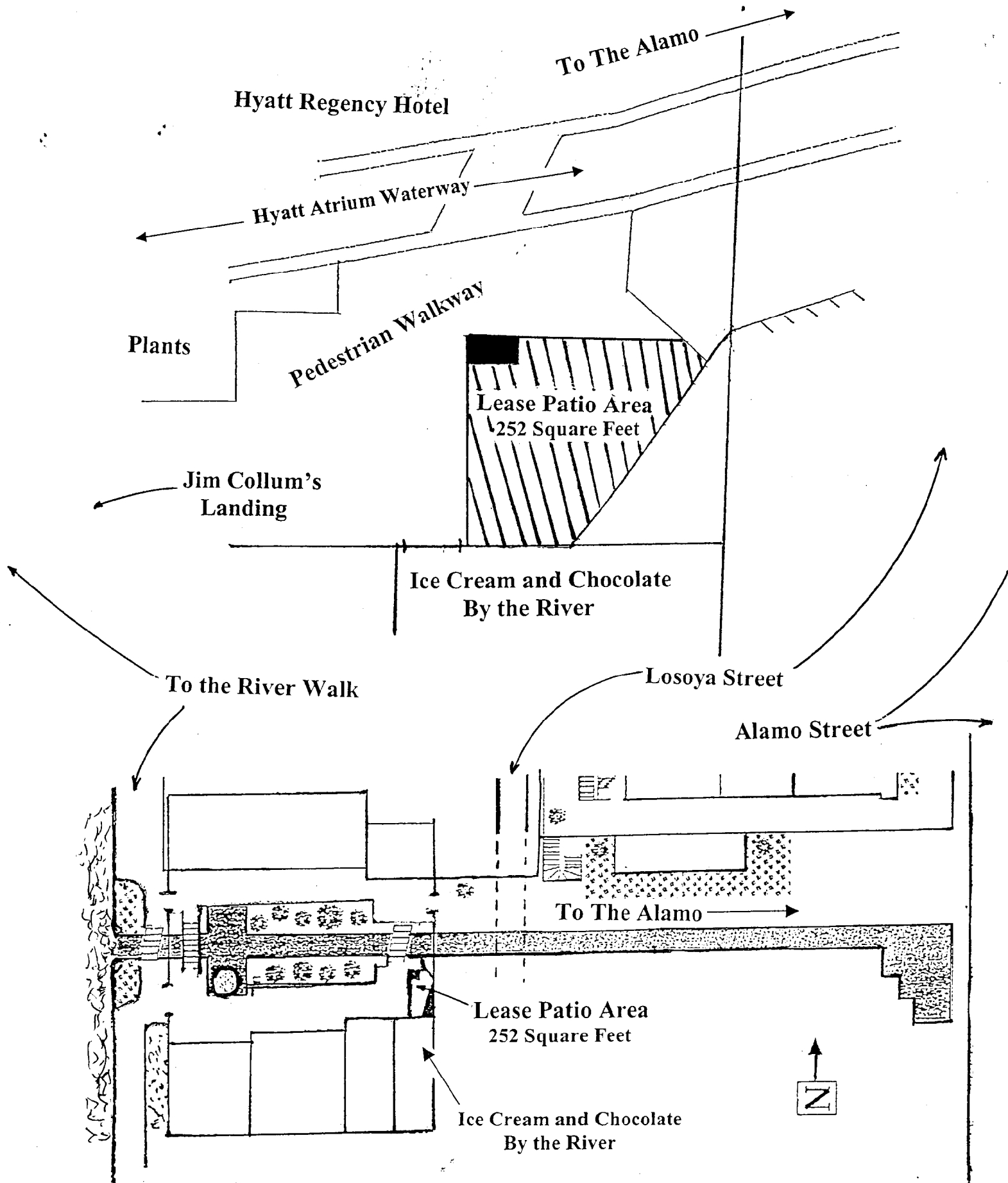
  
\_\_\_\_\_  
Malcolm Matthews,  
Director of Parks and Recreation

  
\_\_\_\_\_  
Christopher J. Brady,  
Assistant City Manager

Approved:

  
\_\_\_\_\_  
Terry M. Brechtel  
City Manager

# Ice Cream and Chocolate By the River



**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:

JOHN KANGETHE dba ICE CREAM and CHOCOLATE BY THE RIVER

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

San Antonio 2000, Ltd., and Elegant Trader 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:

NONE

(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 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>1</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.

NONE		
Signature: John Kangethe	Title: President Company: Elegant Trader Inc	Date: 7/27/04

JOHN KANGETHE

<sup>1</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.

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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:

John Kangethe DBA Ice Cream and Chocolates by the River

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

San Antonio 2000, Ltd. and The Elegant Trader, 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:

None

(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


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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:
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None		
<b>Signature:</b> 	<b>Title:</b> Agent <b>Company:</b> San Antonio 2000, Ltd.	<b>Date:</b> 7/27/04

<sup>1</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.