

**CITY OF SAN ANTONIO  
PARKS AND RECREATION DEPARTMENT  
CITY COUNCIL AGENDA MEMORADUM**

CONSENT AGENDA

ITEM NO. 25

**TO:** Mayor and City Council

**FROM:** Malcolm Matthews, Director, Parks and Recreation Department

**SUBJECT:** Assignment and Amendment of Lydia's El Mercado Lease Agreement

**DATE:** March 31, 2005

**SUMMARY AND RECOMMENDATIONS**

This ordinance approves the assignment of an eight (8) year standard form El Mercado Lease Agreement from Lydia Smith, d/b/a Lydia's to Perla and Mariano Garcia d/b/a La Perla in the City of San Antonio's El Mercado at 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. One agreement was with Lydia Smith d/b/a Lydia's. This agreement was for lease of area W-8 with approximately 198 square feet of space used for retail space. Ms. Smith has requested the City to grant an assignment of her current lease to Mr. and Mrs. Garcia d/b/a La Perla.

Ms. Smith has maintained her lease account with the City in good standing and Mr. and Mrs. Garcia have provided the Parks and Recreation Department with all required documents, which include financial information, business license and tax ID. The Garcias have an established business credit history.

The Garcias will take over the lease payments and use of the space after approval by City Council. Term will be from April 1, 2005 through December 31, 2007 (33 months). They 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**

Mr. and Mrs. Garcia will continue payments established in the original lease agreement. The rental rate is on an established eight-year schedule. The present 2005 rate is \$1.41 per square foot per month or \$279.18 per month. This will increase gradually to a rental rate of \$1.45 per square foot in the last year of the lease agreement (2007). Anticipated fiscal year revenues are:

FY04/05 - \$ 1,675.08 (6 mo.)

FY05/06 - \$ 3,367.98

FY06/07 - \$ 3,427.38

FY07/08 - \$ 861.30 (3 mo.)

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

### **COORDINATION**

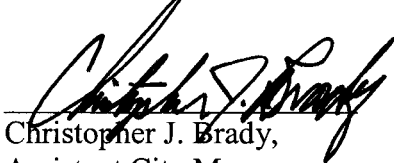
This assignment was coordinated with the City Attorney's Office.

### **SUPPLEMENTARY COMMENTS**

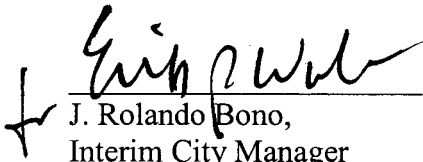
A Discretionary Contracts Disclosure Form is attached.



Malcolm Matthews,  
Director of Parks and Recreation



Christopher J. Brady,  
Assistant City Manager



J. Rolando Bono,  
Interim 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;

PERLA GARCIA  
MARIANO GARCIA

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

NONE

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.

<b>To Whom Made:</b>	<b>Amount:</b>	<b>Date of Contribution:</b>
NONE	ZERO	NOT APPLICABLE

### 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		
<b>Signature:</b> Mariano Garcia Pella Garcia	<b>Title:</b>  <b>Company:</b>	<b>Date:</b> FEB. 24, 2005

<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.