



**Lease Agreement/Renewal
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

AGENDA ITEM NO.: 4
AGENDA DATE: Thu 03/10/2005
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SUBJECT: Approve a resolution authorizing negotiation and execution of a retail lease with a selected operator for operation of the City Hall Café

AMOUNT & SOURCE OF FUNDING: Funding in the amount of \$112,400 is available in the Fiscal Year 2004-2005 Operating Budget for the Economic Growth and Redevelopment Services, City Hall Retail Tenant Improvements Special Revenue Fund for tenant finish-out improvements.

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Economic Growth and
DEPARTMENT: Redevelopment Services

DIRECTOR'S
AUTHORIZATION: Sue Edwards

FOR MORE INFORMATION CONTACT: Jan Stephens, 974-7852; Sue Edwards, 974-7820

PRIOR COUNCIL ACTION:

October 25, 2001 – Approved approximately 3,800 square feet in the New City Hall for a café and City Store concept.

February 12, 2004 – Authorized the City Manager to negotiate and execute a Disposition and Development Agreement (DDA) with AMLI Austin Retail, L.P. ("AMLI"), for the assignment of the Block 2 and Block 4 Retail Subleases with Computer Sciences Corporation; approved a budget amendment accepting a \$362,500 reimbursement from AMLI as part of the 2nd Street Retail Project DDA, of which \$182,500 is for future payment of tenant finish-out allowances associated with development of the City Hall retail spaces and \$180,000 was used for the purchase and installation of parking control equipment in the City Hall garage.

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

Upon selection of the café operator, negotiations will be completed and a retail lease executed on the terms set forth in Exhibit "A" for operation of the City Hall Café. The café space consists of approximately 2,248 square feet with an additional 1,150 square feet for outdoor seating along 2nd and Lavaca Streets. The café is expected to be operating by September.

In 2001, Council approved the inclusion of a City Hall Café and City Store as part of the new City Hall. The City's retail agreement with AMLI Austin Retail, L.P., for development of the 2nd Street Retail Project, requires that AMLI and Urban Partners assist the City in finding suitable tenants for the café and store. The City's agreement with AMLI also provided the City with a total of \$182,500 to pay for tenant finish-out allowances associated with the development of both the store and cafe. A finish-out allowance of \$50 per square foot, or \$112,400, is proposed to be paid to the café tenant.



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Selection of the café tenant was guided by the following requirements:

- Local ownership
- Tenant has already been successful in operating a restaurant
- Tenant has experience in delivering high quality food prepared quickly with fresh ingredients
- Tenant has the financial capacity to be successful in opening a new café
- Proposed café will support City Hall employees and visitors by offering a full range of food and serving breakfast, lunch and dinner
- Proposed café offers varied menu selections and reasonable prices for a downtown café setting
- Is a good fit for the 2nd Street Retail District

Over 25 local restaurants were contacted about operating the café. After evaluating three specific proposals, it was determined that two restaurants, Apple Annies Inc. and Austin Java Company, met all of the above requirements for the café tenant. Both restaurants will make presentations to Council on March 10th.

The café lease would have a 10 year term with two five-year extension options. The minimum guaranteed rent schedule proposed for the first 10 years recognizes that the 2nd Street Retail District will continue to develop over the next four years, with construction taking place on adjacent properties, Blocks 21 and 22: In Year 1, the rent will be \$16 per square foot or \$35,968 per year; in Year 2, the rent will increase to \$18 per square foot or \$40,464 per year; in Year 3, the rent will increase to \$20 per square foot, or \$44,960 per year; and in Years 4 – 10, the rent will stabilize at \$24 per square foot, or \$53,952 per year. In addition, beginning in Year 4, the selected operator will be required to pay the City 6% of all gross revenues earned by the café operation above a base amount of \$899,200 (also known as “percentage rent”).

Both restaurants have agreed to offer a 10% discount on all food items sold to City employees. The remaining key terms of the café lease are contained in the attached “Exhibit A”.

EXHIBIT "A" - KEY TERMS IN RETAIL LEASE FOR AUSTIN CITY HALL CAFE

| KEY TERMS IN RETAIL LEASE FOR AUSTIN CITY HALL CAFE | | |
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| 1. | Property | City Hall Café space in Austin City Hall, containing approximately 2,248 square feet of space |
| 2. | Landlord | The City of Austin, a Texas home rule city and municipal corporation ("Landlord") |
| 3. | Tenant | TBD |
| 4. | Lease Term | 10 years |
| 5. | Renewal Options | Two 5-year options; rent to be determined |
| 6. | Tenant's Trade Name | Tenant must use the phrase "City Hall Café" in the name under which it operates the space. |
| 7. | Hours of Operation | Tenant required to operate Monday - Friday, 7 am to 10 pm Saturday from 8 am to 10 pm (unless brunch is offered, then an 11 am start is required) |
| 8. | Tenant's Use: | |
| 8.a. | Required to serve breakfast and lunch Monday - Saturday (brunch instead of breakfast is allowed on Saturday) | |
| 8.b. | Required to offer dinner Monday through Saturday evenings | |
| 8.c. | Breakfast must include a variety of egg dishes, pancakes, and coffee, including espresso-based drinks | |
| 8.d. | Lunch and dinner must offer a variety of fresh salads, hot and cold sandwiches, hamburgers and hot pasta dishes | |
| 8.e. | At least two vegetarian selections offered at each meal | |
| 8.f. | Take-Out: Tenant would allow for take-out of menu items | |
| 9. | City Employee Discount | Tenant will give City employees a 10% discount on food items when they show their City of Austin badge. |
| 10. | Permitted to offer beer and wine | If permitted to do so by applicable law, the café may offer beer and wine for on-premises consumption, but may not offer any other alcoholic beverages. |

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| 11. | The café must provide table seating and patrons must be served their meals at their tables; but the café may require patrons to order at a counter before being seated. | |
| 12. | Outdoor Seating Area | Landlord to allow café to use 1,150 sf of outdoor space in front of café, subject to Landlord's approval of the appearance, type and placement of tables and chairs, requirements concerning keeping the outdoor seating area neat, clean and in good condition and repair. |
| 13. | Tenant is permitted to offer live music in the outdoor seating area Monday - Friday after 5 pm and at other times during the weekend. | |
| 14. | Employee Parking | Five spaces will be available in the City Hall parking garage free of charge. |
| 15. | Customer Parking | For the first five years of the lease, café patrons would receive two hours of free parking during the day at no cost to the Tenant. No validation of retail tenants is expected at night. After five years, the City may elect to discontinue the validation or require a different validation system with payment from the Tenant. Tenant will be required to purchase the appropriate validation equipment which will electronically encrypt the two hours of free parking. |
| 16. | Commencement Date for Lease Payments - is the earlier of (a) the date the Tenant opens for business or (b) 120 days after the lease is executed. | |
| 17. | Minimum Guaranteed Rent Year 1: \$3,372 per month (represents \$16 psf or \$35,968 per year) Year 2: \$3,372 per month (represents \$18 psf or \$40,464 per year) Year 3: \$3,747 per month (represents \$20 psf or \$44,960 per year) Years 4 - 10: \$4,486 per month (represents \$24 psf or \$53,952 per year) | |
| 18. | Percentage Rent: Beginning in Year 4, in addition to the minimum guaranteed rent, Tenant will pay percentage rent equal to 6% of annual gross revenues above a base amount of \$899,200. | |
| 19. | Pass-Throughs: Tenant required to pay its pro-rata share of operating expenses, taxes, and insurance. | While there will be no cap on property taxes, insurance costs or metered utility services, City will consider a cap on yearly increases to other operating expenses. |

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| 20. | Security Deposit: The lease would require Tenant to give Landlord a security deposit in the amount of \$5,000 at the same time as Tenant executes the lease. Landlord would hold deposit throughout the term of the lease. | |
| 21. | Assignment and Subletting: City's consent required, which may be granted or withheld by City in its sole and absolute discretion. | |
| 22. | Signage: All signage must be approved by Landlord. | Tenant to prepare for City's review renderings showing all proposed signage and approved signage will be made a part of the lease document. |
| 23. | Construction by Tenant: The lease would provide that Landlord would pay Tenant a finish-out allowance of \$50 per square foot, subject to Landlord's satisfaction concerning certain building and lien matters. The lease would provide that Tenant was required to obtain Landlord's approval of all tenant improvements, including materials and colors. Landlord expects any tenant improvements to be in keeping with the design and appearance of City Hall. | The lease would require that all work that would require coring the slab or a break in service of any utility receive prior approval and be done after hours, on weekends or holidays. The lease would further provide that any construction process, i.e. noise, vibration, dust or access obstruction that could disturb the operations in City Hall, be done after hours, on weekends or on holidays. |
| 24. | MBE/WBE process: Tenant would employ an open and non-discriminatory process to select its finish-out contractor, consistent with the intent and spirit of the City of Austin Minority and Disadvantaged Business Ordinance. | |
| 25. | LEED Requirements: Tenant's finish out must meet the Silver LEED rating for Commercial Interiors for Retail Space. | Landlord to provide LEED consultant to assist Tenant in meeting this requirement and to, with Tenant's help, fill out all required paperwork. |
| 26. | Wireless Internet Service and Web Page: If the City's wireless service in City Hall does not adequately serve the café space, then Tenant would provide wireless internet service at all locations in the space. Further, Tenant must create and maintain a web page with information about the City Hall Cafe. | |
| 27. | Recycling of Waste Materials: Tenant would commit to recycle waste materials produced by the café operation. | |
| 28. | Radius Restriction: Lease would prohibit Tenant from operating in a new location in the downtown area, but any existing restaurants would be permitted to continue. | |
| 29. | Operating Covenant: The lease would require that the Tenant remain open and operating during certain minimum days and hours for the entire term of the lease. | |