

AN ORDINANCE 2008 - 04 - 03 - 0261

APPROVING THE ASSIGNMENT OF AN EL MERCADO LEASE AGREEMENT FROM MR. RAUL VALDEZ D/B/A "YBARRA IMPORTS" TO MR. VICTOR DOMINGUEZ, D/B/A "LA MORENITA IMPORTS", FOR THE USE OF APPROXIMATELY 410 SQUARE FEET IN EL MERCADO AREA NUMBER E-1.

* * * * *

WHEREAS, on May 18, 2000, City Council approved an El Mercado Lease Agreement with Mr. Raul Valdez d/b/a "Ybarra Imports" for lease of area number E-1 containing approximately 410 square feet of space; and

WHEREAS, Mr. Valdez has requested the City grant an assignment of this Lease Agreement to Mr. Victor Dominguez, d/b/a "La Morenita Imports"; and

WHEREAS, Mr. Valdez has maintained his account with the City in good standing and Mr. Dominguez has provided the Downtown Operations Department with all required documentation, including financial information and personal references; and

WHEREAS, Mr. Dominguez will take over lease payments and use of the space after approval by City Council for the period remaining in the agreement; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The assignment of an El Mercado Lease Agreement from Mr. Raul Valdez d/b/a "Ybarra Imports" to Mr. Victor Dominguez, d/b/a "La Morenita Imports", for the use of approximately 410 square feet in El Mercado area number E-1 is hereby approved. The City Manager or her designee, or the Director of the Downtown Operations Department is authorized to execute said assignment agreement. A copy of the assignment agreement is attached hereto and incorporated herein for all purposes as Attachment I.

SECTION 2. Funds generated by this ordinance will be deposited into Fund 11001000 Internal Order 219000000003 General Ledger 4407720.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

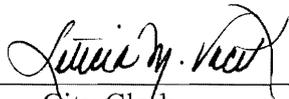
SECTION 4. This ordinance shall be effective on and after April 13, 2008.

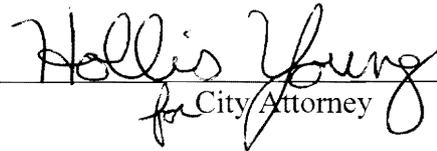
PASSED AND APPROVED this 3rd day of April, 2008.

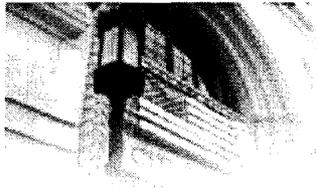


M A Y O R

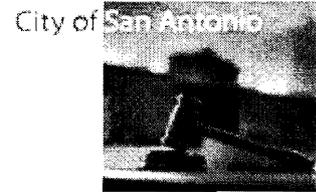
PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney



Request for
COUNCIL
ACTION



Agenda Voting Results - 25

Name:	25						
Date:	04/03/2008						
Time:	10:37:07 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving the assignment of an El Mercado Lease Agreement from Mr. Raul Valdez d/b/a "Ybarra Imports" to Mr. Victor Dominguez, d/b/a "La Morenita Imports", for the use of approximately 410 square feet in El Mercado area number E-1. [Penny Postoak Ferguson, Assistant City Manager; Paula X. Stallcup, Director, Downtown Operations]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1				x		
Sheila D. McNeil	District 2		x				x
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5	x					
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x			x	
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				

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CMS or Ordinance Number: CN0040002559

TSLGRS File Code:1000-25

Document Title:

CONT - SAP Contract for El Mercado Lease - Utility Billing Only

Commencement Date:

6/1/2008

Expiration Date:

12/31/2008

**ASSIGNMENT AND AMENDMENT OF LEASE AGREEMENT
EL MERCADO AREA NUMBER E – 1
(WITH LANDLORD'S CONSENT)**

WHEREAS, the City of San Antonio, a Texas Municipal Corporation, acting by and through its City Manager pursuant to Ordinance No. 91799, passed and approved by the City Council on May 18, 2000, as LANDLORD ("**CITY**"), entered into that certain Lease Agreement effective **January 1, 2000** ("**LEASE**") with **Mr. Raul Valdez d/b/a "Ybarra Imports"** ("**ASSIGNOR**"), for the lease of the following described tract or parcel of real property situated in El Mercado at Market Square, San Antonio, Bexar County, Texas to-wit:

A portion of the real property and improvements owned by **CITY** located at 514 W. Commerce Street, San Antonio Bexar County, Texas within the area commonly known as El Mercado at Market Square (said real property and improvements hereinafter referred to as the "**Leased Premises**"). Said **Leased Premises** contain approximately 410 square feet and is identified as El Mercado area number E – 1; and

WHEREAS, aforementioned Lease Agreement with **Mr. Raul Valdez d/b/a "Ybarra Imports"** was amended by the City of San Antonio acting by and through its City Manager pursuant to Ordinance No. 2007-06-07-0659 on June 7, 2007; and

WHEREAS, said Ordinance No. 2007-06-07-0659 amended the Term of the Agreement, Rental Rates, and Insurance Provisions; and

WHEREAS, **Mr. Raul Valdez d/b/a "Ybarra Imports"**, desires, as **ASSIGNOR**, to convey and assign **TENANT'S** leasehold interest under the **LEASE** to **Mr. Victor Dominguez, d/b/a "La Morenita Imports"**, as **ASSIGNEE**; and

WHEREAS, said assignment is authorized with prior approval of **CITY**; and

WHEREAS, **ASSIGNEE** desires to assume from **ASSIGNOR** all of **ASSIGNOR'S** rights, title, and interest as **TENANT** in and to the **LEASE**, and all of **ASSIGNOR'S** benefits and obligations there under; and

WHEREAS, **ASSIGNEE** has satisfied the **CITY** that they are financially able to undertake the obligations of **TENANT** under said **LEASE**, and **CITY** desires to give its consent to **ASSIGNOR'S** assignment of **ASSIGNOR'S** interest in the **LEASE** to **ASSIGNEE** and to **ASSIGNEE'S** assumption of **TENANT'S** obligations there under; and

WHEREAS, amending the **LEASE** is in **CITY** and **TENANT'S** best interest; **NOW THEREFORE**,

In consideration of the mutual covenants and agreements set forth below the parties agree as follows:

1. **CONVEYANCE AND ASSIGNMENT**: **ASSIGNOR** does hereby grant, bargain, sell, convey, assign, transfer, set over, and deliver to **ASSIGNEE**, all of **ASSIGNOR'S** rights, title, and interest in and to the **LEASE**, including and also without limitation, all of the rights, duties, obligations, and liabilities of **ASSIGNOR** in, to, and under the **LEASE** to pay rent and to observe and perform all other covenants and duties of **TENANT** there under.

2. **ASSUMPTION:** By its execution hereof, **ASSIGNEE** hereby assumes and agrees to perform all of the terms, covenants, and conditions of the **LEASE** on the part of the **TENANT** therein required to be performed arising from and after the date hereof, and **ASSIGNEE** releases **ASSIGNOR** from all liability for such obligations.

ASSIGNEE hereby accepts the assignment of said **ASSIGNOR'S** rights, title and interest in and to the **LEASE** and; **ASSIGNEE** recognizes the superior fee title in and to the land and premises held by the **CITY**, as Landlord, and **CITY'S** right of reversion at the end of the **LEASE** term, whether occasioned by default or passage of time, as well as, the rights and benefits of every description whatsoever belonging to or accruing to the benefits of the **CITY** under the **LEASE**.

3. **CONSENT:** **CITY** hereby consents to the assignment by **Mr. Raul Valdez d/b/a "Ybarra Imports"**, as **ASSIGNOR**, and the assumption by **Mr. Victor Dominguez, d/b/a "La Morenita Imports"**, as **ASSIGNEE** of said **ASSIGNOR'S** liability and obligations as **TENANT**, in that certain **LEASE** between the **CITY** and **Mr. Raul Valdez d/b/a "Ybarra Imports"**, originally approved by City Council pursuant to Ordinance number 91799, passed and approved on May 18, 2000 and amended by Ordinance number 2007-06-07-0659 passed and approved on June 7, 2007.
4. **REPRESENTATION AND WARRANTIES:** **ASSIGNOR** and **ASSIGNEE** represent and warrant that the following statements are true.

Mr. Victor Dominguez, as the **ASSIGNEE**, will be the exclusive owner of the business, formerly owned by **Mr. Raul Valdez** and operating as "**Ybarra Imports**". **Mr. Victor Dominguez** will take full control of the business immediately upon City Council approval and will operate as "**La Morenita Imports**".

Mr. Raul Valdez will not have any ownership or serve as employee, or agent in the new enterprise operating from the premises. This individual will have no authority, financial or otherwise, in the new enterprise operating from the premises.

In the event that any such representations and warranties are found by CITY not to be true, then CITY shall have authority to revoke its consent to this assignment and automatically terminate the contract without allowing ASSIGNOR or ASSIGNEE an opportunity to cure.

5. **USE OF PREMISES:** **ASSIGNEE** agrees that that the **Leased Premises** shall be utilized for the sole purpose of retail sales of products reflecting an open market with a Mexican Market theme and excluding alcoholic goods and beverages in accordance with applicable statutes, laws, ordinances, rules and regulations of the United States of America, the State of Texas, and the City of San Antonio, Texas.
6. **AMENDING USE AND CARE OF PREMISES:** Section 2.4 of **LEASE** is amended to include the following provisions:
 - 2.4.1 Further, **TENANT** covenants and agrees, in keeping with the intent and spirit of El Mercado and Market Square, to operate the business conducted on the **Leased Premises** in an "**OWNER PRESENCE**" capacity, physically participating in the day-to-day operations of **TENANT'S** business, as opposed to employing a non-owner manager of said premises, hence an "absentee

owner" posture, unless such management is first approved by the Director, Downtown Operations Department, or her designee. Failure to operate the business on the **Leased Premises** in such a manner will constitute an act of default hereunder and will be grounds, at **CITY'S** option to terminate this **Lease Agreement** upon ten (10) days written notice to **TENANT**.

7. ACKNOWLEDGEMENT OF READING: The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto, and have sought and received whatsoever competent advice and counsel which was necessary for them to form a full and complete understanding of their rights and obligations herein, and having done so, do hereby execute this Agreement.

EXECUTED this _____, 2008.

ASSIGNOR:
Mr. Raul Valdez
d/b/a "Ybarra Imports"

Raul B Valdez
Mr. Raul Valdez

ASSIGNEE:
Mr. Victor Dominguez
d/b/a "La Morenita Imports"

Victor Dominguez
Mr. Victor Dominguez

414 LA HERMANA
Address

Laredo, TX. 78045
City, State, Zip Code

(956) 235-24-22
Business Telephone Number

(956) 227-50-76
Other Telephone Number

LANDLORD:
CITY OF SAN ANTONIO, a Texas Municipal Corporation

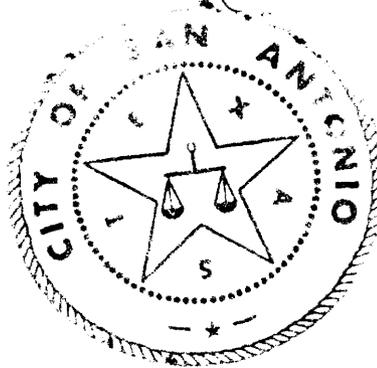
ATTEST:

[Signature]
City Manager

[Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
City Attorney





CMS or Ordinance Number: OR00000200804030261

TSLGRS File Code: 1000-05

Document Title:

ORD - SAP Contract for El Mercado Lease - Utility Billing Only

Ordinance Date:
4/3/2008

PM



CMS or Ordinance Number: OR00000200706070659

TSLGRS File Code: 1000-05

Document Title:

ORD - SAP Contract for El Mercado Lease - Utility Billing Only

Ordinance Date:
6/7/2007