

AN ORDINANCE 2008 - 05 - 08 - 0373

APPROVING A LEASE AGREEMENT WITH THE SAN ANTONIO WOMEN'S PAVILION AT HEMISFAIR PARK, INC. TO RENOVATE AND OPERATE THE WOMEN'S PAVILION AND THE ADJACENT GARDEN AREA IN HEMISFAIR PARK FOR AN INITIAL TERM OF 25 YEARS.

* * * * *

WHEREAS, the Women's Pavilion was built as part of the 1968 Hemisfair World's Fair; and

WHEREAS, it is an historically significant, 4 level, masonry building designed by architect Cy Wagner and funded by women from San Antonio and around the world as a gift to San Antonio; and

WHEREAS, since 1968, the Women's Pavilion has been underutilized, primarily serving as storage space; and

WHEREAS, in 2008, the San Antonio Women's Chamber of Commerce initiated efforts to create a non-profit entity known as the San Antonio Women's Pavilion at Hemisfair Park, Incorporated with the goal of renovating the building, and operating the facility as a cultural and educational center; and

WHEREAS, the Women's Pavilion may provide space for women's entrepreneurial efforts through a business incubator, provide space for exhibits, meetings, exhibitions, performances, parties, receptions, as well as provide space for a café and gift shop; **NOW THEREFORE:**

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

SECTION 1. The City Manager or her designee, or the Director of the Downtown Operations Department or her designee, is authorized to execute a lease agreement with the San Antonio Women's Pavilion at Hemisfair Park, Inc. to renovate and operate the Women's Pavilion and the adjacent garden area in Hemisfair Park for an initial term of 25 years. A copy of the lease agreement is attached hereto and incorporated herein for all purposes as Attachment I.

SECTION 2. 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.

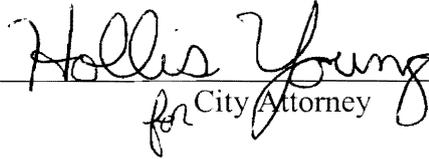
SECTION 3. This Ordinance shall become effective immediately upon passage by eight (8) affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

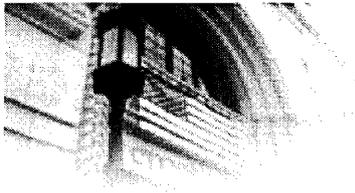
PASSED AND APPROVED this 8th day of May, 2008.



M A Y O R
PHIL HARDBERGER

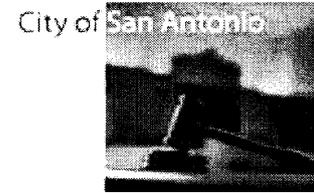
ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney



Request for:

COUNCIL ACTION



Agenda Voting Results - 11A

Name:	6, 7, 8, 9, 10, 11A, 11B, 12, 13, 14, 16, 17A, 17B, 20						
Date:	05/08/2008						
Time:	11:40:58 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving a lease agreement with the San Antonio Women's Pavilion at Hemisfair Park, Inc. to renovate and operate the Women's Pavilion and the adjacent garden area in Hemisfair Park for an initial term of 25 years.						
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					
Jennifer V. Ramos	District 3	x					
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x			x	
Justin Rodriguez	District 7	x					
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				x



CMS or Ordinance Number: CN0040002594

TSLGRS File Code:1000-25

Document Title:

CONT - Lease agreement between the City and San Antonio Women's Pavilion at Hemifair Park, Inc to renovate and operate the Women's Pavilion and the

Commencement Date:

5/8/2008

Expiration Date:

5/8/2033

original

LEASE AGREEMENT
WOMEN'S PAVILION PREMISES
AT HEMISFAIR PARK

This Lease Agreement ("Lease") is entered into this _____ day of _____, 2008 (the "Effective Date") by and between the CITY OF SAN ANTONIO, a Texas municipal corporation (hereafter called "CITY") acting by and through its City Manager or Assistant City Manager, pursuant to City Ordinance No 2008-05-08-0373 passed and approved on APR 3, 2008, and the San Antonio Women's Pavilion at HemisFair Park, Incorporated, a Texas non-profit corporation, as TENANT, (hereinafter called "TENANT"), WITNESSETH:

ARTICLE I

DEMISE OF LEASED PREMISES/PURPOSE

1.1 GRANT OF LEASED PREMISES. For and in consideration of (1) the covenants and premises herein contained to be kept, performed and observed by TENANT, and (2) the agreement by TENANT to complete the renovation and restoration of the Leased Premises, as hereinafter defined, and (3) the agreement by TENANT to thereafter operate and manage said Leased Premises in accordance with the uses as outlined in ARTICLE THREE 3 USE AND OPERATION, CITY does, subject to the terms of this Lease, hereby lease and demise to TENANT, and TENANT does hereby lease and accept from CITY, the real property located in HemisFair Park, San Antonio, Bexar County, Texas ("HemisFair Park"), more particularly described on Exhibit "A" attached hereto ("Land"), together with all buildings and improvements ("Improvements") situated thereon (the "Premises" or "Leased Premises"), along with (1) a non-exclusive easement for ingress and egress to the Land and Improvements over the sidewalks, driveways and streets within HemisFair Park and (2) all rights, privileges, easements, appurtenances and immunities belonging to or in any way appertaining to the Leased Premises. The parties mutually acknowledge and agree that as of the date of execution the attached Exhibit "A" reflects a preliminary depiction of the boundaries of the Leased Premises ("Preliminary Exhibit A") and that in the course of planning for the renovations to be accomplished during Phase II of the Lease TENANT shall cause a metes and bounds description of the Leased Premises (based upon the area depicted in Preliminary Exhibit "A") to be substituted for the Preliminary Exhibit A. In addition, it is the understanding and intent of the parties that the boundary lines of the Leased Premises may need to be adjusted to account for planned renovations and TENANT and CITY hereby agree to cooperate in defining same.

1.2 Naming Rights. CITY does hereby grant to TENANT the right to name the Leased Premises or any portion thereof for the Term of the Lease, subject however, to first receiving the prior written approval of CITY, such approval not to be unreasonably withheld. CITY hereby approves the use of the name "Women's Pavilion" or "Woman Pavilion" for the existing structure in the Lease Premises constructed for Hemisfair in 1968.

1.3 LIMITATIONS. TENANT understands and agrees that its leasehold estate shall be subject to following:

1.3.1 The right of the general public to access and use for public park purposes all of that portion of the Leased Premises indentified on Exhibit "A" as the "Garden Area"), except for those limited times when TENANT is conducting a scheduled event ("Event") which includes the closure of all or portions of such Garden Area.

1.3.2 The right of the City to install under or below Ground Level at the Leased Premises any and all utilities (and appurtenances related thereto) that the City deems reasonably necessary; *provided, however,* that the location, route, construction and use thereof will not unreasonably interfere with the operation of the Leased Premises by Tenant, as a whole, pursuant to the terms of this Lease.

1.3.3 All property interests filed of record.

1.3.4 The right of the City to conduct public events, such as the New Year's Eve celebration, or other similar events within HemisFair Park; provided, however, that (i) closures affecting regular access to parts of Hemisfair Park will be affected for short time periods only, and (ii) TENANT shall have access to and the right to use the Leased Premises during such CITY sponsored events.

1.4 PARKING. CITY shall provide TENANT with the seven parking spaces described on Exhibit B, free of charge. The seven parking spaces referenced above shall be marked "reserved" for TENANT'S exclusive use. TENANT acknowledges that all other parking rights for the Leased Premises will be obtained through a separate agreement with CITY'S parking division. TENANT acknowledges and agrees that during the 14 day period of the Folk Life Festival conducted by the Institute of Texan Cultures ("ITC") ITC shall have the right to make use of TENANT'S seven parking spaces to the exclusion of TENANT'S use. Notwithstanding the preceding, the City shall provide replacement parking for the seven parking spaces during business days and hours within the 14 day period of the Folklife Festival.

1.5 CONSTRUCTION ACCESS. CITY agrees that it will provide TENANT and TENANT'S contractors, subcontractors and agents with reasonable access for construction vehicles, materials, equipment and staging area as approved by City during Phase II (as defined below) and for any other construction during the Term of this Lease. TENANT acknowledges and agrees that ITC has the right to make use of all of the City owned Parking Lot adjacent to the Premises for the 14 day period of the Folk Life Festival. TENANT further understands and agrees that any construction access provided for under this agreement is subject to ITC's rights to make use of the Parking Lot for the Folk Life Festival.

1.6 DESIGNATED REPRESENTATIVES. The Director of Downtown Operations shall be the CITY's designated representative ("Director") and shall have full authority to take action or grant administrative approvals under this Lease except in those occasions requiring City Council approval, or the approval of CITY's governmental powers such as Development Services or the Fire Marshall. Executive Director of San Antonio

Women's Pavilion at Hemisfair Park shall be the TENANT'S Designated Representative who shall have full authority to take action or grant administrative approvals under this Lease.

1.7 DELIVERY AT END OF TERM. TENANT agrees that, at the end of the term of this Lease, or the extension thereof ("Extended Term"), in accordance with the terms of this Lease, the Improvements located on the Leased Premises, will automatically become CITY property and will be tendered to CITY in good condition, reasonable wear, tear and casualty excepted.

ARTICLE II

TERM

2.1 PHASES. This Lease shall consist of three Phases: Phase I Option and Planning Phase; Phase II Construction Phase; and Phase III Operating Term.

2.1.1 Phase I, Option and Planning Phase. Phase I, Option and Planning ("Phase I") shall begin on the Effective Date of this Lease and shall terminate on the earlier of 1) two years from the Effective Date or 2) the beginning of Phase II, the Construction Term.

2.1.2 Phase II, Construction Phase. Phase II, the Construction Phase ("Phase II"), shall begin at that date ("Commencement Date") that TENANT, having satisfied all of the conditions to commencement, begins construction of the Initial Tenant Work (as defined below), and shall terminate on the earlier of 1) two years from the Commencement Date or 2) the date on which TENANT, having satisfactorily completed the Initial Tenant Work, begins regular operations of the Leased Premises.

2.1.3 Phase III, Operating Term. Phase III, the Operating Term ("Phase III"), shall begin on the date on which TENANT, having satisfactorily completed the Initial Tenant Work, begins regular operations of the Leased Premises and shall terminate twenty five (25) years later.

2.1.4 Extended Term. So long as TENANT is not in default (beyond expiration of any applicable cure period) at the end of the Operating Term, the term of this Lease shall automatically be renewed and extended for an additional term of ten (10) years, unless TENANT gives CITY notice of its election not to extend the applicable Term at least one hundred eighty (180) days prior to the end of the Operating Term, hereof.

2.2 TENANT'S RIGHTS OF ACCESS DURING PHASE I. Provided that TENANT has obtained the insurance required by this Lease and provided evidence of such has been delivered to CITY, TENANT shall have the following rights and obligations:

2.2.1 At its sole cost and expense, TENANT shall have the right to conduct a feasibility study and preconstruction analysis in the Leased Premises during Phase I.

2.2.2 At its sole cost and expense, TENANT shall have the right to conduct and perform any and all inspections and tests to the Leased Premises it determines necessary or desirable.

2.2.3 TENANT, at its sole cost and expense, and subject to any reasonable restrictions placed by CITY through its governmental authority, shall have authority to use the Leased Premises for fund raising events related to TENANTS obligations under this Lease.

2.2.4 In the event that TENANT (or TENANT'S agents) causes any damage to the Leased Premises, TENANT shall restore any such damaged area or item in or on the Leased Premises (at its sole cost and expense) to substantially its condition prior to such damage.

2.2.5 TENANT must coordinate access to and use of the Leased Premises with the Director.

2.2.6 If TENANT determines that the Leased Premises, for whatever reason, will not meet its needs for its intended use of the Leased Premises, then upon written notification by TENANT to CITY on or before the expiration of Phase I, this Lease shall become null and void and neither party shall have any further obligations whatsoever, except for the above restoration obligations.

2.3 WAIVER. Except as expressly set out in this Lease, TENANT hereby waives any further notice to vacate the Leased Premises upon the expiration of the Operating Term, or, as applicable, the Extended Term.

ARTICLE III

USE AND OPERATION

3.1 PERMITTED USES. Except with CITY'S prior approval, during the Lease Term, the Leased Premises shall be used for the following purposes only:

3.1.1 Administrative, office, banquets, weddings, parties, receptions, and catered events, café/restaurant, gift shop, exhibit space, educational events, meetings, performances.

3.1.2 TENANT agrees that the Leased Premises shall be utilized in accordance with applicable statutes, laws, ordinances, rules and regulations of the United States, the State of Texas, and the City of San Antonio, Texas.

3.1.3 The foregoing use(s), purposes(s) and area(s) may be changed only by prior written approval of the Director.

3.2 PROHIBITED USES. TENANT shall not be allowed to make use of the Leased Premises for festival events or carnivals.

3.2.1 Except as otherwise provided in this Section 3.2.1, TENANT shall not be allowed to make use of the Leased Premises for placement of any speakers on, or the broadcast of any amplified music in or directed at any exterior portion of the Leased Premises without the approval of the CITY, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, TENANT shall have the right to utilize speakers and amplified music in connection with an Event; provided, however, that TENANT shall not utilize speakers or amplified music on

the exterior of the Leased Premises in its other day-to-day operations of the Leased Premises during business hours, Monday - Friday.

3.3 AS IS CONDITION. TENANT is being given the opportunity to examine the Leased Premises during Phase I. Therefore, TENANT hereby waives any claim for damages that may arise from defects of that character after occupancy. TENANT'S taking possession of the Leased Premises at the end of Phase I shall be conclusive evidence of TENANT'S acceptance thereof and TENANT hereby accepts said Leased Premises as being in good and satisfactory order in its then present **AS IS, WHERE IS, WITH ALL FAULTS CONDITIONS** as suitable for the purposes for which leased.

3.4 NO REPRESENTATION REGARDING CONDITION. TENANT agrees that no representations respecting the condition of the Leased Premises and no promises to decorate, alter, repair or improve the Leased Premises, either before or after the execution hereof, have been made by CITY, or its agents, representatives, or employees, to TENANT, unless the same are contained herein or made a part hereof by specific reference herein.

3.5 OPERATIONS. TENANT agrees to be responsible for all day-to-day operations of the Leased Premises from and after the Commencement Date. Upon completion of the Initial Tenant Work, TENANT shall operate the Leased Premises according to a set daily schedule approved by the Director, which approval shall not be unreasonably withheld. A substantial portion of the facility (not to include administrative, office or services areas), including the outdoor courtyards or patios, shall be open to the public free of charge during all regular operating hours. Notwithstanding the preceding, all or part of the Premises (including but not limited to the Garden Area) may be temporarily closed for Event(s) and TENANT reserves the right to charge admission for special events which are temporary in nature, provided however, the Garden Area shall be open, free of charge, at all times during which TENANT is not having a pre-scheduled special event..

3.5.1 TENANT further agrees to supervise the management of all Events and will ensure that adequate staff is provided by either TENANT, or any contracting party in accordance with contractual arrangements.

3.5.2 TENANT shall be responsible for the routine daily cleaning, supplying and maintenance of the Bathroom Facility, the stand alone building exterior to the main structure. Such maintenance shall include the repair of clogged drains, light bulbs, all fixtures including electrical fixtures, plumbing fixtures including toilets and sinks, the stalls, countertops, paper dispensers and hand dryers, mirrors, interior painting and graffiti removal. The Bathroom Facility shall be open, at a minimum, the same days and hours as the Women's Pavilion Building; provided, however, that TENANT shall have the right to close the Bathroom Facility to the general public in connection with an Event. Notwithstanding the above, CITY shall be responsible for the following maintenance and repairs to the Bathroom Facility and shall keep same in good condition and repair: the structural portions including the foundations, roof, exterior walls (excluding glass windows and doors) except for any repairs caused by the negligent acts or omissions of TENANT, TENANT'S agents, employees or invitees.

3.5.3 TENANT agrees that CITY will have the right to use, for an amount equal to TENANT'S actual out-of-pocket costs, including utilities, cleaning, set up and tear down, all or part of the Leased Premises for CITY events, meetings or receptions, ten (10) times during each calendar year of this Lease (i) with at least 30 days prior written notice to TENANT, but (ii) based on availability of the facility. CITY agrees to coordinate the use of the Leased Premises with TENANT for each such Event, in order to accommodate such joint use of the Leased Premises. This use also does not include the cost of food, beverages or other dining or catering services. There shall be no carry over if CITY does not use the Leased Premises ten (10) times in the prior year. In no event shall an event held by CITY hereunder exceed one calendar day.

ARTICLE IV

FINANCIAL MANAGEMENT

4.1 TENANT agrees to develop funding and fiscal policies that will provide for the long-term preservation and maintenance of the Leased Premises, which will be forwarded to CITY upon request.

ARTICLE V

RENT

5.1 RENT. There shall be no rent in the form of cash paid for this lease.

ARTICLE VI

CONCESSIONS

6.1 TENANT shall have the right to sell any food and/or beverages within the building(s) which are located upon the Leased Premises, but shall not have the right to sell any food and/or beverages on the exterior of the building(s) other than as part of an Event. Notwithstanding the preceding, if a cold drink vending machine is placed on the Leased Premises, it shall comply with the CITY'S agreement for cold drink vending machines, if any.

ARTICLE VII

CONDITIONS TO COMMENCEMENT AND INITIAL TENANT WORK

7.1 CONDITIONS TO COMMENCEMENT OF TERM. In the event the conditions set forth below in Section 7.1.1 through Section 7.1.6 (the "Conditions to Commencement") are not satisfied or waived on or before the termination of Phase I of the Lease, CITY and Tenant shall each have the option to terminate this Lease and all future obligations hereunder.

7.1.1 Preliminary Plans and Specifications. The Director shall have approved the preliminary Plans and Specifications, which approval shall not be unreasonably withheld or delayed.

7.1.2 Project Drawings. The Director shall have approved the project drawings for the Initial Tenant Work which are sufficient in detail to allow the Director to determine whether the Project Drawings conform to the preliminary Plans and Specifications, which approval shall not be unreasonably withheld or delayed.

7.1.3 Historic and Design Review Commission and Other Advisory Boards. TENANT shall have obtained all approvals or consents from the Historic and Design Review Commission with respect to the design, development and construction of the Initial Tenant Work which are necessary to commence and complete the Initial Tenant Work within the terms of this Lease and applicable law. TENANT shall have also obtained the approval and consent of any other Advisory Board or Commission with jurisdiction over the Initial Tenant Work or the project, possibly to include the Parks and Recreation Advisory Board and the Cultural Arts Board.

7.1.4 Construction Safety Plan. The Director shall have approved TENANT'S Construction Safety Plan, which approval shall not be unreasonably withheld or delayed.

7.1.5 DELETE [REDUNDANT]

7.1.6 Adequate Funding. TENANT shall have provided evidence to the Director that TENANT has adequate funding to pay for the Initial Tenant Work.

7.2 PLANS AND SPECIFICATIONS. Notwithstanding the time requirements specified below, if TENANT and CITY are unable to reach agreement on plans and specifications ("Plans and Specifications") for the initial remodeling, renovation, restoration, rehabilitation, retrofitting and finish-out of the improvements situated upon the Leased Premises, ("Initial Tenant Work") by the end of Phase I, then this Lease shall automatically terminate and, subject to section 2.2.4, neither party shall have any obligations or liabilities to the other party hereunder. Once approved, Tenant shall not make any material changes to the Plans and Specifications without obtaining the prior written approval of CITY, which approval shall not be unreasonably withheld or delayed. CITY shall in no event unreasonably withhold its approval of the Plans and Specifications.

7.3 SUBSTANTIAL COMPLETION. TENANT agrees to use reasonable commercial efforts to achieve Substantial Completion of the Initial Tenant Work on or before the end of Phase II. For purposes of this Lease, the term "Substantial Completion" shall mean that date when the only remaining work comprising the Initial Tenant Work shall be minor in nature, so that the TENANT could occupy the Improvements for their intended purpose and the completion of the Initial Tenant Work would not materially interfere or hamper the TENANT'S normal business operations.

7.4 TERMINATION DUE TO LACK OF FUNDING. Notwithstanding anything contained in this Lease to the contrary, in the event that on or before the end of Phase I, TENANT, in its sole discretion, determines that it has not secured adequate funds to complete the Initial Tenant Work or to operate and maintain the Leased Premises thereafter, then TENANT shall have the right to terminate this Lease by giving CITY written notice of such election by the last day of Phase I, and neither CITY nor TENANT shall have any further

obligations to the other party whatsoever, except that TENANT shall be required to return the Leased Premises to CITY in a condition equal to or better than their condition at the outset of this LEASE, reasonable wear, tear and casualty excepted.

7.5 CERTIFICATES OF OCCUPANCY. In connection therewith, following the completion of the Initial Tenant Work, but prior to the occupancy of the Leased Premises for use by TENANT, said TENANT shall be responsible for obtaining a Certificate of Occupancy, as will any/all subtenants. All of the Initial Tenant Work and any future improvements to the Leased Premises approved by CITY shall (i) receive proper Permits; (ii) be performed by licensed contractors; and (iii) comply with all federal and State laws and CITY ordinances, the Americans with Disabilities Act, and building and life safety codes in effect in the City of San Antonio during the time of construction relating to, but not limited to, approval of interior/exterior finish-out plans for the Leased Premises. Further, in addition, all plans and specifications and testing must comply with all federal, State and local laws, ordinances, permits, rules, and regulations applicable to the Leased Premises and the operation of TENANT'S business activity therein. Also, TENANT, at its sole cost and expense, shall perform all necessary structural assessments, environmental assessments, testing, and any and all remediation work, whether structural or environmental in nature.

7.6 TENANT SUBMITTALS. TENANT shall comply with the following steps:

7.6.1 WITHIN 8 MONTHS FOLLOWING THE EXECUTION DATE OF THIS LEASE:

(a) Provide the Director for her review and approval, which shall not be unreasonably withheld or delayed, a preliminary phased-in renovation schedule by TENANT. Such schedule shall consist of construction milestones. CITY reserves the right to extend the construction completion date, at its own discretion.

(b) Submit preliminary Plans and Specifications, and preliminary construction costs estimate to the Director for approval, which approval shall not be unreasonably withheld or delayed.

(c) Submit preliminary plans to the Historic and Design Review Commission, and other CITY boards and commissions if necessary, for approval.

7.6.2 PRIOR TO THE START OF CONSTRUCTION:

(a) Submit to the Director, for prior CITY review, the names of all contractors and consultants, specifically including, but not limited to, the environmental remediation.

(b) Obtain all necessary permits, and submit final Plans and Specifications, renovation schedule and copies of permits to the Director.

(c) Submit a construction staging plan to the Director delineating egress and ingress into the Improvements, as well as, required safety control items.

(d) Notify the Director at least five (5) working days prior to the start of any construction.

7.6.3 WITHIN 30 DAYS AFTER FINAL COMPLETION OF CONSTRUCTION:

(a) Notify CITY in writing promptly upon the final completion of such Initial Tenant Work, whereupon CITY will inspect the completed Initial Tenant Work to determine (a) if such work (i) has been completed in a good and workmanlike manner; and, (ii) as reasonably determined by CITY, has been substantially completed in accordance with the Plans and Specifications for such work approved by CITY, and (b) that any necessary Certificate of Occupancy has been issued by the CITY OF SAN ANTONIO.

(b) Obtain the Certificate of Occupancy and submit a copy of such Certificate of Occupancy, issued by CITY'S Development Services Department, to the Director.

(c) Submit record documents drawings to the Director.

7.7 OWNERSHIP OF IMPROVEMENTS. All such authorized improvements, renovations, restorations, repairs, remodeling, additions and alterations to the Leased Premises, or other portions, except trade fixtures of TENANT, shall become, upon completion, the property of CITY.

7.8 PAYMENT AND PERFORMANCE BONDS. If required by applicable law, TENANT agrees to require its contractor(s) to provide payment and performance bonds naming the CITY as an additional insured prior to the start of any construction in order to assure completion of all TENANT'S Work to be made by TENANT.

7.9 PREVAILING WAGE RATES. TENANT shall require its contractors to pay prevailing wage rates in compliance with Chapter 2258 of the Texas Government Code if so required by applicable law.

7.10 CONTRACTOR INSURANCE. TENANT will require its contractor(s) to provide the insurance required in ARTICLE FIFTEEN (15) INSURANCE herein.

7.11 CITY FUNDING SOURCES. Except as otherwise expressly agreed to in writing by and between TENANT and CITY, TENANT covenants and agrees that it will not bind, or attempt to bind CITY for the payment of any money in connection with the repair, remodeling, renovation, or alteration, or other TENANT construction work in, on, or about the Leased Premises. Further, TENANT agrees to remove or secure releases of, within sixty (60) days after filing, by payment or provisions for bonding, any mechanic's or materialmen's liens filed against the Leased Premises or said other portions and to indemnify CITY in connection with such liens to the extent of any damages, expenses, attorney's fees, or court costs incurred by CITY.

ARTICLE VIII

FUTURE CONSTRUCTION AND ALTERATIONS

8.1 FUTURE IMPROVEMENTS. After obtaining Certificates of Occupancy after completion of the Initial Tenant Work as defined in ARTICLE SEVEN (7) Conditions to Commencement and Initial Tenant Work, TENANT shall not (except as otherwise expressly allowed by Article 7 above) make any structural improvements, exterior modifications or additions to the physical site of the Leased Premises without, in each instance, first obtaining the written consent of the CITY, which consent shall not be unreasonably withheld or delayed.

8.2 OWNERSHIP OF FUTURE IMPROVEMENTS. Any other improvements and alterations made now or during the Lease Term, shall become, upon completion, the property of CITY, subject to the conditions herein.

8.3 COMPLIANCE WITH LAWS. In the construction or improvement of the Leased Premises, TENANT shall conform to, and comply with, all federal, State and local laws, ordinances, permits, rules, and regulations applicable hereto.

ARTICLE IX

FIXTURES AND PERSONAL PROPERTY/SIGNS

9.1 TRADE FIXTURES. Any trade fixtures, equipment, signs, furniture, furnishings, floor covering and other personal property of TENANT installed but not permanently affixed to the Leased Premises shall remain the property of TENANT and CITY agrees that TENANT shall have the right, at any time, and from time to time, to remove any and all of its trade fixtures, equipment, signs, furniture, furnishings, floor covering and other personal property which it may have stored or installed in the Leased Premises, including but not limited to, counters, booths, shelving, mirrors, and other movable personal property. TENANT at its expense, shall immediately repair any damage occasioned to the Leased Premises by reason of the removal of any such trade fixtures, equipment, signs, furniture, furnishings, floor covering and other personal property, and upon expiration or earlier termination of this Lease, for any reason, shall leave the Leased Premises in a good, neat and clean condition, free of debris and broom clean condition, ordinary wear, tear and casualty excepted. All trade fixtures, equipment, signs, furniture, furnishings, floor covering and other personal property installed in or attached to the Leased Premises by TENANT must be new or in good, serviceable and attractive condition when so installed or attached. If TENANT does not remove said trade fixtures, equipment, signs, furniture, furnishings, floor covering and other personal property promptly upon the termination of this Lease, CITY may effect such removal and make any repairs necessitated thereby. The cost therefor shall be immediately due and payable from TENANT hereunder. TENANT agrees that any such trade fixtures, equipment, signs, etc., not removed within thirty (30) days after the termination of this Lease shall, at the CITY'S option either 1) become CITY'S property without the necessity of legal action on CITY'S part and to be disposed of by CITY at a private or public sale without notice or any liability whatsoever to TENANT, or 2) if the items are of no economic value, be

disposed of by CITY at TENANTS expense. Further, TENANT will repair any damage caused by such removal and make any repairs necessitated thereby. Notwithstanding the preceding, TENANT understands and agrees that the Lynn Ford Doors, the Beaumon Mood Light Fixtures and any other fixtures on the premises provided by CITY shall remain the property of CITY.

9.2 SIGNAGE. TENANT will be solely responsible for all costs associated with the permits, approvals, manufacture, installation and on-going maintenance of any and all signage. TENANT hereby agrees not to install or display any sign(s) outside the Leased Premises or in any window or on the exterior of the Leased Premises without the prior approval of said sign(s) by the CITY, which approval shall not be unreasonably withheld. TENANT further agrees to obtain all necessary permits and comply with such sign design criteria and sign review procedures as may be reasonably established and amended from time to time by duly authorized CITY authority, including, but not limited to, securing any approval required by the CITY'S Historic and Design Review Commission and the Development Services Department.

9.3 RESTORATION. No sign shall be placed on the improvements or Leased Premises which will in any manner cause structural damage or injury to the building or injury to any persons on or about the Leased Premises. Whenever TENANT'S signage is repaired, removed or replaced, TENANT agrees to restore such area(s) to at least substantially the condition such area was in prior to the installation of such signage.

ARTICLE X

REPAIR AND MAINTENANCE

10.1 TENANT MAINTENANCE. Except as otherwise set out below in Section 10.2, from and after the Commencement Date, TENANT agrees, at TENANT'S sole cost and expense, to maintain and keep the interior and exterior of the Leased Premises including, but not limited to, HVAC, interior and exterior plumbing, plumbing fixtures, plumbing lines and plumbing connections and interior and exterior electrical fixtures, lamps, and/or bulbs, wiring and connections, and interior walls, flooring, doors, plate glass and other interior and exterior improvement in good working order and repair and in good, clean, safe and sanitary condition (usual wear, tear, acts of God, or unavoidable accident, only excepted). TENANT shall not commit or permit any waste of said Leased Premises. TENANT also assumes any and all responsibility for the day-to-day cleaning of the Leased Premises. The above maintenance obligations shall be the responsibility of CITY prior to the Commencement Date.

10.2 CITY MAINTENANCE. Notwithstanding anything contained in this Lease to the contrary, CITY shall, at its sole cost and expense (not to be passed through to TENANT), maintain, repair and replace the structural portions of the Leased Premises, including the foundations, roof, exterior walls (excluding glass windows and doors) of the Leased Premises in good working order and repair, except for any repairs caused by the negligent acts or omissions of TENANT, TENANT'S agents, employees or invitees. All requests for repairs or maintenance that are the responsibility of CITY hereunder must be made to CITY in writing (except as expressly provided otherwise in this Lease), and CITY shall have a reasonable time

within which to perform such repairs or maintenance so long as CITY promptly commences such repairs or maintenance and diligently pursues such repairs or maintenance to completion

10.3 POSSESSION. TENANT will, at the expiration or termination of this Lease, yield up peacefully to CITY the Leased Premises and all TENANT'S Work, as originally referenced in Section 7.1, made to or upon the same, with the interior and exterior thereof in good, clean, safe and sanitary condition satisfactory to the CITY, usual wear, tear, casualty, acts of God, or unavoidable accident, only, excepted.

10.4 LIMITATION ON CITY. CITY shall not be liable to TENANT for any damage to the Initial Tenant Work, merchandise, trade fixtures, or personal property of TENANT in the Leased Premises caused by water leakage from the roof, water lines, sprinkler, or heating and air conditioning equipment or subtenants' use of their respective premises except to the extent that such damage was due to CITY's failure to maintain the Leased Premises in accordance with the terms of this Lease.

10.5 TRASH COLLECTION. From and after the Commencement Date, TENANT, at its own cost and expense, will gather all trash, litter and refuse in the Leased Premises and dispose of same.

10.6 ELECTRICAL EQUIPMENT. If TENANT installs any electrical equipment which would overload the existing lines in the Leased Premises, TENANT shall at its own expense, make whatever changes are necessary to comply with the requirements of the Insurance Underwriters and/or the City of San Antonio Development Services Department.

ARTICLE XI

UTILITIES, JANITORIAL AND SECURITY SERVICES

11.1 UTILITY COSTS. From and after the Commencement Date, TENANT shall provide for and pay directly to the utility companies, all utility company connection charges, including, but not limited to, the cost of installing a separate electric meter, telephone lines and connections and any cable/satellite television connection fees, and all charges incurred for heat, gas, electricity, water, sewer, garbage collection, telephone, cable/satellite TV, or any other utility services, used in or on the Leased Premises; and TENANT shall furnish and install all electric light bulbs, tubes and ballasts. CITY shall not be liable to TENANT in damages or otherwise if said services are interrupted or terminated because of necessary repairs, installations, improvements or any cause beyond the control of the CITY. The above utility obligations shall be the responsibility of CITY prior to the Commencement Date.

11.2 CHILLED WATER SYSTEM. TENANT shall have the right, if currently in use or if feasible, to use the current Chilled Water System and pay its proportionate share of costs thereof, including operation, maintenance, and, if necessary, to install a meter. In the alternative, TENANT shall have the right to utilize packaged air conditioning units so long as the same are either roof mounted, or placed on the same side of the improvements as the existing electrical equipment.

11.3 JANITORIAL AND SECURITY SERVICES. Further, in connection with its use of the Leased Premises, from and after the Commencement Date TENANT agrees to provide for:

11.3.1 The cost of janitorial services to the Leased Premises and;

11.3.2 In the event TENANT chooses to provide security services for the Leased Premises, TENANT will provide for the payment of all private security services for the Leased Premises.

ARTICLE XII

LIENS

12.1 MECHANIC'S LIENS. TENANT agrees not to permit any lien to be filed against the Leased Premises, or any Improvements located on the Leased Premises or TENANT'S leasehold interest or CITY'S fee interest in the Leased Premises, on account of nonpayment or dispute with respect to labor or materials furnished in connection with construction of the Initial Tenant Work or any subsequent repairs, modifications or additions thereto, nor shall TENANT permit any final judgment, lien or attachment to lie against the Leased Premises for any other reason. Should any such lien be filed against (i) the Leased Premises, (ii) any TENANT'S Work located upon the Leased Premises, or (iii) TENANT'S leasehold interest or CITY'S fee interest in the Leased Premises, TENANT shall, within thirty (30) days after filing, cause such lien to be removed or shall commence to diligently pursue the removal of such lien within such thirty (30) day period and in any event remove such lien within six (6) months from the date of its filing. CITY or TENANT shall have the right, at its own cost and expense, to initiate and prosecute any proceeding permitted by law for the purpose of obtaining an abatement or otherwise contesting the validity or amount of account relating to the non-payment or dispute of labor or material costs furnished in connection with the construction or subsequent repairs, modifications or judgments thereto.

ARTICLE XIII

LAWS AND ORDINANCES, RULES AND REGULATIONS

13.1 COMPLIANCE WITH LAWS. TENANT covenants and agrees that TENANT, its employees, and invitees and subtenants will observe and comply with all laws of the United States of America, the State of Texas, and ordinances, orders, rules and regulations set by CITY which are applicable to the Leased Premises, specifically including, but not limited to, if applicable, the CITY'S smoking ordinance and the State's concealed weapons statute, and further including, but not limited to, the following:

13.2 USE OF PREMISES. TENANT shall not use the Leased Premises except for the purposes permitted in **ARTICLE THREE (3) USE AND OPERATION**.

13.3 INSURANCE REQUIREMENTS. TENANT agrees to comply with the regulations or requirements of any insurance underwriter, inspection bureau. or similar agency, with respect to the Leased Premises.

13.4 SAFETY EQUIPMENT. From and after the Commencement Date, TENANT shall keep and maintain the interior of the Leased Premises equipped with safety appliances which may be required by any applicable codes and ordinances because of TENANT'S use. TENANT specifically covenants to comply with all rules and regulations of the local Board of Underwriters occasioned by or required in the conduct of TENANT'S business.

13.5 NUISANCE/NOISE. Subject to TENANT'S right to conduct its business, TENANT shall not injure, overload or deface the Leased Premises, nor make any use thereof which is contrary to any law or Ordinance, nor permit any act or thing to be done on the Leased Premises which may make void or voidable or increase the rates of any insurance covering the Leased Premises; nor cause or permit the emission of any excessive noise or odor from the Leased Premises by the operation of any instrument, apparatus, equipment therein, or other means which may, in CITY'S reasonable judgment, be deemed offensive or disturbing in nature; nor perform any act or carry on any practice which may be a nuisance or menace or which is illegal, immoral or disreputable, or which may reduce the market value of the Leased Premises. In connection therewith, no activity or method of operation shall be allowed in, on or about the Leased Premises which violates the City of San Antonio's Sexually Oriented Business Ordinance. For the purposes of this provision, the following definitions apply:

13.5.1 The operation of a massage business or tanning salon or place of gambling shall not be allowed in, on, or about the Leased Premises.

13.6 LOADING/UNLOADING. Except to the extent necessary in order to effectuate the Initial Tenant Work, TENANT shall not cause the loading or unloading of trucks or similar delivery devices in the Leased Premises except in the loading and service areas, nor shall TENANT cause the undue obstruction, of streets, sidewalks or of the Leased Premises, and TENANT shall keep free and clear at all times, and not place nor permit, any obstructions, garbage, refuse, merchandise or displays in the outside areas immediately adjoining the Leased Premises, including sidewalks and streets.

13.7 FIRE ACCESS. TENANT agrees not to block or close or otherwise (i) cause the fire access way to be nonfunctional at any time or (ii) cause the handicapped access way to be nonfunctional without providing an alternative access way approved in writing by the Director.

13.8 SOLICITATION. TENANT, its employees, and/or its agents shall not solicit business nor distribute handbills or other advertising matter in the parking lots, adjoining sidewalks or streets.

13.9 RADIO/TV AERIALS. TENANT shall not attach or place anything on the roof, over-hang, front, side or rear exterior walls of the Leased Premises, including, but not limited to, a radio or television aerial, without the prior written approval of CITY, which approval shall not be unreasonably withheld or delayed.

13.10 FIRE SALES. No auction, fire, bankruptcy, going out of business, or other selling-out sales shall be conducted on or about the Leased Premises without the prior written consent of the CITY.

13.11 PEST CONTROL. TENANT will use commercially reasonable efforts to keep the Leased Premises clear and free of rodents, bugs and vermin.

13.12 ENCROACHMENT ON PUBLIC AREAS. No tables or chairs or any improvements, trade fixtures, equipment, other furniture, fixtures, personal property or any other property of TENANT whatsoever will be allowed to encroach into the public right-of-way, including, but not limited to, the sidewalk area not leased to TENANT and public streets and green space.

13.13 LIMITATION ON LIABILITY. Further, CITY will not be responsible for any loss, theft, damage or destruction of, or to any tables, chairs or any other improvements, whether structural or non-structural trade fixtures, equipment, other furniture, fixtures, personal property or any other property of TENANT that is placed in the sidewalk or patio space(s) relating to the Leased Premises, unless caused by the sole negligence or willful misconduct of CITY.

13.14 NOISE ORDINANCE. TENANT shall comply with CITY'S noise ordinance.

13.15 EMERGENCY PERSONNEL. CITY park police and other safety personnel shall have the right of entry on and into the Leased Premises as needed under emergency conditions or conditions threatening public safety. TENANT shall cooperate with all reasonable requests by such personnel to facilitate public safety and orderly conduct by persons in the downtown area. TENANT expressly understands and agrees that CITY has not agreed to act and does not act as an insurer of TENANT'S property and does not guarantee security against theft, vandalism, or injury of whatever nature and kind to persons or property.

ARTICLE XIV

CITY EVENTS AND FOLK LIFE FESTIVAL

14.1 CITY EVENTS. Subject to the terms of this Lease, TENANT acknowledges and agrees that CITY will from time to time accommodate functions or events that may require temporary street closures, or controlled or limited access to the Leased Premises.

14.2 FOLK LIFE FESTIVAL. TENANT acknowledges and agrees that THE FOLK LIFE FESTIVAL may require temporary street closures, or controlled or limited access to the Leased Premises

14.3 ACCESS. TENANT expressly recognizes that the above closure/limitation rights are superior to any right, privilege or leasehold interest granted TENANT under this Lease and TENANT hereby agrees to cooperate fully with CITY upon notification. Notwithstanding anything contained herein, CITY shall insure that proper ingress and egress to the Leased Premises will not be obstructed during any of the above special events. TENANT further waives any and all claims for damages, including but not limited to, loss of business, which TENANT may suffer as a result of any such requirement by CITY.

14.4 FIREWORKS. TENANT acknowledges and agrees that (i) CITY, from time to time, may authorize the use of fireworks in conjunction with the Tower of the Americas, such

as for the New Year's Eve festival, and (ii) the Leased Premises are within the fallout zone of such fireworks displays. TENANT acknowledges and agrees that it will abide by and comply with all safety regulations applying to fallout zones, including without limitation, any requirement that any persons located on the Leased Premises be indoors for the time period of the fireworks display.

ARTICLE XV

INSURANCE

15.1 NO AGENCY. TENANT understands and agrees that any and all employees, agents, representatives, contractors, subcontractors, invitees, subtenants, assignees, licensees, concessionaires, franchisees or volunteers or service providers of TENANT, while engaged in the performance of any work required by the TENANT or any work related to this Lease, shall not be considered employees, agents, representatives, contractors, subcontractors, invitees, subtenants, assignees, licensees, concessionaires, franchisees or volunteers or service providers of CITY. Any and all claims by the above-described persons which may result from any obligation for which TENANT may be held liable under any Workers' Compensation, Unemployment Compensation or Disability Benefits law or under any similar law on behalf of said employees, agents, representatives, contractors, subcontractors, invitees, subtenants, assignees, licensees, concessionaires, franchisees or volunteers or service providers of TENANT shall be the sole obligation and responsibility of TENANT. Further, TENANT shall have the sole obligation and responsibility for providing Workers' Compensation and, as applicable, Employers Liability insurance for TENANT'S employees.

15.2 CITY'S REQUIREMENTS. CITY shall at all times maintain, with respect to the Leased Premises, during the Term, a property insurance policy or policies providing coverage for all-risk insurance and special causes of loss, including loss due to fire, losses covered by "extended coverage", vandalism, malicious mischief, flood and earthquake, in such amounts, upon such terms and subject to such deductibles customarily carried by CITY with respect to other similar facilities owned by CITY, insuring the replacement value of the improvements and appurtenances located upon the Leased Premises. Evidence of coverage pursuant to City's self-insurance program shall demonstrate compliance with this requirement.

15.3 TENANT'S REQUIREMENTS. Prior to the commencement of any work under this Lease, TENANT, through direct mailing or hand-delivery by its insurance agent or insurance carrier to CITY's Risk Manager, shall furnish all required endorsements and an original completed Certificate of Insurance to the CITY Clerk, with a copy to the Director, which Certificate shall be completed by an agent authorized to bind the named underwriters and its (their) company(ies) to the coverage, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. CITY shall have no duty to perform under this Lease until such Certificate shall have been mailed or hand-delivered to the CITY Clerk, with copies to the department directors named herein, and no officer or employee shall have authority to waive this requirement, except CITY'S Risk Manager. The CITY will not accept a Memorandum of Insurance or Binder as proof of insurance. Without limiting CITY'S indemnification, as identified in Article 16 below, TENANT agrees to obtain and maintain, with respect to the Leased Premises, from and after

the Commencement Date, insurance written on an occurrence basis and issued by a company or companies authorized and admitted to do business in the State of Texas, with an A.M. Best's rating of no less than A-(VII), in the following types and for an amounts not less than the amount listed, provided however, during Phase I Tenant shall only be required to obtain and maintain Commercial General (Public Liability) in the amounts listed below:

Line	TYPE	AMOUNT
1.	Workers' Compensation	Statutory with a waiver of subrogation in favor of CITY
2.	Employer's Liability	\$1,000,000/\$1,000,000/\$1,000,000
3.	Commercial General (Public) Liability to include, but not be limited to coverage for	Combined Single Limit for Bodily Injury and Property Damage of
	a. Leased Premises/Operations	\$1,000,000 per occurrence/
	b. Independent Contractor	\$2,000,000 general aggregate
	c. Products/Completed operations	
	d. Contractual Liability	
	e. Personal Injury	
	f. Host Liquor Liability Insurance if Alcoholic beverages are served on the Leased Premise	
	g. Liquor Legal Liability Insurance if alcoholic beverages are sold on the Leased Premises	
	h. Builders Risk (Covering the amount of each construction contract).	
4.	Professional Liability (during construction)	\$1,000,000 per claim
	a. Architects	
	b. Engineer's	
5.	Comprehensive Automobile Liability	Combined Single Limit for Bodily Injury and Property Damage of
	a. Owned/Leased Vehicles	\$1,000,000 per occurrence or its
	b. Non-owned Vehicles	equivalent
	c. Hired Vehicles	
6.	Environmental Liability Insurance (in the amount of the contract, if environmental abatement or remediation is necessary)	
7.	Property Insurance: For physical damage to the property of TENANT, including improvements and betterments to the Leased Premises	Coverage for a minimum of eighty percent (80%) of the replacement cost of TENANT'S improvements

15.4 PERIODIC REVIEW – EMPLOYER'S LIABILITY. Every five (5) Lease Years, from and after the Commencement Date, CITY'S Risk Manager and TENANT will review Employer's liability coverage. At such review, TENANT shall have the option of presenting an alternate plan for those coverages to the CITY for CITY'S consideration.

15.5 PERIODIC REVIEW. CITY'S Risk Manager is hereby authorized to modify the requirements set for the above in the event he or she reasonably determines such modification is necessary and prudent based upon changes in statutory law, court decisions, circumstances surrounding the Lease or if such modification is in CITY'S best interest, but in no instance will CITY allow modification whereupon CITY may incur increased risks. However, in any event, insurance required by such modification must be in amounts considered equivalent to other projects of this type and scope and reasonably obtainable in the then current market place.

15.6 PRIMARY INSURANCE. It is agreed that the TENANT'S insurance with respect to TENANT'S operations is primary and non-contributory with respect to any insurance or self-insurance maintained by CITY.

15.7 ADDITIONAL INSURED. Each insurance policy required by this Lease excepting policies for Workers' Compensation, Employers' Liability, and professional liability, shall contain the following clause:

"The CITY OF SAN ANTONIO, its officers, officials, employees, elected representatives and volunteers are added as additional insureds and as respects operations and activities of, or on behalf of, the named insured performed under this Lease with the CITY OF SAN ANTONIO."

15.8 PERSONAL PROPERTY OF TENANT. All personal property placed in the Leased Premises shall be at the sole risk of TENANT. CITY shall not be liable, and TENANT waives all claims for any damage either to the person or property of TENANT or to other persons due to the Leased Premises or any part or appurtenances thereof becoming out of repair or arising from bursting or leaking of water, gas, waste pipes, or defective wiring or excessive or deficient electrical current due to the happening of an accident in or about said Leased Premises, except to the extent that such damage was due to CITY'S failure to maintain the Leased Premises in accordance with the terms of this Lease. TENANT SHALL SAVE AND HOLD HARMLESS CITY FROM ANY CLAIMS ARISING OUT OF DAMAGE TO TENANT'S PROPERTY OR DAMAGE TO TENANT'S BUSINESS, INCLUDING SUBROGATION CLAIMS BY TENANT'S INSURERS, EXCEPT TO THE EXTENT THAT SUCH DAMAGE WAS DUE TO CITY'S FAILURE TO MAINTAIN THE LEASED PREMISES IN ACCORDANCE WITH THE TERMS OF THIS LEASE.

15.9 NOTICE OF CANCELLATION. TENANT shall notify CITY in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, or ten (10) days notice for cancellation due to non-payment of premiums, which notice must be accompanied by a

replacement Certificate of Insurance. All notices shall be given to CITY at the following address:

City Clerk
P.O. Box 839966 / 2nd Floor City Hall
San Antonio, Texas 78283-3966

with a copy to:

and

Director
Department of Downtown Operations
P.O. Box 839966
San Antonio, Texas 78283-3966

The City Risk Manager
c/o Human Resources Department
P.O. Box 839966
San Antonio, Texas 78283-3966

Within five (5) calendar days of suspension, cancellation, or non-renewal of coverage, TENANT shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend TENANT's lease should there be a lapse in coverage at any time during this lease. Failure to provide and maintain the required insurance shall constitute a material breach of this lease.

15.10 CASUALTY PROCEEDS. In the event of a Casualty (as defined in Section 17.1 below), if TENANT has not otherwise elected to terminate this Lease, the insurance proceeds relating to the casualty insurance coverage carried by CITY may be made available to TENANT in connection with Tenant's restoration obligations hereunder. CITY shall have no duty or obligation to contribute or make available any funds for such restoration other than such insurance proceeds.

15.11 CITY'S USE OF LEASED PREMISES. CITY, upon its use of the Leased Premises, subject to the monetary limits of liability under the Texas Tort Claims Act, or its successor, shall maintain such similar insurance or evidence of self-insurance in the amounts referenced above in Section 15.2.

15.12 BLANKET POLICIES. If any blanket general insurance policy or evidence of self-insurance of CITY complies with the requirements of this **ARTICLE FIFTEEN (15)**, subject to the monetary limits of liability under the Texas Tort Claims Act, such insurance shall fulfill the requirements set forth herein.

15.13 TENANT agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provision:

- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy

Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City

15.14 The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsement thereto as they apply to the limits required by the CITY, and may require the deletion, revision, or modification of particular policy terms, condition, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of such policies). Tenant shall be required to comply with any such request and shall submit a copy of the replacement certificate of insurance to the City at the address for the Department of Downtown Operations provided above within 10 days of the requested change. Tenant shall pay any cost incurred resulting from said changes.

ARTICLE XVI

INDEMNIFICATION

16.1 INDEMNITY. SPECIFICALLY EXCLUDING ANY ENVIRONMENTAL CLAIMS, ENVIRONMENTAL MATTERS OR ENVIRONMENTAL CONDITIONS RELATING TO PREEXISTING HAZARDOUS OR TOXIC MATERIALS WHICH MAY BE LOCATED ON OR UNDER THE LEASED PREMISES AS OF THE DATE OF ACTUAL POSSESSION OF THE LEASED PREMISES BY TENANT, AGREED BY THE PARTIES TO BE THE OCCUPANCY FOR CONSTRUCTION DATE, TENANT AGREES TO INDEMNIFY AND SAVE HARMLESS THE CITY OF SAN ANTONIO, ITS MEMBERS, AGENTS, REPRESENTATIVES, OFFICERS, AND EMPLOYEES, ITS SUCCESSORS AND ASSIGNS, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ALL LIABILITY FOR ANY AND ALL FINES, CLAIMS, LIENS, DAMAGES, EXPENSES, FEES, PENALTIES, PROCEEDINGS, SUITS, DEMANDS, ACTIONS OR CAUSES OF ACTION OF ANY KIND AND NATURE INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, IN ANY WAY ARISING OUT OF, OR RESULTING FROM, ANY MISCONDUCT, PERFORMANCE OR NON-PERFORMANCE OF ANY ACTIVITY OR OPERATION OF TENANT, ITS EMPLOYEES, AGENTS, REPRESENTATIVES, OR INVITEES, SUBTENANTS, LICENSEES, ASSIGNEES, CONCESSIONAIRES, FRANCHISEES, VOLUNTEERS, SERVICE PROVIDERS, LEASEHOLD MORTGAGEES, FIXTURE MORTGAGEES (THE PARTIES REFERRED TO AS "INVITEES" THRU THE PARTIES REFERRED TO AS "FIXTURE MORTGAGEES" BEING HEREAFTER COLLECTIVELY REFERRED TO AS "NAMED PARTIES"), CONTRACTORS, SUBCONTRACTORS, OR THE EMPLOYEES, AGENTS OR REPRESENTATIVES OF SAID CONTRACTORS OR SUBCONTRACTORS, OR THE NAMED PARTIES OR ANY OTHER TENANT OF THE IMPROVEMENTS, IN OR ABOUT THE LEASED PREMISES OR THE IMPROVEMENTS IN WHICH IT IS LOCATED, OR IN CONNECTION WITH TENANTS USE OF SAID LEASED PREMISES INCLUDING CONSTRUCTION, OR FROM ANY CONDITION OF THE LEASED PREMISES OR IMPROVEMENTS CAUSED BY TENANT, ITS EMPLOYEES, AGENTS, REPRESENTATIVES, THE NAMED PARTIES, CONTRACTORS, SUBCONTRACTORS OR THE EMPLOYEES, AGENTS, OR REPRESENTATIVES OF SAID CONTRACTORS OR SUBCONTRACTORS OR OTHER NAMED PARTIES OR ANY OTHER TENANT OF THE IMPROVEMENTS, OR BY REASON OF ANY BREACH, VIOLATION OR NONPERFORMANCE OF ANY COVENANT OR CONDITION HEREOF ON THE PART OF TENANT, ITS EMPLOYEES, AGENTS, REPRESENTATIVES, THE NAMED

PARTIES, CONTRACTORS, SUBCONTRACTORS, OR THE EMPLOYEES, AGENTS, OR REPRESENTATIVES OF SAID CONTRACTORS, OR SUBCONTRACTORS OR THE NAMED PARTIES UNDER THIS LEASE AND SUCH INDEMNITY SHALL APPLY EVEN WHERE ANY SUCH FINES, CLAIMS, LIENS, DAMAGES, EXPENSES, FEES, PENALTIES, PROCEEDINGS, SUITS, DEMANDS, ACTIONS, CAUSES OF ACTION, OR LIABILITY ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, TENANT OR ANY OTHER PERSON OR ANY ENTITY DESCRIBED HEREIN.

16.2 EXPRESS NEGLIGENCE. IT IS THE EXPRESS INTENTION OF CITY AND TENANT THAT THE INDEMNITY PROVIDED FOR HEREIN IS INDEMNITY BY TENANT TO INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF CITY'S OWN NEGLIGENCE, EXCLUDING ONLY WHERE THE CAUSE OF THE INJURY, DEATH OR DAMAGE WAS CITY'S SOLE NEGLIGENCE UNDER THIS LEASE AND THEN ONLY TO THE EXTENT OF CITY'S LIABILITY UNDER THE TEXAS TORT CLAIMS ACT, UPON FINAL ADJUDICATION OR SETTLEMENT, CITY SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY LOSS OR DAMAGE TO ANY PROPERTY OR PERSON OCCASIONED BY THEFT, FIRE, ACT OF GOD, PUBLIC ENEMY, INJUNCTION, RIOT, STRIKE, INSURRECTION, WAR, COURT ORDER, REQUISITION OR ORDER OF GOVERNMENTAL BODY OR AUTHORITY OR OTHER MATTER BEYOND THE REASONABLE CONTROL OF CITY, OR ANY DAMAGE OR INCONVENIENCE WHICH MAY ARISE THROUGH REPAIR OR ALTERATION OF ANY PART OF THE LEASED PREMISES OR IMPROVEMENTS, OR FAILURE TO MAKE REPAIRS, OR FROM ANY CAUSE WHATEVER EXCEPT AS RESULTS FROM THE CITY'S SOLE NEGLIGENCE UNDER THIS LEASE.

16.3 NOTICE. TENANT SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST TENANT OR CITY KNOWN TO TENANT RELATED TO OR ARISING OUT OF TENANT'S ACTIVITIES UNDER THIS LEASE AND SHALL SEE TO THE INVESTIGATION OF, AND DEFENSE OF, SUCH CLAIM OR DEMAND AT TENANT'S SOLE COST AND EXPENSE, INCLUDING THE PAYMENT OF ATTORNEY'S FEES, WITH THE SELECTION OF SAID ATTORNEY BY TENANT.

16.4 ENVIRONMENTAL CLAIMS. CITY understands and agrees that neither TENANT nor its employees, agents, representatives, invitees, contractors, subcontractors, or the employees, agents or representatives of said contractors or subcontractors or any other tenants of the Improvements, shall be held liable to CITY or any other party for any environmental claims, environmental matters or environmental conditions relating to pre-existing hazardous or toxic materials which may be located on or under the Leased Premises as of the commencement of construction of TENANT'S Work.

16.5 ENVIRONMENTAL REPORT. TENANT, prior to the commencement of construction of the Initial Tenant Work, may cause to be conducted by a disinterested and qualified professional, a Phase I Environmental Assessment Study and Report and, if necessary, a Phase Two Environmental Assessment Study and Report to determine the existence, if any, of any Environmental Matters on the Leased Premises the "Environmental Report"). From and after the date TENANT obtains Certificates of Occupancy on the Improvements, such Environmental Report or Reports shall create a rebuttable presumption as

to Environmental Matters on the Leased Premises as of the commencement of construction of the initial Tenant Work. TENANT shall provide CITY with copies of the Environmental Report certified by an engineer.

ARTICLE XVII

FIRE AND OTHER CASUALTY

17.1 CASUALTY EVENTS. In the event that the Leased Premises, or any portion thereof, shall be damaged by fire, the elements, civil disorder, or other casualty ("Casualty"), TENANT shall give immediate notice thereof to the CITY and TENANT shall cause the portion of the Leased Premises so affected by the Casualty to be restored to a condition which is the same, substantially similar or better than the condition of the area and improvements relating thereto immediately prior to the Casualty; provided, however, in no event shall the TENANT be required to expend funds to provide such repairs or restoration in excess of the amount of funds made available to the TENANT as insurance proceeds relating to such Casualty loss. In the event the insurance proceeds payable to or made available to TENANT by CITY relating to the Casualty loss are not sufficient to allow the TENANT to repair or restore the portion of the Leased Premises affected in accordance with the above, and TENANT elects not to contribute additional funds to the cost of repairing or restoring the portion of the Leased Premises so damaged to a condition which is the same, substantially similar or better than the condition of the area and improvements relating thereto immediately prior to the Casualty, then CITY shall elect in writing as a notice delivered to TENANT, within sixty (60) days after receipt of written notice of TENANT'S inability to provide funds to repair or restore the Leased Premises, elect (i) to contribute its own funds for such purpose, (ii) to accept the restoration or repair of such Leased Premises to the extent possible with the insurance funds available, (iii) any combination of (i) and (ii) above, or (iv) to terminate this Lease as it applies to all or any such portion of the Leased Premises so affected by the Casualty. In addition, notwithstanding anything contained in this Lease to the contrary, TENANT shall have the right to terminate this Lease by giving written notice of such election within ninety (90) days after the date of the Casualty in the event that the Casualty damage should occur in the final year of any Term hereof.

17.2 CASUALTY PROCEEDS. In the event insurance proceeds are delivered to the CITY or TENANT (as co-insured or otherwise) relating to a Casualty and the other party hereto has an obligation to repair or restore the Leased Premises as described above, the party which has or may have an interest in the insurance proceeds relating to the Casualty and who does not have the obligation to restore or repair the Leased Premises shall release their interest in these sums to the party who bears such obligation for the purpose of allowing the obligor use of the funds for the repair or restoration process, provided, however, this section shall not be construed so as to require the release of insurance sums received which are intended to compensate the CITY or the TENANT, as the case may be, for loss of revenues relating to such Casualty, such as proceeds for business interruption, rental loss or similar items.

17.3 RESTORATION. TENANT'S obligation to perform restoration under this ARTICLE SEVENTEEN (17), shall in any event be limited to the extent of the insurance proceeds available to TENANT for such restoration. TENANT will provide to CITY

restoration milestones setting forth the schedule for completion of the restoration and shall secure prior approval of all CITY departments, boards and commissions prior to the commencement of such restoration. Should TENANT fail to complete the restoration in a timely fashion, as set forth in such milestones and, subject to availability of insurance proceeds, but not later than eighteen (18) months after the date of the applicable Casualty, unless such time periods is/are otherwise extended by CITY, then this Lease will automatically terminate at the end of such eighteen (18)-month Period following the date of the Casualty and neither party shall be liable hereunder. Rent fees and any other fees due to CITY shall proportionately abate from the date of such damage until the completion of restoration, depending upon the remaining useable portion of the Leased Premises after such damage.

ARTICLE XVIII

HOLDING OVER

18.1 Should TENANT hold over the Leased Premises, or any part thereof, after the expiration of the Initial or Extended Term(s) of this Lease, unless otherwise agreed in writing, such holding over shall constitute and be construed as a tenancy from month to month only. The inclusion of the preceding sentence shall not be construed as CITY'S consent for the TENANT to hold over.

ARTICLE XIX

YIELDING UP

19.1 As noted above, upon the expiration or termination of this Lease, provided TENANT is not in default (beyond expiration of any applicable cure period), TENANT may remove its trade fixtures, equipment, signs, furniture, furnishings, floor covering, other personal property and such of TENANT'S non-structural improvements not permanently affixed as TENANT shall desire and TENANT agrees to repair all damages caused by such removal. TENANT shall yield up peacefully to CITY the Leased Premises and all other TENANT'S Work made to or upon the same in good order, repair and condition in all respects, reasonable wear and tear, damage by fire, casualty, taking by eminent domain or act of public authority excepted.

ARTICLE XX

ASSIGNMENT/SUBLETTING

20.1 ASSIGNMENT. Except as provided for below, and except for routine assignments of leases typically required by lenders as additional collateral for loans, TENANT shall not assign, mortgage, transfer (including any sale of TENANT'S Leasehold interest) or pledge this Lease or any part of the Leased Premises or any interest therein without first obtaining the written consent of CITY, which shall require passage of an ordinance by City Council. An assignment by TENANT without the written consent of CITY shall be null and void and shall, at the option of CITY terminate the Lease. This provision shall not be deemed to have been waived by CITY unless such waiver be in writing signed by CITY.

20.2 SUBLETTING. TENANT shall have the unrestricted right to sublease space to affiliates and/or non-related parties, provided, that with respect to subleases to non-related parties, such subleases shall be limited to periods not in excess of thirty (30) days. For purposes of this Lease, the San Antonio Women's Chamber of Commerce shall be deemed to be an affiliate of Tenant and shall in no event be deemed to be a "non-related party". Notwithstanding anything contained in this Lease to the contrary, any assignment of the Lease to (i) any purchaser of all or substantially all of the assets or ownership interests of TENANT, (ii) a parent, subsidiary or affiliate of TENANT (it being hereby agreed that the term "affiliate" shall mean, for purposes hereof, any corporation, partnership or other business entity which controls or is controlled by, or is under common control with, TENANT, and the term "control" (including "controlled by", "under common control with", and "controlling") as used herein with respect to any corporation, partnership or other business entity shall mean the possession of the power to direct or cause the direction of the management and policies of such corporation, partnership or other business entity, whether through the ownership of voting securities or contract), or (iii) any corporation or other entity into which or with which Tenant, or TENANT'S permitted successors or assigns, has merged or consolidated, in accordance with applicable statutory provisions governing merger and consolidation of entities, would not require the prior written consent of CITY.

20.3 NOTICE OF ASSIGNMENT. TENANT shall give CITY sixty (60) days' prior written notice that it proposes to enter into an assignment or sublease of this Lease, which notice shall include the material terms (including the identity of and reasonable financial history and data concerning the proposed assignee or sublessee) of said proposed assignment or sublease or of any possible change in use.

20.4 SUBSEQUENT CONSENTS. The consent by CITY to any transfer, assignment, or subletting shall not constitute a waiver of the necessity for such consent to any subsequent attempted transfer, assignment, or subletting.

20.5 CONSENT IN WRITING. Each transfer, assignment, or subletting, to which there has been consent shall be by instrument in writing, in form reasonably satisfactory to CITY, and shall be executed by the transferor, assignor, or sublessor, and the transferee, assignee, or sublessee shall agree in writing for the benefit of the CITY to assume to be bound by, and to perform the terms, covenants, and conditions of this Lease to be done, kept, and performed by TENANT. One executed copy of such written instrument shall be delivered to the CITY. Failure to first obtain in writing CITY'S consent or failure to comply with the provisions of this Article shall operate to prevent any such transfer, assignment, or subletting from becoming effective.

20.6 DELIVERY REQUIREMENTS. As a condition precedent to TENANT'S subletting, license, assignment or pledge, TENANT agrees to furnish to CITY and any mortgagee, upon request, an executed copy of each such sublease, license or assignment at the time the written instrument is executed.

20.7 CITY ASSIGNMENT. CITY may assign or transfer its interest in this Lease without the prior written approval of TENANT.

ARTICLE XXI

DEFAULT

21.1 TENANT DEFAULT. In addition to any other events of default specifically enumerated elsewhere in this Lease, to include, but not be limited to, the breach, default and violation of a covenant, as set forth herein, the following events shall be deemed to be events of default by TENANT under this Lease:

21.1.1 The taking by a court of competent jurisdiction of TENANT and its assets pursuant to proceedings under the provisions of any Federal or State reorganization code or act; or

21.1.2 The entry by any court of a final order with respect to TENANT, providing for modification or alteration of the rights of creditors; or

21.1.3 If the estate hereby created shall be taken by execution or by other process of laws; or

21.1.4 If TENANT shall neglect or fail to perform or observe any of the terms, provisions, conditions or covenants herein contained and on the part of TENANT to be performed or any way observed and if such neglect or failure should continue for a period of ten (10) days after receipt by TENANT of written notice (which shall include notice to Leasehold Mortgagees pursuant to Article 46) of such neglect or failure, if a monetary default or, for non-monetary defaults, if TENANT shall fail within thirty (30) days after receipt by TENANT of written notice (which shall include notice to Leasehold Mortgagees pursuant to Article 46) to commence and thereafter diligently proceed to cure such default to completion within a reasonable period of time.

ARTICLE XXII

TERMINATION AND OTHER REMEDIES

22.1 TERMINATION. Upon the occurrence of an event of default (after expiration of any applicable cure period) by TENANT as heretofore provided, CITY may, at its option, declare this Lease and all rights and interest created by it to be terminated, Upon CITY electing to terminate, this Lease shall cease and come to an end as if that were the day originally fixed herein for the expiration of the terra hereof.

22.2 SURRENDER. Upon any expiration or termination of this Lease, TENANT shall quit and peacefully surrender the Leased Premises to CITY, and CITY, upon or at any time after such expiration or termination, may, without further notice, enter upon and re-enter the Leased Premises and possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess TENANT and remove TENANT and all other persons and property from the Leased Premises.

22.3 PAYMENT OF SUMS DUE. Any termination of this Lease by CITY shall not relieve TENANT from the payment of any sums that shall then be due and payable or

become due and payable to CITY hereunder, or any claim for damages then or therefore accruing against TENANT hereunder, and any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from TENANT for any default thereunder.

22.4 REMOVAL OF TRADE FIXTURES. If CITY shall terminate this Lease or take possession of the Leased Premises by reasons of a condition of default, TENANT, and those holding under TENANT, shall forthwith remove their trade fixtures, equipment, signs, furniture, furnishings, other personal property and non-structural improvements (hereafter collectively "goods and effects") from the Leased Premises. If TENANT or any claimant shall fail to effect the removal of the goods and effects within ten (10) days after such termination, automatically, then TENANT agrees that any such property left shall become the property of CITY whereupon CITY may, without liability to TENANT or those claiming under TENANT, remove such goods and effects and store the same for the account of TENANT or of the owner thereof at any place selected by CITY with all costs for said removal and storage to be borne by TENANT or, at CITY'S option, CITY may retain or dispose of TENANT'S goods and effects, without notice, at a private or public sale and without liability to TENANT or those claiming under TENANT.

ARTICLE XXIII

WAIVER OF CITY'S LIEN AS LANDLORD

23.1 CITY waives the superiority of any landlord liens (whether created by statute, contract or under common law) or liens against TENANT'S personal property or fixtures securing the performance of TENANT under this Lease, but only to the extent such personal property or fixtures are subject to recorded security liens, as allowed elsewhere herein, and then only to the extent such liens remain in full force and effect. Upon release of such prior liens, TENANT acknowledges that CITY'S Liens whether created by statute, contract or common law, shall be superior to other liens and in full force and effect.

ARTICLE XXIV

CONDEMNATION

24.1 It is agreed and understood that in the event that the Leased Premises are taken, in whole or in part, by any governmental authority other than CITY, this Lease and all rights, title, and interest hereunder shall, at the option of either TENANT, cease on the date title to such land so taken or transferred vests in the condemning authority. Except as set out below, TENANT hereby waives all rights in any proceeds of such condemnation. Notwithstanding anything contained in this Lease to the contrary, TENANT shall be entitled to any condemnation or similar award which relate to (i) all or a portion of the Improvements paid for by the TENANT, (ii) TENANT's leasehold estate, (iii) the loss of TENANT's business income, and (iv) such additional relief as may be provided by law. CITY hereby agrees to cooperate with TENANT in connection therewith and will deliver any such award promptly to TENANT in the event that such condemnation proceeds are delivered to CITY.

ARTICLE XXV

ACCESS TO LEASED PREMISES

25.1 TENANT agrees that CITY, its agents or employees, or any person authorized by CITY, may enter the Leased Premises upon twenty-four (24) hours prior written notice for the purpose of; (a) inspecting the condition of same; (b) making such repairs, additions, alterations or improvements thereto, as CITY may elect or be required to make; and (c) exhibiting the same to prospective purchasers of the Leased Premises. CITY agrees that any such acts shall be carried out in a manner that will not interfere with TENANT'S operations of the Leased Premises except in the case of a bona fide emergency relating to life safety issues or issues of material damage, in which cases of emergency, no prior notice shall be required. TENANT agrees that neither TENANT nor any person within TENANT'S control will otherwise interfere with such inspections, repairs, additions, alterations, improvements, exhibits or other entries by CITY.

ARTICLE XXVI

TAXES

26.1 PAYMENT. TENANT shall pay on or before their respective due dates, to the appropriate collecting authority, all federal, state and local taxes and fees, which are levied upon the Leased Premises after the Commencement Date for which TENANT is liable, or upon TENANT, or upon the business conducted on the Leased Premises, or upon any of TENANT'S property used in connection therewith, and TENANT shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by TENANT.

26.2 PROTEST. Nothing in Section 27.1 shall prevent TENANT, its assignees or subtenants from, protesting the imposition of such taxes and fees prior to payment and pursuant to the rules and regulations of the collecting authority and applicable statutes, regulations and ordinances.

ARTICLE XXVII

MISCELLANEOUS

27.1 SEVERABILITY. If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the term of this Lease, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and it is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

27.2 ENTIRE AGREEMENT. This Lease, together with the authorizing ordinance, constitutes the entire agreement between the parties. No amendment, modification, or

alteration of the terms of this Lease shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

27.3 MINIMUM WAGES AND NON-DISCRIMINATION. TENANT shall pay wages that are not less than the minimum wages required by Federal and State statutes and CITY ordinances to persons employed in its operations hereunder- Any discrimination by TENANT or its agents or employees on account of race, color, sex, age, religion, handicap, national origin or political persuasion in employment practices or in the use of or admission to Leased Premises, is prohibited.

27.4 OBLIGATIONS BINDING. All covenants, promises, conditions, representations, and agreements herein contained shall be binding upon, apply and inure to the parties hereto and their respective legal representatives, successors and assigns; it being understood and agreed, however, that the provisions of ARTICLE 22 TERMINATION AND OTHER REMEDIES hereof are in no way impaired by this Article. In the event of any sale or exchange of the leased premises by CITY, CITY shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence, or omission relating to the Leased Premises or this Lease occurring after the consummation of such sale or exchange.

27.5 DUPLICATE ORIGINALS. This Lease may be executed in duplicate originals, each of which shall be considered an original for all purposes.

27.6 WAIVER OF SUBROGATION. CITY and TENANT hereby release each other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage or supplementary contract casualties required hereunder to be insured against, even if such fire or other casualty shall have been caused by the fault or negligence of the other party or anyone for whom such party may be responsible, but only to the extent of insurance proceeds actually received by the insured party. Each party to this Lease agrees to promptly give each insurance company which has issued to the respective party fire and extended coverage insurance, written notice of the terms of the mutual waivers contained in this paragraph, and, if necessary, to have the insurance policies property endorsed. Fire and extended coverage insurance carried by either CITY or TENANT covering losses arising out of the destruction of or damage to the Leased Premises or its contents shall provide for a waiver of rights or of subrogation against CITY and TENANT on the part of the insurance carrier. Notwithstanding anything in the foregoing to the contrary, the waivers of subrogation set forth in this Paragraph 28.9 shall only apply to the extent of third party insurance proceeds covering a loss, and shall not apply to the extent that any such casualty is self insured or to the deductible portion of any casualty loss.

ARTICLE XXVIII

ATTORNEY'S FEES

28.1 In the event that at any time during the term of this Lease either party shall institute any action or proceeding against the other relating to the provisions of this Lease, or

any default hereunder, then, and in that event, if the unsuccessful party in such action or proceeding agrees to reimburse the other for the reasonable expenses of attorney's fees and related costs and disbursements incurred therein by the other.

ARTICLE XXIX

SURRENDER OF LEASED PREMISES

29.1 No act or thing done by the CITY or its agents during the Term hereby granted shall be deemed an acceptance of a surrender of the Leased Premises, and no agreement to accept a surrender of the Leased Premises shall be valid unless the same be made in writing and subscribed to by the CITY, TENANT acknowledges CITY'S superior fee ownership in the Leased Premises.

ARTICLE XXX

NO SUBSTANTIAL INTEREST

30.1 ETHICS CODE. CITY acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined therein, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity

30.2 RELIANCE. CITY warrants and certifies, and this Lease is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City or any of its agencies such as city owned utilities

ARTICLE XXXI

NOTICES

31.1 NOTICE TO CITY. Notices to CITY required or appropriate under this Lease shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, addressed to:

City Clerk	and
City Hall	Department of Downtown Operations
P.O. Box 839966,	P.O. Box 839966
San Antonio, Texas 78283-3966	San Antonio, Texas 78283-3966
	Attn: Director

31.2 NOTICE TO TENANT. Notices to TENANT shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid at the following address:

Executive Director
San Antonio Women's Pavilion at Hemisfair Park
c/o San Antonio Women's Chamber of Commerce
600 Hemisfair Plaza Way, Bldg. #217
San Antonio, TX 78205

or at such other address on file with the City Clerk as TENANT may provide from time to time in writing to CITY, or by personal delivery to such address.

31.3 DELIVERY. All notices shall be deemed to have been delivered three (3) days after deposit in the United States mail, as described above.

ARTICLE XXXII

PARTIES BOUND

32.1 This Lease shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, successors and assigns.

ARTICLE XXXIII

NON-APPROPRIATION

33.1 Notwithstanding any other provisions of this Lease, in the event that the City Council of the City of San Antonio shall fail to appropriate sums to pay any of CITY'S obligations under the terms of this Lease and as a result CITY does in fact fail to meet its obligations under this Lease, TENANT'S sole remedy shall be to terminate this Lease.

ARTICLE XXXIV

RELATIONSHIP OF PARTIES

34.1 Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationships, between the parties hereto. It is understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto create a relationship other than the relationship of landlord and tenant.

ARTICLE XXXV

TEXAS LAW TO APPLY

35.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

ARTICLE XXXVI

GENDER

36.1 Words of any Gender used in this Lease shall be held and construed to include any other gender, and wards in the singular number shall be held to include the plural, unless the context otherwise requires.

ARTICLE XXXVII

CAPTIONS

37.1 The captions contained in this Lease are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Lease.

ARTICLE XXXVIII

AUTHORITY

38.1 AUTHORITY OF TENANT. If the signer of this Lease is an entity or other than an individual who is the TENANT, then the signer of this Lease for TENANT hereby represents and warrants that he or she has full authority to execute this Lease on behalf of TENANT.

38.2 AUTHORITY OF CITY. Whenever this Lease calls for approval by CITY, unless otherwise explained herein, such approval shall be evidenced by the written approval of the Director such Director's designee, unless City Council approval by ordinance is required herein or because of the City Charter or City Code.

ARTICLE XXXIX

SUBORDINATION

39.1 TENANT accepts this Lease subject and subordinate to any recorded mortgage or deed of trust lien presently existing or hereafter created upon the Leased Premises and to all existing recorded restrictions, covenants, easements and agreements with respect to the Leased Premises. This subordination shall be self-operative without the necessity of the execution of any further instruments by TENANT, but upon the request of any present or future mortgagee, CITY is hereby irrevocably vested with full power and authority, if it so elects, at any time, to

subordinate this Lease to any mortgage hereafter placed upon the Leased Premises or upon the entire premises by execution a written subordination instrument as attorney-in-fact for TENANT, and TENANT further agrees upon demand to execute any additional instruments subordinating this Lease as CITY may reasonably request. CITY hereby warrants and represents that there is no existing mortgage, ground lease or deed of trust affecting the Leased Premises. If the interests of CITY under this Lease shall be transferred by reason of foreclosure or other proceedings for enforcement of any first mortgage or deed of trust lien on the Leased Premises. TENANT shall be bound to the transferee (sometimes called the "Purchaser") at the option of the Purchaser, under the terms, covenants and conditions of this Lease for the balance of the Lease Term, including any extensions or renewals, with the same force and effect as if the Purchaser were CITY under this Lease, and, if requested by Purchaser, TENANT agrees to attorn to the Purchaser. Notwithstanding the above, the subordination of this Lease to any mortgage, deed of trust or other mortgage lien hereafter placed upon the Leased Premises and/or the Land shall be contingent upon the holder of any such lien ("Lienholder") providing TENANT with notice that so long as there exists no default by TENANT under this Lease, TENANT'S rights under this Lease shall not be terminated or disturbed by Lienholder or any purchaser or subsequent owner of the Land in the exercise of any of such Lienholder's rights under Lienholder's mortgage, deed of trust or other mortgage lien, nor in any other way under this Lease except in accordance with its terms.

ARTICLE XL

QUIET ENJOYMENT

40.1 TENANT, subject, to the terms and provisions of this Lease on payment of the Rent and observing, keeping and performing all the terms or provisions of this Lease on its part to be observed, kept and performed shall lawfully, peacefully and quietly have, hold and enjoy the Leased Premises during the Lease Term without hindrance or ejection by CITY and any persons lawfully claiming under CITY, subject, nevertheless, to the terms and conditions of this Lease and to any ground or underlying lease and/or mortgage(s). It is understood and agreed, however, that this covenant and any and all other covenants of CITY contained in this Lease shall be binding upon CITY and its successors only with respect to breaches occurring during its and their respective ownership of CITY'S interest hereunder. Except where due to any act, omission or negligence or willful or criminal misconduct of CITY, or any officer, agent, employee, independent contractor, guest, or invitee thereof, CITY shall not be responsible for the acts or omissions of any other person: or third party that may interfere with TENANT'S use and enjoyment of the Leased Premises.

ARTICLE XLI

FORCE MAJEURE

41.1 In the event CITY or TENANT shall be delayed, hindered or prevented from the performance of any act required under this Lease by reason of acts of God, acts of common enemies, fire, storm, flood, explosion or other casualty, strikes, lockouts, labor disputes, labor troubles, environmental problems, historic design delays or disputes, inability to procure materials, failure of power, restrictive governmental laws of regulations, riots, insurrection,

war, settlement of losses with insurance carriers, injunction, order of any court or governmental authority, or other cause not within the reasonable control of CITY or TENANT, then the performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay

ARTICLE XLII

REAL ESTATE COMMISSION

42.1 CITY and TENANT represent that they have not contracted with or dealt with any realtor, agent, broker or third party in connection with this Lease; to each party's knowledge, no other person, firm or individual is entitled to or has a claim for a commission or fee arising out of or in connection with the execution of this Lease.

ARTICLE XLIII

TIME IS OF THE ESSENCE

43.1 Time is of the essence in all matters pertaining to this Lease

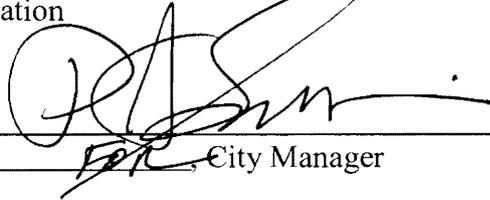
ARTICLE XLIV

44.1 LEASEHOLD MORTGAGES PERMITTED. Notwithstanding anything contained in this Lease to the contrary, TENANT, and any successor or assignee of TENANT, may, with CITY'S prior written consent which consent shall not be unreasonably withheld, from time to time pledge, mortgage or encumber its interest in the Lease and/or the leasehold estate demised to it hereunder. Any such pledge, deed of trust, mortgage or encumbrance upon the Lease or the leasehold estate demised hereunder, as the same may be extended, modified, amended or replaced, as herein referred to as a "Leasehold Mortgage." Further, such Leasehold Mortgage shall at all times be subject and subordinate to the fee interest held by CITY hereunder. To reiterate, in order to create a valid lien against such leasehold estate, then each -holder of a Leasehold Mortgage (hereinafter "Leasehold Mortgage") must agree to acknowledge the superior fee interest of CITY in the Leased Premises. All the rights and privileges that shall accrue to the Leasehold Mortgagee under any such proposed Leasehold Mortgage shall be negotiated whenever TENANT proposes to enter into such a Leasehold Mortgage, provided, however, the CITY shall have complete discretion to dictate all such terms and conditions or to completely reject any such proposed Leasehold Mortgage.

EXECUTED to be effective as of the Effective Date.

CITY:

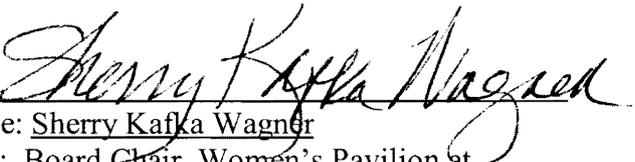
CITY OF SAN ANTONIO, a Texas municipal corporation

PKS By: 

City Manager

TENANT:

San Antonio Women's Pavilion at HemisFair Park, Incorporated

By: 
Name: Sherry Kafka Wagner
Title: Board Chair, Women's Pavilion at HemisFair Park, Incorporated

APPROVED AS TO FORM:



City Attorney

Attest:

Patricia M. Viret
City Clerk

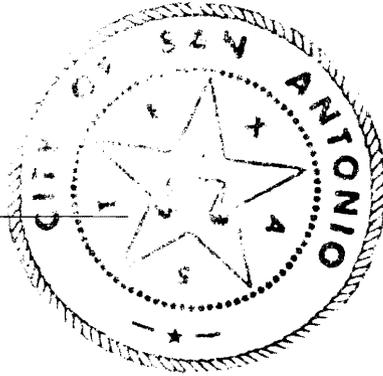


Exhibit A - Leased Premises



Garden Area

1 inch equals 50 feet

Map Created 03/05/08



Exhibit B - Parking Spaces



Map Created 03/05/08



CMS or Ordinance Number: OR00000200805080373

TSLGRS File Code: 1000-05

Document Title:

ORD - Lease agreement between the City and San Antonio Women's Pavilion at Hemifair Park, Inc to renovate and operate the Women's Pavilion and the

Ordinance Date:

5/8/2008