TM [9/17/15]
Item No. 34.

AN ORDINANCE 2015-09-17-0807

AUTHORIZING THE CITY OF SAN ANTONIO TO AMEND AND EXTEND AN AGREEMENT WITH HEB GROCERY COMPANY, LP ("HEB") FOR THE SALE OF GARAGE SALE PERMITS TO THE PUBLIC AT HEB BUSINESS CENTERS.

* * * * *

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

SECTION 1. The City Manager and her designee, severally, are authorized and directed to execute and deliver on behalf of the City a renewal agreement substantially in the form of **Attachment I**, which is incorporated by reference for all purposes as if fully set forth. The City Manager and designee, severally, should take all other actions reasonably necessary or convenient to effectuate the transaction, including agreeing to non-material changes to the approved form and executing and delivering all ancillary instruments and agreements conducive to effectuating the transaction.

SECTION 2. All requirements of Chapter 16, Article XII, Garage Sales of the City Code of San Antonio, Texas, (City) have been met, or are hereby waived. This Ordinance authorizes the City to enter into an agreement with HEB Grocery Company, LP (HEB) whereby HEB shall act as an agent for the sale of City's garage sale permits, directing HEB to collect applicant information and permit fees, forwarding collected information and remittance of permit funds to the City sans a $3.00 administrative fee per permit.

SECTION 3. Funds generated by this Ordinance will be deposited into Fund 11001000, Internal Order 261000000007 and General Ledger 4202910.

SECTION 4. 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 5. This Ordinance is effective immediately upon receipt of eight affirmative votes; otherwise, it is effective 10 days after passage.

PASSED AND APPROVED this **17th** day of **September**, **2015**.

Ivy R. Taylor

M A Y O R
Ivy R. Taylor

Attest:

Leticia M. Vacek, City Clerk

Approved As To Form:

Martha G. Sepeda, Acting City Attorney

Agenda Item:	**34**
Date:	09/17/2015
Time:	10:11:29 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the City of San Antonio to amend and extend an agreement with HEB Grocery Company, LP for the sale of garage sale permits to the public at HEB Business Centers. [Erik Walsh, Deputy City Manager; Roderick Sanchez, Director, Development Services]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2	x					
Rebecca Viagran	District 3		x			x	
Rey Saldaña	District 4				x		
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				x
Cris Medina	District 7		x				
Ron Nirenberg	District 8				x		
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

ATTACHMENT 1

AGREEMENT FOR ISSUANCE OF GARAGE/YARD SALE PERMITS

This Agreement for Issuance of Garage/Yard Sale Permits ("**Agreement**") is entered on _____, 2015 (the **Effective Date**") by and between the City of San Antonio, a Texas Municipal Corporation ("City of San Antonio" or "City") and HEB Grocery Company, LP ("HEB").

WHEREAS, public convenience will be furthered by authorizing HEB to issue residential garage/yard sale permits to the general public (each a "Permit" or collectively, the "Permits") at its retail stores located within the City of San Antonio city limits.

NOW, THEREFORE, the obligations and covenants contained herein and for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the parties hereto agree as follows:

1. The City of San Antonio authorizes HEB to issue Permits under the terms and conditions set forth in this Agreement and in accordance with Chapter 16, Article XII of the Code of Ordinances for the City of San Antonio, Texas.

2. HEB will collect from the permit applicant the permit fee established by the City of San Antonio at the time of purchase (the "Permit Fee").

3. The City of San Antonio does not object to HEB charging a Processing Fee to each transaction involving a Permit issued under terms of this Agreement. Said Processing Fee is in addition to the Permit Fee charged by the City for the issuance of the Permit.

4. Before a Permit is issued by HEB to the permit applicant, HEB will verify the applicant's proof of address by viewing the applicant's driver's license, utility bills or other such identification and any other pertinent information as may be reasonably required by the City of San Antonio. Upon verification and payment of the Permit Fee, HEB will issue the Permit to the applicant.

5. HEB will not issue a Permit to churches, charitable and non-profit organizations (because of special requirements), nor rain checks, but will instead direct the applicant to the Development Services Department of the City of San Antonio.

6. HEB will not be responsible for making any refunds to applicants for Permits issued under this Agreement.

7. All reasonable and necessary equipment for the issuance of Permits via HEB's point of sale system will be furnished and maintained by HEB. The City will provide HEB with the permit template and any requirements reasonably related thereto. The City will provide HEB with a minimum of sixty (60) days prior written notice of any changes to the permit template and/or requirements.

8. Each week on Monday at 12:00 noon (or such other time as agreed by the parties), HEB will provide a report to the City of San Antonio with the following information: (a) the number of Permits issued the prior week; (b) the number of Permits voided; and (c) such other information as the City of San Antonio shall from time to time reasonably require. The City will provide HEB with at least sixty (60) days prior written notice of any changes in the reporting requirements.

9. HEB shall transmit funds via ACH to the City of San Antonio representing an amount equal to $13.00 (the "Permit Fee Amount") per Permit issued during the previous week. Said ACH funds transfer shall not include the Processing Fee HEB charges and collects as compensation for providing services of issuance of the Permits. The City will provide HEB with at least thirty (30) days prior written notice of any change to the Permit Fee Amount.

10. Confidentiality. HEB understands and agrees that the City is bound by the Texas Public Information Act and under no circumstances shall this agreement be interpreted to contradict state law. The parties mutually agree that any and all information identified as "confidential" or "proprietary" or that, under the circumstances, would reasonably be deemed to be confidential or proprietary (including strategies, formulas, product formulations, concepts, techniques, processes, designs, secrets, methods, cost data, computer programs, software, scientific or technical know-how, and financial, marketing and other business information; and/or, any and all information concerning intellectual property) ("Confidential Information"), will be held in confidence and City shall follow state law regarding any third party disclosure including, but not limited to, notification requirements in order to allow HEB to seek protective relief therefrom.

11. Term and Termination. This Agreement shall commence on the Effective Date and shall continue in full force and effect until terminated at any time by either party upon thirty (30) days prior written notice to the other party. All outstanding Permit Fees collected by HEB will be remitted to the City of San Antonio via ACH.

12. Notice. Notice given pursuant to this Agreement shall be in writing and shall be deemed to have been duly given if delivered by hand or by express courier service (prepaid) or by United States certified or registered mail, postage prepaid, addressed to the appropriate party as set forth below:

City of San Antonio:

City of San Antonio
Development Services Department
1901 S. Alamo
San Antonio, TX 78204
Attn: Director, Development Services Dept.

HEB:

HEB Grocery Company, LP
646 South Main Avenue
San Antonio, Texas 78204
Attn: Director, Services Co.

With a copy to:

HEB Grocery Company, LP
646 South Main Avenue
San Antonio, Texas 78204
Attn: Corporate Law Department

Any notice given hereunder shall be deemed to have been given at the time of receipt by the party to whom such notice is addressed. The person and address to which notices are to be given may be changed at any time upon written notice to the other party.

13. Governing Law. This Agreement shall be construed under and in accordance with the laws of the State of Texas. This Agreement is made and performable in Bexar County, Texas. The exclusive venue of any dispute, claim, or suit between the parties or arising out of or related to this Agreement shall be in Bexar County.

14. No Publicity. The City shall not use any advertisements or press releases utilizing HEB's name or reputation, for any reason, without HEB's express prior written consent.

15. This Agreement sets forth the entire understanding between the parties and supersedes any and all prior agreements, written or oral, with respect to the subject matter hereof. Breach of any material obligation to be performed by either party shall constitute a breach of the entire Agreement and shall give either party the right to immediately terminate this Agreement.

16. This Agreement shall not be amended or modified, except in writing signed by authorized representatives of HEB and the City of San Antonio.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Effective Date.

City of San Antonio
State of Texas

By: _____
Print Name: _____
Title: _____

HEB Grocery Company, LP:

By: _____
Print Name: Bill Anderson
Title: Vice President, General Merchandise