VMZ/RR
9/17/15
Item No. 32

AN ORDINANCE 2015-09-17-0805

CONSENTING TO THE USE AND PRIVATE FINANCING BY HEMISFAIR PARK AREA REDEVELOPMENT CORPORATION (HPARC) FOR THE CONSTRUCTION OF TEMPORARY SURFACE PARKING LOTS AT SOUTH ALAMO STREET AND MARTINEZ STREET; AND APPROVING REVENUE SHARING AGREEMENTS WITH HPARC FOR THESE LOTS AND OTHERS ON CESAR CHAVEZ BLVD.

* * * * *

WHEREAS, The Hemisfair Master Plan approved by City Council in February 2012, contemplates the development of 18.5 acres of parkland surrounded by vibrant mixed-use structures, requiring accessible and affordable parking; and

WHEREAS, in order to accommodate parking needs at the Yanaguana Garden scheduled to open on October 2, 2015, HPARC proposes two locations to construct temporary parking lots to be operated by the City: (1) South Alamo Street, just north of Magik Theater; and (2) Martinez Street between South Alamo and S. Presa Streets; and

WHEREAS, HPARC intends to finance construction of these lots, including the costs of drainage, pavement, lighting, landscaping, signage and striping through a loan with Broadway Bank, which loan City Council must approve pursuant to HPARC's Articles of Incorporation and

WHEREAS, both lots will provide approximately 120 public parking spaces and daytime hourly, after hour and weekend flat rates will be consistent with other City lots; and .

WHEREAS, it is projected that parking revenues would pay for HPARC's debt service, taxes, and the City's cost for technology, operations, and general maintenance and upkeep of the lots which terms are set out in a Revenue Sharing Agreement with HPARC; and

WHEREAS, in addition, through a separate Revenue Sharing Agreement, the City will collect and retain 50% of parking revenues after taxes and expenses, and pay the balance of revenues received from HPARC-sponsored special events to HPARC from other lots in the vicinity, including the GSA Lot, located at 700 E. Cesar Chavez Blvd, which lot provides approximately 350 spaces; **NOW THEREFORE:**

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

SECTION 1. Consent is hereby granted to HPARC for their private financing of the construction of temporary parking lots through a loan with Broadway Bank. The locations of the parking lots are depicted on **Exhibit 1** and the Term Sheet for HPARC's loan is attached as **Exhibit 2**.

SECTION 2. The terms of a Revenue Sharing Agreement with HPARC relating to the temporary parking lots, a copy of which, in substantially final form, is attached as **Exhibit 3**, are approved. All parking revenues received from the use of these parking lots will be deposited in the Parking Enterprise Fund then paid to HPARC after the City's recovery of costs for technology, operations, and general maintenance and upkeep of the lots. The City Manager, or her designee, is authorized to execute this Revenue Sharing Agreement.

SECTION 3. The terms of a Revenue Sharing Agreement with HPARC relating to the parking lots on Cesar Chavez Blvd, a copy of which, in substantially final form, is attached as **Exhibit 4**, are approved. All parking revenues received from the use of these parking lots will be deposited in the Parking Enterprise Fund with 50% of the revenues plus sales tax and City expenses to be retained by the City with the balance of revenues from HPARC-sponsored special events paid to HPARC. The City Manager, or her designee, is authorized to execute this Revenue Sharing Agreement.

SECTION 4. Funds generated by this Ordinance will be deposited into Fund 53001000, Internal Order 219000000128 and General Ledger 4403145.

SECTION 5. 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 6. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten 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:	**32 (in consent vote: 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 22A, 22B, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 40, 41, 42, 43)**
Date:	09/17/2015
Time:	10:02:11 AM
Vote Type:	Motion to Approve
Description:	An Ordinance consenting to a loan between Hemisfair Park Area Redevelopment Corporation (HPARC) and Broadway National Bank for the design and construction of temporary surface parking lots at South Alamo Street and Martinez Street; and authorizing Revenue Sharing Agreements with HPARC for these lots and parking lots on Cesar Chavez Blvd. [Lori Houston, Assistant City Manager and Acting Director, Center City Development & Operations].
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				x
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		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				

Exhibit 1

Exhibit 1 – Map depicting temporary surface parking lot locations at S. Alamo and Martinez Streets

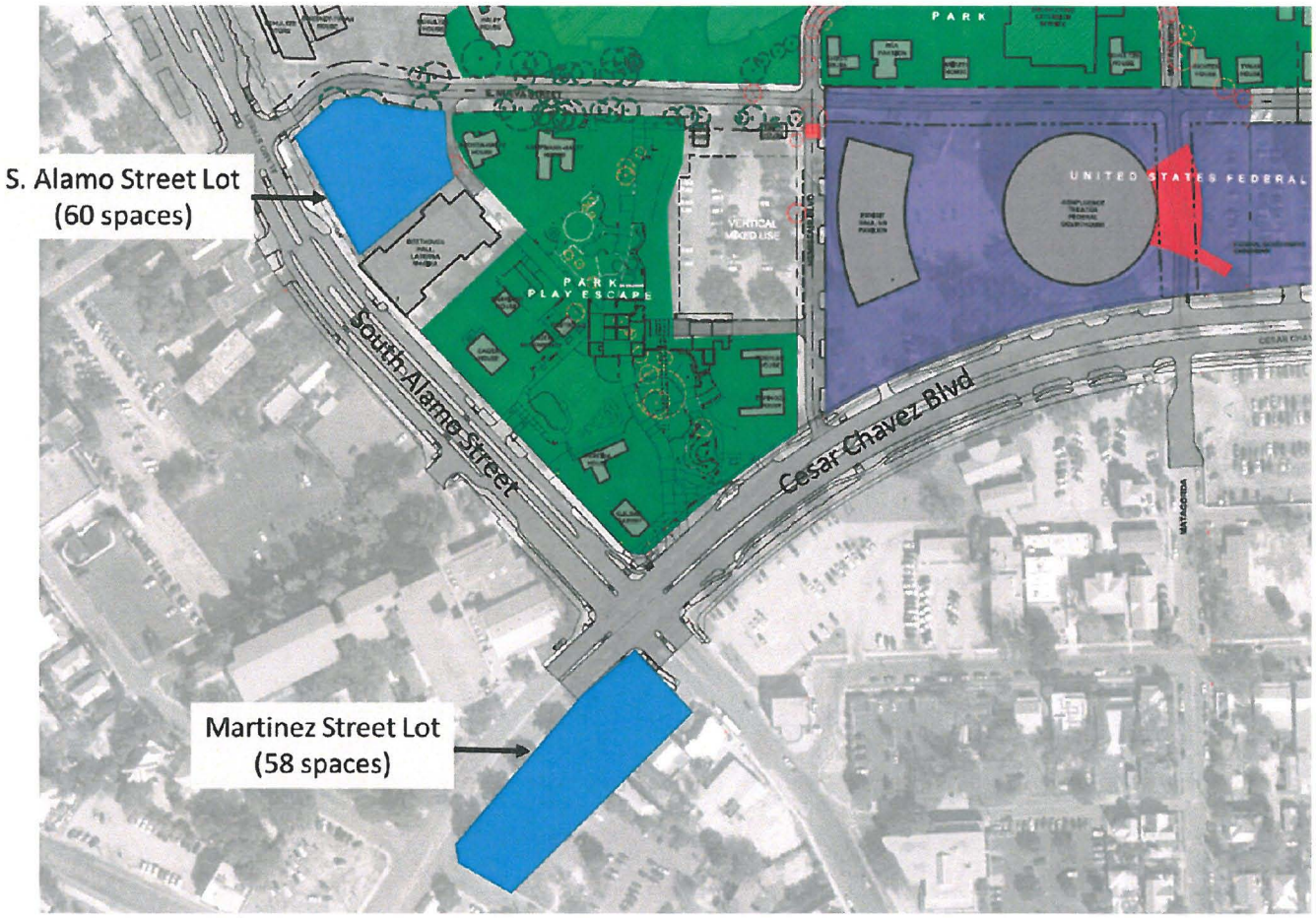

Exhibit 2

Exhibit 2 – Broadway Bank Term Sheet

	Construction Loan	**Amortizing Mini-Perm**
Borrower:	Hemisfair Park Area Redevelopment Corporation	Same
Loan Amount:	Up to $282,436 for South Alamo Street and up to $292,523 for Martinez Street parking lots. Advances subject to bank approved draws for soft and hard costs associated with the construction of 118 space parking lot.	Same
Rate:	WSJ Prime + 25 bps, floating, floor rate of 3.50 %	FHLB 5/20 + 275 bps , fixed, floor rate of 4.5%
LTC/LTV:	100%	Same
Term:	18 months	60 months (5 years)
Collateral:	Collateral assignment of HPARC's revenue sharing interest in the Revenue Sharing Agreement. The terms of the Revenue Sharing Agreement and collateral assignment to be approved by the Bank.	Same
Fee:	0.50% Origination Fee	None
Covenants	Construction to commence within 60 days of loan facility closing. Construction completion within 180 days of loan closing.	None
Repayment:	I/O Monthly	P&I Monthly based on 20 year amortization
Guarantees:	Non-recourse	Same

The Mini-perm rate will be based on the then Federal Home Loan Bank index for a 20 year amortizing loan, 5 year balloon. The current index can be found at https://www.fhlb.com/products/Pages/Rates.aspx#tab2 (Standard amortizing).

Exhibit 3

REVENUE SHARING AGREEMENT
[S. Alamo Street Lot and Martinez Street Lot]

THIS REVENUE SHARING AGREEMENT (this "***Agreement***") is made by and between the HEMISFAIR PARK AREA REDEVELOPMENT CORPORATION, a Texas non-profit local government corporation ("***HPARC***") and the CITY OF SAN ANTONIO, a Texas municipal corporation (the "***City***"), to be effective as of the later date on which this Agreement has been signed by City or HPARC (the "***Effective Date***"). HPARC and the City are sometimes referred to herein each as a "***Party***" and collectively as the "***Parties***".

RECITALS

A. HPARC was established by the City for the purposes of managing and overseeing the redevelopment and management of land that was formerly a part of HemisFair, a world exposition recognized by the Bureau International des Expositions (referred to herein as the "***Hemisfair District***").

B. By Deed Without Warranty (Tract 3 - 1.349 Acres) dated December 18, 2013, Recorded in Book 16485, Page 61, Official Public Records of Bexar County, Texas ("***Deed***"), City conveyed to the Hemisfair Park Public Facilities Corporation ("***HPPFC***") certain lands in the Hemisfair District, as therein described, including that tract located immediately north of the Magik Theater and depicted on an instrument attached hereto for all purposes as ***Exhibit A*** (the "***S Alamo Street Lot***").

C. In the Deed, City retained and reserved the right to use, occupy, enjoy, improve and remove, without payment of rent or additional consideration, all or any part of the improvements in, on or under the property therein conveyed, whether above, on or below the surface of such property, such rights to continue until abandoned by City by written notice to HPPFC.

D. Subject to the rights reserved and retained by City, HPARC (as tenant) and HPPFC (as landlord) have entered into that certain Master Lease (the "***Master Lease***") dated effective as of December 11, 2014, covering portions of the Hemisfair District including the S Alamo Street Lot; the Master Lease is incorporated herein by reference.

E. City is the owner of that certain tract of land on Martinez Street between South Alamo Street and South Presa Street, as depicted on Exhibit A (the "***Martinez Street Lot***").

F. City desires to remove certain improvements and to construct temporary surface parking lots on the S Alamo Street Lot and the Martinez Street Lot to provide parking for visitors to the Hemisfair District and surrounding areas until construction of a structured parking garage serving the Hemisfair District has been completed.

G. Pursuant to Ordinance 2015-_____, passed and approved on September ___, 2015, City has authorized HPARC to use and privately finance construction of temporary surface parking lots on the S Alamo Street Lot and the Martinez Street Lot (the "***Parking Lots***") and to share the expenses to be incurred and revenues to be received therefrom in the manner more particularly described in this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants and agreements contained herein, the Parties do hereby agree as follows:

ARTICLE I
CONSTRUCTION

1.1 Authority. City hereby authorizes HPARC to cause to be constructed the Parking Lots in accordance with this Agreement.

1.2 General Requirements for Construction. All construction shall be undertaken in a manner that complies with the construction standards set forth in the Master Lease, except that the approval rights exercised or required of HPPFC under the Master Lease shall be exercised by the City Manager of City or her designee (the "***City Manager***") with respect to the S Alamo Street Lot and for the term of this Agreement. HPPFC has joined in the execution of this Agreement to evidence its agreement and consent to the exercise of such rights by the City Manager with respect to the S Alamo Street Lot. City hereby grants to HPARC a temporary license to use and access the Martinez Street Lot to the extent necessary to permit HPARC and its contractor(s) to construct the parking lot on the Martinez Street Lot in accordance with the construction standards set forth in the Master Lease (including, without limitation, with all requisite governmental approvals, permits and licenses).

1.3 Funding for Construction. Except as expressly stated in this Agreement to be an obligation or undertaking by City in construction of the Parking Lots, HPARC shall be solely responsible for all other costs of constructing and equipping the Parking Lots in accordance with plans and specifications prepared by HPARC and approved by the City Manager (including, without limitation, surfacing, lighting, landscaping and drainage features). City shall pay for the technology and automated collection of parking fees paid by patrons of the Parking Lots.

1.4 Third Party Financing. HPARC may secure a loan or loans from one or more third party lender(s) to fund its construction obligations under this Agreement, and HPARC is authorized to encumber its rights to receive Revenues under the terms of this Agreement as security for such third party loan(s). HPARC may not encumber its interests in the Master Lease as collateral for any loan. Prior to incurring a loan, HPARC shall obtain the approval of the City Manager for the terms of such loan. Nothing herein shall require HPPFC to enter into any non-disturbance or attornment agreements with any third party lender.

ARTICLE II
OPERATION AND REVENUE SHARING

2.1 Operating Duties of HPARC. HPARC may elect, in its sole discretion, to provide security services for the Parking Lots during events. Neither City nor HPARC assumes any obligation to provide any such security services.

2.2 Operating Duties of City. City shall maintain the Parking Lots in a good condition, including without limitation (a) emptying trash containers on a frequent basis as necessary to ensure that they do not overflow, (b) removing any trash or debris from the Parking

Lots on a regular basis and following special events, (c) ensuring that parking machines are in working order and making any necessary repairs to such machines within twelve (12) hours; and (d) restriping the parking lot at least once every two years. City shall also collect the parking fees paid by patrons of the Parking Lots ("***Revenues***"). It is contemplated that fees will be collected by on-site automated devices such as Parkeon Pay Terminals® or similar automated payment systems.

2.3 Revenue Sharing. City will retain from the Revenues a portion thereof sufficient to reimburse City for the costs incurred in performing its obligations under this Agreement plus applicable taxes (if any); provided, however, that such Revenues retained by City shall in no event exceed ten percent (10%) of the total Revenues. During the Term of this Agreement, City will remit to HPARC its portion of the Revenues in monthly payments due on or before the 15th day of the first calendar month following the month in which the Revenues were received by City (i.e., payment of HPARC's share of Revenues for January 2016 will be due on February 15, 2016). Notwithstanding the foregoing, the first such payment to HPARC shall be due on or before the 15th day of the second calendar month following the month in which construction has been completed and the Parking Lots are open for public use. Upon request, City shall provide HPARC with access to City's books, records and other documentation relating to the City's cost reimbursements under this Agreement for purposes of verifying that such costs are being properly accounted for hereunder.

2.4 Rate Structure. The initial rates for parking fees to be paid by patrons of the Parking Lots are set forth on an instrument attached hereto for all purposes as ***Exhibit B***. The City Manager may elect to revise the rate structure and shall notify HPARC of any proposed revisions not less than thirty (30) days prior to the proposed implementation date for any such revisions.

ARTICLE III
TERM; DEFAULT

3.1 Term. After the later of (a) the third (3rd) anniversary of the first day upon which both of the Parking Lots are open to the public, and (b) the date that is the earlier to occur of (i) the fifth (5th) anniversary of the first day upon which both of the Parking Lots are open to the public or (ii) payment in full of all loan(s) obtained by HPARC for the construction of the Parking Lots, this Agreement may be terminated at any time by either the City Manager or HPARC upon not less than sixty (60) days' notice to the other Party.

3.2 Default. If either Party fails to perform any covenant, agreement or obligation of such Party under this Agreement within thirty (30) days after receipt of written notice of such default from the other Party then such failure shall be an "***Event of Default***" hereunder, provided, however, that if such failure is curable but cannot reasonably be cured by the exercise of reasonable diligence within such thirty (30) day period, then such failure to cure will not be an Event of Default if such Party commences curative action within such thirty (30) day period and thereafter diligently pursues the curative action.

3.3 Remedies. Upon an Event of Default, the non-defaulting Party may exercise any remedy available to such Party at law or in equity.

3.4 Effect of Termination. Upon termination of this Agreement, neither Party shall have any further liability or obligation under this Agreement, provided that, if HPARC has previously assigned its rights to receive Revenues under this Agreement in accordance with the authority granted to HPARC under this Agreement, then this Agreement shall remain in full force and effect with respect to the rights so assigned, and the revenues accruing hereunder to HPARC shall continue to be paid to such assignee until the loan(s) have been paid in full.

ARTICLE IV
MISCELLANEOUS

4.1 Notices. Any notice or communication required or permitted hereunder shall be in writing and (a) personally delivered, (b) sent by United States regular and/or registered or certified mail, postage prepaid, return receipt requested, (c) sent by Federal Express or similar nationally recognized overnight courier service, or (d) transmitted by electronic mail with a hard copy sent within two (2) business days by any of the foregoing means. Any address, including billing address, for notice may be changed by written notice. Such notice shall be deemed to have been given upon the date of actual receipt or delivery (or refusal to accept delivery), as evidenced by the notifying party's receipt of written or electronic confirmation of such delivery or refusal, if received by the party to be notified before 5:00 p.m., San Antonio, Texas time, with delivery made after 5:00 p.m. to be deemed received on the following business day. For purposes of notice, the addresses of the Parties shall be as follows:

If to HPARC:

Hemisfair Park Area Redevelopment Corporation
434 S Alamo Street
San Antonio, TX 78205
Attn: Chief Executive Officer

If to City:

100 Military Plaza, First Floor
San Antonio, Texas 78207
Attention: City Clerk

With copy to:

100 Military Plaza, Third Floor
San Antonio, Texas 78207
Attention: City Attorney

Each Party may, from time to time, change its respective address(es), and each has the right to specify as its address any other address within the United States of America by giving at least five (5) days' written notice to the other Party.

4.2 Entire Agreement. Neither the Parties hereto nor their agents have made any statement, promises or agreements verbally or in writing in conflict with terms of this Agreement. Any and all representations by either of the Parties or their agents made during the negotiations prior to execution of this Agreement and which representations are not contained in the provisions hereof shall not be binding upon either of the Parties hereto. It is further agreed that this Agreement contains the entire agreement between the Parties, and no rights are to be conferred upon the Parties until this Agreement has been executed by both Parties hereto.

4.3 Meaning. All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any section or clause herein may require, the same as if such words had been fully and properly written in number and gender. Unless expressly stated otherwise, references to "include" or "including" means "including, without limitation." The terms "hereto," "herein" or "hereunder" refer to this Agreement as a whole and not to any particular Article or Section hereof.

4.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which taken together will constitute a single document. This Agreement will be binding upon each party upon execution, regardless of whether each party has signed the same or a different counterpart. Signature pages from different counterparts may be combined to constitute one or more counterparts with original signatures for all parties. A photocopy, telecopy or electronic copy (including a .pdf copy) of an executed counterpart of this Amendment will have the same force and effect as an originally signed copy.

4.5 No Partnership. The Parties are not and shall not be considered either joint venturers or partners and none shall have power to bind or obligate the other except as set forth herein.

4.6 Severability. If any provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons whose circumstances are other than those to which it is held invalid or unenforceable, shall not be affected thereby.

4.7 Amendment. No modification, alteration or amendment of this Agreement shall be binding unless in writing and executed by the Parties hereto, their successors or assigns. Any amendment of this Agreement will require the prior approval of the City Manager.

4.8 Headings. The headnotes to the sections of this Agreement are inserted only as a matter of convenience and for reference, and in no way confine, limit or proscribe the scope or intent of any section of this Agreement, nor in any way affect this Agreement.

4.9 Law. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF TEXAS.

4.10 Maximum Interest. Nothing in this Agreement shall ever entitle any Party hereto to charge or collect or shall obligate any Party thereto to pay interest in excess of the highest rate

allowed by Law of the United States of America or the State of Texas. It shall be deemed an error if any excess amount be collected and such excess shall be refunded.

4.11 Exhibits and References. All exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement. References in this Agreement to articles, sections, subsections, sub-subsections, exhibits, or schedules are to such articles, sections, subsections, sub-subsections, exhibits, schedules unless otherwise specified.

4.12 Authority. Each person signing this Agreement in a representative capacity hereby represents and warrants that he or she has full authority to execute this Agreement in such capacity to fully bind the entity represented under the terms and condition of this Agreement.

4.13 Successors. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors, legal representatives and assigns; however, this clause does not constitute a consent to any assignment except as expressly set forth herein.

4.14 Assignment. The rights and obligations of HPARC may only be assigned to the extent expressly authorized under the terms of this Agreement.

EXHIBITS:

Exhibit A S Alamo Street Parking Lot and Martinez Street Lot
Exhibit B Initial Parking Rates

[Remainder of page intentionally blank; signatures on following pages.]

Executed by each of the undersigned to be effective as of the Effective Date.

HPARC:

HEMISFAIR PARK AREA REDEVELOPMENT CORPORATION

By: _____
Name: Andres Andujar
Title: Chief Executive Officer

Date: _____

[Signatures continue on following page.]

CITY:

CITY OF SAN ANTONIO

By: _____
Name: _____
Title: _____

Date: _____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
[Assistant] City Attorney

JOINDER BY HEMISFAIR PARK PUBLIC FACILITIES CORPORATION

Hemisfair Park Public Facilities Corporation, acting by and through its duly authorized undersigned officer, has joined in the execution of the foregoing Revenue Sharing Agreement solely to evidence its consent, as Landlord under the Master Lease (therein described), for the use of the S Alamo Street Lot for the purposes of such Revenue Sharing Agreement and the exercise of certain approval rights of the Landlord under the Master Lease by the City Manager, as described in the foregoing Revenue Sharing Agreement.

HEMISFAIR PARK PUBLIC FACILITIES CORPORATION

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A

Map depicting temporary surface parking lot locations at S. Alamo and Martinez Streets

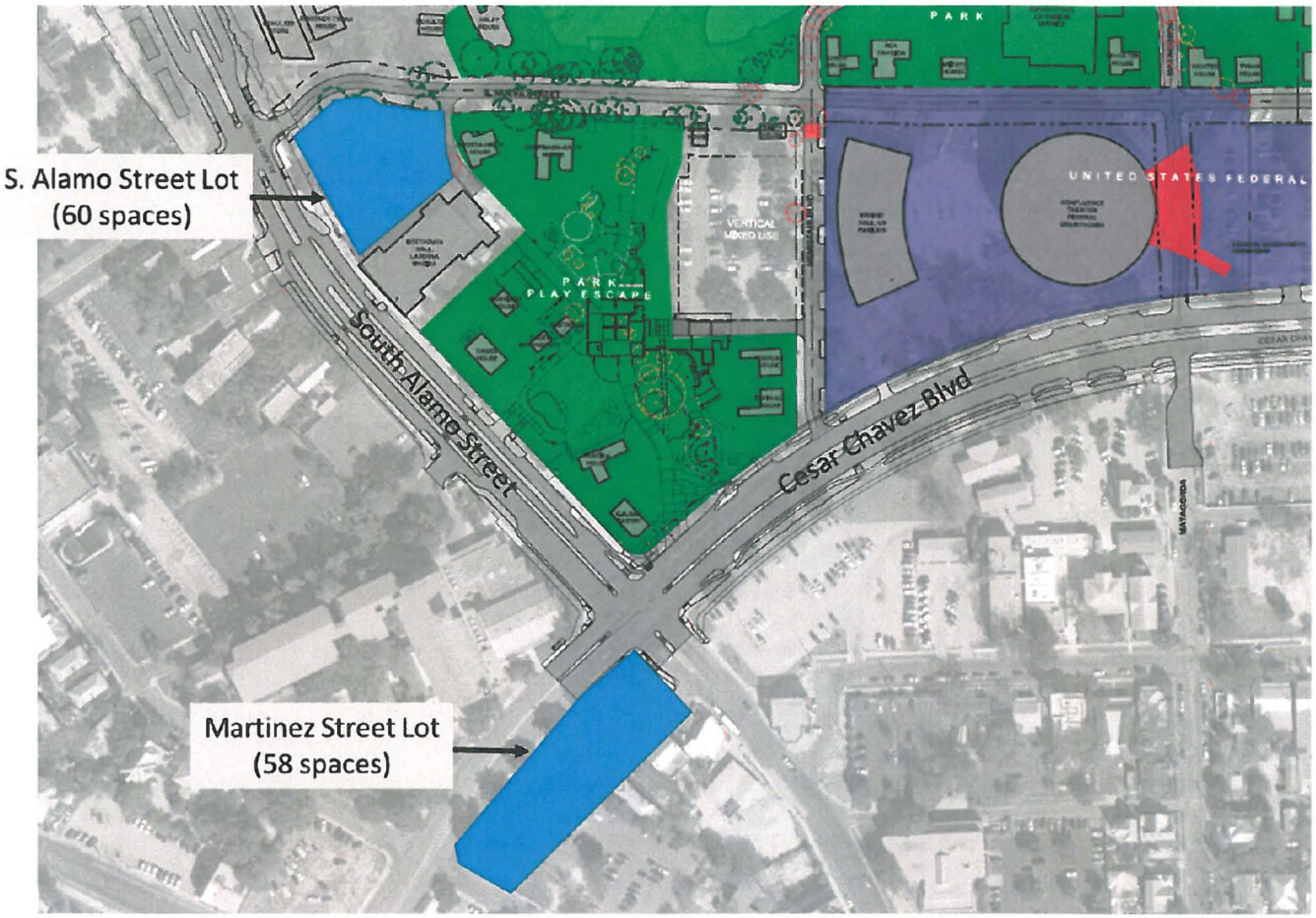

Exhibit B

Summary and Rates Table

	S Alamo Street Lot	Martinez Street Lot
Number of Spaces	58	56
Availability	24 hours	24 hours
Method of Payment	Parkeon Pay Station	Parkeon Pay Station
Rate Structure	Hourly 6AM-6PM per hourly rate table below; $5 Flat Rate for weekdays after 6PM (Mon-Thu), $10 for weekends (Fri - Sun) and up to $10 for special events. $75 monthly parking permit. Council approval required	Hourly 6AM-6PM per hourly rate table below; $5 Flat Rate for weekdays after 6PM (Mon-Thu), $10 for weekends (Fri - Sun) and up to $10 for special events. $75 monthly parking permit. Council approval required
On Site Staffing (if necessary)	None	None
Security (if necessary)	HPARC	HPARC
Clean Up	COSA	COSA
Enforcement	COSA Enforcement Staff	COSA Enforcement Staff
Revenue Collection	COSA Parking Operations Staff	COSA Parking Operations Staff
Revenue Sharing	COSA will allocate all net revenue to HPARC after expenses and taxes	COSA will allocate all net revenue to HPARC after expenses and taxes
Capital Funding	HPARC to pay for surfacing, lighting, landscaping and drainage; COSA to pay for technology and will be reimbursed by parking revenues	HPARC to pay for surfacing, lighting, landscaping and drainage; COSA to pay for technology and will be reimbursed by parking revenues
Estimated Annual Revenue	10% after tax Net Revenue retained by City	10% after tax Net Revenue retained by City
Expenses	Actual staff expenses	Actual staff expenses

HOURLY RATE TABLE (in effect 6AM-6PM)	
0 to 1/2 HOUR	$2.00
1/2 to 1 HOUR	$3.00
1 to 1 1/2 HOURS	$5.00
1 1/2 to 2 HOURS	$7.00
2 to 2 1/2 HOURS	$8.00
2 1/2 to 3 HOURS	$9.00

Exhibit 4

REVENUE SHARING AGREEMENT

[E. Cesar Chavez Boulevard]

THIS REVENUE SHARING AGREEMENT (this "***Agreement***") is made by and between the HEMISFAIR PARK AREA REDEVELOPMENT CORPORATION, a Texas non-profit local government corporation ("***HPARC***") and the CITY OF SAN ANTONIO, a Texas municipal corporation ("***City***"), to be effective as of the later date on which this Agreement has been signed by City or HPARC (the "***Effective Date***"). HPARC and City are sometimes referred to herein each as a "***Party***" and collectively as the "***Parties***".

RECITALS

A. HPARC was established by City for the purposes of managing and overseeing the redevelopment and management of land that was formerly a part of HemisFair, a world exposition recognized by the Bureau International des Expositions (referred to herein as the "***Hemisfair District***").

B. City has certain rights to use the surface parking lot located on that certain tract of land known as 700 E. Cesar Chavez Boulevard, San Antonio, Texas, being a parking lot of approximately 350 parking spaces (the "***700 E. Cesar Chavez Parking Lot***"), as more fully described in a Lease of Real Property Agreement between City and U. S. General Services Administration ("***GSA Agreement***"). The GSA Agreement grants City the use of the 700 E. Cesar Chavez Parking Lot from Monday through Friday, from 6:00 p.m. until 6:00 a.m. and all day on Saturday and Sunday ("***GSA Agreement Hours***").

C. City desires to allocate to HPARC a portion of the parking revenues collected from the operation of the 700 E. Cesar Chavez Parking Lot and any additional parking lots on E. Cesar Chavez Boulevard as may be hereafter identified by the City Manager for operation, maintenance, development, administration and activation of the parks in the Hemisfair District, such allocation to be made in accordance with this Agreement. As used in this Agreement, "***City Manager***" means and refers to the City Manager of City or to any person designated by the City Manager of City to act on her behalf.

D. Pursuant to Ordinance 2015-_____, passed and approved on September ___, 2015, City has authorized this Agreement allocating to HPARC a portion of the revenues from the 700 E. Cesar Chavez Parking Lot and such additional lots on E. Cesar Chavez Boulevard as may be selected by the City Manager after the adoption of such Ordinance (collectively, the "***Parking Lots***"), upon the terms and conditions as more particularly described in this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants and agreements contained herein, the Parties do hereby agree as follows:

ARTICLE I
OPERATION AND REVENUE SHARING

1.1 Special Event Parking Revenues. Only parking revenues for events in the Hemisfair District that are hosted by HPARC ("***Special Events***") will be shared pursuant to this Agreement. The City Manager and HPARC mutually shall identify the events in the Hemisfair District that are Special Events (or mutually shall identify the parameters and criteria to be used by HPARC in classifying such events as Special Events) and the hours during which parking fees collected at the Parking Lots will be deemed Special Event parking revenues for the purposes of this Agreement (which, in all cases, may not exceed the GSA Agreement Hours).

1.2 Operating Duties of City. City shall collect the parking fees paid by patrons of the Parking Lots during Special Events (the "***Revenues***"). City shall operate and maintain the Parking Lots in accordance with the requirements of the GSA Agreement.

1.3 Revenue Sharing. City will deduct from the Revenues a portion thereof sufficient to reimburse City for the costs incurred in performing its obligations under this Agreement plus applicable taxes (if any), with the remainder thereof (the "***Net Revenues***") divided equally between City and HPARC. During the Term of this Agreement, City will remit to HPARC its portion of the Net Revenues in monthly payments due on or before the 15th day of the first calendar month following the month in which the Revenues were received by City (i.e., payment of HPARC's share of Net Revenues for January 2016 will be due on February 15, 2016). Notwithstanding the foregoing, the first such payment to HPARC shall be due on or before the 15th day of the second calendar month following the month in which the Revenues were received. Upon request, City shall provide HPARC with access to City's books, records and other documentation relating to City's cost reimbursements under this Agreement for purposes of verifying that such costs are being properly accounted for hereunder.

1.4 Rate Structure. The rates for parking fees to be paid by patrons of the Parking Lots for Special Events will be determined by the City Manager. The City Manager may elect to revise the rate structure, from time to time, and shall notify HPARC of any proposed revisions not less than thirty (30) days prior to the proposed implementation date for any such revisions.

ARTICLE II
TERM; DEFAULT

2.1 Term. Unless terminated on an earlier date as provided in this Agreement, this Agreement will expire on August 31, 2017, the expiration date of the GSA Agreement.

2.2 Default. If either Party fails to perform any covenant, agreement or obligation of such Party under this Agreement within thirty (30) days after receipt of written notice of such default from the other Party, then such failure shall be an "***Event of Default***" hereunder, provided, however, that if such failure is curable but cannot reasonably be cured by the exercise of reasonable diligence within such thirty (30) day period, then such failure to cure will not be an Event of Default if such Party commences curative action within such thirty (30) day period and thereafter diligently pursues the curative action.

2.3 Remedies. Upon an Event of Default, the non-defaulting Party may exercise any remedy available to such Party at law or in equity, including the right to terminate this Agreement.

2.4 Effect of Termination. Upon termination of this Agreement, neither Party shall have any further liability or obligation under this Agreement.

ARTICLE III
MISCELLANEOUS

3.1 Notices. Any notice or communication required or permitted hereunder shall be in writing and (a) personally delivered, (b) sent by United States regular and/or registered or certified mail, postage prepaid, return receipt requested, (c) sent by Federal Express or similar nationally recognized overnight courier service, or (d) transmitted by electronic mail with a hard copy sent within two (2) business days by any of the foregoing means. Any address, including billing address, for notice may be changed by written notice. Such notice shall be deemed to have been given upon the date of actual receipt or delivery (or refusal to accept delivery), as evidenced by the notifying party's receipt of written or electronic confirmation of such delivery or refusal, if received by the party to be notified before 5:00 p.m., San Antonio, Texas time, with delivery made after 5:00 p.m. to be deemed received on the following business day. For purposes of notice, the addresses of the Parties shall be as follows:

If to HPARC:

Hemisfair Park Area Redevelopment Corporation
434 S Alamo Street
San Antonio, TX 78205
Attn: Chief Executive Officer

If to City:

100 Military Plaza, First Floor
San Antonio, Texas 78207
Attention: City Clerk

With copy to:

100 Military Plaza, Third Floor
San Antonio, Texas 78207
Attention: City Attorney

Each Party may, from time to time, change its respective address(es), and each has the right to specify as its address any other address within the United States of America by giving at least five (5) days' written notice to the other Party.

3.2 Entire Agreement. Neither the Parties hereto nor their agents have made any statement, promises or agreements verbally or in writing in conflict with terms of this Agreement. Any and all representations by either of the Parties or their agents made during the negotiations prior to execution of this Agreement and which representations are not contained in the provisions hereof shall not be binding upon either of the Parties hereto. It is further agreed that this Agreement contains the entire agreement between the Parties, and no rights are to be conferred upon the Parties until this Agreement has been executed by both Parties hereto.

3.3 Meaning. All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any section or clause herein may require, the same as if such words had been fully and properly written in number and gender. Unless expressly stated otherwise, references to "include" or "including" means "including, without limitation." The terms "hereto," "herein" or "hereunder" refer to this Agreement as a whole and not to any particular Article or Section hereof.

3.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which taken together will constitute a single document. This Agreement will be binding upon each party upon execution, regardless of whether each party has signed the same or a different counterpart. Signature pages from different counterparts may be combined to constitute one or more counterparts with original signatures for all parties. A photocopy, telecopy or electronic copy (including a .pdf copy) of an executed counterpart of this Amendment will have the same force and effect as an originally signed copy.

3.5 No Partnership. The Parties are not and shall not be considered either joint venturers or partners and none shall have power to bind or obligate the other except as set forth herein.

3.6 Severability. If any provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons whose circumstances are other than those to which it is held invalid or unenforceable, shall not be affected thereby.

3.7 Amendment. No modification, alteration or amendment of this Agreement shall be binding unless in writing and executed by the Parties hereto, their successors or assigns. Any amendment of this Agreement will require the prior approval of the City Manager or her designee.

3.8 Headings. The headnotes to the sections of this Agreement are inserted only as a matter of convenience and for reference, and in no way confine, limit or proscribe the scope or intent of any section of this Agreement, nor in any way affect this Agreement.

3.9 Law. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF TEXAS.

3.10 Maximum Interest. Nothing in this Agreement shall ever entitle any Party hereto to charge or collect or shall obligate any Party thereto to pay interest in excess of the highest rate allowed by Law of the United States of America or the State of Texas. It shall be deemed an error if any excess amount be collected and such excess shall be refunded.

3.11 Exhibits and References. All exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement. References in this Agreement to articles, sections, subsections, sub-subsections, exhibits, or schedules are to such articles, sections, subsections, sub-subsections, exhibits, schedules unless otherwise specified.

3.12 Authority. Each person signing this Agreement in a representative capacity hereby represents and warrants that he or she has full authority to execute this Agreement in such capacity to fully bind the entity represented under the terms and condition of this Agreement.

3.13 Successors. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors, legal representatives and assigns; however, this clause does not constitute a consent to any assignment except as expressly set forth herein.

3.14 Assignment. The rights and obligations of HPARC may only be assigned to the extent expressly authorized under the terms of this Agreement.

[Remainder of page intentionally blank; signatures on following pages.]

Executed by each of the undersigned to be effective as of the Effective Date.

HPARC:

HEMISFAIR PARK AREA REDEVELOPMENT CORPORATION

By: _____
Name: Andres Andujar
Title: Chief Executive Officer

Date: _____

[Signatures continue on following page.]

CITY:

CITY OF SAN ANTONIO

By: _____
Name: _____
Title: _____

Date: _____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
[Assistant] City Attorney