SW/vv
06/18/15
Item #32

AN ORDINANCE 2015-06-18-0558

APPROVING THE ASSIGNMENT OF SENTER'S PRODUCTS EL MERCADO LEASE TO MAGALI VELAZQUEZ DBA MAGALI'S SILVER INTERNATIONAL.

* * * * *

WHEREAS, the City of San Antonio owns and manages Market Square, a unique and historic public market place that plays a vital role in the life, culture and economy of San Antonio; and

WHEREAS, Market Square, with a retail history dating back to the nineteenth century, provides a unique and authentic Mexican Market experience, offering retail sales, holiday celebrations, and year round entertainment; and

WHEREAS, there are 56 businesses in the Farmers Market, 33 in El Mercado and 10 in Market Square Plaza, ranging from cafes to shops specializing in local, regional and Latin American products; and

WHEREAS, on June 23, 2011, City Council passed Ordinance No. 2011-06-23-0571, which authorized extensions to all Farmers Market leases until June 30, 2014; and

WHEREAS, the ordinance also provided the City the option to renew all the Farmers Market leases, including the aforementioned lease, for an additional three-year period and subsequently a two-year period; and

WHEREAS, the City has subsequently extended the Farmers Market agreements until June 30, 2017; and

WHEREAS, Suzanne Washburn, Emily Washburn and Jesus Castillo dba Senter's Products have operated in El Mercado since 2000, selling goods with a Texan and regional accent, and selling a variety of Mexican products with an emphasis on silver jewelry; and

WHEREAS, Ms. Velazquez has successfully operated in El Mercado since 2003; and

WHEREAS, the Municipal Code provides authority for the City to assign leases when businesses are sold and establish an assignment fee of $1,500.00; and

WHEREAS, this proposed ordinance will authorize an amendment to the lease agreement with Senter's Products, effectively assigning the lease agreement; **NOW THEREFORE:**

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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 Culture and Creative Development Department or his designee, is authorized to execute the Assignment and Amendment of the El Mercado lease assignment of: Senter's Products to Magali Velazquez dba Magali's Silver International. A copy of the assignment and amendment of the lease agreement, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment I.**

SECTION 2. Funds generated by this ordinance will be deposited into Fund 29604001, Internal Order 228000000146 and General Ledger 4407711.

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

SECTION 4. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 18th day of June, 2015.

Ivy R. Taylor

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Hollis Young

for Martha G. Sepeda, Acting City Attorney

Agenda Item:	**32 (in consent vote: 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 24, 25A, 25B, 25C, 25D, 25E, 25F, 25G, 25H, 26, 28, 29, 30, 31, 32, 33, 34, 35A, 35B, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64A, 64B, 65A, 65B, 66A, 66B, 66C, 67A, 67B, 67C, 68A, 68B, 68C, 69A, 69B, 69C, 69D, 70A, 70B, 70C, 70D, 70E)**
Date:	06/18/2015
Time:	10:00:14 AM
Vote Type:	Motion to Approve
Description:	An Ordinance approving the assignment of Senter's Products El Mercado lease to Magali Velazquez dba Magali's Silver International. [Edward Belmares, Assistant City Manager; Felix Padron, Director, Culture and Creative Development]
Result:	Passed

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

Attachment I

ASSIGNMENT AND AMENDMENT OF LEASE AGREEMENT
EL MERCADO AREA NUMBER W-3
(WITH LANDLORD'S CONSENT)

WHEREAS, the City of San Antonio, a Texas Municipal Corporation, acting by and through its City Manager pursuant to Ordinance No. 91799 passed and approved by the City Council on May 18, 2000, as LANDLORD ("**CITY**"), entered into that certain Lease Agreement effective **January 1, 2000** ("**LEASE**") with **Suzanne Washburn, Emily Washburn and Maria Barker d/b/a "Senter's Products." On January 6, 2010, Jesus Castillo was added and Maria Barker was removed. ASSIGNOR** for the lease of the following described tract or parcel of real property situated in El Mercado at Market Square, San Antonio, Bexar County, Texas to-wit:

> A portion of the real property and improvements owned by **CITY** located at 514 W. Commerce Street, San Antonio Bexar County, Texas within the area commonly known as El Mercado at Market Square (said real property and improvements hereinafter referred to as the "**Leased Premises**"). Said Leased Premises contain approximately 600 square feet and is identified as area number W-3;

WHEREAS, **Suzanne Washburn, Emily Washburn and Jesus Castillo d/b/a "Senter's Products"** desires, as **ASSIGNOR**, to convey and assign **TENANT'S** leasehold interest under the **LEASE** to **Magali Velazquez d/b/a "Magali's Silver International"** as **ASSIGNEE**; and

WHEREAS, said assignment requires the prior approval of **CITY**; and

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

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

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

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

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

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

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

benefits of every description whatsoever belonging to or accruing to the benefits of the **CITY** under the **LEASE**.

3. CONSENT: **CITY** hereby consents to the assignment by **Suzanne Washburn, Emily Washburn and Jesus Castillo d/b/a "Senter's Products"**, as **ASSIGNOR**, and the assumption by **Magali Velazquez d/b/a "Magali's Silver International"**, as **ASSIGNEE** of said **Suzanne Washburn, Emily Washburn and Jesus Castillo d/b/a Senter's Products"**, originally approved by City Council pursuant to Ordinance number 91799 passed and approved on May 18, 2000.

4. REPRESENTATION AND WARRANTIES: **ASSIGNOR** and **ASSIGNEE** represent and warrant that the following statements are true.

   Magali Velazquez, as the **ASSIGNEE**, will be the exclusive owner of the business, formerly owned by **Suzanne Washburn, Emily Washburn and Jesus Castillo** and operating as **"Senter's Products"**. **Magali Velazquez** will take full control of the business immediately upon City Council approval and will operate as **"Magali's Silver International**

   Suzanne Washburn, Emily Washburn and Jesus Castillo will not have any ownership or serve as employees, or agents in the new enterprise operating from the premises. These individuals will have no authority, financial or otherwise, in the new enterprise operating from the premises.

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

5. USE AND CARE OF PREMISES: **ASSIGNEE** agrees that that the **Leased Premises** shall be utilized for the sole purpose of retail sales of products reflecting an open market with a Mexican Market theme and excluding alcoholic goods and beverages :

6. AMENDING USE AND CARE OF PREMISES: Section 2.4 of **LEASE** is amended to include the following provisions:

   2.4.1 Further, **TENANT** covenants and agrees, in keeping with the intent and spirit of El Mercado and Market Square, to operate the business conducted on the **Leased Premises** in an "**OWNER PRESENCE**" capacity, physically participating in the day-to-day operations of **TENANT'S** business, as opposed to employing a non-owner manager of said premises, hence an "absentee owner" posture, unless such management is first approved by the Director, Downtown Operations Department, or her designee. Failure to operate the business on the **Leased Premises** in such a manner will constitute an act of default hereunder and will be grounds, at **CITY'S** option to terminate this **Lease Agreement** upon ten (10) days written notice to **TENANT**.

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

EXECUTED this _____, 2015.

ASSIGNOR:
Suzanne Washburn, Emily Washburn and Jesus Castillo
d/b/a "Senter's Products"

_____
Suzanne Washburn, Emily Washburn and Jesus Castillo

ASSIGNEE:
Magali Velazquez
d/b/a "Magali's Silver International"

_____
Magali Velazquez

_____
Address

_____
City, State, Zip Code

_____
Business Telephone Number

_____
Other Telephone Number

LANDLORD:
CITY OF SAN ANTONIO, a Texas Municipal Corporation

_____
City Manager

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk