RR
12/17/15
Item No. 4D

AN ORDINANCE 2015-12-17-1051

AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY AND SA FC MANAGEMENT, LLC ("SA FC") FOR THE SOUTH TEXAS AREA REGIONAL ("STAR") SOCCER COMPLEX LOCATED AT 5103 DAVID EDWARDS DRIVE, SAN ANTONIO, TX, CITY COUNCIL DISTRICT 10, EXCLUDING A PORTION OF PROPERTY TO REMAIN LEASED TO SPORTS AND OUTDOOR RECREATION ("SOAR") PARK; APPROVING THE NEGOTIATION AND EXECUTION OF ANCILLARY DOCUMENTS NECESSARY TO LEASE STAR SOCCER COMPLEX.

* * * * * *

WHEREAS, the San Antonio community has sought to attract a Major League Soccer ("MLS") franchise to the city; and

WHEREAS, recent discussions among the City of San Antonio (the "City"), Bexar County (the "County"), Spurs Sports & Entertainment ("SS&E) and representatives of Sports, Outdoor and Recreation ("SOAR") Park have resulted in a concerted effort to develop a strategy that will lead to the establishment of a MLS franchise in San Antonio; and

WHEREAS, the strategy includes the leasing of a majority of the STAR Soccer Complex to SA FC, an affiliate of SS&E, to manage and operate in conjunction with a lease for Toyota Field; and

WHEREAS, it has been agreed by all parties that a portion of the STAR Soccer Complex will remain under a lease agreement between the City and SOAR for use as a water park in association with Morgan's Wonderland; N**OW THEREFORE:**

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

SECTION 1. The City Council does approve the terms and conditions of a Lease Agreement between the City and SA FC Management, LLC for a majority of the STAR Soccer Complex.

SECTION 2. The City Manager, or her designee, is authorized to execute a Lease Agreement with SA FC Management, LLC in accordance with intent and purpose of this Ordinance. The Agreement, in substantially final form, is attached hereto as **Exhibit A** and upon execution by all parties shall be attached and made a part of this Ordinance.

SECTION 3. The City Manager, or her designee, upon the concurrence of the City Attorney is authorized to execute any necessary ancillary documents necessary to lease the STAR Soccer Complex to SA FC Management, LLC in accordance with intent and purpose of this Ordinance. Any such ancillary agreements shall, upon execution by all parties, be attached and made a part of this Ordinance.

RR
12/17/15
Item No. 4D

SECTION 4. This Ordinance shall become effective immediately upon its passage by eight (8) votes and ten days after its passage by less than eight (8) affirmative votes.

PASSED AND APPROVED this 17th day of December, 2015.

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:	**4D (in consent vote: 4A, 4B, 4C, 4D, 4E)**
Date:	12/17/2015
Time:	10:31:43 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing a Lease Agreement between the City and SA FC for the STAR Soccer Complex located at 5103 David Edwards Drive, San Antonio, TX, Bexar County, excluding a portion of property to remain leased to Sports and Outdoor Recreation; approving the negotiation and execution of ancillary documents necessary to lease STAR Soccer Complex.
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				
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			x	

EXHIBIT A

DRAFT

LEASE AGREEMENT BETWEEN THE CITY OF SAN ANTONIO SA FC MANAGEMENT, LLC FOR STAR SOCCER COMPLEX

This Lease Agreement (hereinafter called "Lease Agreement") is made and entered into by the City of San Antonio, a Texas Municipal Corporation (the "City"), hereinafter referred to as City, acting by and through its City Manager pursuant to Ordinance No. _____, passed and approved on _____, and Ordinance No. _____, passed and approved on _____, 2015, and the SA FC Management, LLC, a limited liability company (the "Tenant") hereinafter referred to as Tenant, a Texas non-profit corporation. City and Tenant are sometimes referred to herein collectively as the "Parties", and singularly as a "Party".

RECITALS

WHEREAS, City desires to lease to Tenant and Tenant desires to Lease from the City the Leased Premises (described below); and

WHEREAS, Tenant and SA BC Soccer PFC, a public facilities corporation of the State of Texas, duly created, organized and incorporated by the City and Bexar County, Texas have entered into a Lease Agreement dated December __, 2015 for Toyota Field ("Toyota Field Lease Agreement"); and

WHEREAS, Tenant and Bexar County have entered into an Operating Agreement dated _____ ___, 2015 for the operation of the STAR Soccer Complex ("County Operating Agreement"); and

NOW THEREFORE, the Parties severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described;

I. TERM

1.1 The term of this Lease Agreement shall commence on the Effective Date (defined below) and terminate twenty (20) years after the Effective Date ("Term") unless terminated earlier as provided herein. Tenant has the option to extend the Term if the term of the Toyota Field Lease Agreement has been extended.

II. DEMISE OF THE LEASED PREMISES AND RENT

2.1 City, for and in consideration of the covenants and promises herein contained to be kept, performed and observed by Tenant, does hereby lease and demise to Tenant, and Tenant does hereby lease and accept from City for the Term, the real property owned by City and described in Exhibit A attached hereto and all improvements thereon (hereinafter referred to as the "Leased Premises").

2.2 Tenant has had full opportunity to examine the Leased Premises and agrees that no representations respecting the conditions of the Leased Premises and no promises to alter, repair

or improve the Leased Premises, either before or after the execution hereof, have been made by City to Tenant. Tenant hereby accepts the Leased Premises in its present condition, AS IS, WHERE IS, WITH ALL FAULTS, as suitable for the purpose of operating the Soccer Complex.

III. USE AND OPERATION

3.1 The Leased Premises shall be used by Tenant only for the following purposes and for no other purposes:

- Operation of a regional soccer park for amateur athletic tournaments, amateur league play and other athletic competitions along with practice fields for same, provided, however, the professional soccer team owned and operated by Tenant or its affiliates (the "Professional Soccer Club") shall be allowed to utilize the Leased Premises for practices and administrative purposes;
- The sale of merchandise, food and beverages; and
- Any other events which Tenant desires to hold at the Leased Premises, including, but not limited to, concerts, music events, athletic events, sporting events, entertainment events and festivals, convention related activities, trade shows and any other event permitted by applicable law.

3.2 The consumption, possession or sale of alcoholic beverages is prohibited on the Leased Premises during any activity primarily involving youths such as youth soccer tournaments. The consumption, possession or sale of alcoholic beverages will be allowed for special events and after-hours events held at the Leased Premises including tailgate parties for soccer games and beer sold during adult league games and practices.

3.3 Tenant shall hold its fields open for use, subject to reasonable fees, rules and regulations, by the general public and amateur athletic leagues for their use. Any arrangement with a third-party athletic organization which will restrict the use of the entire soccer complex to one entity (other than the Professional Soccer Club) for a substantial period of time shall be subject to the written approval of City.

IV. CHARGES FOR USE OF THE LEASED PREMISES

4.1 Tenant shall have the right to set use fees for use of the soccer fields for practice, tournaments or competitions and shall charge such fees uniformly to all members of the public or leagues requesting to make use of the soccer fields.

4.2 Tenant shall have the right to enter into use agreements with the Northeast Independent School District and other school districts for (i) use of the Leased Premises by the students of Northeast Independent School District and other school districts and (ii) reciprocal parking rights with Northeast Independent School District provided however, the Tenant shall not need written approval from the City for allowing the School Districts to make temporary use of the facilities in the ordinary course of business.

V. CONSIDERATION

5.1 Tenant shall pay no rent to City for the lease and use of the Leased Premises.

VI. IMPROVEMENTS

6.1 Tenant shall not have the right to make any major capital improvements which will involve a material change in the use of the Leased Premises without the written consent of the Director of Parks and Recreation Department. Tenant shall have the right to make minor capital improvements ($100,000 or less) and to keep and maintain the Leased Premises in good working order.

VII. FIXTURES, PERSONAL PROPERTY AND SIGNS

7.1 Any trade fixtures, equipment, signs, furniture, furnishings, floor covering and other personal property of Tenant removable without substantial damage 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 Agreement, for any reason, shall leave the Leased Premises in the same condition as immediately prior to such installation, or better in a good, neat and clean condition, free of debris and broom clean condition. 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 Agreement, 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 Agreement shall 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. Further, Tenant will repair any damage caused by such removal and make any repairs necessitated thereby.

7.2 Tenant will be solely responsible for all costs associated with the permits, approvals, manufacture, installation and on-going maintenance of any and all signage.

7.3 No sign shall be placed on the 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.

7.4 Whenever Tenant's signage is repaired, removed or replaced, Tenant agrees to restore the area(s) where signage existed to its original condition or better.

7.5 A sign shall be erected in the Leased Premises that prominently acknowledge the City and County sponsorship of the Leased Premises.

7.6 Tenant may sell advertisement, sponsorship and naming rights for the Leased Premises ("Sponsorship Signage") and any revenue derived is the sole and exclusive property of the Tenant. No sale of sponsorship and naming rights shall give any third party any control over the use of the Leased Premises.

VIII. REPAIR AND MAINTENANCE

8.1 Tenant agrees, at Tenant's sole cost and expense, to maintain and keep the Leased Premises in good working order and repair and in good, clean, safe and sanitary condition (usual wear and tear, acts of God, casualty, or unavoidable accident, only excepted). Tenant shall not commit or permit any waste of the Leased Premises.

8.2 Tenant shall maintain the athletic fields to meet the minimum standards of the relevant national amateur athletic associations.

IX. UTILITIES AND SECURITY SERVICES

9.1 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, potable water, sewer, garbage collection, telephone, cable/satellite TV, or any other utility services, used in or on the Leased Premises. 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 City. City shall provide non-potable water to Tenant for irrigation purposes at no charge.

9.2 Tenant agrees to comply with all water use restrictions imposed by all applicable authorities including City, San Antonio Water System (SAWS) or Edward's Aquifer Authority (EAA).

X. LIENS

10.1 If, because of any act or omission of Tenant or anyone claiming through or under Tenant, any valid mechanic's or other involuntary lien for the payment of money shall be filed against the Leased Premises, Tenant shall, at its expense, cause the same to be canceled and discharged of record or bonded against, within one hundred (100) days after the date of filing and receipt by Tenant and in any event remove such lien within six (6) months from the date of filing and receipt by Tenant. City 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.

XI. LAWS, ORDINANCES, RULES AND REGULATIONS

11.1 Tenant covenants and agrees that Tenant and its employees 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.

11.2 Subject to Tenant's right to conduct its business, Tenant shall not injure, 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 omission 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 judgment, be deemed offensive or disturbing in nature.

11.3 Tenant will not use or permit the use of the Leased Premises for partisan political activities, including City, County, State or Federal campaigns, unless Tenant establishes a policy whereby the Leased Premises will be made available under the same terms to any person requesting use of the Leased Premises for such purposes regardless of the person's political affiliations. Said policy must be reviewed and approved by City prior to the holding of any such partisan political activities although fund-raising events for the operation, restoration and renovation of the Project held on the Leased Premises without the prior approval from City are allowable.

11.4 Tenant agrees to comply with the regulations or requirements of any insurance underwriter, inspection bureau, or similar agency, with respect to the Leased Premises.

XII. INSURANCE

12.1 Within thirty (30) days of the Effective Date, Tenant shall furnish copies of all required endorsements and an original completed certificate(s) of insurance to City's Parks and Recreation Department, which shall be clearly labeled "STAR Soccer Complex" in the description of operations block of the certificate. The original certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. City will not accept a memorandum of insurance or binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to City.

12.2 City reserves the right to review the insurance requirements of this Section during the Term and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Lease Agreement. In no instance will City allow modification whereupon City may incur increased risk.

12.3 Tenant's financial integrity is of interest to City; therefore, subject to Tenant's right to maintain reasonable deductibles in such amounts as are approved by City, Tenant shall obtain and maintain in full force and effect for the Term, and any extension hereof, at Tenant's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A-(VII), in the following types and for an amount not less than the amount listed:

TYPE	AMOUNT

1. Workers' Compensation and Employers Liability*	Statutory $1,000,000/$1,000,000/$1,000,000
2. Commercial General (Public) Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Host Liquor Liability or, if Tenant obtains a permit to sell alcohol directly Liquor Legal Liability.	Combined Single Limit for Bodily Injury and Property Damage of $1,000,000 per occurrence $2,000,000 general aggregate or its equivalent in umbrella or excess liability coverage
3. Comprehensive Automobile Liability* a. Owned/Leased Vehicles b. Non-owned Vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of $1,000,000 per occurrence or its equivalent
4. Property Insurance: For physical damage to the property of Tenant, including improvements and betterment to the Licensed Premises, if applicable.	Coverage for a minimum of eighty percent (80%) of the replacement cost of Tenant's property.

*If Applicable

12.4 City shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto as they apply to the limits required by City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties or the underwriter of any such policies). Tenant shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Tenant shall pay any costs incurred resulting from said changes.

City of San Antonio

Attn: Parks and Recreation Department

P.O. Box 839966

San Antonio, Texas 78283-3966

12.5 Tenant agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

A. Name City and its officers, officials, employees, and elected representatives as additional insureds by endorsement, with respect to operations and activities of, or on behalf of, the named insured performed under contract with City, with the exception of the workers' compensation and professional liability polices;

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

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

D. Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

12.6 Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, Tenant shall provide a replacement certificate of insurance and applicable endorsements to City.

12.7 If Tenant fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, City may obtain such insurance, and Tenant's shall reimburse City for such insurance; however, procuring of said insurance by City is an alternative to other remedies City may have, and is not the exclusive remedy for failure of Tenant to maintain said insurance or secure such endorsement.

12.8 Nothing herein contained shall be construed as limiting in any way the extent to which Tenant may be held responsible for payments of damages to persons or property resulting from Tenant's or its subcontractors' performance of the work covered under this Lease Agreement.

12.9 It is agreed that Tenant's insurance shall be deemed primary with respect to any insurance or self insurance carried by City for liability arising out of operations under this Lease Agreement.

12.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Lease Agreement.

XIII. INDEMNITY

13.1 Tenant covenants and agrees to INDEMNIFY, DEFEND, and HOLD HARMLESS, City and the elected officials, employees, officers, directors, and representatives of City, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon City directly or indirectly arising out of resulting from or related to Tenant's activities under this Lease Agreement, including any acts or omissions of Tenant, any agent, officer, director, representative, employee, consultant or subcontractor of Tenant, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties

under this Lease Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT TENANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

13.2 The provisions of this INDEMNITY are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Tenant shall notify City in writing within 72 hours of any claim or demand against City or Tenant known to Tenant related to or arising out of Tenant's activities under this Lease Agreement and shall see to the investigation and defense of such claim or demand at Tenant's cost. City shall have the right, at its option and at its own expense, to participate in such defense without relieving Tenant of any of its obligations under this paragraph.

XIV. REPORTS

14.1 Tenant shall inform the Director of Parks and Recreation Department, in writing, of Tenant's current officers and promptly notify the Director of Parks and Recreation Department, in writing, of any changes thereto. Annually, beginning on March 25, 2016 and each 25th day of March thereafter during the Term, Tenant will furnish to the Director of Parks and Recreation Department a report and financial statement relating to the Leased Premises including the following information:

- Detailed, audited, profit and loss statement and balance sheet related to STAR Soccer Complex for the previous calendar year;
- Certificate of insurance including endorsements (required year-round);
- Names, addresses, phone numbers and zip codes of all current board members and officers of Tenant;
- Number of tournaments and special events held in the previous calendar year (briefly describe); and

14.2 The City Manager or his/her designee shall be given notice of and be allowed to attend all meetings of the Board of Directors of Tenant and have full right of access to Tenant's books and records relating to the Leased Premises. City Manager shall give notice to Tenant of the person appointed as his/her designee, and any changes thereto, according to the notice provision of Article XXIV below.

XV. HOLDING OVER AND QUIET ENJOYMENT

15.1 Should Tenant hold over the Leased Premises, or any part thereof, after the expiration of the Term, such holding over shall constitute and be construed as a lease from month to month only. The inclusion of the preceding sentence shall not be construed as City's consent for Tenant

to hold over. City warrants that Tenant shall have peaceful possession and quiet enjoyment of the Leased Premises during the Term.

XVI. SURRENDER

16.1 Upon the expiration of the Term or termination of this Lease Agreement, Tenant shall surrender and deliver up the Leased Premises to City in good condition and repair, reasonable and ordinary wear and tear, damage by fire, casualty, taking by condemnation or act of public authority excepted.

XVII. ASSIGNMENT AND SUBLEASE

17.1 Tenant shall not sublease, assign, mortgage, or pledge this Lease Agreement or any part of the Leased Premises or any interest therein without first obtaining the written consent of City. Any such action by Tenant without the written consent of City shall be null and void, and shall, at the option of City terminate this Lease Agreement.

XVIII. DEFAULT

18.1 In addition to any other events of default specifically enumerated elsewhere in this Lease Agreement, to include, but not be limited to, the breach, default and violation of a covenant, it shall be an event of default if Tenant commits a default under the County Operating Agreement and the County Operating Agreement is terminated.

18.2 No default by either Party hereto shall result in a termination or limitation of any rights of such Party hereunder unless and until the other Party shall have notified the defaulting Party in writing of said default, and (i) the defaulting Party shall have failed to cure said default within sixty (60) days after the receipt of said written notice and (ii) if the default is such that it cannot be cured within sixty (60) days after the receipt of said written notice then the defaulting Party shall have failed to commence to cure said default within sixty (60) days after the receipt of said written notice and thereafter diligently proceed to cure such default.

XIX. TERMINATION AND OTHER REMEDIES

19.1 Upon the occurrence of an event of default by Tenant as heretofore provided, City may, at its option, declare this Lease Agreement and all rights and interest created by it to be terminated, provided, however, City may not exercise such remedy without first passage of an ordinance by the City Council of the City of San Antonio authorizing the City Manager to terminate this Lease Agreement at a regular scheduled meeting for which City has provided Tenant written notice two (2) weeks in advance of such meeting. Upon City electing to terminate this Lease Agreement, this Lease Agreement shall cease and come to an end as if that were the day originally fixed herein for the expiration of the Term hereof.

19.2 Upon termination of this Lease Agreement as provided in Section 19.1, Tenant shall quit and peacefully surrender the Leased Premises to City, and City, upon or at any time after such 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.

19.3 Any termination of this Lease Agreement as provided in Section 19.1 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.

19.4 If City shall terminate this Lease Agreement and take possession of the Leased Premises, 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 "good and effects") from the Leased Premises. If Tenant or any claimant shall fail to effect the removal of the goods and effects within thirty (30) days after such termination, 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.

19.5 All rights, options and remedies of City and Tenant contained in this Lease Agreement shall be cumulative of the other, and City and Tenant shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Lease Agreement. No waiver by City or Tenant of a breach of any of the covenants, conditions, or restrictions of this Lease Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction herein contained.

XX. CONDEMNATION

20.1 In the event that the Leased Premises are taken, in whole or in part, by any governmental authority, then (i) Tenant may terminate and cancel this Lease Agreement by giving City notice in writing within sixty (60) days of Tenant's receipt of notice of the condemnation and said termination shall be effective upon the date that the condemning authority takes possession of the condemned property, and thereupon both Parties shall be relieved of any further obligation under this Lease Agreement or (ii) Tenant may continue this Lease Agreement and all rights, title, and interest under this Lease Agreement shall cease as to that portion of the Leased Premises so taken or transferred vests in the condemning authority.

XXI. ACCESS TO THE LEASED PREMISES

21.1 Tenant agrees that City, its agents, and employees may so often as is reasonable and, to the extent practicable, upon not less than 24 hours advance notice, enter upon the Leased Premises during the Term for the purpose of maintaining or inspecting the same. In case of emergency, City shall give such notice, if any, as is reasonable under the circumstances. When entering the Leased Premises, City shall not unreasonably interfere with Tenant's use and enjoyment of the Leased Premises.

XXII. MISCELLANEOUS

22.1 If any clause or provision of this Lease Agreement is illegal, invalid or unenforceable under present or future laws effective during the Term of this Lease Agreement, then and in that event, it is the intention of the Parties that the remainder of this Lease Agreement shall not be affected thereby, and it is also the intention of the Parties to this Lease Agreement that in lieu of each clause or provision of this Lease Agreement that is illegal, invalid or unenforceable, there be added as a part of this Lease Agreement 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.

22.2 This Lease Agreement, together with the authorizing ordinance, constitutes the entire agreement between the Parties. No amendment, modification, or alteration of the terms of this Lease Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the Parties.

22.3 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 now or may hereafter be levied upon the Leased Premises, 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 laws and permits required for the operation of the business conducted by Tenant.

22.4 Any discrimination by Tenant or its agents or employees on account of race, color, sex, age, religion, handicap, or national origin, in employment practices or in the use of or admission to Leased Premises, is prohibited.

XXIII. NO SUBSTANTIAL INTEREST

23.1 Tenant covenants that neither it nor any member of its board of directors presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Lease Agreement. Tenant further covenants that in the performance of this Lease Agreement, no persons having such interest shall be employed or appointed as a member of its governing body.

23.2 Tenant further covenants that no member of its board of directors shall possess any interest in, or use their position for, a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with which they have family, business, or other ties.

23.3 No member of City's governing body or of its staff who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this Lease Agreement shall:

(A) Participate in any decision relating to this Lease Agreement which may affect his or her personal interest or the interest of any corporation, partnership, or association in which he or she has a direct or indirect interest; or

(B) Have any direct or indirect interest in this Lease Agreement or the proceeds thereof.

XXIV. NOTICES

24.01 For purposes of this Lease Agreement, all official communications and notices among the Parties shall be deemed sufficient if in writing and either by (i) mailed, registered or certified mail, postage prepaid, (ii) hand delivery with proof of delivery or (iii) or by overnight courier to the addresses set forth below:

City: City Clerk
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

With Copies to:
Director of Parks and Recreation
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

Tenant: SA FC Management, LLC
_____
_____
_____

Either Party may change the foregoing addresses by notice given pursuant to this paragraph.

XXV. PARTIES BOUND

25.1 This Lease Agreement shall be binding upon and inure to the benefit of the Parties, their respective legal representatives, successors and assigns.

XXVI. APPROVAL OF CITY

26.1 Whenever this Lease Agreement calls for approval by City, unless otherwise explained herein, such approval shall be evidenced by the written approval of the City Manager or his/her designee, unless City Council approval by charter, code or ordinance is required herein.

XXVII. RELATIONSHIP OF PARTIES

27.1 Nothing contained herein shall be deemed or construed by the Parties 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.

XXVIII. TEXAS LAW TO APPLY

28.1 This Lease 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.

XXIX. GENDER

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

XXX. CAPTIONS

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

XXXI. AUTHORITY

31.1 If Tenant is a corporation, the persons executing this Lease Agreement on behalf of Tenant hereby covenants and warrants that: Tenant is a duly constituted limited liability company qualified to do business in Texas and such person is duly authorized by the board of directors of such corporation to execute and deliver this Lease Agreement on behalf of the corporation.

XXXII. FORCE MAJEURE.

32.1 In the event Tenant shall be delayed or hindered or prevented from the performance of any obligation required under this Lease Agreement by reason of strikes, lockouts, inability to procure labor or materials, power failure, fire or other casualty, acts of God, weather-related delays impairing construction activities, restrictive governmental laws or regulations, riots, insurrection, war or any other reason not within the reasonable control of Tenant, then the performance of such obligation shall be excused for the period of such delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

EXECUTED IN DUPLICATE ORIGINALS, each of which shall have the full force and effect of an original this the ___ day of _____, _____ ("Effective Date").

CITY OF SAN ANTONIO

By: _____

Sheryl Sculley

City Manager

SA FC MANAGEMENT, LLC

By: _____

Name:

Title:

ATTEST: _____

CITY CLERK

APPROVED AS TO FORM:

_____

CITY ATTORNEY

EXHIBIT A

Metes and Bounds Description of the Leased Premises