

AN ORDINANCE 99912

AUTHORIZING AN AMENDMENT TO THE HENRY B. GONZALEZ FOOD AND BEVERAGE SERVICE AGREEMENT WITH RK GROUP JOINT VENTURE TO DECREASE THE NUMBER OF DAYS REQUIRED TO PROVIDE NOTICE TO THE CONTRACTOR OF THE CITY'S OPTION TO EXTEND THE AGREEMENT FROM NO LATER THAN 90 DAYS TO NO LATER THAN 60 DAYS PRIOR TO THE EXPIRATION OF THE INITIAL TERM OF THE CONTRACT OR DECEMBER 2, 2004.

* * * * *

WHEREAS, Ordinance No. 99475, passed and approved on July 22, 2004 authorized the amendment of the Food and Beverage Service Agreement (the "Agreement") between the City and the RK Group Joint Venture (the "Contractor") to decrease the number of days required to notify Contractor of City's intention to exercise its five-year Option Term from 180 days to 90 days therefore requiring City to notify Contractor no later than November 1, 2004; and

WHEREAS, the City and Contractor are negotiating terms and conditions for the Option Term of the Agreement and require an additional thirty (30) days to determine if the exercise of the City's Option Term is in the City's best interest; and

WHEREAS, City and Contractor have agreed to further amend the Agreement to decrease the number of days required to notify Contractor of City's intent to exercise its five-year Option Term from no later than 90 days to no later than 60 days prior to the expiration of the Initial Term of the Agreement, therefore requiring City to notify Contractor no later than December 2, 2004; **NOW THEREFORE:**

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

SECTION 1. An amendment to the Henry B. Gonzalez Convention Center Food and Beverage Agreement to decrease the number of days required to notify the Contractor of the City's intention to exercise its option to extend the Agreement from no later than 90 days prior to the expiration of the Initial Term of the Agreement to no later than 60 days prior to the expiration of the Initial Term of the Agreement is hereby authorized. A copy of the Amendment in substantially its final form is attached hereto and made a part of this Ordinance as Exhibit A. A copy of the fully executed Amendment will be attached to this Ordinance and will replace Exhibit A.

SECTION 2. The Interim City Manager or his designee is hereby authorized for a period of 45 days to execute any and all documents necessary to fulfill the purpose and intent of this Ordinance.

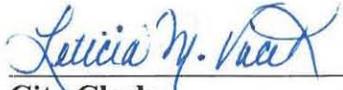
SECTION 3. This Ordinance shall become effective on and after the tenth (10th) day after passage hereof.

PASSED AND APPROVED this 21st day of October 2004.



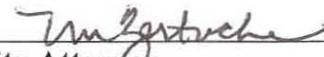
M A Y O R
EDWARD D. GARZA

ATTEST:



City Clerk

APPROVED AS TO FORM:



for City Attorney

ATTACHMENT 1

**SECOND AMENDMENT TO THE HENRY B. GONZALEZ
CONVENTION CENTER FOOD AND BEVERAGE SERVICE
AGREEMENT**

**BETWEEN THE CITY OF SAN ANTONIO AND THE RK GROUP JOINT
VENTURE**

This SECOND AMENDMENT to the HENRY B. GONZALEZ CONVENTION CENTER FOOD AND BEVERAGE SERVICE AGREEMENT (this "Amendment") is entered into, pursuant to Ordinance Number 999/2 passed and approved on October 21, 2004, by and between the CITY OF SAN ANTONIO ("City") and the RK GROUP JOINT VENTURE ("Contractor"), together referred to as "the Parties."

RECITALS

- A. City and Contractor are parties to that certain Food and Beverage Service Agreement entered into pursuant to Ordinance 85056 passed and approved on October 24, 1996 and executed by both Parties on March 3, 1997 (the "Agreement").
- B. Prior to the effectiveness of this Amendment, the Agreement, in accordance with Article II, Section 2, as amended by Ordinance No. 99475, required City to notify Contractor of its intent to exercise its option to extend the Agreement for a five-year term not later than ninety (90) days preceding the expiration of the Initial Term of the Agreement.
- C. City and Contractor desire to amend the Agreement as stated in this Amendment.
- D. All other provisions of the Agreement remain in force.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in the Agreement, the receipt and adequacy of which are hereby acknowledged, City and Contractor hereby agree as follows:

- 1. Definitions. All capitalized terms used in this Amendment without definition herein shall have the meanings assigned to such terms in the Agreement.
- 2. Amendments. The Agreement is hereby amended as follows:

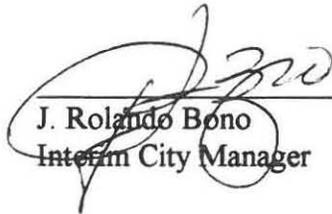
Article II, Section 2, Sentence 2 is deleted in its entirety and replaced with the following sentence:

"City shall notify Contractor in writing of its intent to continue the Agreement no later than sixty (60) days preceding the expiration of the Initial Term."

3. Effective Date. This Amendment shall be effective upon its execution.
4. No Other Changes. Except as specifically set forth in Section 2 of this Amendment, all of the terms and conditions of the Agreement shall remain the same and are hereby ratified and confirmed. The Agreement, as amended by this Amendment, shall continue in full force and effect, and the Agreement, as amended by this Amendment, shall be read and construed as one instrument.
5. Choice of Law. This Amendment shall be construed in accordance with and governed by the laws of the State of Texas.
6. Counterparts. This Amendment may be executed in any number of counterparts, but all such counterparts shall together constitute but one instrument. In making proof of this Amendment it shall not be necessary to produce or account for more than one counterpart signed by each party hereto by and against which enforcement hereof is sought.

IN WITNESS HEREOF, the parties hereto have executed in duplicate originals this Amendment on the 1st day of November 2004.

CITY OF SAN ANTONIO
a Municipal Corporation



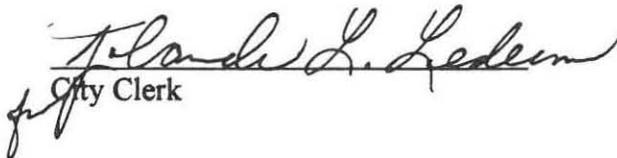
J. Rolando Bono
Interim City Manager

RK GROUP JOINT VENTURE
a Texas Joint Venture



Greg Kowalski
President
Catering By Rosemary, Inc.
Managing Joint Venture Partner

ATTEST:



J. Rolando Bono
City Clerk

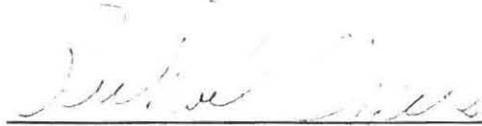


Rosemary Kowalski
President
Rosemary Kowalski & Associates
Joint Venture Partner

APPROVED AS TO FORM:



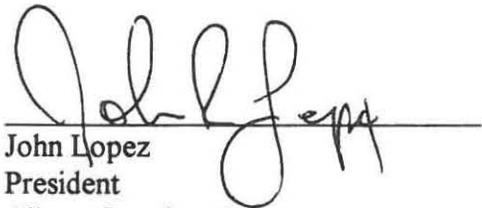
Andrew Martin
City Attorney



Richard Ojeda
President
Taco Flats, Inc., d/b/a Black Tie
Affairs Catering, Joint Venture
Partner



Manuel H. Garza, Jr.
President
La Casita Enterprises, Inc., d/b/a
Catering by Nick
Joint Venture Partner



John Lopez
President
Allstar Catering, Inc.
Joint Venture Partner

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
CONVENTION FACILITIES DEPARTMENT**

TO: Mayor and City Council

FROM: Michael J. Sawaya, Convention Facilities Director

THROUGH: J. Rolando Bono, Interim City Manager

COPIES: Roland Lozano, Assistant to the City Manager; Veronica Zertuche, Deputy City Attorney; File

SUBJECT: Second Amendment to the Henry B. Gonzalez Convention Center Food and Beverage Service Agreement

DATE: October 21, 2004

SUMMARY AND RECOMMENDATIONS

An Ordinance authorizing an amendment to the Henry B. Gonzalez Convention Center Food and Beverage Service Agreement with RK Group Joint Venture to decrease the number of days required to provide notice to the Contractor of the City's option to renew from no later than 90 days preceding expiration of the Initial Term to no later than 60 days preceding the expiration of the Initial Term of the Agreement or December 2, 2004.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

The Henry B. Gonzalez Convention Center Food and Beverage Service Agreement between City of San Antonio and RK Group Joint Venture expires on January 31, 2005. The eight-year Agreement commenced February 1, 1997 and provides for a five-year extension. The decision to grant the five-year extension is being evaluated based upon the results of a recent audit and negotiations with the RK Group L.L.C. Staff is evaluating market trends and an improved commission structure that would enable a more efficient means of monitoring the agreement. The consulting firm of Bigelow Companies has been retained to assist Staff in this process.

POLICY ANALYSIS

The Food and Beverage Service Agreement is one of the Convention Facilities Department's largest contracts and financial revenue source. Reducing the number of days required to provide notice to the Contractor will provide sufficient time to evaluate options that are in the best interest of the City.

FISCAL IMPACT

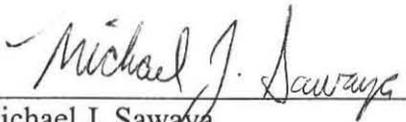
There will be no financial impact.

COORDINATION

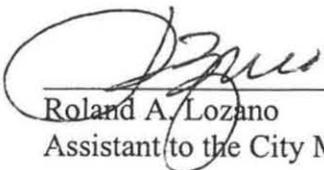
This action has been coordinated with the City Attorney's Office.

SUPPLEMENTARY COMMENTS

A Discretionary Contracts Disclosure form is not required for this action.



Michael J. Sawaya
Convention Facilities Director



Roland A. Lozano
Assistant to the City Manager

APPROVED:



J. Rolando Bono
Interim City Manager