LB
4/10/14
Item No. 19

AN ORDINANCE 2014-04-10-0231

AUTHORIZING THE SECOND AMENDMENT TO THE FIRST AMENDED AND RESTATED LICENSE AGREEMENT WITH ARAMARK SPORTS AND ENTERTAINMENT SERVICES OF TEXAS, INC. ("ARAMARK") AND THE THIRD AMENDMENT TO THE AMENDED AND RESTATED HENRY B. GONZALEZ CONVENTION CENTER FOOD AND BEVERAGE SERVICE AND CONCESSION SERVICES AGREEMENT WITH THE RK GROUP L.L.C. ("RK GROUP") TO TRANSFER CONCESSIONS AND CATERING SERVICES ON THE CLUB LEVEL AND GROUNDS OF THE ALAMODOME FROM THE RK GROUP TO ARAMARK.

* * * * *

WHEREAS, City Council previously approved the First Amended and Restated License Agreement with Aramark which transferred the provision of catering, restaurant and Club Level concession services at the Alamodome to the RK Group and the Second Amendment of the Henry B. Gonzalez Convention Center ("HBGCC") Food and Beverage Service and Concession Services Agreement extended the RK Group's exclusive rights to provide food, beverage and concession services at the HBGCC and Lila Cockrell Theatre through September 30, 2015 and transferred catering and Club Level concessions at the Alamodome to the RK Group; and

WHEREAS, the University of Texas at San Antonio and the Valero Alamobowl, two of the Alamodome's major tenants, have shown interest in increasing service levels on the Club Level and the RK Group has expressed a desire to relinquish all catering and concessions services on the Club Level and grounds of the Alamodome, while retaining catering on the floor of the facility; **NOW THEREFORE:**

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

SECTION 1. The terms and conditions of the Second Amendment to the First Amended and Restated License Agreement with Aramark and the Third Amendment to the Amended and Restated Henry B. Gonzalez Convention Center Food and Beverage Service Agreement and Concession Services Agreement with the RK Group, are authorized and approved. The City Manager or her designee is authorized to execute such Amendments, copies of which were previously executed by Aramark and the RK Group, and are attached to this Ordinance as **Exhibits I** and **II**, respectively.

SECTION 2. This Ordinance shall take effect immediately upon the receipt of eight affirmative votes; otherwise it shall be effective ten days after its passage.

LB
4/10/14
Item No. 19

PASSED AND APPROVED this 10th day of April, 2014.

M A Y O R
for Julián Castro

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Robert F. Greenblum, City Attorney

Agenda Item:	**19 (in consent vote: 4, 5, 6, 7, 8, 9, 12, 15, 16, 18, 19, 20, 21, 22, 23, 24, 26, 27)**
Date:	04/10/2014
Time:	09:31:12 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the second amendment to the First Amended and Restated License Agreement with Aramark Sports and Entertainments Services of Texas, Inc. and the third amendment to the Amendment and Restatement of the Henry B. Gonzalez Convention Center Food and Beverage Servce and Concession Services Agreement with the RK Group L.L.C. transferring concessions and catering services on the Club Level and grounds of the Alamodome from the RK Group to Aramak. [Ed Belmares, Assistant City Manager; Michael J. Sawaya, Director, Convention & Sports Facilities]
Result:	Passed

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

EXHIBIT I

SECOND AMENDMENT TO
FIRST AMENDED AND RESTATED LICENSE AGREEMENT

FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, this Second Amendment to the First Amended and Restated License Agreement ("Second Amendment") is entered into by the CITY OF SAN ANTONIO, a Texas Municipal corporation ("City"), acting by and through its City Manager pursuant to and duly authorized by Ordinance No. 2014-____-____-_____, passed and approved on _____, 2014, and ARAMARK Sports and Entertainment Services of Texas, LLC ("Licensee"), a Texas Limited Liability Company, acting by and through its duly authorized designated officer.

BACKGROUND

A. City and Licensee entered into the First Amended and Restated License Agreement ("Agreement") pursuant to City of San Antonio Ordinance No. 2008-08-14-0705, passed and approved on August 14, 2008, and as amended by the First Amendment authorized by City Ordinance No.2010-05-13-0433, passed and approved on May 13, 2010.

B. City and Licensee agree to amend specific provisions of the Agreement as set out in this Second Amendment.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing and the covenants and agreements set forth herein, and intending to be legally bound hereby, the City and Licensee agree as follows:

1. All references to "Concession Premises" in the Agreement shall be changed to read "Foodservice Premises."

2. The first RECITAL shall be deleted in its entirety and replaced with the following:

   "Whereas, City owns and operates the Alamodome, located at 100 Montana Street, San Antonio, Texas;"

3. Section 1.2(a) shall be added as follows:

   "Alamodome Grounds" shall mean area surrounding Alamodome, including parking lots, pedestrian plazas, and loading docks.

4. Section 1.3 shall be modified to include mixed beverages.

5. Section 1.5 shall be deleted in its entirety and replaced with the following:

   "Catering Sales" shall refer to any food or beverage function of multiple customers, including Suite Sales, where payment for the entire function rests with one individual or company and shall also include any cash bars operated in conjunction with such catering.

6. Section 1.7 is deleted in its entirety and the remainder of the Article shall maintain its numbering.

7. Section 1.9 is deleted in its entirety and replaced with the following"

   "Concession Sales" shall refer to the sale of food and beverages sold from permanent or portable concession stands or roving vendors to individual customers and shall exclude Catering Sales, Suite Sales, Restaurant Sales and Subcontractor Sales."

8. Section 1.11 is deleted in its entirety and replaced with the following:

"Foodservice" shall refer to the following sales of food and beverages at the Alamodome: Alcoholic Beverages, Branded Products, Restaurant Sales, Concession Sales and Catering Sales."

9. Section 2.2 is deleted in its entirety and replaced with the following:

"The following areas and services at the Alamodome are excluded from these exclusive rights: Catering Sales for the floor level of the Alamodome, locker rooms, backstage, performer, employee and/or athletic dressing rooms. Licensee may be required by the City to serve these areas on an event specific non-exclusive basis."

10. Section 2.3 shall be modified to include the Fiesta Carnival and other City sponsored events.

11. Section 4.1 shall be deleted in its entirety and replaced with the following:

"As consideration for Licensee operating said Foodservice operations, Licensee shall pay City the following percentages of Gross Receipts from the following sales categories (the "Commissions"):

Annual Sales Category	Percentage of Gross Receipts
Concession Sales between $0 – $1,561,500	35.0%
Concession Sales over $1,561,500	40.0% (on the increment)
Concessions Sales on Club Level*	25%
Concession Sales on Alamodome Grounds*	35%
Subcontractor Sales	27.5%
Catering Sales	27%
Restaurant Sales	27%
Discounted Sales	To be mutually agreed upon by City and Licensee

* Shall be calculated in total Concession Sales used to determine the applicable percentage (35% or 40%) of Gross Receipts due City on Concession Sales.

12. Section 5.1 shall be deleted in its entirety and replaced with the following:

"Licensee must, in accordance with all applicable laws, ordinances, rules, and regulations, maintain all assigned areas which include concession stands, bars, restaurants, pantries, condiment stands, kitchens, novelty stands, storage, concession and catering offices and prep areas (collectively, "Foodservice Premises") in a clean, sanitary, and orderly fashion."

13. Section 5.5 shall be deleted in its entirety and replaced with the following:

"Licensee shall deposit in receptacles provided by Licensee all waste, garbage and refuse which shall accumulate in the Foodservice Premises and shall keep the concession stands, commissaries, kitchens, dining rooms, store rooms and other locations and space allotted to it, in good, clean and sanitary condition including, but not limited to, condiment tables and concession stand counters inside and outside the rollup doors. Garbage removal shall be the sole responsibility of Licensee. All trash and garbage receptacles will be cleaned and sanitized by Licensee to insure a high standard of sanitation and all garbage will be double-bagged to reduce leaks. Grease removal will be arranged and provided by Licensee to avoid collection and spillage. Licensee is prohibited from pouring grease or causing grease to be poured down drains at the Alamodome. Any damages resulting from a violation of such prohibition by Licensee shall be the responsibility of Licensee. City is responsible for providing its own dumpsters and for the emptying of them from the Alamodome. City shall pay all dumpster and trash removal costs. City shall pick up concession trash after events. Licensee shall be responsible for taking all other trash to dumpsters. City's housekeeping contractor shall pick up concession trash after events. Licensee shall be responsible for coordinating with City's housekeeping contractor for the pick-up of trash and no trash shall be placed outside the Foodservice Premises at any time other than those agreed to by Licensee and the City's housekeeping contractor. Licensee shall be responsible for taking all other trash to dumpsters. Unless otherwise directed by the City, Licensee shall implement a recycling program acceptable to City upon the effective date of this Agreement and shall continue said program throughout the term of this Agreement. A copy of Licensee's recycling program shall be provided to the City within 30 days after the effective date of this Agreement. Licensee will comply with all recycling programs implemented by City to the extent the costs of such program are reasonable."

14. Section 7.12 shall be added as follows:

"Licensee shall employ sufficient amount of servers so that the main course of any Catered meal is served within thirty (30) minutes of the commencement of the meal."

15. Section 11.3 shall be amended by deleting the last sentence and replacing it with the following:

"No third party nor City shall be permitted to provide Foodservice sales at the Alamodome, except as provided in Sections 2.2 and 2.3."

16. Section 11.11 shall be added as follows:

"Licensee shall provide, to the extent set forth herein, set up, and remove tables, tents, staging, portable carts, stands, Equipment and Smallwares for events. Licensee will be responsible for skirting and dressing (including place settings) banquet tables on a timely basis. Licensee shall be responsible for setting up and tearing down all portable equipment, including tables supplied by City. Licensee is responsible for stacking all tables and chairs in their transport rack within four hours of the conclusion of the event and removing all Licensee supplied tables and chairs from the Alamodome at that time. Licensee shall provide City with the final table and chair count for all catered functions at least three (3) business days prior to the commencement of the event. Alamodome will deliver tables and chairs, to the extent City has the quantities available, four hours prior to the commencement of the event. If more than four hours set time is required by the Licensee. Licensee shall notify City of the time required at least three (3) business days prior to the commencement of the event. Additional tables and chairs required over and above the amount available from City shall be Licensee's sole expense."

17. Section 11.12 shall be added as follows:

"At the termination of this Agreement, Licensee shall assign all Catering contracts and Catering deposits, for events that are scheduled to occur after the effective date of termination, to the succeeding licensee."

18. Section 13.5 shall be deleted in its entirety and replaced with the following:

"Licensee shall provide to City, in a format acceptable to City, a written summary of each Concessions and Restaurant event, Suite and/or Catering invoice, and/or Catering contract at which it provides Foodservice under this Agreement, within a reasonable amount of time as determined by City, indicating where appropriate, customer pricing, guarantees, event date, event day of week, event name, concession and subcontractor sales by area, commission due to the City under Section 4.1, attendance, the per capita calculation, and any other information required by the City."

19. Section 16.7 shall be deleted in its entirety and replaced with the following:

"Upon the termination of this Agreement, for any reason, Licensee's successor shall comply with the buyout provision of Licensee's Investment set forth in Section 14.2 and Licensee shall transfer any and all Alcoholic Beverage licenses or permits for the Alamodome it holds, if permissible under law, as required by Section 9.2, and shall assign all existing catering contracts and deposits scheduled to occur after the effective date of termination to the succeeding licensee. This Agreement shall serve as written authorization from City to assign such contracts and deposits to the succeeding licensee, as required by Article XVIII below."

20. Section 20.2 shall be deleted in its entirety and the remainder of the Article shall maintain its numbering.

21. Sections 20.14 and 1.6 shall be modified to reflect the following contact information for the City:

Convention and Sports Facilities
Nicholas Langella, Alamodome General Manager
100 Montana Street
San Antonio, Texas 78203

Except as otherwise expressly modified hereby, all terms and provisions of the Agreement are ratified and confirmed and shall remain in full force and effect, enforceable in accordance with their terms.

EXECUTED AND SIGNED to be effective the 1st day of May, 2014.

CITY OF SAN ANTONIO

Sheryl Sculley
City Manager

ARAMARK SPORTS AND ENTERTAINMENT SERVICES OF TEXAS, LLC

Name: Mark R. Adams
Title: Chief Financial Officer

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT II

THIRD AMENDMENT TO THE AMENDMENT AND RESTATEMENT OF THE HENRY B. GONZALEZ CONVENTION CENTER FOOD AND BEVERAGE SERVICE AGREEMENT AND CONCESSION SERVICES AGREEMENT

BETWEEN THE CITY OF SAN ANTONIO AND THE RK GROUP L.L.C.

This Third Amendment to the Amendment and Restatement of the Henry B. Gonzalez Convention Center Food and Beverage Service and Concession Services Agreement (hereinafter referred to as "Third Amendment") is hereby made and entered into by and between the City of San Antonio (hereinafter referred to as "City") a Texas municipal corporation acting by and through its City Manager pursuant to Ordinance No. 2014-04-10-_____, dated April 10, 2014 and the RK Group L.L.C. (hereinafter referred to as "Contractor").

RECITALS

A. City and Contractor are parties to the Amendment and Restatement of the Henry B. Gonzalez Convention Center Food and Beverage Service and Concession Services Agreement entered into and pursuant to Ordinance No. 99968 passed and approved on November 4, 2004 and executed by both Parties on November 10, 2004 (the "Agreement"), as amended.

B. Prior to the effectiveness of this Third Amendment, the Agreement contained certain terms that the Parties now seek to clarify, change, or amend, namely Contractor shall no longer provide food and beverage catering and concessions services on the Alamodome's Club Level, in its suites, or on its grounds.

C. City and Contractor desire to amend the Agreement as stated in this Third Amendment.

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.** The following definitions are amended as follows:

   (A) The definition of "Agreement" in the Second Amendment is deleted in its entirety and replaced with the following:

   "Agreement- shall mean this Food and Beverage and Concession Services Agreement and all addenda attached hetero. This Agreement is for the exclusive rights to all Food and Beverage Services (catering) inside the Center, Lila Cockrell Theater and interior of the Alamodome, excluding Alamodome Suites and Alamodome Grounds, and Concession rights in the Center, Lila Cockrell Theater and non-exclusive rights, as set forth herein, outside the Center."

(B) The definition of "Concessions" in the Second Amendment is deleted in its entirety and replaced with the following:

"Concessions- shall mean the sale of food and beverages (alcoholic and non-alcoholic) from fixed, temporary, Portable Concession stands, or roving vendors to individual customers."

(C) The definition of "Concession Facilities" in the Second Amendment is deleted in its entirety and replaced with the following:

"Concession Facilities - shall mean those areas of the Henry B. Gonzalez Convention Center and Lila Cockrell Theater where Contractor is authorized to perform Concession Services."

(D) The definition of "Premises" in the Second Amendment is deleted in its entirety and replaced with the following:

Premises – shall mean all areas associated with the Henry B. Gonzalez Convention Center, and Lila Cockrell Theater, as described further in Addendum II, and certain areas in the interior of the Alamodome, except for those areas specifically excluded herein..

2. **Section 3.1** of the Agreement is deleted in its entirety and replaced with the following:

"City hereby grants to Contractor the exclusive right to provide Food and Beverage Services at the Center, Lila Cockrell Theater, the interior of the Alamodome, excluding the Alamodome Grounds and Alamodome Suites, and exclusive Concession rights, as described in Article XL, at the Center and Lila Cockrell Theater, with the exception of those instances where emergency circumstances, inclement weather, or any other circumstances that the Convention Facilities Director and Contractor mutually agree warrants the Convention Facilities Director to permit Customers of the Center or Licensees to provide its own Food and Beverage Service and/or Concession Services on the Premises."

3. **Section 3.1.1(e)** of the Second Amendment is deleted in its entirety.

4. **Section 40.1** of the Second Amendment is deleted in its entirety and replaced with the following:

"In addition to Food and Beverage Services to be performed at the Center and Lila Cockrell Theater, Contractor shall have exclusive right and privilege of selling and serving Concession Services (including alcoholic beverages) and related items at permanent or temporary stands and Portable Concessions at the Center and Lila Cockrell Theater during public events."

5. **Section 40.1(a)** of the Second Amendment is deleted in its entirety and replaced with the following:

"For Non-Licensed Sales, a commission in the amount of thirty-five percent (35%) of Gross Receipts for such concession sales at the Convention Center and Lila Cockrell Theatre; and"

6. **Addendum II** is deleted in its entirety and replaced with Addendum II that is attached to this Third Amendment as Exhibit I.

Except as otherwise expressly modified hereby, all terms and provisions of the Agreement are ratified and confirmed and shall remain in full force and effect, enforceable in accordance with their terms.

EXECUTED AND SIGNED to be effective the 1st day of May, 2014.

CITY OF SAN ANTONIO
Texas Municipal Corporation

Sheryl L. Sculley
City Manager

RK GROUP LLC
Limited Liability Corporation

Greg Kowalski
Managing Member

Attest:

Leticia Vacek
City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit I: Addendum II Food and Beverage Service and Concession Service Facilities

Addendum II
Food and Beverage Service and Concession Services Facilities

Summary

1. **Areas Assigned to Contractor** including Cleaning and Extermination Responsibilities

   a. Convention Center – Third Level
   3018
   3019 – East Kitchen
   3020
   3023
   C301D
   C302A-D
   C303B
   Men's and Ladies Restrooms east of Kitchen

   b. Convention Center – Concourse Level
   Office Space Assigned to Contractor
   2124
   C202C
   C203A
   C205B
   C206A
   C206F
   C207A
   C207B
   M208 – Wet Bar

   c. Convention Center – Street Level
   East Kitchen Loading Dock – 601 Bowie Street (may be utilized on certain occasions based on event needs and coordination with Hunt Zachary)
   Men's and Ladies Restrooms by Bowie Loading Dock
   1148 - East Kitchen Dock Office
   1153
   1153A
   Entrance Lobby Coffee Shop – Pour Favor
   1109 – behind Pour Favor
   Entrance Lobby Concession Area – El Puente
   C109B
   North Pantry
   South Pantry

Addendum II
Food and Beverage Service and Concession Services Facilities

Concession Areas – Street Level
Lila Cockrell Theater – One Each Level – Three Levels
1155
1164 – Concessions Office and Storage
H3
H13
Concession Areas – Street Level - continued
H14
H24
HA01
HC25
HD07

d. Convention Center – River Level
West Kitchen Loading Dock – Shared with City
West Kitchen
0030 – West Kitchen Storage Area
C003C
C007B
C007G
Lonesome Dove Prep Area

2. Loading Dock - Access Only – Street Level

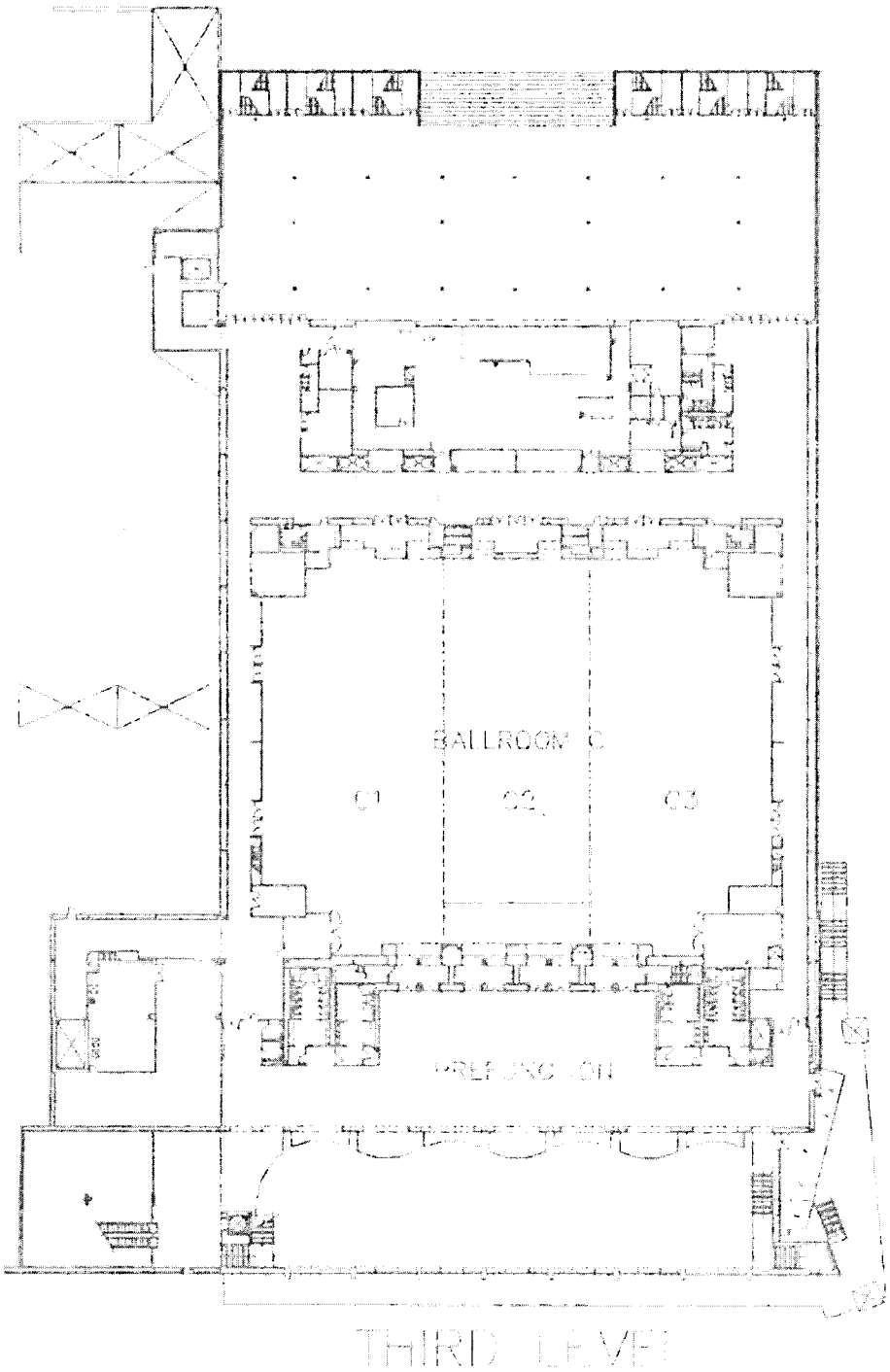
a. Bowie Street Exhibit Hall C&D Loading Dock – 615 Bowie Street

3. Employee Entrance and Exit Locations

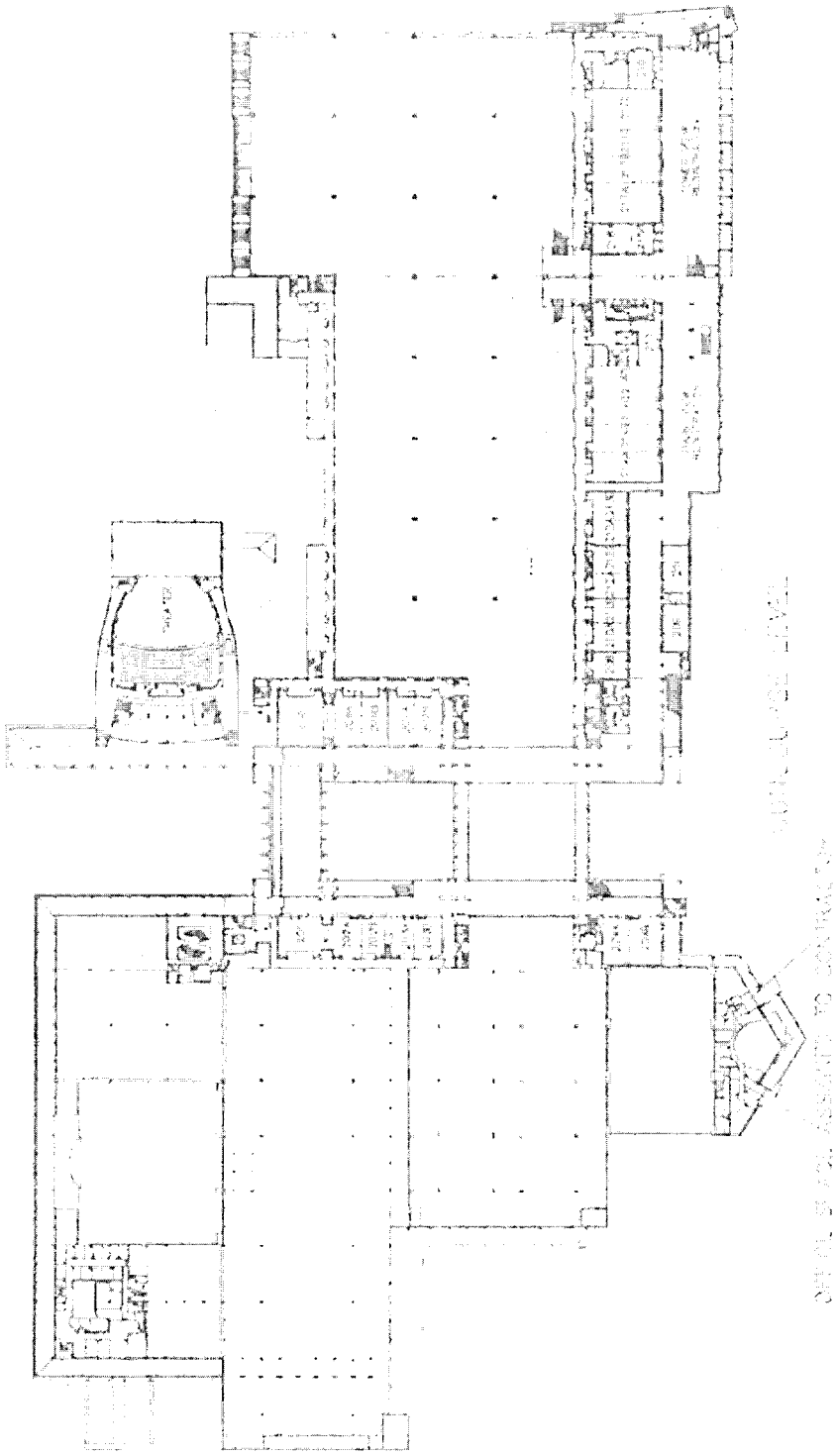
a. West Kitchen Loading Dock

b. Hemisfair Park Entrance at the City Café

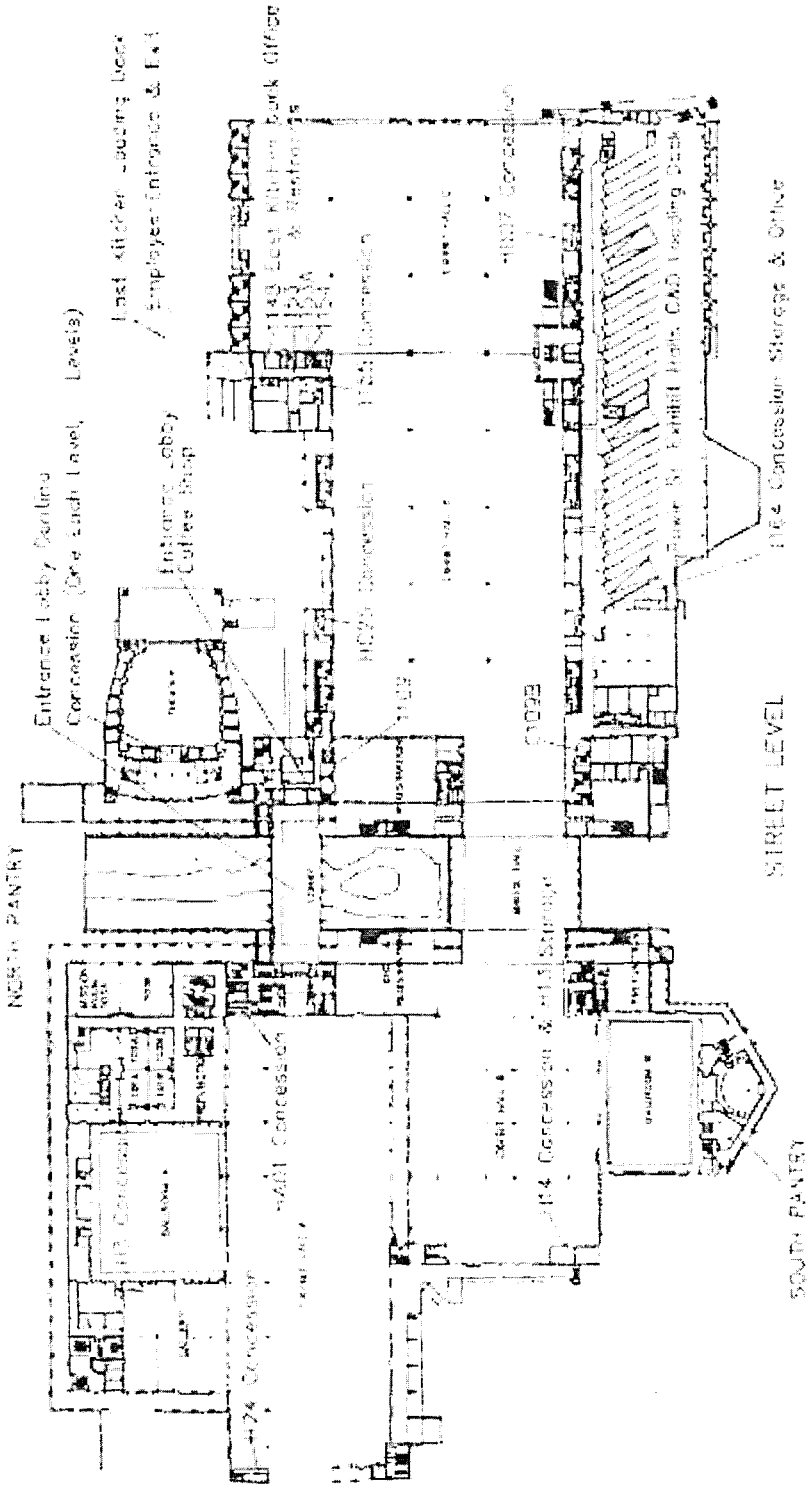
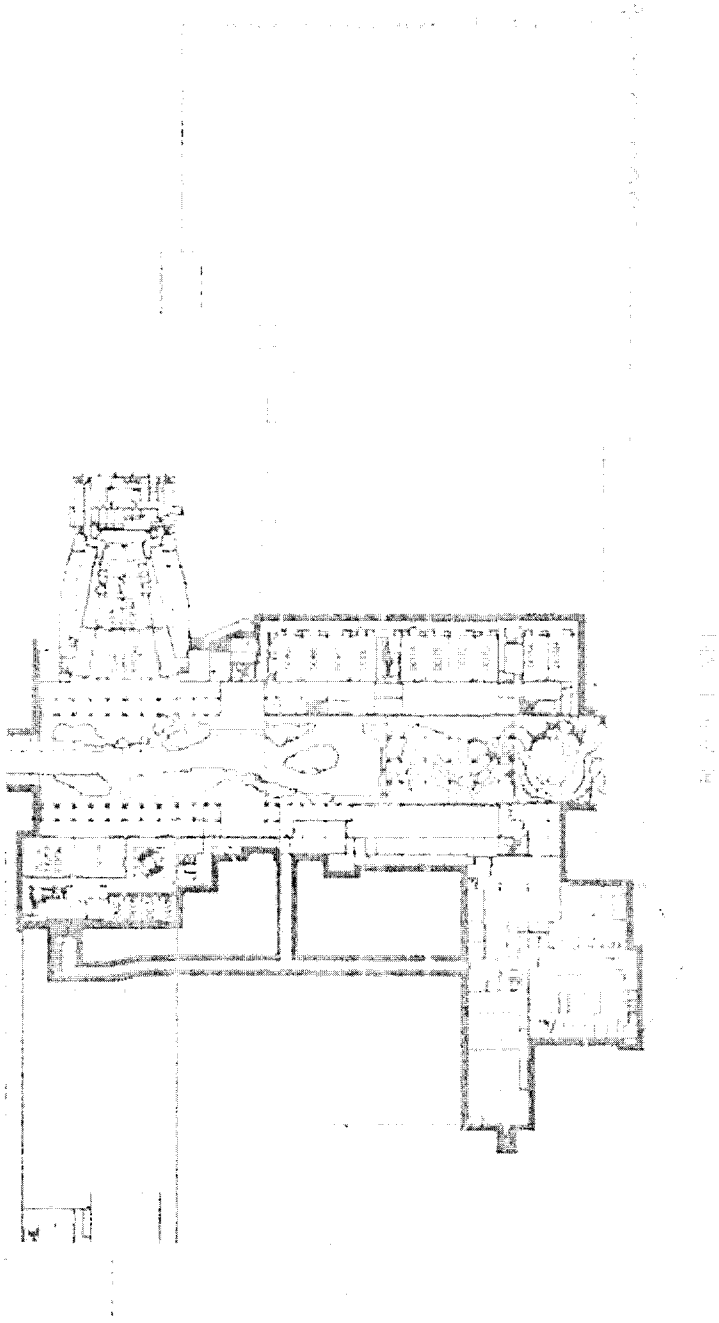
Addendum II
Food and Beverage Service and Concession Services Facilities



Addendum II
Food and Beverage Service and Concession Services Facilities



Addendum II
Food and Beverage Service and Concession Services Facilities


NORTH PANTRY
Entrance Lobby Pantry
Concession (One Lunch Level, Levels)
Interior Lobby
Coffee Shop
Employee Entrance & Exit
Food Concession
Food Concession
Food Concession

Addendum II
Food and Beverage Service and Concession Services Facilities