

AN ORDINANCE

99477

AUTHORIZING A NEW PROBATION PERIOD FOR TENANT LEASE AND LICENSE AGREEMENTS IN THE CITY OF SAN ANTONIO'S MARKET SQUARE IN COUNCIL DISTRICT 1, AS REQUESTED BY COUNCILMAN ROGER FLORES, DISTRICT 1; AND AUTHORIZING THE DIRECTOR OF PARKS AND RECREATION TO EXECUTE AMENDED AGREEMENTS WITH TENANTS WHOSE ORIGINAL AGREEMENTS ARE PENDING TERMINATION.

\* \* \* \* \*

**WHEREAS**, it is the policy of the City of San Antonio to lease public property in Market Square, located at 514 West Commerce Street in City Council District 1, for retail sales or restaurant purposes, as per the policies established in Chapter 32, Article II of the City Code of the City of San Antonio; and

**WHEREAS**, Ordinance No. 91799, passed and approved on May 18, 2000 authorized the execution of eight-year Lease Agreements with the thirty-four tenants in the City's El Mercado for the period January 1, 2000 through December 31, 2007; and

**WHEREAS**, Ordinance No. 94567, passed and approved on September 20, 2001 authorized the execution of eight-year lease agreements with twenty-nine in-line stores and food court space tenants in the City's Farmer's Market; and

**WHEREAS**, in September 2001 staff approved and executed thirty-two (32) one-year license agreements for kiosk and push cart stores in the City's Farmer's Market; and

**WHEREAS**, Ordinance No. 98919, passed and approved on March 4, 2004 authorized the execution of twenty-six lease agreements for renovated spaces in Farmers Market; and

**WHEREAS**, the approved agreements specified terms and conditions for the payment of rental fees and for other operational issues; and

**WHEREAS**, on two separate occasions and after tenants' requests, City Council approved new, restrictive contracts for a total of ten tenants who had been terminated due to default; and

**WHEREAS**, the new contracts included a 1) one-year lease and license agreement with reduced terms and more stringent default conditions, 2) City review of tenant operation after the end of a one year term and offer of a second two-year term to tenants in good standing, 3) City review of tenant operation after the end of the possible two year term and offer of another term to match the original term to tenants in good standing; and

**WHEREAS**, City Councilman Roger Flores, District 1, submitted a six signature memorandum on April 30, 2004 that directed staff to amend all of the Farmers Market Plaza contract leases to include these provisions when tenants enter into default for late payment.

**WHEREAS**, the memorandum was discussed in a Governance Committee Meeting on May 20, 2004 and was referred to the Quality of Life Committee, which discussed the item in its June 3, 2004 meeting; and

**WHEREAS**, City staff agrees that a Probation Period with additional contract stipulations would be beneficial to El Mercado tenants and Farmers Market tenants and would keep business operating at the Market Square; and

**WHEREAS**, it is in the best interest of the City of San Antonio to continue to lease said public property in the City's Market Square to the current tenants; **NOW THEREFORE**:

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

**Section 1.** The Director of Parks and Recreation is hereby authorized to execute new contracts with lease or license tenants in Farmer's Market, El Mercado and Produce Row, who are notified of pending termination due to events of default, within the following stipulations:

- A. Create a one time, three-year Probation Period, to be automatically effective upon 3<sup>rd</sup> event of default within 12 month period.
- B. Upon entry into Probation Period described in Section A., establish waiver of legal rights if the agreement is terminated for one late rent payment (or any other delinquency) on the first event of default.
- C. Extend the Probation Period past the existing contract into any new agreement term.
- D. Apply the amendment to the El Mercado tenants, as well as the Farmers Market tenants.
- E. Add \$200.00 administrative fee payment required for processing.

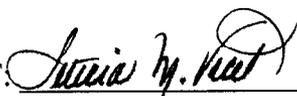
**Section 2.** The proceeds of these agreements shall be deposited into Fund 11-000 entitled "General Fund," Index Code 072264, entitled, "Market Square Probation Penalty Fee."

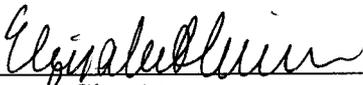
**Section 3.** This ordinance shall be effective on and after August 1, 2004.

PASSED AND APPROVED this 22nd day of July 2004.

  
M A Y O R

EDWARD D. GARZA

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
City Attorney