

AN ORDINANCE **101842**

APPROVING AN AMENDMENT TO A HEMISFAIR PARK LEASE AGREEMENT WITH ANN E. BRALEY, DBA STAR COMPANIES, FOR USE OF APPROXIMATELY 600 SQUARE FEET IN THE AMAYA HOUSE, BUILDING 250, IN HEMISFAIR PARK IN DISTRICT 1 FOR STORAGE PURPOSES AT A RENTAL RATE OF \$100.00 PER MONTH.

* * * * *

WHEREAS, Star Companies has operated a food and beverage concession, known as the Old Fashioned Popcorn Wagon, on approximately 386 square feet of public space adjacent to the Children's Playground in HemisFair Park since 1989; and

WHEREAS, most recently, Ordinance 100150, passed and approved on December 16, 2004, authorized a two year agreement; and

WHEREAS, the business operator has requested to lease an additional 600 square feet of space in the Amaya House, Building 250, located near by in the park; and

WHEREAS, such space will be used to store goods and materials to facilitate their operation of the concession; **NOW THEREFORE:**

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

Section 1. The City Manager, or her designee, is hereby authorized to execute an amendment to the HemisFair Park Lease Agreement with Ann E. Braley d/b/a Star Companies to add into the Lease Agreement an additional approximately 600 square feet in the Amaya House, Building 250 in HemisFair Park, for storage purposes at the rental rate of \$100.00 per month. A copy of said amendment is affixed hereto and incorporated herein for all purposes as Attachment I.

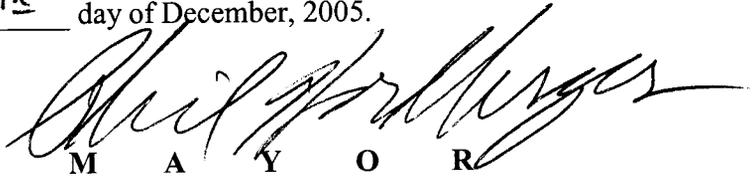
Section 2. The proceeds of this Lease will be deposited into fund 11001000 entitled the "General Fund," Internal Order 226000000000, entitled "Parks Department Administration," and General Ledger Account 4407720, entitled "Lease-Land & Building."

Section 3. The Director of Finance may correct allocation to specific fund, Internal Order, and General Ledger Account numbers as necessary to carry out the purpose of this ordinance.

SW/mgc
12/15/05
Item No. 38

Section 4. This ordinance shall be effective on and after 25th day of December, 2005.

PASSED AND APPROVED this 15th day of December, 2005.



M A Y O R

ATTEST: Lucinda M. Reed
City Clerk

PHIL HARDBERGER

APPROVED AS TO FORM: Hollis Young
for City Attorney

AMENDMENT TO LEASE AGREEMENT HEMISFAIR PARK, LOT 12, BLOCK 3, OLD-FASHIONED POPCORN WAGON WITH ANN E. BRALY

THIS AMENDMENT TO LEASE AGREEMENT ("Amendment") is by and between the CITY OF SAN ANTONIO, a Texas municipal corporation ("CITY"), acting by and through its City Manager or her designee, pursuant to Ordinance No. _____ passed and approved on _____, 2005, and ANN E. BRALY, ("LESSEE").

WHEREAS, pursuant to Ordinance No. 100150, passed and approved on December 16, 2004, **CITY** and **LESSEE** entered into a Lease Agreement ("Leased Premises") for the lease of approximately 386.72 square feet of public space in HemisFair Park, lot 12, block 3, N.C.B. 132814, volume 9518, pages 116-125, San Antonio, Bexar County, Texas; for a term beginning November 1, 2004 and ending October 31, 2006; and

WHEREAS, **LESSEE** wishes to lease from **CITY** a vacant building within HemisFair Park identified as the Amaya House, Building No. 250, for the sole purpose of storage of goods and materials related to the operation of an old fashioned popcorn wagon; and

WHEREAS, amending the Lease Agreement is in **CITY** and **LESSEE'S** best interest; **NOW THEREFORE**,

In consideration of the mutual covenants and agreements set forth below **CITY** and **LESSEE** agree as follows:

1) Section 1.1 in **ARTICLE 1. DEMISE OF PREMISES** is modified to read as follows:

1.1 **CITY**, for and in consideration of the rents, covenants and promises herein contained to be kept, performed and observed by **LESSEE**, does hereby lease and demise to **LESSEE**, and **LESSEE** does hereby rent and accept from **CITY** for the term hereinafter set out, the real property owned by the **CITY** in the Downtown Central Business District area as outlined on the drawing which is attached hereto as Exhibit A and incorporated by reference herein for the purposes of this Lease Agreement, the same as if fully copied and set forth at length. Said real properties and improvements (hereinafter referred to as the Leased Premises) are further described as follows:

1. An area containing a total of \pm 386.72 square feet in HemisFair Park, Lot 12, Block 3, N.C.B. 13814, Volumes 9518, pages 116-125, San Antonio, Bexar County, Texas; and
2. An area of approximately 600 square feet of enclosed space located in HemisFair Park, San Antonio, Bexar County, Texas and identified as the Amaya House, Building No. 250.

2) Section 2. **USE OF PREMISES** is modified to read as follows:

2.1 **CITY** hereby agrees to permit **LESSEE** use of above described **CITY**-owned property located at 210 S. Alamo Plaza, San Antonio, Bexar County, Texas.

2.2 **LESSEE** agrees to the following use of said properties described above:

2.2.1 ± 386.72 square feet Leased Premises shall be utilized for the sole purpose of operating an old-fashioned popcorn wagon, in accordance with applicable statutes, laws, ordinances, rules and regulations of the United States, the State of Texas and the City of San Antonio, Texas.

2.2.2 600 square feet of Leased Premises identified as the Amaya House, Building No. 250, shall be solely for the purpose of storage and for no other purpose, in accordance with applicable statutes, laws, ordinances, rules and regulations of the United States, the State of Texas and the City of San Antonio, Texas.

2.2.3 Any change, without prior written approval, in the foregoing use(s) and purpose(s) shall be an act of default hereunder and grounds, at **CITY'S** option, for termination of this Lease Agreement by **CITY**, upon ten (10) days' written notice to **LESSEE**. **LESSEE** agrees, if not conforming to the use terms herein, to peacefully quit and surrender the Leased Premises without any liability on **CITY'S** part or without any legal action necessary by **CITY**.

2.2.4 Any change in the foregoing use(s) and purpose(s) as specified in items 2.2.1 and 2.2.2 above, must be approved in advance and in writing by the Director, Department of Parks and Recreation, or his designee.

3) Section 3.4 is added to **ARTICLE 3. TERM** as follows:

3.4 In relation to the Leased Premises identified as the Amaya House in section 1.1 herein, **CITY** shall have the right, in its sole discretion, to terminate **LESSEE'S** right to occupy and use the Amaya House, by giving five (5) days written notice to the **LESSEE**. In the event of such early termination **LESSEE** shall be relieved of the duty of paying the rent identified in section 4.1.2.

3.4.1 **LESSEE** agrees to peacefully quit and surrender the Leased Premises without any liability on **CITY'S** part or without any legal action necessary by **CITY**.

4) Section 4.1 of **ARTICLE 4. RENTAL** is hereby modified to read as follows:

4.1 **LESSEE** shall pay rental in either one lump sum in advance or in monthly installments in advance on the first day of each month in accordance with the following:

4.1.1 **\$7,981.90**, payable in one lump sum in advance or **\$332.58** per month. (**\$0.86** per square foot per month) for the **386.72** square foot area designated for the Old-Fashioned Popcorn Wagon; and

4.1.2 **\$100.00** per month (**\$0.16** per square foot per month) for the **600** square foot building designated for storage, and known as the Amaya House,

provided however, in the event of early termination of **LESSEE'S** rights to the Amaya House by the **CITY** as provided for in Section 3.4 LESSEE shall be relieved of the obligation of paying the rent identified in this subsection, prorated to the day of such termination.

5) Except as modified herein, all terms and conditions contained in the Lease Agreement entered into under the authority of Ordinance No. 100150 shall remain in full force and effect.

EXECUTED to be effective November 1, 2005.

LESSOR:

CITY OF SAN ANTONIO, a Texas
Municipal corporation

By: _____
City Manager

LESSEE:

ANN E. BRALY
STAR COMPANIES

By: Ann E. Braly
Ann E. Braly

Title: Owner

ATTEST: _____
City Clerk

APPROVED AS TO FORM: _____
City Attorney

EXHIBIT "A"

