

AN ORDINANCE 2006-03-16-0365

APPROVING RENEWAL OF THE JOINT PARTICIPATION AND USE LICENSE AGREEMENT WITH THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT FOR THE USE OF THE SAN ANTONIO NATATORIUM LOCATED AT 1430 W. DURANGO STREET IN DISTRICT 5.

* * * * *

WHEREAS, in 1978, the City of San Antonio (City) and the San Antonio Independent School District (SAISD) entered into an agreement to construct a natatorium that could be used by the citizens of San Antonio and the students of SAISD; and

WHEREAS, the San Antonio Natatorium (Natatorium) was completed in June 1981 on the site of the Lanier High School track; and

WHEREAS, built with Federal Grant money, the Natatorium has allowed inner city youth to participate in District-sponsored, competitive swimming and diving athletics; and

WHEREAS, a 25-year Joint Use Agreement was executed between the City and SAISD which allowed the SAISD to utilize the Natatorium for swim practice during school hours, swim/diving competitions, and allow staffing by SAISD employees at the Natatorium; and

WHEREAS, this renewal of the Joint Use Agreement will allow SAISD to continue the use of the Natatorium for an additional 10 years with two (2) five year renewals;
NOW THEREFORE:

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

Section 1. The renewal of the Joint Participation and Use license agreement with the San Antonio Independent School District (SAISD) for the use of the San Antonio Natatorium located at 1430 West Durango Street in District 5 is approved. The City Manager or her designee is hereby authorized to execute said Joint Participation and Use License Agreement for use of the San Antonio Natatorium with SAISD in substantially the same form as the agreement attached hereto as Attachment I.

Section 2. This ordinance shall be effective on and after March 26, 2006.

PASSED AND APPROVED this 16th day of March 2006.



M A Y O R

PHIL HARDBERGER

Attest: *Lucia N. West*
City Clerk

Approved As To Form: *Hollis Young*
for City Attorney

Agenda Voting Results

Name: 12.

Date: 03/16/06

Time: 09:54:21 AM

Vote Type: Multiple selection

Description: An Ordinance approving renewal of the Joint Participation and Use License Agreement with the San Antonio Independent School District for the use of the San Antonio Natatorium located at 1430 W. Durango Street in District 5. [Presented by Malcolm Matthews, Director, Parks and Recreation; Frances A. Gonzalez, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

ATTACHMENT I

JOINT PARTICIPATION AND USE LICENSE AGREEMENT THE SAN ANTONIO NATATORIUM

THIS JOINT PARTICIPATION AND USE LICENSE AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 2006, by and between the **CITY OF SAN ANTONIO**, a Texas municipal corporation, acting by and through its City Manager or her designee, pursuant to Ordinance No. _____, dated _____, 2006 (herein called "**CITY**"), and the **SAN ANTONIO INDEPENDENT SCHOOL DISTRICT**, a political subdivision of the State of Texas (herein after referred to as "**DISTRICT**");

1. WITNESSETH

- 1.1 WHEREAS, the City of San Antonio ("**CITY**") owns a public swimming pool identified as the San Antonio Natatorium, which is located at: 1430 W. Durango Street, San Antonio, Bexar County, Texas (the "**Property**"); and
- 1.2 WHEREAS, the Property is situated within the boundaries of the San Antonio Independent School District ("**DISTRICT**"), which is a political subdivision of the State of Texas operating school facilities in Bexar County, Texas; and
- 1.3 WHEREAS, **CITY** and **DISTRICT** have mutually determined that it would be in the mutual best interests of both parties and their respective constituents to improve the **CITY'S** Property from time to time with certain sports facilities that could be used, shared and enjoyed by students of **DISTRICT** together with the citizenry of **CITY**; and
- 1.4 WHEREAS, statutory authority exists pursuant to Chapter 791 of the Texas Government Code and/or other Texas statutes for **CITY** and **DISTRICT** to enter into an interlocal agreement within the scope and purview of this License Agreement, such statute, among other things, authorizing two political subdivisions to jointly establish, provide, maintain, construct and operate playgrounds, recreational centers, athletic fields and/or other park and recreational facilities on land owned by either political subdivision.

NOW, THEREFORE, for and in consideration of the premises **CITY** and **DISTRICT** do hereby enter into this Joint Participation and Use License Agreement.

2. APPOINTMENT AND USE

- 2.1 **CITY** hereby designates **DISTRICT** as a user of swimming pool premises and amenities known as the San Antonio Natatorium during the below stated term in Section 5 at 1430 W. Durango, San Antonio, Bexar County, and **DISTRICT** hereby accepts such obligations and agrees to perform such services and duties as required hereinafter.
- 2.2 City Representative throughout the term of this agreement shall be the Director of Parks and Recreation or his designee. District Representative throughout the term of this agreement shall be the Superintendent or his designee.

3. USE OF PROPERTY BY DISTRICT

- 3.1 **CITY**, for and in consideration of the mutual benefits to **CITY** and **DISTRICT** and the observance of the terms and conditions set forth hereinafter, hereby grants to **DISTRICT** permission to enter and use, without payment of **CITY'S** established use fee, the property described in section 2.1 herein for the sole purpose of athletic activities associated with its academic programs for students of the **DISTRICT** or other school districts in athletic competitions with **DISTRICT**.
- 3.1.1 **Prohibited Uses:** **DISTRICT** shall not use the property for any event that is not directly sponsored by the **DISTRICT**.
- 3.2 **DISTRICT'S** use of said property shall be limited to the hours of: 6:30 a.m. to 9:30 a.m. and 3:00 p.m. to 5:00 p.m. Monday through Friday during the school year and not to exceed a total of 5.0 hours per day.
- 3.3 During such times that the **DISTRICT** will be utilizing the Premises the **DISTRICT** must have adult supervision in all areas of the Natatorium (including locker rooms and front lobby area) from the hours of 6:30 a.m. to 8:00 a.m.
- 3.4 At those times that **DISTRICT** is not scheduled to use property as indicated in section 3.2 herein, facilities shall be open for public use.
- 3.5 All use of this public recreation facility shall be programmed and scheduled by the Director, Department of Parks and Recreation or his designee.
- 3.6 **CITY** agrees to grant **DISTRICT** exclusive use of weightlifting area and single office area adjacent to and with view of the swimming pool area at all times.
- 3.7 Although permission to enter and use herein above cited premises is not exclusive (with exception to areas outlined in section 3.2 and 3.6 herein), **CITY** shall give **DISTRICT** priority use of such premises during designated times, specifically during swim meets. At those times during which **DISTRICT** has not scheduled the use of said premises and facilities, such premises and facilities shall be open to the general public for park and recreation purposes. **CITY** and **DISTRICT** shall coordinate use of the premises to avoid scheduling conflicts. Use by the general public shall be subject to **CITY**-established use fees and such use fees shall be collected and retained by **CITY**.
- 3.8 The premises shall be occupied by **DISTRICT** for recreational purposes including but not necessarily limited to organized athletic activities with food and beverage concessions. **DISTRICT** agrees and specifically understands that permission herein given does not grant to **DISTRICT** any interest or estate in the premises but is a mere personal privilege to do certain acts of a temporary character upon the premises, and that **CITY** retains dominion, possession and control of the premises, including access thereto at all times. **CITY** reserves the right to impose and enforce all necessary and proper rules for the management and operation of the premises.
- 3.9 **DISTRICT** agrees that its members and any other individuals under its control shall abide by, conform to and comply with all applicable municipal, state and federal

laws, ordinances, rules and regulations and that it will not do or permit to be done anything in violation hereof. If the attention of **DISTRICT** is called to any such violation(s), **DISTRICT** or those under its control will immediately desist from and correct such violation(s).

4. REVENUE

- 4.1 **DISTRICT** shall not charge or attempt to charge any general public user of the premises as may occur pursuant to paragraph 3.4 hereinbefore.
- 4.2 If a special event or activity is co-sponsored by both Parties, the parties shall mutually agree upon appropriate fees and charges.
- 4.3 **DISTRICT** hereby recognizes that revenue from snack and beverage vending machines located in premises is sole property of **CITY**. See Section 11 for additional information on Concessions.

5. TERM OF LICENSE AGREEMENT

- 5.1 The term of this Agreement shall be for ten (10) years, commencing with formal ratification by the governing bodies of the parties hereto.

RENEWAL OPTION: As long as **DISTRICT** is not then in default hereunder, **CITY** and **DISTRICT** may mutually agree to extend this License Agreement for up to and including two (2) additional terms of five (5) years, however, **DISTRICT** shall notify **CITY** in writing at least one hundred-eighty (180) days before the date of expiration of the original term, hereof, of its intent to extend the License Agreement term herein provided. **CITY**, upon approval by its City Council, will notify **DISTRICT** within thirty (30) days after receiving **DISTRICT'S** notice if **CITY** agrees to such renewal. After agreement to the exercise of the option to extend, all references in this License Agreement to the term, hereof shall mean the term as extended.

- 5.2 Term of Agreement will be limited to periods within school year and **DISTRICT** operations unless otherwise agreed upon by both parties to this Agreement.

6. ACCEPTANCE AND CONDITIONS OF PREMISES

- 6.1 **DISTRICT** has had sufficient time and opportunity to examine the Premises and acknowledges that there is in and about them nothing patently dangerous to life, limb, or health. **DISTRICT'S** taking possession of the Premises shall be conclusive evidence of **DISTRICT'S** acceptance thereof in good satisfactory order in its present condition **AS IS, WHERE IS, AND WITH ALL FAULTS** as suitable for the purpose for which licensed. **CITY** specifically disclaims any warranty of suitability for intended commercial purposes of **DISTRICT**.
- 6.2 **DISTRICT** agrees that no representations respecting the condition of the Premises and no promises to decorate, alter, repair, or improve the Premises, either before or after the execution hereof, have been made by **CITY** or its agents to **DISTRICT** unless the same are contained herein or made a part hereof by specific reference herein.

7. STAFFING OF SWIMMING POOL

- 7.1 **CITY** will provide at its sole expense the necessary staff to manage and supervise those aquatic programs and activities provided for and participated in by the general public.
- 7.2 **DISTRICT** is responsible at its sole expense for any staff costs incidental to its use of said facility.

8. MAINTENANCE AND USE

- 8.1 **DISTRICT'S** maintenance responsibilities shall include clean-up and trash removal after all meets and practices and at all times in the areas described under Section 3.7.
- 8.2 **DISTRICT** shall promptly repair any damage to the premises caused by the use of the premises by **DISTRICT** or those persons under its control. **DISTRICT** shall have no duty to repair any damage caused by others whom **CITY** has authorized to use the premises. Notwithstanding any contrary provisions herein contained, should the premises be damaged by fire, tornado, or other casualty, **CITY** shall be under no obligation to rebuild or repair the premises. Except as provided in paragraph 8.1, **CITY** shall maintain premises at its sole expense.

9. UTILITIES

- 9.1 **CITY** will provide at its sole expense all electric, gas, and water utilities related to the swimming pool for the term of this Agreement. Any other utilities required by **DISTRICT** shall be supplied at **DISTRICT'S** sole expense.
- 9.2 **DISTRICT** shall be responsible for installation charges for any telephone or Internet services it chooses to use at the Premises.
- 9.3 **DISTRICT** further agrees to be responsible for payment of all monthly charges for any and all telephone and Internet services used in its operation during the term of this Agreement or any extensions thereof. Any additional electrical outlet service that may be desired by **DISTRICT** will be at the sole expense of the **DISTRICT**.

10. CONCESSIONS

- 10.1 **DISTRICT** shall, during the designated use time of the premises (excluding practice times), have the right to operate concessions for the sale of food, non-alcoholic beverages, and similar consumable items. No fee for the right to operate said concessions shall be payable to **CITY**. **DISTRICT** shall obtain and maintain at its sole expense, all permits or licenses required for its concession operations hereunder. All concession operations must be approved by the Director of Parks and Recreation or his designee.

11. ALCOHOLIC BEVERAGES

- 11.1 **CITY** and **DISTRICT** agree that no alcoholic beverages may be sold, distributed, or consumed in or around said swimming pool.

12. IMPROVEMENTS

- 12.1 **DISTRICT** may, subject to having first obtained the written approval of the Director, Department of Parks and Recreation, or his designee, install and/or construct facilities and improvements suitable for team and/or recreation activities. During any period of construction or installation, **DISTRICT**, its members, employees, agents and contractors shall insure that the performance of said construction or installation does not cause or result in damage to **CITY** property or adjoining property.
- 12.2 **DISTRICT** shall present, for review and written approval, all designs, plans, and specifications to the Director, Department of Parks and Recreation and applicable **CITY** boards prior to commencing any construction or installation upon the premises. While **CITY** may render any assistance it deems advisable, all costs for construction and related activities shall be borne solely by **DISTRICT**. **CITY** reserves the right to enter the premises at any time to inspect construction in progress and/or to determine the condition of premises and facilities so as to insure **DISTRICT'S** compliance with this Agreement.
- 12.3 **DISTRICT** agrees that it shall obtain any and all plans, approvals, necessary permits, and clearances relative to any construction from appropriate local, state, and federal regulatory agencies. A copy of said permits or clearances shall be provided to the Director, Department of Parks and Recreation prior to the start of any construction. **DISTRICT** covenants that it shall not bind, or attempt to bind, **CITY** for payment of any money in connection with any construction authorized hereunder and that it will, to the extent permitted by Texas law, fully indemnify and hold harmless the **CITY** against any and all claims, liens, suits or actions asserted on account of labor, materials or services furnished to **DISTRICT** during the performance of any said construction and against any claim for injury to person or property.
- 12.4 Any improvements so installed by **DISTRICT**, which can be removed without damage to the premises will remain the personal property of **DISTRICT** and may be removed at the sole expense of **DISTRICT** at the termination of this Agreement. Any such personal property not removed shall be disposed of by **CITY** at **DISTRICT'S** expense, or in the alternative, shall become the personal property of **CITY**.
- 12.5 Periodic reviews, as needed, of capital improvement projects will occur between the **CITY** and the **DISTRICT**. Prior to the finalization of any capital improvements, the **CITY** and **DISTRICT** agree to meet and discuss the joint funding of these projects.

13. COOPERATION

- 13.1 **CITY** and **DISTRICT** do hereby acknowledge and agree that given the nature and scope of this License Agreement, it will be imperative for the Parties to cooperate

with one another in good faith as to all material elements hereof so as to effectively coordinate all joint activities in an economic and efficient manner that will provide the maximum benefits to their respective taxpayers, students and/or patrons, and in this connection they agree to deal fairly with one another throughout the term of this Agreement in a commercially reasonable manner, and to exercise good faith and reasonable judgment with respect to all joint endeavors within the scope hereof.

13.2 All approvals herein required shall not be unreasonably withheld or delayed.

14. ADMINISTRATION OF AGREEMENT

14.1 The Director, Department of Parks and Recreation, or his designated representative and the Superintendent, San Antonio Independent School District or his designated representative will establish liaison and closely coordinate activities within the framework of this agreement.

15. DEFAULT AND TERMINATION RIGHTS

15.1 Default by DISTRICT: DISTRICT shall fail to keep, observe, or perform any material covenant, agreement, term, or provision of this Agreement to be kept, observed, or performed by DISTRICT, and such default shall continue for a period of thirty (30) days after notice thereof by CITY to DISTRICT, or if such default cannot be cured within thirty (30) days, then such additional period as shall be reasonable provided that DISTRICT has commenced to cure such default.

15.2 Remedies of CITY: Upon the occurrence of an event of default by DISTRICT as specified in Paragraph 15.1 hereof, CITY shall be entitled to terminate this Agreement and CITY shall have no further obligation hereunder.

15.3 Default by CITY: CITY shall be in default under this Agreement if CITY fails to keep, observe, or perform any material covenant, agreement, term, or provision of this Agreement to be kept, observed, or performed by CITY, and such default shall continue for a period of thirty (30) days after notice thereof by DISTRICT to CITY, or if such default cannot be cured within thirty (30) days, then such additional period as shall be reasonable provided that CITY has commenced to cure such default.

15.4 Remedies of DISTRICT: Upon the occurrence of an event of default as specified in Paragraph 15.3 hereof, DISTRICT shall be entitled to terminate this Agreement.

15.5 Either CITY or DISTRICT, with or without cause, may cancel this Agreement by giving six (6) months written notice thereof to the other party.

16. INDEMNIFICATION

16.1 DISTRICT and CITY acknowledge they are political subdivisions of the State of Texas and are subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practice and Remedies Code, §101.001 *et seq.* and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury, or death.

- 16.2 This Agreement will be interpreted according to the Constitution and laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this agreement shall be in Bexar County, Texas. This Agreement is made and is to be performed in Bexar County, Texas and is governed by the laws of the State of Texas.
- 16.3 **NO JOINT ENTERPRISE** – There is no intention on the part of the parties hereto to create or otherwise form a joint enterprise under or pursuant to this Agreement. The Parties to this Agreement are undertaking a governmental function or service. The Parties to this Agreement do not have a pecuniary purpose, let alone a common one. The purpose of this Agreement is to further the public good, not to gain a profit. The Parties do not have an equal right of control.

17. INSURANCE REQUIREMENTS

- 17.1 **CITY**, at its own expense, shall provide and maintain, during the term of this Agreement, either insurance, with or without a retention, or a self-insurance program, allowed and provided by law, to Texas municipalities. This insurance or self-insurance shall cover liability for property damage and personal injury of **CITY'S** use and ownership of the premises during only those periods it is entitled to use the premises pursuant to the provisions hereof.
- 17.2 **DISTRICT**, at its own expense, shall provide and maintain, during the term of this agreement, either insurance, with or without retention, or a self-insurance program, allowed and provided by law, to Texas independent school districts. This insurance or self-insurance shall cover liability for property damage and personal injury of **DISTRICT'S** use of the premises during only those periods it is entitled to use the premises pursuant to the provisions hereof.
- 17.3 **CITY'S** or **DISTRICT'S** obligations to share in costs of operation, maintenance and repairs as set out in this Agreement or in a future Articulation Agreement, do not create any additional duties, express or implied, not otherwise specifically set out within this Agreement. **DISTRICT** shall be liable for its own acts of negligence, to the extent provided in law. **CITY** shall be liable for its own acts of negligence, to the extent provided in law.
- 17.4 Any and all employees, representatives, agents or volunteers of **DISTRICT** while engaged under the **DISTRICT'S** supervision in the performance of any work required by the **CITY** or any work related to a lease of space or Concession Agreement with the **CITY** shall be considered employees, representatives, agents or volunteers of **DISTRICT** only and not of the **CITY**. Any and all claims that may result from any obligation for which **DISTRICT** may be held liable under any Workers' Compensation, Unemployment Compensation, or Disability Benefits law or under any similar law on behalf of said employees, representatives, agents or volunteers shall be the sole obligation and responsibility of **DISTRICT**.
- 17.5 Nothing herein contained shall be construed as limiting in any way the extent to which **DISTRICT** may be held responsible for payments of damages to persons or

property resulting from **DISTRICT'S** or its subcontractors' performance of the work covered under this Agreement.

- 17.6 All personal property placed in the Premises by the **DISTRICT** shall be at the sole risk of **DISTRICT**. **CITY** shall not be liable, and **DISTRICT** waives all claims for any damage either to the person or property of **DISTRICT** or to other persons due to the Premises or any part of appurtenances thereof becoming out of repair or arising from bursting or leaking of water, gas, waste pipes, or defective wiring or excessive or deficient electrical current; or from any act or omission of employees, or other occupants of the Premises, or any other persons; due to the happening of any accident in or about Premises. **DISTRICT** shall save and hold harmless **CITY** from any claims arising out of damage to **DISTRICT'S** property or damage to **DISTRICT'S** business.

18. SIGNS

- 18.1 **DISTRICT** hereby agrees not to install or display any permanent sign(s) upon the Premises without prior written approval of said sign(s) by the **CITY** through the Director, Department of Parks and Recreation. Temporary signs used for sponsorship recognition may be installed from time to time without sign approval by the **CITY** as long as standard design of the sign has been approved in advance. **DISTRICT** agrees it will not install any signs that advertise or promote alcohol use, tobacco use or sexually oriented businesses or any other matter inappropriate for youth sports and recreation. **DISTRICT** further agrees to comply with such design criteria as may be established and amended from time to time by duly authorized **CITY** authority and to comply with established sign review procedures for proposed temporary signs.

19. ASSIGNMENT

- 19.1 This Agreement is personal to **DISTRICT**. It is non-assignable, and any attempt to assign this Agreement will terminate all privileges granted to **DISTRICT** hereunder.

20. RELATIONSHIP OF PARTIES

- 20.1 Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between parties hereto. It is understood and agreed that no provision contained herein nor any acts of the parties hereto create a relationship other than the relationship of Licensor and Licensee.

21. CONFLICT OF INTEREST

- 21.1 **DISTRICT** acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined therein, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, material, supplies, or services, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee, or his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10)

percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market values of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

21.2 **DISTRICT** warrants and certifies, and this contract is made in reliance thereon, that it, its officers, employees, and agents are neither officers nor employees of **CITY** or any of its agencies such as city owned utilities.

22. SEPARABILITY

22.1 The parties hereto agree that if any clause or provision of this Agreement is determined to be illegal, invalid or unenforceable under any present or future federal, state, or local law, including, but not limited to, the City Charter, City Code, or City ordinances of the City of San Antonio, Texas, effective during the term of this Agreement, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this 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.

23. NOTICES

23.1 Notices to **CITY** required or appropriate under this Agreement shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, addressed to:

City of San Antonio
Department of Parks and Recreation
Contract Services Division
P.O. Box 839966
San Antonio, Texas 78283-3966

City of San Antonio
City Clerk's Office
City Hall-Second Floor
P.O. Box 839966
San Antonio, Texas 78283-3966

or to such other address as may have been designated in writing by the City Manager of the City of San Antonio from time to time. Notices to **DISTRICT** shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, addressed to **DISTRICT** at:

San Antonio Independent School District
Superintendent
141 Lavaca Street
San Antonio, Texas 78210-1095

or at such other address on file with the City Clerk as **DISTRICT** may provide from time to time in writing to **CITY**.

24. TEXAS LAW TO APPLY

24.1 **THIS 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.**

25. GENDER

25.1 Words of any gender used in this 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.

26. NON-DISCRIMINATION

26.1 **DISTRICT** covenants that it, or its agents, employees or anyone under its control, will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin, or handicap, in employment practices or in the use of or admission to the Premises, which said discrimination **DISTRICT** acknowledges is prohibited.

27. CAPTIONS

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

28. HOLDING OVER

28.1 Should **DISTRICT** hold over the Licensed Premises, or any part thereof, after the expiration or termination of the term of this License, unless otherwise agreed in writing, such holding over shall constitute and be construed as a month to month contract only, with all terms, conditions and requirements of the preceding License Agreement continuing in effect until such time as **DISTRICT** permanently ceases use of the premises or a new License Agreement is executed.

29. ENTIRE AGREEMENT / AMENDMENT

29.1 This Agreement, together with its attached exhibits and the authorizing ordinance, in writing, constitutes the entire agreement between the parties, any other written or parole agreement with **CITY** being expressly waived by **DISTRICT**.

29.2 This Agreement contains the final and entire agreement between the Parties hereto and contains all of the terms and conditions agreed upon to date, and no other agreements of prior date, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto. It is the intent of the Parties that neither Party shall be bound by any term, condition, requirement nor representation not herein written or otherwise referred to.

29.3 No amendment, modification or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

29.4 It is understood that the Charter of the CITY requires that all contracts or amendments to contracts with the CITY be in writing and adopted by ordinance passed and approved by City Council of the City of San Antonio.

30. AUTHORITY

30.1 Each of the signers of this Agreement hereby represent and warrant that they have authority to execute this Agreement on behalf of each of their governing entities. This Agreement shall be signed in duplicate originals so that each Party hereto shall have an original.

IN WITNESS WHEREOF, we have affirmed our signatures this _____ day of _____ 2006.

LICENSOR:

CITY OF SAN ANTONIO, a Texas
Municipal Corporation

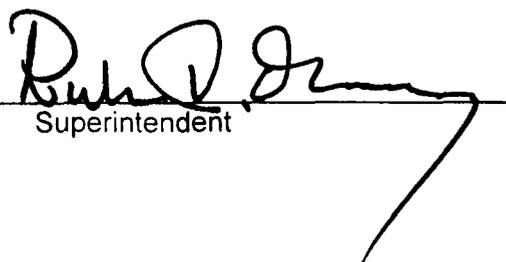
By: _____
Sheryl Sculley
City Manager

ATTEST:

City Clerk

LICENSEE:

**San Antonio Independent School
District**, a Texas Political Subdivision

By: 
Superintendent

APPROVED AS TO FORM:

City Attorney