

**ASSIGNMENT AND AMENDMENT OF  
LEASE AGREEMENT  
FARMERS MARKET AREA NUMBER S-15  
(WITH LANDLORD'S CONSENT)**

**WHEREAS**, the City of San Antonio, a Texas Municipal Corporation, acting by and through its City Manager pursuant to Ordinance No. 2006-03-16-0342, passed and approved by the City Council on March 16, 2006, as LANDLORD ("CITY"), entered into that certain Lease Agreement effective **April 1, 2006** ("LEASE") with **J. David Kirby d/b/a "Fresh Concepts"** who subsequently through Ordinance No. 2009-03-19-0204, assigned to **Aurora Lomas-Sandoval d/b/a "Fresh Concepts"** ("**ASSIGNOR**") the lease of the following described tract or parcel of real property situated in Farmers Market Plaza at Market Square, San Antonio, Bexar County, Texas to-wit:

A portion of the real property and improvements owned by CITY located at 612 W. Commerce Street, San Antonio Bexar County, Texas within the area commonly known as Farmers Market Plaza at Market Square (said real property and improvements hereinafter referred to as the "**Leased Premises**"). Said **Leased Premises** contain approximately 114 square feet and is identified as Farmers Market Plaza area number S-15; and

**WHEREAS**, **Aurora Lomas-Sandoval d/b/a "Fresh Concepts"** desires, as **ASSIGNOR**, to convey and assign **TENANT'S** leasehold interest under the **LEASE** to **Bertha Mayte De La Rosa dba "Shainy Designs"** as **ASSIGNEE**; and

**WHEREAS**, said assignment is authorized with prior approval of **CITY**; and

**WHEREAS**, **ASSIGNEE** desires to assume from **ASSIGNOR** all of **ASSIGNOR'S** rights, title, and interest as **TENANT** in and to the **LEASE**, and all of **ASSIGNOR'S** benefits and obligations there under; and

**WHEREAS**, **ASSIGNEE** has satisfied the **CITY** that they are financially able to undertake the obligations of **TENANT** under said **LEASE**, and **CITY** desires to give its consent to **ASSIGNOR'S** assignment of **ASSIGNOR'S** interest in the **LEASE** to **ASSIGNEE** and to **ASSIGNEE'S** assumption of **TENANT'S** obligations there under; and

**WHEREAS**, amending the **LEASE** is in **CITY** and **TENANT'S** best interest; **NOW THEREFORE**,

In consideration of the mutual covenants and agreements set forth below the parties agree as follows:

1. **CONVEYANCE AND ASSIGNMENT**: **ASSIGNOR** does hereby grant, bargain, sell, convey, assign, transfer, set over, and deliver to **ASSIGNEE**, all of **ASSIGNOR'S** rights, title, and interest in and to the **LEASE**, including and also without limitation, all of the rights, duties, obligations, and liabilities of **ASSIGNOR** in, to, and under the **LEASE** to pay rent and to observe and perform all other covenants and duties of **TENANT** there under.
2. **ASSUMPTION**: By its execution hereof, **ASSIGNEE** hereby assumes and agrees to perform all of the terms, covenants, and conditions of the **LEASE** on the part of the **TENANT** therein required to be performed arising from and after the date hereof, and **ASSIGNEE** releases **ASSIGNOR** from all liability for such obligations.

**ASSIGNEE** hereby accepts the assignment of said **ASSIGNOR'S** rights, title and interest in and to the **LEASE** and; **ASSIGNEE** recognizes the superior fee title in and to the land and premises held by the **CITY**, as Landlord, and **CITY'S** right of reversion at the end of the **LEASE** term, whether occasioned by default or passage of time, as well as, the rights and

benefits of every description whatsoever belonging to or accruing to the benefits of the CITY under the **LEASE**.

3. **CONSENT:** CITY hereby consents to the assignment by **Aurora Lomas-Sandoval d/b/a "Fresh Concepts"**, as **ASSIGNOR**, and the assumption by **Bertha Mayte De La Rosa dba "Shainy Designs"**, as **ASSIGNEE** of said **ASSIGNOR'S** liability and obligations as **TENANT**, in that certain **LEASE** between the **CITY** and **Aurora Lomas-Sandoval d/b/a "Fresh Concepts"**, originally approved by City Council pursuant to Ordinance number 2006-03-16-0342 , passed and approved on April 1, 2006.
4. **REPRESENTATION AND WARRANTIES:** **ASSIGNOR** and **ASSIGNEE** represent and warrant that the following statements are true.

**Bertha Mayte De La Rosa**, as the **ASSIGNEE**, will be the exclusive owner of the business, formerly owned by **Aurora Lomas-Sandoval** and operating as "**Fresh Concepts**". **Bertha Mayte De La Rosa** will take full control of the business immediately upon City Council approval and will operate as "**Shainy Designs**".

**Aurora Lomas-Sandoval** will not have any ownership or serve as employee, or agent in the new enterprise operating from the premises. This individual will have no authority, financial or otherwise, in the new enterprise operating from the premises.

**In the event that any such representations and warranties are found by CITY not to be true, then CITY shall have authority to revoke its consent to this assignment and automatically terminate the contract without allowing ASSIGNOR or ASSIGNEE an opportunity to cure.**

5. **USE OF PREMISES:** **ASSIGNEE** agrees that that the **Leased Premises** shall be utilized for the sole purpose of retail sales of products reflecting an open market with a Mexican Market theme and excluding alcoholic goods and beverages in accordance with applicable statutes, laws, ordinances, rules and regulations of the United States of America, the State of Texas, and the City of San Antonio, Texas.
6. **AMENDING USE AND CARE OF PREMISES:** Section 2.4 of **LEASE** is amended to include the following provisions:

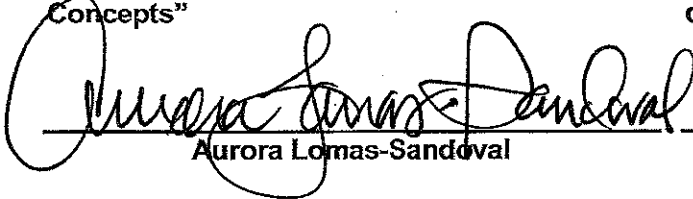
2.4.1 Further, **TENANT** covenants and agrees, in keeping with the intent and spirit of Farmers Market Plaza and Market Square, to operate the business conducted on the **Leased Premises** in an "**OWNER PRESENCE**" capacity, physically participating in the day-to-day operations of **TENANT'S** business, as opposed to employing a non-owner manager of said premises, hence an "absentee owner" posture, unless such management is first approved by the Director, Downtown Operations Department, or her designee. Failure to operate the business on the **Leased Premises** in such a manner will constitute an act of default hereunder and will be grounds, at **CITY'S** option to terminate this **Lease Agreement** upon ten (10) days written notice to **TENANT**.

7. **ACKNOWLEDGEMENT OF READING:** The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto, and have sought and received whatsoever competent advice and counsel which was necessary for them to form a full and complete understanding of their rights and obligations herein, and having done so, do hereby execute this Agreement.

EXECUTED this \_\_\_\_\_, 2015.

**ASSIGNOR:**

Aurora Lomas-Sandoval d/b/a "Fresh Concepts"

  
Aurora Lomas-Sandoval

**ASSIGNEE:**

Bertha Mayte De La Rosa d/b/a "Shainy Designs"

  
Bertha Mayte De La Rosa

1700 Jackson Keller  
Address

San Antonio Tx . 78213  
City, State, Zip Code

210-719-33-03  
Business Telephone Number

\_\_\_\_\_  
Other Telephone Number

**LANDLORD:**

CITY OF SAN ANTONIO, a Texas Municipal Corporation

ATTEST:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney