

AN ORDINANCE 2016-10-20-0814

APPROVING THE FARMERS MARKET LEASE ASSIGNMENTS OF FOTO MEMORIES BY ZUBAIR – PERSONALIZED PHOTOS AND GIFTS TO TAINY DELGADO GARNICA DBA TAE SOUVENIRS AND SIEW PANG INTERNATIONAL TO CARLOS SANDOVAL AND CATON SANDOVAL DBA FIESTA MERCADO.

* * * * *

WHEREAS, the City of San Antonio owns and manages Market Square, a unique and historic public market place that plays a vital role in the life, culture and economy of San Antonio; and

WHEREAS, Market Square, with a retail history dating back to the nineteenth century, provides a unique and authentic Mexican Market experience, offering retail sales, holiday celebrations, and year round entertainment; and

WHEREAS, there are 56 businesses in the Farmers Market, 33 in El Mercado and 14 in Market Square Plaza, ranging from cafes to shops specializing in local, regional and Latin American products; and

WHEREAS, on June 23, 2011, City Council passed Ordinance No. 2011-06-23-0571, which authorized extensions to all Farmers Market and El Mercado leases until June 30, 2014; and

WHEREAS, the ordinance also provided the City the option to renew all the Farmers Market and El Mercado leases, including the aforementioned lease, for an additional three-year period and until June 30, 2017 and a subsequent two-year period until June 30, 2019; and

WHEREAS, the City has subsequently extended the Farmers Market and El Mercado agreements until June 30, 2017; and

WHEREAS, Hasan K. Zubair dba Foto Memories by Zubair - Personalized Photos and Gifts has operated a store in El Mercado specializing in photography and personalized gifts since 2011; and

WHEREAS, Ms. Garnica's family has operated Mexican imports stores in El Mercado and Farmers Market since 2010; and

WHEREAS, Siew Pang dba Siew Pang International has operated a Mexican Imports store in Farmers Market since 2001; and

WHEREAS, the Sandoval family has operated Mexican imports shops in Farmers Market for over twenty years; and

WHEREAS, the Municipal Code provides authority for the City to assign leases when businesses are sold and establish an assignment fee of \$1,500.00; and

WHEREAS, this proposed Ordinance will authorize the amendments to the lease agreements with Foto Memories by Zubair - Personalized Photos and Gifts and Siew Pang International, effectively assigning the lease agreements; **NOW THEREFORE:**

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

SECTION 1. The City Manager or her designee, or the Director of the Center City Development and Operations Department or his designee, is authorized to execute the Assignment and Amendment of the Lease Agreement with Foto Memories by Zubair - Personalized Photos and Gifts to Tainy Delgado Garnica dba TAE Souvenirs. A copy of the assignment and amendment of lease agreement, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment I**.

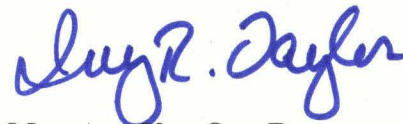
SECTION 2. The City Manager or her designee, or the Director of the Center City Development and Operations Department or his designee, is authorized to execute the Assignment and Amendment of the Lease Agreement with Siew Pang International to Carlos Sandoval and Caton Sandoval dba Fiesta Mercado. A copy of the assignment and amendment of the lease agreement, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment II**.

SECTION 3. Funds generated by this Ordinance will be deposited into Fund 29604001, Internal Order 219000000147 and General Ledger 4406845.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 20th day of October, 2016.



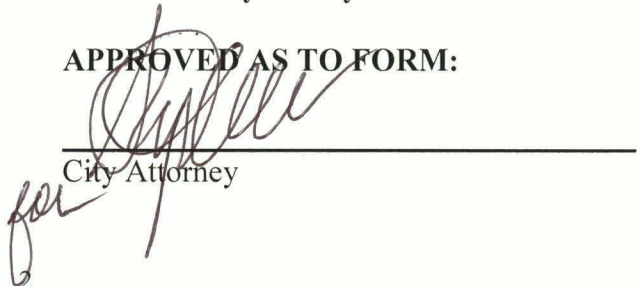
M A Y O R
Ivy R. Taylor

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



City Attorney

Agenda Item:	11 (in consent vote: 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 18, 19, 20, 23)						
Date:	10/20/2016						
Time:	09:27:27 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving the Farmers Market lease assignments of Foto Memories by Zubair - Personalized Photos and Gifts to Tainy Delgado Garnica dba TAE Souvenirs and Siew Pang International to Carlos Sandoval and Caton Sandoval dba Fiesta Mercado. [Lori Houston, Assistant City Manager; John Jacks, Interim Director, Center City Development and Operations Department]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x			x	
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3	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				

**ASSIGNMENT AND AMENDMENT OF LEASE AGREEMENT
EL MERCADO AREA NUMBER S-13
(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. 98919 passed and approved by the City Council on March 1, 2004, as LANDLORD (City") entered into a certain Lease Agreement with Pedro Pena dba Send Yourself Home, which on April 21, 2009 was assigned to Maria Blanca Caballero dba "Needful Things and More".. On September 23, 2011, Needful Things and More was assigned to Hasan K. Zubair dba "Foto Memories by Zubair – Personalized Photos and Gifts"(ASSIGNOR), for the lease of the following described tract or parcel of real property situated in Farmers Market 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 El Mercado at Market Square (said real property and improvements hereinafter referred to as the "Leased Premises"). Said Leased Premises contain approximately 228 square feet and is identified as area number S-13;

WHEREAS, Hasan K. Zubair d/b/a "Foto Memories by Zubair" - _Personalized Photos and Gifts" desires, as ASSIGNOR, to convey and assign TENANT'S leasehold interest under the LEASE to Tainy Delgado Garnica d/b/a "TAE Souvenirs" as ASSIGNEE; and

WHEREAS, said assignment requires the 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 **Hasan K. Zubair d/b/a "Foto Memories by Zubair – Personalized Photos and Gifts"**, as **ASSIGNOR**, and the assumption by **Tainy Delgado Garnica dba "TAE Souvenirs as ASSIGNEE** of said **Hasan K. Zubair d/b/a "Foto Memories by Zubair – Personalized Photos and Gifts"**

4. **REPRESENTATION AND WARRANTIES:** **ASSIGNOR** and **ASSIGNEE** represent and warrant that the following statements are true.

Tainy Delgado Garnica, as the **ASSIGNEE**, will be the exclusive owner of the business, formerly owned by **Hasan K. Zubair** and operating as **"Foto Memories by Zubair-Personalized Photos and Gifts"**. **Tainy Delgado Garnica** will take full control of the business immediately upon **City Council** approval and will operate as **"TAE Souvenirs"**

Hasan K. Zubair 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 terminate the Lease without allowing **ASSIGNOR** or **ASSIGNEE** an opportunity to cure.

5. **USE AND CARE OF PREMISES:** **ASSIGNEE** agrees that that the **Leased Premises** shall be utilized for the sole purpose of retail sales of

- Certificates
- Keychains
- Coat of Arms
- Coffee Mugs
- T-shirts
- Rings
- Custom Post Cards
- Prints
- Buttons
- Sterling Silver Items including but not limited to charm bracelets, pendants and key chains

Store will specialize in name oriented merchandise and will not utilize photography.

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 **El Mercado 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 _____, 2016.

ASSIGNOR:

Hasan K. Zubair
d/b/a "Foto Memories by Zubair -
Personalized Photos and Gifts"

ASSIGNEE:

Tainy Delgado Garnica
d/b/a "TAE Souvenirs"



Hasan K. Zubair



Tainy Delgado Garnica

1403 Jackson Keller Rd

Address

San Antonio TX 78213

City, State, Zip Code

Business Telephone Number

210 691 5607

Other Telephone Number

tanydg@hotmail.com

Email Address

LANDLORD:

CITY OF SAN ANTONIO, a Texas Municipal Corporation

ATTEST:

City Manager

City Clerk

APPROVED AS TO FORM:

City Attorney

**ASSIGNMENT AND AMENDMENT OF LEASE AGREEMENT
EL MERCADO AREA NUMBER IL-19
(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. 94567 passed and approved by the City Council on September 20, 2001, as **LANDLORD (City)** entered into a certain Lease Agreement effective September 1, 2001 (**LEASE**) with **Siew Pang dba Siew Pang International, (ASSIGNOR)**, for the lease of the following described tract or parcel of real property situated in Farmers Market 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 El Mercado at Market Square (said real property and improvements hereinafter referred to as the "**Leased Premises**"). Said Leased Premises contain approximately 673 square feet and is identified as area number IL-19;

WHEREAS, **Siew Pang d/b/a "Siew Pang international"** desires, as **ASSIGNOR**, to convey and assign **TENANT'S** leasehold interest under the **LEASE** to **Carlos Sandoval and Caton Sandoval d/b/a "Fiesta Mercado"** as **ASSIGNEE**; and

WHEREAS, said assignment requires the 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 **Siew Pang d/b/a "Siew Pang International"**, as **ASSIGNOR**, and the assumption by **Carlos Sandoval and Caton Sandoval dba "Fiesta Mercado"**, as **ASSIGNEE** of said **Siew Pang d/b/a "Siew Pang International"** **REPRESENTATION AND WARRANTIES:** **ASSIGNOR** and **ASSIGNEE** represent and warrant that the following statements are true.

Carlos Sandoval and Caton Sandoval, as the **ASSIGNEE**, will be the exclusive owner of the business, formerly owned by **Siew Pang** and operating as "**Siew Pang International**". **Carlos Sandoval and Caton Sandoval** will take full control of the business immediately upon City Council approval and will operate as "**Fiesta Mercado**"

Siew Pang 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 terminate the Lease without allowing **ASSIGNOR** or **ASSIGNEE** an opportunity to cure.

4. **USE AND CARE OF PREMISES:** **ASSIGNEE** agrees that that the Leased Premises shall be utilized for the sole purpose of retail sales of

- Jewelry
- Clocks
- Masks
- Picture Frames
- Carvings and Statues
- Mirrors
- Candle Holders
- Glassware
- Music Boxes
- Stuffed Animals
- Pottery
- T-shirts
- Souvenirs to include, but not limited to: Shot Glasses, Magnets, Mugs, Key Chains, Cards, Spoons, Caps and Pins
- Decorations
- Party Dishware, Accessories, Table Cloths, Packaged Foods
- Vanilla

5. **AMENDING USE AND CARE OF PREMISES:** Section 2.4 of **LEASE** is amended to include the following provisions:

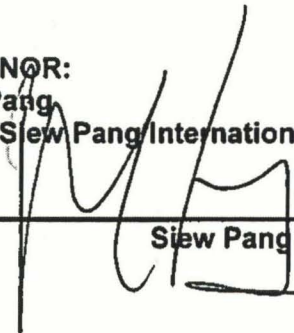
- 2.4.1 Further, **TENANT** covenants and agrees, in keeping with the intent and spirit of El Mercado and Market Square, to operate the business conducted on the **Leased Premises** in an "**OWNER PRESENCE**" capacity, physically participating in the day-to-day operations of **TENANT'S** business, as opposed to employing a non-owner manager of said premises, hence an "absentee owner" posture, unless such management is first approved by the Director,

Center City Development and Operations, or his 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**.

6. **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.

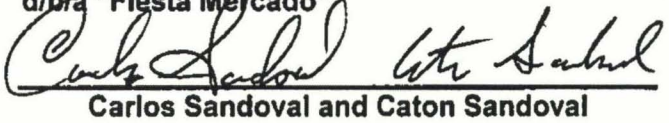
EXECUTED this _____, 2016.

ASSIGNOR:
Siew Pang
d/b/a "Siew Pang International"



Siew Pang

ASSIGNEE:
Carlos Sandoval and Caton Sandoval
d/b/a "Fiesta Mercado"



Carlos Sandoval and Caton Sandoval

609 winfield Blvd
Address

San Antonio, Texas, 78239
City, State, Zip Code

210 475 0077
Business Telephone Number

210 633 4306
Other Telephone Number

catonsandoval@gmail.com
Email Address

LANDLORD:
CITY OF SAN ANTONIO, a Texas Municipal Corporation

City Manager

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk