

AN ORDINANCE 2018-03-29-0200

**APPROVING THE ASSIGNMENT OF FARMERS  
MARKET LEASES AT MARKET SQUARE FROM  
FIESTA CUTOUTS TO JOSE A. DELGADO, DBA  
SHAINY DESIGNS II AND FROM MORE PLANTS TO  
RICARDO CAMPUZANO, DBA MANOS MAGICAS.**

\* \* \* \* \*

**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 for an additional three-year period until June 30, 2017 and a subsequent two-year period until June 30, 2019; and

**WHEREAS**, the City has exercised its first and second option to extend the Farmers Market and El Mercado agreements until June 30, 2019; and

**WHEREAS**, Hugo and Cristina Matta dba Fiesta Cutouts have operated stores in Farmers Market specializing in regional and Central American products since 2009; and

**WHEREAS**, Mr. Delgado's family has operated Mexican imports stores in Market Square since 2010; and

**WHEREAS**, Micaela Leon dba More Plants has operated Mexican Imports stores in Farmers Market since 2001; and

**WHEREAS**, the Municipal Code provides authority for the City to assign leases when businesses are sold and establishes an assignment fee of \$1,500.00, which will be deposited into the Market Square Improvement Fund; and

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**WHEREAS**, this proposed ordinance will authorize amendments to the lease agreements with Fiesta Cutouts and More Plants, 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 Center City Development and Operations Department or his designee, is authorized to execute the assignment of a Market Square lease agreement from Jose A. Delgado dba Shaney Designs II and More Plants to Ricardo Campuzano, dba Manos Magicas. Copies of the Assignments and Amendments of the Lease Agreements, in substantially final form, are attached hereto and incorporated herein for all purposes as **Attachment I and II.**

**SECTION 2.** Funds generated by this ordinance will be deposited into Fund 29604001, Internal Order 219000000147 and General Ledger 4406845.

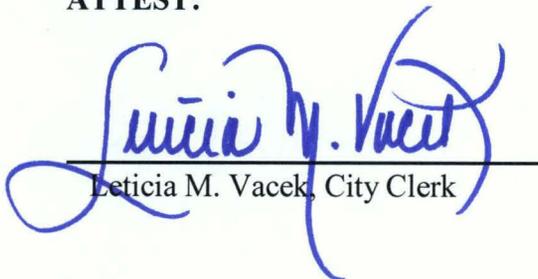
**SECTION 3.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, 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 4.** This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

**PASSED AND APPROVED this 29<sup>th</sup> day of March, 2018.**

  
**M A Y O R**  
Ron Nirenberg

**ATTEST:**

  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
Andrew Segovia, City Attorney

<b>Agenda Item:</b>	<b>16 ( in consent vote: 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 28A, 28B )</b>						
<b>Date:</b>	03/29/2018						
<b>Time:</b>	09:47:34 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	Ordinance approving the assignment of Farmers Market leases at Market Square from Fiesta Cutouts to Jose A. Delgado, (dba Shainy Designs II) and from More Plants to Ricardo Campuzano, (dba Manos Magicas). [Lori Houston, Assistant City Manager; John Jacks, Director, Center City Development & Operations]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x				x
William Cruz Shaw	District 2		x			x	
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				
Clayton H. Perry	District 10		x				

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# **ATTACHMENT I**

**ASSIGNMENT AND AMENDMENT OF LEASE AGREEMENT  
FARMERS MARKET AREA NUMBER S-14  
(WITH LANDLORD'S CONSENT)**

This ASSIGNMENT AND AMENDMENT TO LEASE AGREEMENT ("**Agreement**") is hereby made and entered into by and between CITY OF SAN ANTONIO, a Texas municipal corporation and Landlord of the subject property ("**CITY**"), acting by and through its City Manager, and HUGO and CRISTINA MATTA (collectively "**TENANT**"/"**ASSIGNOR**"), D/B/A FIESTA CUTOUTS ("**FIESTA CUTOUTS**").

**WHEREAS**, effective February 23, 2009, CITY entered into that certain Lease Agreement ("**LEASE**") with TENANT 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 Farmers Market 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-14; and

**WHEREAS**, TENANT desires, as ASSIGNOR, to convey and assign TENANT's leasehold interest under the LEASE to JOSE A. DELGADO ("**ASSIGNEE**"), D/B/A SHAINY DESIGNS II ("**SHAINY DESIGNS II**"); 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 thereunder; and

**WHEREAS**, ASSIGNEE has satisfied 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 thereunder; and

**WHEREAS**, amending the LEASE is in CITY's 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 thereunder.
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 CITY under the LEASE.

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

Effective April 1, 2018, ASSIGNEE will be the exclusive owner of the business, formerly owned by ASSIGNOR, who operated as FIESTA CUTOUTS. ASSIGNEE will take full control of the business effective April 1, 2018, and will operate as "SHAINY DESIGNS II".

ASSIGNOR will not have any ownership or serve as employee or agent in the new enterprise operating from the premises. ASSIGNORS 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 Agreement 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 the following products:

- Mexican, South American and Central American clothing and handcrafts
- Jewelry
- Bags, sports team t-shirts, jackets, hats, gems, frames, watch batteries, strollers, masks
- Shoes, sandals, huaraches
- Souvenirs
- Mexican toys (no weapons or toy weapons; no American style or novelty toys)
- No toys or other objects that produce electronic noise
- Excludes Guatemalan products

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 Farmers Market 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 Interim Director of the Center City Development and Operations Department, 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**.

ASSIGNEE further agrees to refrain from hawking in common area.

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.

*[Signature page to follow.]*

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of April 1, 2018.

**ASSIGNOR:**

*Matta Cristina matta*  
Hugo and Cristina Matta  
dba Fiesta Cutouts

**ASSIGNEE:**

*[Signature]*  
Jose A. Delgado,  
d/b/a Shainy Designs II  
5320 Blanco st  
Address  
San Antonio Tx  
City, State, Zip Code  
(210) 719-33-04  
Business Telephone Number

DATE: \_\_\_\_\_

Other Telephone Number  
Shainy222011@gmail.com  
Email Address

DATE: 03-01-18

**LANDLORD:**  
CITY OF SAN ANTONIO,  
a Texas municipal corporation

**ATTEST:**

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

\_\_\_\_\_  
Leticia M. Vacek  
City Clerk

**APPROVED AS TO FORM:**

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

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# **ATTACHMENT II**

## ATTACHMENT II

### ASSIGNMENT AND AMENDMENT OF LEASE AGREEMENT FARMERS MARKET AREA NUMBER IL-13 (WITH LANDLORD'S CONSENT)

This ASSIGNMENT AND AMENDMENT TO LEASE AGREEMENT ("*Agreement*") is hereby made and entered into by and between CITY OF SAN ANTONIO, a Texas municipal corporation and Landlord of the subject property ("*CITY*"), acting by and through its City Manager, and MICAELA LEON (collectively "*TENANT/ASSIGNOR*"), D/B/A MORE PLANTS ("*MORE PLANTS*").

WHEREAS, effective November 30, 2016, CITY entered into that certain Lease Agreement ("*LEASE*") with TENANT 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 Farmers Market at Market Square (said real property and improvements hereinafter referred to as the "*Leased Premises*"). Said Leased Premises contain approximately 1,419 square feet and is identified as area number IL-13; and

WHEREAS, TENANT desires, as ASSIGNOR, to convey and assign TENANT's leasehold interest under the LEASE to RICARDO CAMPUZANO ("*ASSIGNEE*"), D/B/A MANOS MAGICAS ("*MANOS MAGICAS*"); 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 thereunder; and

WHEREAS, ASSIGNEE has satisfied 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 thereunder; and

WHEREAS, amending the LEASE is in CITY's 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 thereunder.
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 CITY under the LEASE.

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

Effective April 1, 2018, ASSIGNEE will be the exclusive owner of the business, formerly owned by ASSIGNOR, who operated as MORE PLANTS. ASSIGNEE will take full control of the business effective April 1, 2018, and will operate as "MANOS MAGICAS".

ASSIGNOR will not have any ownership or serve as employee or agent in the new enterprise operating from the premises. ASSIGNORS 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 Agreement 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 the following products:**

- Mexican, South American and Central American clothing
- Jewelry
- Hats, belts, purses, sashes and sandals
- Kitchenware, ceramics, wind chimes, stoneware, horns, papier mache items, decorative items
- Pinatas, religious items, craft supplies, flags
- No weapons or toy weapons; no American style or novelty toys
- No toys or other objects that produce electronic noise

**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 Farmers Market 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 Interim Director of the Center City Development and Operations Department, 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.

ASSIGNEE further agrees to refrain from hawking in common area.

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.

*[Signature page to follow.]*

