

AN ORDINANCE **2016-09-01-0654**

**AUTHORIZING A SHORT TERM LICENSE AGREEMENT WITH LABORFEST LLC TO LICENSE A PARCEL OF CITY-OWNED PROPERTY SURROUNDED BY TOWER OF THE AMERICA'S, MONTANA ST. AND TOWER OF THE AMERICA'S DRIVEWAY FOR A PERIOD OF NINE (9) DAYS COMMENCING ON AUGUST 29, 2016 AND TERMINATING ON SEPTEMBER 6, 2016 TO BE USED IN ASSOCIATION WITH THE 2016 LABORFEST.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio owns a parcel of property located in the vicinity of Tower of the America's St., Montana St. and Tower of the America's Driveway, as further described in "Exhibit A"; and

**WHEREAS**, the property has been identified by representatives of Laborfest LLC as a preferred site for the 2016 Laborfest outdoor festival due to its close proximity to the Henry B. Gonzalez Convention Center where the 2016 Laborfest Health and Career Expo will take place simultaneously; and

**WHEREAS**, the parcel of property will be used for outdoor concerts, concessions and amusement rides in association with the 2016 Laborfest; **NOW THEREFORE:**

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

**SECTION 1.** The terms and conditions of a Short Term License Agreement (the "Agreement") between the City of San Antonio and LaborFest L.L.C for the use of a City-owned parcel of land surrounded by Tower of the America's St., Montana St. and Tower of the America's Driveway, as further described in "Exhibit A", are approved. A copy of the Agreement in substantially its final form is attached as "Exhibit B" and made a part of this ordinance. A final copy of the Agreement will be attached when executed.

**SECTION 2.** The City Manager, or her designee, is authorized to execute a Short Term License Agreement with LaborFest LLC for the use of the City-owned property described in Exhibit A.

**SECTION 3.** This Ordinance shall be effective immediately upon the passage of eight (8) affirmative votes and after the tenth (10th) day if passed by fewer than eight affirmative votes.

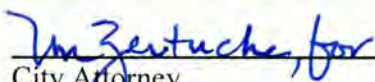
PASSED AND APPROVED this 1<sup>st</sup> day of September, 2016.

  
M A Y O R  
Ivy R. Taylor

ATTEST:

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

APPROVED AS TO FORM:

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

<b>Agenda Item:</b>	<b>17 ( in consent vote: 5, 6, 7, 8, 9, 10, 11, 12A, 12B, 13A, 13B, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28 )</b>						
<b>Date:</b>	09/01/2016						
<b>Time:</b>	09:16:54 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing a License Agreement with LaborFest, LLC to license a parcel of City-owned property surrounded by Tower of the Americas, Montana St., and Tower of the Americas driveway for a period of 9 days commencing on August 29, 2016 and terminating on September 6, 2016 to be used in association with LaborFest activities. [Carlos Contreras, Assistant City Manager; Michael Sawaya, Director, Convention & Sports Facilities]						
<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>
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				

# **Exhibit A**



## SHORT TERM LICENSE AGREEMENT

### 2016 LABORFEST

**Dates: 08/29/16 through 09/6/16**

This SHORT TERM LICENSE AGREEMENT (this "Agreement"), dated this \_\_\_\_ day of September, 2016, by and between City of San Antonio, Texas, a municipal corporation of the State of Texas, acting by and through its City Manager or her designee, hereinafter called "CITY" and LaborFest LLC hereinafter called "LICENSEE", a Texas, located at P.O. Box 33204, San Antonio, TX 78265 to set forth the agreements, covenants and provisions herein.

**WHEREAS**, LICENSEE is licensing space within the Henry B. Gonzalez Convention Center (the "HBGCC") where it will host certain activities associated with Laborfest 2016; and

**WHEREAS**, LICENSEE is seeking to license additional City-owned property where it can host outdoor events associated with the 2016 Laborfest activities taking place within the HBGCC, and

**WHEREAS**, the CITY is the owner of certain real property bordered by the Tower of the America's Montana Street and the Tower of America's Driveway which is in close proximity to the City-owned HBGCC; and

**WHEREAS**, the CITY and LICENSEE desire to enter into an agreement specifying the terms and conditions under which LICENSEE will use the City's real property for carnival and fair grounds; **NOW, THEREFORE:**

For and in consideration of the mutual agreements herein contained, the Parties hereto agree as follows:

### I. LICENSE TERM

1.1 Term & Use Days. The Term and Use Days shall commence and conclude as shown below:

Monday, August 29, 2016 – Tuesday, September 6

1.2 Event Days. Event Days for the 2016 Labor Fest are shown below:

Friday, September 2 – Sunday, September 4, 2016

1.3 Ingress/Egress Days. Ingress begins at 6:00 a.m., and Egress ends at 11:59 p.m., in accordance to the dates shown below:

Ingress Days

Monday, August 29, 2016

Egress Days

Tuesday, September 6, 2016



## **II. LICENSED PREMISES**

2.1 CITY, for and in consideration of the payment of the License Fees set forth below and the covenants and agreements hereinafter contained, and, further, subject to (i) all laws, codes, rules, regulations and ordinances of any governmental or quasi-governmental entity (hereinafter referred to as "Laws") and to (ii) all matters of record which affect or relate to the Licensed Premises (hereinafter referred to as "Permitted Exceptions") does hereby license to LICENSEE the real property bordered by the Tower of the America's Montana Street and the Tower of the America's Driveway, San Antonio, Texas (the "Licensed Premises"), as depicted in Exhibit A, which is attached hereto and incorporated herein, to have and to hold for the License Term as described above, unless sooner terminated as hereinafter provided.

2.2 The Licensed Premises shall only be used by Licensee as a carnival and fair grounds associated with Labor Fest 2016. Permitted Activities are further defined in this Agreement. Licensee must procure at its sole expense any permits and licenses required for the Permitted Activities at the Licensed Premises and otherwise comply with all Laws and Permitted Exceptions.

2.3 Licensee shall not occupy or use the Licensed Premises for any purpose which is not the same as the purposes allowed as Permitted Activities.

2.4 Licensee shall maintain the Licensed Premises in a clean and healthful condition at its sole cost and expense and will comply with all laws, with reference to use, conditions, or occupancy of the Licensed Premises. Licensee shall conduct its business, and control its agents, employees, and invitees in such a manner as not to create any nuisance, interfere with, annoy or disturb CITY's business operations.

## **III. PERMITTED ACTIVITIES**

3.1 The event shall be the 2016 Labor Fest (the "Event") and shall include all related activities. At least fifteen (15) days prior to the Event, LICENSEE shall provide to CITY a complete Scope of the Event, which shall be subject to approval by CITY. Once approved by City, the Scope of Event shall become **Exhibit B** to this Agreement and LICENSEE shall only perform the Permitted Activities listed in the Scope of Event on the License Premises and any changes must receive the prior written approval of the City. If changes to Scope of Event are made by the LICENSEE without prior City approval, the CITY, at its option, shall have the right to terminate the license agreement.

## **IV. PAYMENT**

City has agreed to provide the Licensed Premises as part of the consideration provided in the Short Term License Agreement agreed to and executed by the Parties for the HBGCC.

## **V. OPERATIONS**

5.1 LICENSEE agrees to the following provisions and will provide at Licensee's own cost:



- a. Construct and build booths, stands, and other physical facilities in the Carnival Site as are reasonably necessary in order to conduct its business operations under the license hereby granted provided such structures do not materially interfere with and obstruct any CITY streets.
- b. LICENSEE understands and agrees that CITY shall have final approval of all locations for activities within the Licensed Premises.
- c. No monuments, trees, landscaping, or directional signage may be removed or altered.
- d. LICENSEE shall be granted three ingress days and two egress days immediately following the last day of the Event for the purpose of preparation, construction, moving, and cleanup.
- e. Clean-up and restore the Licensed Premises at the conclusion of each day of the Term of the Agreement. All areas should be cleaned to include, but not limited to, clean-up and removal of all trash and debris, replacement of damaged landscaping, and repairing or replacing other damaged real or personal property by 10:00 a.m., following each day of the Event. If the CITY determines in its sole discretion that such clean-up and restoration of the parcels are not progressing properly and/or timely, then LICENSEE hereby grants authority to CITY to enter upon such locations and proceed to clean-up and restore to proper condition at LICENSEE'S expense and LICENSEE will be invoiced for all staff hours and costs incurred.
- f. Restore the Licensed Premises to the same condition after conclusion of the Event as it was immediately prior to commencement of the Event, including, but not limited to, clean-up and removal of all trash and debris, replacement of damaged landscaping, and repairing or replacing other damaged real or personal property.
- g. LICENSEE and CITY shall meet on the first day after conclusion of the Event to determine compliance of clean-up and restoration.
- h. LICENSEE shall ensure compliance and post a performance bond in favor of the CITY for restoration and clean-up of the Licensed Premises.
- i. If the CITY determines in its sole discretion that such clean-up and restoration of the Licensed Premises is not progressing properly and/or timely, then the LICENSEE hereby grants authority to CITY to enter upon such locations and proceed to clean-up and restore to proper condition, in which event the LICENSEE acknowledges and agrees to reimburse the CITY for all additional expenses, including but not limited to, labor (including all overtime pay), materials, equipment, and supervision in accomplishing a proper and timely clean-up and restoration.
- j. LICENSEE shall be financially responsible for any and all damage or destruction to CITY owned personal and/or real property within the Licensed Premises. In the event of such damage, LICENSEE shall pay in money for the cost of repairs to completely restore the property to its undamaged condition, or, in the event such



restoration is not possible, as determined in the sole discretion of the CITY, LICENSEE shall pay the full replacement value of the property. This provision is not and should not be construed as a limitation of legal remedies available.

k. LICENSEE understands and agrees that the possession or sale of any beer, soft drink, or other beverage, other than in a plastic or paper container, shall be prohibited. If alcoholic beverages are sold after 10:00 p.m., LICENSEE must cease selling such beverages no later than one (1) hour before the Event closes each day.

l. LICENSEE understands and acknowledges that the Event is limited to a maximum crowd limit established by the Fire Department of the CITY and that LICENSEE shall be responsible for enforcement of this limit and for providing fire lanes within the footprint of the Licensed Premises and all required fire appliances and personnel as prescribed by the Fire Code, if any. LICENSEE shall invite a representative of the Fire Marshal to attend all meetings with any sub licensees to insure that all fire prevention regulations are met.

m. LICENSEE shall be responsible for ensuring that neither it nor its sub licensees block lanes of traffic designated as fire lanes or other emergency access lanes. Violation of a provision of the Fire Code, failure to follow the orders of the Fire Marshal, or failure to ensure that access for emergency vehicles is provided at all times shall be an event of default for which CITY may immediately terminate this Agreement.

n. LICENSEE shall be responsible for providing all barricades, detour and traffic control signs, in conformance with current CITY standards for the Event. A traffic and Event control plan shall be submitted to CITY by LICENSEE, which shall then be submitted and coordinated with the Department of Public Works and the Police Department, for approval, a minimum of five (5) days prior to Event. Such plan will include and identify location of all rides, amusements, food booths, site fencing on Event perimeter with mesh facing and associated apparatus used in the operation of the Event. Fencing and mesh facing must be completely installed at least 1 hour prior to public admission.

o. LICENSEE shall be responsible for paying all inspection and permit fees in accordance with CITY ordinances and complying with all rules, regulations, ordinances and health requirements as are applicable to the subject matter of this Agreement. LICENSEE shall cooperate fully with such inspectors and promptly adopt or incorporate recommendations which will improve safety or operation of the Event. LICENSEE shall require all sub-licensees engaged in the sale of foods or beverages to obtain a valid license or permit from the Metropolitan Health District of the CITY.

p. LICENSEE shall be responsible for placement, payment, and provision of adequate number of chemical toilets for the Event.

q. LICENSEE agrees to provide a Certificate of Liability including the Endorsement Page from the policy where the CITY is added as an additional insured,



either specifically named or a blanket endorsement. The certificate alone is not evidence of coverage for the City of San Antonio.

r. LICENSEE shall be responsible for installation and operation of an on-site first aid station during all days and hours the Event is open.

5.2 LICENSEE will retain the following:

a. LICENSEE shall have the right to operate the Event, the right to sell concession food and beverages, novelties, and merchandise at booths and/or concession stands within the Licensed Premises and retain all revenues.

b. LICENSEE shall have the right to operate electronic games within the Licensed Premises and retain all revenues.

#### **VI. UTILITIES**

6.1 Utilities are not available on the Licensed Premises. LICENSEE shall provide at LICENSEE'S expense all utilities it requires for the duration of the Event.

#### **VII. PERSONNEL AND SERVICES**

7.1 Event Staffing.

(a) LICENSEE is solely responsible for providing personnel, reasonably necessary for the operation of the Licensed Premises for the Event.

(b) San Antonio Police Officers and San Antonio Fire Marshals. LICENSEE acknowledges that it shall be responsible for employing police officers and fire marshals, and for paying the costs of such services for the Event. LICENSEE will be billed directly by the San Antonio Police Department Off-Duty Employment Unit and the San Antonio Fire Department for estimated costs associated with employing security and fire personnel for the Event.

#### **VIII. ACCEPTANCE AND CONDITION OF PREMISES**

8.1 LICENSEE has had full opportunity to examine the LICENSED PREMISES, in its present "AS IS, WHERE IS, WITH ALL FAULTS" condition, and LICENSEE acknowledges that there is in and about said LEASED PREMISES nothing dangerous to life, limb or health and hereby waives any claim for damages that may arise from defects of that character upon the Term Commencement Date. LICENSEE'S use of the LICENSED PREMISES in its "AS IS, WHERE IS, WITH ALL FAULTS" condition shall be conclusive evidence of LICENSEE's acceptance thereof in good order and satisfactory condition and LICENSEE hereby accepts the LICENSED PREMISES in its present, "AS IS, WHERE IS WITH ALL FAULTS" condition from CITY as suitable for LICENSEE's intended use as stated herein.

8.2 LICENSEE agrees that no representations respecting the condition of the LICENSED PREMISES and no promises to alter, repair, or improve the LICENSED PREMISES, either before or



after the execution hereof, have been made by CITY. CITY specifically disclaims any and all warranties whatsoever of suitability of the Licensed Premises for Licensee's intended use.

8.3 LICENSEE assumes all risk of damage to its property and/or the loss by theft or otherwise, of any property of LICENSEE, its employees, and/or its exhibitors, and no claim shall be made upon CITY because of any such loss. LICENSEE shall be responsible for the provision of security during the Term of this Agreement for any property brought onto the Licensed Property by LICENSEE, its employees, and/or its purveyors.

## **IX. INSURANCE**

9.1 Prior to the commencement of any work under this Agreement, LICENSEE shall furnish, thirty (30) days prior to the 1<sup>st</sup> ingress day of the Event unless cleared in writing by the Convention, Sports, & Entertainment General Manager, copies of all required endorsements and an original completed Certificate(s) of Insurance, which shall be clearly labeled "2016 Labor Fest" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. CITY will not accept Memorandum of Insurance or Binders as proof of insurance. The certificate(s) or form must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to CITY. CITY shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by CITY'S Convention, Sports and Entertainment Department. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

9.2 CITY reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by CITY'S Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will CITY allow modification whereupon CITY may incur increased risk.

9.3 A Licensee's financial integrity is of interest to CITY; therefore, subject to LICENSEE'S right to maintain reasonable deductibles in such amounts as are approved by CITY, LICENSEE shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at LICENSEE'S sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

### **TYPE**

### **AMOUNT**

1. RESERVED.
2. Commercial General Liability Insurance (Broad Form) for bodily injury and property damage to include coverage of limits of \$1,000,000 aggregate with \$1,000,000 per occurrence for the following:
  - a. Premises operations
  - b. Independent contractors



- c. Products/completed operations
- d. Personal Injury
- e. Contractual liability

3. RESERVED.

4. RESERVED.

5. Liquor Legal Liability \$1,000,000 per occurrence; \$1,000,000 General Aggregate

6. Property Insurance – LICENSEE and/or its Concessionaires will be responsible for their own property and equipment at their own expense.

9.4 LICENSEE agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of LICENSEE herein, and provide a certificate of insurance and endorsement that names LICENSEE and CITY as additional insureds. Respondent shall provide CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by CITY's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. Such modification may be enacted by letter signed by CITY's Risk Manager, which shall become a part of the contract for all purposes.

9.5 As they apply to the limits required by the City, the CITY shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). LICENSEE shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to CITY at the address provided below within 10 days of the requested change. LICENSEE shall pay any costs incurred resulting from said changes.

City of San Antonio  
Attn: Convention & Sports Facilities  
100 Montana Street  
San Antonio, Texas 78203-1033

9.6 LICENSEE agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Name CITY and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with CITY, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to CITY where the CITY is an additional insured shown on the policy;



- Workers' compensation, employers' liability, general liability and auto liability policies will provide a waiver of subrogation in favor of CITY; and
- Provide advance written notice directly to CITY of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

9.7 Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, LICENSEE shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend LICENSEE'S performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

9.8 In addition to any other remedies CITY may have upon LICENSEE'S failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, CITY shall have the right to order LICENSEE to stop work hereunder, and/or withhold any payment(s) which become due to LICENSEE hereunder until LICENSEE demonstrates compliance with the requirements hereof.

9.9 Nothing herein contained shall be construed as limiting in any way the extent to which LICENSEE may be held responsible for payments of damages to persons or property resulting from LICENSEE'S or its subcontractors' performance of the work covered under this Agreement.

9.10 It is agreed that LICENSEE'S insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

9.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

9.12 LICENSEE and any subcontractor are responsible for all damage to their own equipment and/or property.

## **X. INDEMNIFICATION**

**10.1 LICENSEE covenants and agrees to INDEMNIFY, DEFEND and HOLD HARMLESS CITY, ITS ELECTED OFFICIALS, OFFICERS AND EMPLOYEES against any and all claims, lawsuits, judgments, cost, liens, losses, expenses, fees (including attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury (including death), property damage, or other harm for which recovery of damages is sought that may ARISE OUT OF OR BE OCCASIONED OR CAUSED BY THE NEGLIGENT ACT, ERROR, OR OMISSION OF LICENSEE, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONTRACTOR OR SUBCONTRACTOR OF LICENSEE, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES. The indemnity provided for in this SECTION shall not apply to any liability resulting from the negligence of CITY, its elected officials, officers or employees. IN THE EVENT LICENSEE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT**



**JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

**10.2 The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.**

**10.3 LICENSEE shall advise CITY in writing within 24 hours of any claim or demand against CITY or LICENSEE known to LICENSEE related to or arising out of LICENSEE'S activities under this AGREEMENT.**

**10.4 Defense Counsel - CITY shall have the right to select or to approve defense counsel to be retained by LICENSEE in fulfilling its obligation hereunder to defend and indemnify CITY, unless such right is expressly waived by CITY in writing. LICENSEE shall retain CITY approved defense counsel within seven (7) business days of CITY'S written notice that CITY is invoking its right to indemnification under this Agreement. If LICENSEE fails to retain Counsel within such time period, CITY shall have the right to retain defense counsel on its own behalf, and LICENSEE shall be liable for all costs incurred by CITY. CITY shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.**

**10.5 Employee Litigation - In any and all claims against any party indemnified hereunder by any employee of LICENSEE, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for LICENSEE or any subcontractor under worker's compensation or other employee benefit acts.**

## **XI. MISCELLANEOUS**

**11.1 Powers of the CITY. Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of CITY.**

**11.2 Impossibility. CITY shall not be responsible for its failure to make the Alamodome available or to provide the facilities and services described herein nor shall LICENSEE be responsible for its failure to present the Event in the Alamodome where such performance is rendered impossible or impracticable due to strikes, walk-outs, acts of God, inability to obtain labor, materials, or services, government restrictions, enemy action, civil commotion, fire, unavoidable casualty, or similar causes beyond the control of CITY.**

**11.3 Notices. Any notice or communication hereunder shall be in writing, and may be given by registered or certified mail. If given by registered or certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid. If given otherwise than by registered or certified mail, it shall be**



deemed to have been given when delivered to and received by the party to whom it is addressed. Such notices or communications shall be given to the parties hereto at their following addresses:

If to the City:

Patricia Musquiz Cantor  
Assistant Director  
Convention & Sports Facilities  
P.O. Box 839966  
San Antonio, TX 78283-3966  
(210) 207-6556

If to the Licensee:

Larry Williams  
CEO/Founder  
LaborFest LLC  
P.O. Box 33204  
San Antonio, Texas 78265

With a copy to:

City Clerk  
City of San Antonio  
P.O. Box 839966  
San Antonio, TX 78283-3966

Either party hereto may, at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the foregoing address to which such notice or communication shall be given.

11.4 LICENSEE agrees to comply with all applicable Federal, State, and Local laws regarding nondiscrimination. As a party to this Agreement, LICENSEE understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X of the City Code and further shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law.

11.5 LICENSEE agrees to pay on a current basis all taxes or assessments, if applicable, levied on its activities and property; PROVIDED, however, that nothing contained herein shall modify the right of LICENSEE to contest any such tax, and LICENSEE shall not be deemed to be in default as long as it shall, in good faith, be contesting the validity or amount of any such taxes.

11.6 Neither the waiver by either party to this Agreement nor any breach of any agreement, covenant, condition, or provision thereof, nor the failure of either party to seek redress for violation of, or to insist upon strict performance of, any such agreement, covenant, condition, or provision, shall be considered to be a waiver of any such agreement, covenant, condition, or provision or of any subsequent breach thereof. No provision of this Agreement may be waived except by written agreement of the party to be charged.

11.7 This Agreement shall be deemed to be, and is, made in and shall be in accordance with the laws of the State of Texas, which will be controlling in any dispute that arises hereunder. Actions pertaining to this Agreement shall be brought in Bexar County, City of San Antonio, Texas.

11.8 The paragraph headings contained herein are only for convenience and reference and are not intended to be a part of this Agreement or in any manner to define, limit, or describe the scope or intent of this Agreement or the particular paragraphs to which they refer.



11.09 This Agreement and any attachments hereto constitute the entire Agreement between CITY and LICENSEE and may not be altered, amended, or modified except by an instrument in writing signed by the parties hereto with the same formality as this Agreement.

11.10 No Partnership. Nothing contained herein shall make, or be deemed to make, CITY and LICENSEE a partner of one another, and this Agreement shall not be construed as creating a partnership or joint venture, but only the relationship of CITY and licensee.

11.11 Singular and Plural. Wherever the context shall so require, the singular shall include the plural and plural shall include the singular.

11.12 Permits and Licenses. It is understood and agreed that LICENSEE is responsible for obtaining all necessary permits and licenses.

11.13 Compliance with Applicable Law. LICENSEE shall be responsible for compliance with all applicable laws, statutes, codes, and regulations, including without limitation those relating to providing a safe working environment to employees and, specifically, the requirements of the Texas Industrial Safety and Health Act (TISHA), and the Americans with Disabilities Act (ADA).

11.14 LICENSEE shall deliver to CITY on or before the execution of this Agreement and shall keep in force throughout the term hereof either an Irrevocable Standby Letter of Credit or Surety Bond in favor of CITY. The foregoing shall be in form and content satisfactory to CITY, shall be conditioned on satisfactory performance of the provisions of Subsection 4.1(e) during the term hereof and shall stand as security for payment by LICENSEE of all valid claims by CITY with regard to the provisions of Subsection 4.1(e). If a bond shall be delivered, it shall be issued by a sound indemnity company authorized to do business in Texas. The amount of the irrevocable letter of credit or surety bond to be delivered by LICENSEE to CITY on or before the date of the Agreement shall be TWENTY-FIVE THOUSAND DOLLARS AND 0 CENTS (\$25,000.00). LICENSEE shall maintain the required performance guarantee continuously throughout the Agreement term. Failure to do so shall be deemed a default and shall be grounds for immediate termination of this Agreement.

11.15 LICENSEE shall require that all of its subcontractors and vendors comply fully with the terms and conditions of this Agreement.

11.16 Severability. If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the Charter of the City of San Antonio, the City Code of San Antonio, or ordinances of the City, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

11.17 Assignments. LICENSEE shall not assign or transfer LICENSEE'S interest in this Agreement without the written consent of the General Manager of the Alamodome/Convention &



Sports Facilities. Any attempt to transfer, pledge or other assignment shall be void ab initio and shall confer no rights upon any third person or party.

11.18 Attachments. Each of the Attachments affixed to this Agreement is an essential part of the Agreement and governs the rights and duties of the parties. Each Attachment shall be incorporated herein for all purposes.

11.19 Boldface Terms. All terms and words in this License Agreement that are in "boldface" script control over and in lieu of all other inconsistent terms and words in this Agreement.

11.20 Disputes. The Director of the HBGCC shall be the arbiter in any dispute, which may arise under these articles.

*Signatures appear on next page.*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

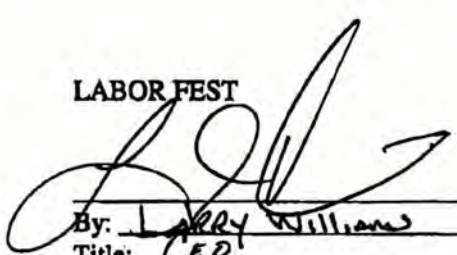


EXECUTED AND AGREED TO this the \_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF SAN ANTONIO

\_\_\_\_\_  
Sheryl L. Sculley  
City Manager

LABOR FEST

  
By: LARRY WILLIAMS  
Title: CEO

8-23-16

ATTEST:

\_\_\_\_\_  
Leticia Vacek  
City Clerk

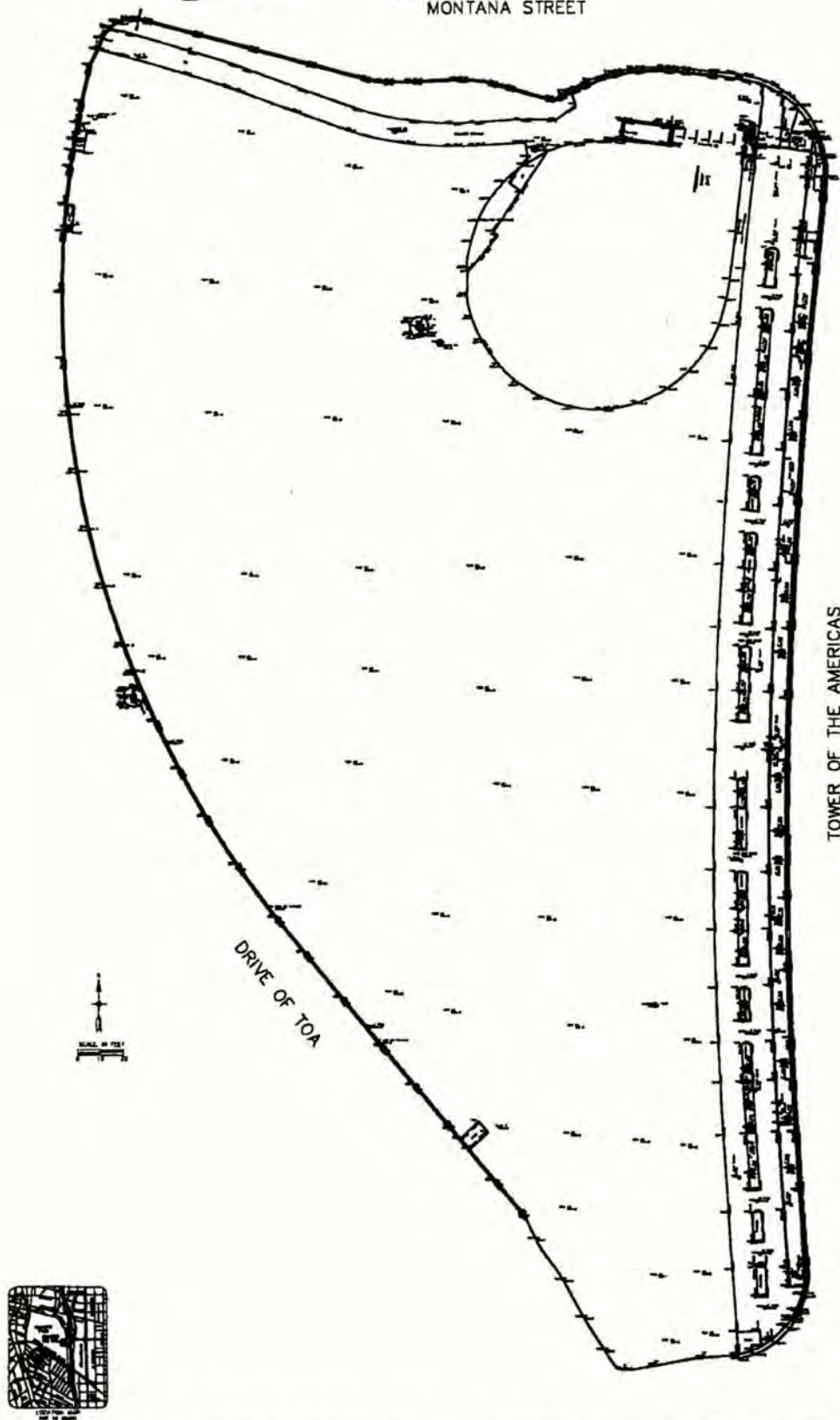
APPROVED AS TO FORM:

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



# EXHIBIT A

MONTANA STREET



Sheet No. of 1	Prepared by: <b>San Antonio</b> Date: <b>4/1/80</b> Project No.: <b>0000</b> Planning Area: <b>0000</b>	<b>Bowie/Market</b> Circulator Area <b>TOPOGRAPHY SURVEY</b> CSE/Quaranta Maps		CITY OF SAN ANTONIO TRANSPORTATION AND CAPITAL IMPROVEMENTS CONSTRUCTION MANAGEMENT SERVICES		Date: <b>4/1/80</b> By: <b>0000</b> Title: <b>0000</b>	
	(Empty row for additional information)						
	(Empty row for additional information)						
	(Empty row for additional information)						

Symbol	Description
	Spot Height
	Boundary
	Road
	Building
	Tree
	Water
	Fence
	Utility
	Monument
	Spot Height
	Boundary
	Road
	Building
	Tree
	Water
	Fence
	Utility
	Monument