

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
CONVENTION FACILITIES DEPARTMENT**

TO: Mayor and City Council

FROM: Edward C. García, Convention Facilities Director

THROUGH: Terry M. Brechtel, City Manager

COPIES: Roland A. Lozano, Assistant to the City Manager; Rebecca Waldman, Director, Asset Management; File

SUBJECT: Ordinance Consenting to an Assignment of the Business Center Lease Agreement for the Henry B. Gonzalez Convention Center

DATE: June 26, 2003

SUMMARY AND RECOMMENDATIONS

This ordinance consents to an Assignment of the Henry B. Gonzalez Convention Center (Business Center) Lease Agreement ("Agreement") and Amendment to Business Center Agreement with F. Kellogg Enterprises Inc., as "Tenant", of the Tenant's interest in the Agreement and Amendment, with all of the terms and conditions to remain the same, to Texas Badger Developments-1, LLC, to operate a franchise of Mail Boxes Etc. dba The UPS Store consisting of 1,761 square feet of leased premises, with a monthly base rent of \$1.55 per gross square foot or \$2,729.55 per month, for an annual base rent of \$32,754.60 for the balance of the Initial Term of five (5) years, which commenced December 31, 2001, with one (1) renewal term of three (3) years subject to San Antonio City Council approval, with the City's consent being contingent on written confirmation of the sale of the franchise to Texas Badger Developments-1, LLC.

Staff recommends the approval of this ordinance.

BACKGROUND

The business center is located in the vicinity of the Lila Cockrell Theatre and the Entrance Lobby on the street level of the Henry B. Gonzalez Convention Center. It was established pursuant to Ordinance No. 94484 dated September 6, 2001 to satisfy numerous requests for additional customer service by (1) offering various office functions to customers of the Convention Center, including but not limited to, word processing, copying, parcel shipping, and (2) selling assorted office supplies including envelopes, tape, labels, etc. and to continue to position the facility competitively with other facilities and to produce a new revenue stream for the department. The business center has increased customer service not only to customers of the Convention Center but also to surrounding businesses.

An Amendment, pursuant to Ordinance No. 95758 dated May 16, 2002, added 375 square feet of space to the existing 1,386 square feet for a total of 1,761 square feet. The additional space facilitated receipt of large shipping orders for larger conventions and provided extra storage space for supplies.

Texas Badger Developments-1, LLC has owned and operated The UPS Store at The Forum (retail complex) since October 2002. The current Store Manager will remain at The UPS Store located in the Henry B. González Convention Center.

POLICY ANALYSIS

Although Texas Badger Developments-1 LLC, through their franchise agreement, is required to use a specific list of vendors, they have provided a list of local businesses that Mailboxes Etc. dba The UPS Store has approved them to use.

FISCAL IMPACT

The Assignment of the lease does not change anticipated revenues to the City. Monthly rent is based on the greater of (1) 1,761 square feet at \$1.55 per square foot equaling the flat fee of \$2,729.55 per month (\$32,754.60 annually) or (2) 10% of net monthly sales from minimum (exclusive) products and services. In addition to the base rent, Texas Badger Development-1, LLC will pay 40% of the gross margin from non-exclusive products and services.

Projected annual revenue for the initial term of the business center lease is as follows:

| <u>Fiscal Year</u> | <u>Revenue</u> |
|--------------------|-----------------|
| 2002 * | \$38,280 |
| 2003 | \$38,000 |
| 2004 | \$40,000 |
| 2005 | \$42,500 |
| 2006 | \$45,000 |
| 2007 ** | <u>\$11,875</u> |
| Total | \$215,655 |

* Fiscal Year 2002 – January – September 2002

** Fiscal Year 2007 – October – December 2006

Guaranties for rent obligations have been executed by the JAW 4 Group, area franchisee of Mailboxes Etc. dba The UPS Store and the corporate office of Mailboxes Etc. dba the UPS Store. The Guaranty from JAW 4 Group also guarantees that another party, acceptable to the City, as Tenant, will be provided should Texas Badger Development-1, LLC vacate the premises during the initial term or renewal term of the Lease and Amendment.

The assignment is for the balance of the 5-year term of the Business Center Lease which commenced December 31, 2001 and expires December 30, 2006, with one (1) three (3)-year

renewal option subject to San Antonio City Council approval. The City's consent to the assignment is contingent on written confirmation of the sale of the franchise to Texas Badger Developments-1, LLC.

COORDINATION

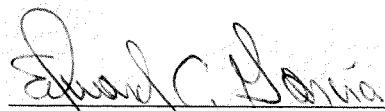
This ordinance, consenting to the Assignment of the Business Center Lease Agreement and Amendment to Business Center Agreement from F. Kellogg Enterprises Inc. to Texas Badger Development-1, LLC, has been coordinated with the Department of Asset Management, Economic Development, and the City Attorney's Office.

SUPPLEMENTARY COMMENTS

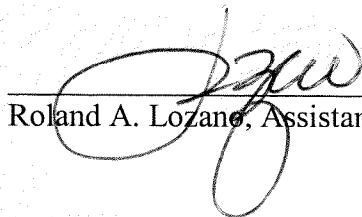
The required Ethics Disclosure Form is attached.

ATTACHMENTS

- Assignment of Business Center Agreement and Amendment to Business Center Agreement
- Exhibit "H" – Modified Guaranty of Mailboxes Etc., Inc. dba The UPS Store
- Exhibit "I" – Modified Guaranty of JAW 4 Group, Inc. as Area Franchisee
- Discretionary Contracts Disclosure form

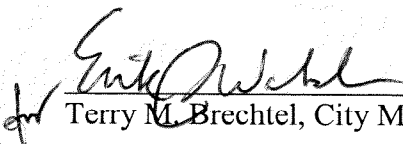


Edward C. García, Convention Facilities Director



Roland A. Lozano, Assistant to the City Manager

APPROVED:



Terry M. Brechtel, City Manager

City of San Antonio

Discretionary Contracts Disclosure*

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2

Attach additional sheets if space provided is not sufficient.

State "Not Applicable" for questions that do not apply.

* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the city in the enforcement of provisions contained in the City Charter and the code of ethics, an individual or business entity seeking a discretionary contract from the city is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any **individual** who would be a party to the discretionary contract;

RICHARD SCHOFF

ROSS BOWEN

MARY SCHOFF

DIANNE BOWEN

(2) the identity of any **business entity**¹ that would be a party to the discretionary contract:

TEXAS BADGER DEVELOPMENTS - I, LLC

and the name of:

(A) any individual or business entity that would be a *subcontractor* on the discretionary contract;

N/A

(B) any individual or business entity that is known to be a *partner*, or a *parent* or *subsidiary* business entity, of any individual or business entity who would be a party to the discretionary contract;

N/A

(3) the identity of any *lobbyist* or *public relations firm* employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

N/A

¹ A *business entity* means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.


Political Contributions

Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any *current or former member* of City Council, any *candidate* for City Council, or to any *political action committee* that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

| To Whom Made: | Amount: | Date of Contribution: |
|---------------|---------|-----------------------|
| N/A | | |

Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, reasonably understood, raise a question² as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

| | | |
|---|---|-------------------------|
| N/A | | |
| Signature:  | Title: <i>Owner/Member</i> Company: <i>TEXAS BROTHER</i> <i>DEVELOPMENTS - I, LLC</i> <i>(dba The UPS STORE)</i> | Date: <i>6/10/03</i> |

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

COPY

ASSIGNMENT OF BUSINESS CENTER AGREEMENT AND AMENDMENT TO BUSINESS CENTER AGREEMENT

ASSIGNOR: F. KELLOGG ENTERPRISES, INC., a Texas corporation

ASSIGNEE: TEXAS BADGER DEVELOPMENTS-1, LLC, a Texas Limited Liability Company

AGREEMENTS: (1) Henry B. González Convention Center (Business Center) Lease Agreement also known as the **Business Center Agreement** ("Agreement"), entered into by the **CITY OF SAN ANTONIO**, a Texas municipal corporation, acting by and through its City Manager, pursuant to Ordinance No. 94484, passed and approved on September 6, 2001, referred to in said **Agreement** as "**CITY**", and **F. KELLOGG ENTERPRISES, INC.**, a Texas corporation, referred to in said **Agreement** as "**TENANT**"

AND

(2) **Amendment to Business Center Agreement** ("**Amendment**") entered into by the **CITY OF SAN ANTONIO**, a Texas municipal corporation, acting by and through its City Manager, pursuant to Ordinance No. 95758, passed and approved on May 16, 2002, referred to in said **Amendment** as "**CITY**", and **F. KELLOGG ENTERPRISES, INC.**, a Texas corporation, referred to in said **Amendment** as "**TENANT**"

PREMISES: 1,761 square feet, consisting of 1,386 square feet of space described in the **Agreement** and an additional 375 square feet of space located adjacent to such 1,386 square feet, both in the Henry B. González Convention Center, 200 E. Market, San Antonio, Bexar County, Texas, as shown as **Exhibit "A"** attached hereto.

ASSIGNMENT: **ASSIGNOR** assigns to **ASSIGNEE** all of **TENANT's** rights, interests, duties, obligations and liabilities in the above-referenced **Agreement** and **Amendment** as of the **EFFECTIVE DATE** set forth below. **ASSIGNEE** acknowledges that copies of both the **Agreement** and the **Amendment** have been provided to **ASSIGNEE**, who has reviewed each document and has had the benefit of review by **ASSIGNEE's** legal counsel and **ASSIGNEE** accepts from **ASSIGNOR** the assignment of all of **TENANT's** rights, interests, duties, obligations and liabilities in and under the above-referenced **Agreement** and **Amendment** as of the **EFFECTIVE DATE** set forth below. **ASSIGNEE** agrees to be bound unto **CITY** for the performance of all said duties, obligations and liabilities of **TENANT** under both said **Agreement** and **Amendment** as of said **EFFECTIVE DATE**. Copies of the **Agreement** and the **Amendment** are attached hereto as **Exhibit "B"** and **Exhibit "C"** respectively and incorporated herein verbatim for all purposes.

EFFECTIVE DATE: The Closing Date as shown on the Closing Statement or similar legal instrument evidencing the sale by **ASSIGNOR** (as "**SELLER**") to **ASSIGNEE** (as "**PURCHASER**") of the rights and franchise ownership interest held by **ASSIGNOR** in that certain business known as "The UPS Store" operating in the Henry B. González Convention Center, San Antonio, Texas, which includes both the **Agreement** and the **Amendment** as an asset of the business, specifically including therein the rights, interests, duties, obligations, and liabilities of **TENANT** to **CITY** under both the **Agreement** and **Amendment** including use of the Premises described above.

CONSENT TO ASSIGNMENT: **CITY OF SAN ANTONIO**, as a party to both the **Agreement** and **Amendment** set forth above, consents to this Assignment from **ASSIGNOR** to **ASSIGNEE**, pursuant to authority granted under **CITY OF SAN ANTONIO** Ordinance No. _____ passed and approved on June 26, 2003. Further, **CITY** is satisfied that **ASSIGNEE** is capable of performing all of **TENANT's** duties, obligations, and liabilities set forth within both the **Agreement** and **Amendment**, therefore **CITY** hereby releases **ASSIGNOR** from all of **TENANT's** duties, obligations, and liabilities set forth within said **Agreement** and **Amendment**. **HOWEVER**, this **CONSENT TO ASSIGNMENT** and the release of **ASSIGNOR** from all of **TENANT's** duties, obligations, and liabilities set forth within said **Agreement** and **Amendment** are given by **CITY** contingent on written confirmation of the actual sale by **ASSIGNOR** (as "**SELLER**") to **ASSIGNEE** (as "**PURCHASER**") of the rights and franchise ownership interest held by

[SIGNATURES OF ALL PARTIES TO THIS ASSIGNMENT AND CONSENT APPEAR ON NEXT PAGE]

ASSIGNOR in that certain business known as "The UPS Store" operating in the Henry B. González Convention Center, San Antonio, Texas, which includes both the **Agreement** and the **Amendment** as an asset of the business, specifically including therein the rights, interests, duties, obligations, and liabilities of **TENANT** to **CITY** under both the **Agreement** and **Amendment** including use of the Premises described above.

REGARDLESS OF THE DATE EACH PARTY SIGNS THIS ASSIGNMENT, THE EFFECTIVE DATE DEFINED AND SET FORTH ON PAGE 1 SHALL CONTROL.

ASSIGNOR: F. KELLOGG ENTERPRISES, INC., a Texas Corporation

By: [Signature]
Name: Fredrick W. Kellogg
Title: President
Date Signed: 6/11/03

CITY OF SAN ANTONIO, A Texas Municipal Corporation

By: _____
Name: _____
Title: City Manager
Date Signed: _____

ASSIGNEE:
TEXAS BADGER DEVELOPMENTS-1, LLC, a Texas Limited Liability Company

By: [Signature]
Name: Richard Schoff
Title: Member
Date Signed: 6/11/03

By: [Signature]
Name: Mary Schoff
Title: Member
Date Signed: 6/11/03

By: [Signature]
Name: Ross Bowen
Title: Member
Date Signed: 6/11/03

By: [Signature]
Name: Dianne Bowen
Title: Member
Date Signed: 6/11/03

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

[ACKNOWLEDGEMENTS ON PAGES 3 AND 4]

ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF

Bexar

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This instrument was acknowledged before me on this 11 day of June, 2003, by Frederick J. Kellogg, _____ (Title) of **F. KELLOGG ENTERPRISES, INC.**, a Texas Corporation, on behalf of said Corporation.

(SEAL)



Kelly Erin Coleman
Notary Public, State of Texas
Printed Name: Kelly Erin Coleman
My Commission Expires: 6-11-06

ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF

Bexar

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This instrument was acknowledged before me on this 11 day of June, 2003, by Richard Schoff, Member, **TEXAS BADGER DEVELOPMENTS-1, LLC**, a Texas Limited Liability Company, on behalf of said limited liability company.

(SEAL)



Kelly Erin Coleman
Notary Public, State of Texas
Printed Name: Kelly Erin Coleman
My Commission Expires: 6-11-06

ACKNOWLEDGEMENT

STATE OF TEXAS

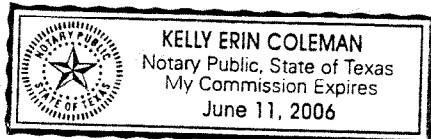
COUNTY OF

Bexar

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§
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This instrument was acknowledged before me on this ____ day of _____, 2003, by Mary Schoff, Member, **TEXAS BADGER DEVELOPMENTS-1, LLC**, a Texas Limited Liability Company, on behalf of said limited liability company.

(SEAL)



Kelly Erin Coleman
Notary Public, State of Texas
Printed Name: Kelly Erin Coleman
My Commission Expires: 6-11-06

ACKNOWLEDGEMENT

STATE OF TEXAS

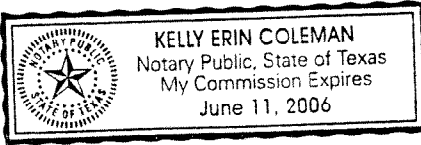
COUNTY OF

Bexar

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This instrument was acknowledged before me on this 11 day of June, 2003, by Ross Bowen, Member, **TEXAS BADGER DEVELOPMENTS-1, LLC**, a Texas Limited Liability Company, on behalf of said limited liability company.

(SEAL)



Kelly Erin Coleman
Notary Public, State of Texas
Printed Name: Kelly Erin Coleman
My Commission Expires: 6-11-06

ACKNOWLEDGEMENT

STATE OF TEXAS

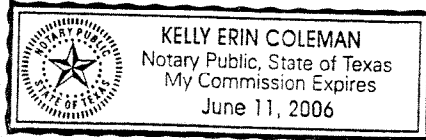
COUNTY OF

Bexar

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This instrument was acknowledged before me on this 11 day of June, 2003, by Dianne Bowen, Member, **TEXAS BADGER DEVELOPMENTS-1, LLC**, a Texas Limited Liability Company, on behalf of said limited liability company.

(SEAL)



Kelly Erin Coleman
Notary Public, State of Texas
Printed Name: Kelly Erin Coleman
My Commission Expires: 6-11-06

ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF BEXAR

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This instrument was acknowledged before me on this ____ day of _____, 2003 by _____, _____ City Manager of the **CITY OF SAN ANTONIO**, a Texas Municipal Corporation, on behalf of said municipal corporation.

(SEAL)

Notary Public, State of Texas
Printed Name: _____
My Commission Expires: _____

AFTER RECORDING, RETURN TO:

Name: _____
Address: _____
City/State/Zip Code: _____

WFF: Assignment of Business Center
Agreement And Amendment to
Business Center Agreement
From F. Kellogg Enterprises, Inc.
To Texas Badger Developments-1, LLC 6-03

**EXHIBIT "H" - MODIFIED GUARANTY OF MAIL BOXES ETC., INC.
DOING BUSINESS AS THE UPS STORE - 2**

As an inducement to CITY OF SAN ANTONIO, TEXAS ("City") to consent to that certain Assignment of Henry B. Gonzalez Convention Center (Business Center) Lease Agreement and Amendment to Business Center Agreement from F. KELLOGG ENTERPRISES, INC., as Assignor, to TEXAS BADGER DEVELOPMENTS-1, LLC, as Assignee, dated June 26, 2003, assigning to TEXAS BADGER DEVELOPMENTS-1, LLC the interest of the Tenant in the Henry B. Gonzalez Convention Center (Business Center) Lease Agreement also identified as the Business Center Agreement, dated September 25, 2001 (the "Lease") and the Amendment to Business Center Agreement dated May 26, 2002 (the "Amendment") both the Lease and Amendment having been entered into by and between F. KELLOGG ENTERPRISES, INC. ("Tenant") and City, the undersigned MAIL BOXES, ETC., INC. DOING BUSINESS AS THE UPS STORE ("Guarantor") absolutely and unequivocally guarantees only to the extent set forth below ("Limits of Guaranty") the performance of TEXAS BADGER DEVELOPMENTS-1, LLC, as Tenant, of the rent obligations of Tenant to City under the Lease and Amendment, should Tenant fail to pay any such rent obligations to City. Further, if TEXAS BADGER DEVELOPMENTS-1, LLC subsequently assigns its rights under the Lease and Amendment to a third party franchisee or any other third party (defined collectively as "subsequent third party") approved in advance by Guarantor and City, and if the subsequent third party defaults in payment of the rent obligations of Tenant to City under the Lease and/or Amendment, then the undersigned MAIL BOXES, ETC., INC. DOING BUSINESS AS THE UPS STORE ("Guarantor") absolutely and unequivocally guarantees only to the extent set forth below ("Limits of Guaranty") the performance by such subsequent third party, as Tenant, of the rent obligations of Tenant to City under the Lease and Amendment. The Limits of Guaranty are as follows:

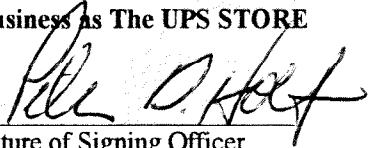
| | |
|---------------------------|---|
| First Year of Lease | The greater of (1) the total amount of minimum rent owed by Tenant to City during the Lease's first year; i.e., \$29,848.35 consisting of 5 months at \$2,148.30 (\$10,741.50) as reflected in the Lease, plus 7 months at \$2,729.55 (\$19,106.85) as reflected in the Amendment, or (2) the total amount of "percentage rent" (as defined in the Lease) owed by Tenant to City during the Lease's first year. |
| Second Year of Lease | Eighty Percent (80%) of the amount guaranteed during the first year. |
| Third Year of Lease | Sixty Percent (60%) of the amount guaranteed during the first year. |
| Fourth Year of Lease | Forty Percent (40%) of the amount guaranteed during the first year. |
| Fifth Year of Lease | Twenty Percent (20%) of the amount guaranteed during the first year. |
| After Fifth Year of Lease | Guaranty Expires. |

If TEXAS BADGER DEVELOPMENTS-1, LLC, as "Tenant" (1) defaults in payment of the rent obligations of Tenant to City under the Lease and/or Amendment or (2) if TEXAS BADGER DEVELOPMENTS-1, LLC subsequently assigns its rights under the Lease and Amendment to a third party franchisee or any other third party (defined collectively above as "subsequent third party") approved in advance by Guarantor and City, and if the subsequent third party defaults in payment of the rent obligations of Tenant to City under the Lease and/or Amendment, then under either circumstance, Guarantor understands, and is executing this Guaranty with such understanding and reliance, that the City pledges that prior to demanding payment from Guarantor, City will first take reasonable efforts to collect the guaranteed amounts directly from (1) TEXAS BADGER DEVELOPMENTS-1, LLC or the approved subsequent third party, as applicable, and 2) from JAW 4 GROUP, INC., which has also signed a guaranty of Tenant's duties under the Lease and Amendment. Guarantor further understands, and is executing this Guaranty with such understanding and reliance, that City also pledges that it shall provide Guarantor thirty (30) days' prior written notice by certified mail, return receipt requested of any demand for payment, describing the efforts City has (unsuccessfully) taken to attempt collection directly from TEXAS BADGER DEVELOPMENTS-1, LLC, as "Tenant", or from any subsequent third party, as applicable. AND from JAW 4 GROUP, INC.

[CONTINUED ON NEXT PAGE]

If for any reason, City and Tenant fail to enter into the Assignment, then this Guaranty shall be void and invalid; however, the Modified Guaranty of Mail Boxes Etc. dated May 26, 2002 will still be in full force and effect.

AGREED TO BY GUARANTOR, MAIL BOXES, ETC., INC.
doing business as The UPS STORE


Signature of Signing Officer

6/5/03, 2003
Date of Signature

PETER D. HOLT
Printed Name of Signing Officer

Exec. Vice Pres.
Title of Signing Officer

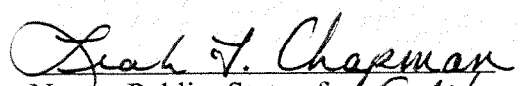
ACKNOWLEDGEMENT

STATE OF CALIFORNIA §
§
COUNTY OF SAN DIEGO §

This instrument was acknowledged before me on this 5th day of June, 2003, by PETER D. HOLT
Exec. V.P. of **MAIL BOXES, ETC., INC.**, doing business as **The UPS STORE**, a
Del. corporation, on behalf of said Corporation.

(SEAL)

see attached


Notary Public, State of California

Printed Name: LEAH F. CHAPMAN

My Commission Expires: 1-16-06

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

SAN DIEGO

} ss.

On JUNE 5 2003

Date

before me, LEAH F. CHAPMAN, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

PETER D. HOLT

Name(s) of Signer(s)

☒ personally known to me

☐ proved to me on the basis of satisfactory evidence

to be the person ☒ whose name ☒ is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity ☒, and that by his/her/their signature ☒ on the instrument the person ☒, or the entity upon behalf of which the person ☒ acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Leah F. Chapman
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Modified Guaranty of mbc d/b/a the UPS Store

Document Date: 6-5-03

Number of Pages: 2

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer

Signer's Name: Peter D. Holt

☐ Individual

☒ Corporate Officer — Title(s): Exec V.P.

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: MAIL BOXES ETC., INC.

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

EXHIBIT "I"- MODIFIED GUARANTY OF JAW 4 GROUP, INC. AS AREA FRANCHISEE - 2

As an inducement to CITY OF SAN ANTONIO, TEXAS ("City"), to consent to that certain Assignment of Business Center Agreement and Amendment to Business Center Agreement from F. KELLOGG ENTERPRISES, INC., as Assignor, to TEXAS BADGER DEVELOPMENTS-1, LLC, as Assignee, dated June 26, 2003, assigning to TEXAS BADGER DEVELOPMENTS-1, LLC the interest of the Tenant in that certain Henry B. Gonzalez Convention Center Lease Agreement also identified as the Business Center Agreement, dated September 25, 2001 (the "Lease") and the Amendment to Business Center Agreement dated May 26, 2002 (the "Amendment"), both the Lease and Amendment having been entered into by and between F. KELLOGG ENTERPRISES, INC. ("Tenant") and City, the undersigned JAW 4 GROUP, INC. ("Guarantor") absolutely and unequivocally guarantees the performance by TEXAS BADGER DEVELOPMENTS-1, LLC, as Tenant, of the rent obligations of Tenant to City under the Lease and Amendment, should Tenant fail to pay any such rent obligations to City. Further, if TEXAS BADGER DEVELOPMENTS-1, LLC subsequently assigns its rights under the Lease and Amendment to a third party franchisee or any other third party (defined collectively as "subsequent third party") approved in advance by Guarantor and City, and if the subsequent third party defaults in payment of the rent obligations of Tenant to City under the Lease and/or Amendment, then the undersigned JAW 4 GROUP, INC. ("Guarantor") absolutely and unequivocally guarantees the performance by such subsequent third party, as Tenant, of the rent obligations of Tenant to City under the Lease and Amendment. Still further, the undersigned Guarantor guarantees that it will provide another party, acceptable to City, as Tenant, to continue operation of the Business Center Premises covered by the Lease and Amendment should TEXAS BADGER DEVELOPMENTS-1, LLC vacate the Premises or a subsequent third party vacate the Premises during the Initial Term or Renewal Term of the Lease and Amendment. The Limits of Guaranty are as follows:

| | |
|---------------------------|---|
| First Year of Lease | The greater of (1) the total amount of minimum rent owed by Tenant to City during the Lease's first year; i.e., \$29,848.35 consisting of 5 months at \$2,148.30 (\$10,741.50) as reflected in the Lease, plus 7 months at \$2,729.55 (\$19,106.85) as reflected in the Amendment, or (2) the total amount of "percentage rent" (as defined in the Lease) owed by Tenant to City during the Lease's first year. |
| Second Year of Lease | Eighty Percent (80%) of the amount guaranteed during the first year. |
| Third Year of Lease | Sixty Percent (60%) of the amount guaranteed during the first year. |
| Fourth Year of Lease | Forty Percent (40%) of the amount guaranteed during the first year. |
| Fifth Year of Lease | Twenty Percent (20%) of the amount guaranteed during the first year. |
| After Fifth Year of Lease | Guaranty Expires. |

If TEXAS BADGER DEVELOPMENTS-1, LLC, as "Tenant" (1) defaults in payment of the rent obligations of Tenant to City under the Lease and/or Amendment or (2) if TEXAS BADGER DEVELOPMENTS-1, LLC subsequently assigns its rights under the Lease and Amendment to a third party franchisee or any other third party (defined collectively above as "subsequent third party") approved in advance by Guarantor and City, and if the subsequent third party defaults in payment of the rent obligations of Tenant to City under the Lease and/or Amendment, then under either circumstance, Guarantor understands, and is executing this Guaranty with such understanding and reliance, that the City pledges it will first take reasonable efforts to collect the guaranteed amounts directly from TEXAS BADGER DEVELOPMENTS-1, LLC or the approved subsequent third party, as applicable prior to demanding payment from Guarantor.

Guarantor further understands, and is executing this Guaranty with such understanding and reliance, that City also pledges that it shall provide Guarantor thirty (30) days' prior written notice by certified mail, return receipt requested of any demand for payment, describing the efforts City has (unsuccessfully) taken to attempt collection directly from TEXAS BADGER DEVELOPMENTS-1, LLC, as "Tenant", or from any subsequent third party, as applicable. Guarantor still further understands, and is executing this Guaranty with such understanding and reliance, that City will also provide such certified mail, return receipt requested notice to Guarantor immediately upon discovery of any vacating of the Premises as discussed above and Guarantor will make arrangements to provide another party, acceptable to City, as Tenant, to continue operation of the Business Center Premises covered by the Lease and Amendment within thirty (30) calendar days after receipt of such notice from City.

[CONTINUED ON NEXT PAGE]

If for any reason, City and Tenant fail to enter into the Assignment, then this Guaranty shall be void and invalid; however, the Modified Guaranty of JAW 4 Group, Inc. as Area Franchisee dated April 29, 2002 will still be in full force and effect.

AGREED TO BY GUARANTOR, JAW 4 Group, Inc.



Signature of Signing Officer

Fredrick J. Kellogg

President (Title)

Date JUNE 5, 2003

ACKNOWLEDGEMENT

STATE OF TEXAS

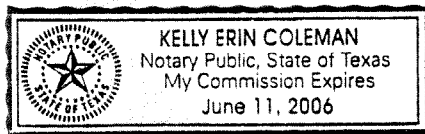
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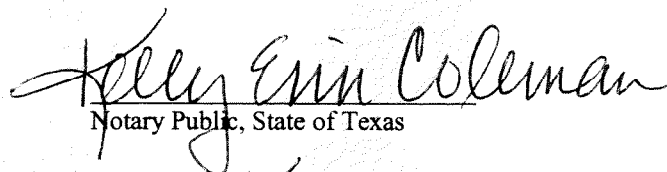
COUNTY OF BEXAR

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This instrument was acknowledged before me on this 6 day of JUNE, 2003, by Fred J. Kellogg,
(Title) of **JAW 4 Group, Inc.**, a Texas Corporation, on behalf of said Corporation.

(SEAL)





Notary Public, State of Texas

Printed Name: Kelly Erin Coleman

My Commission Expires: 6-11-06