ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NUMBERS 009918, 010482, 010544, 011098, 011779, 012466 AND 013481 WHICH ESTABLISHED AND AMENDED THE ANDY AND SYD COHEN STADIUM LEASE BETWEEN THE CITY OF EL PASO AND THE EL PASO DIABLOS, INC., WHICH WAS SUBSEQUENTLY ASSIGNED TO EL PASO BASEBALL CLUB, LLC, TO REVISE THE OBLIGATION TO PAY RENT AS SET FORTH IN SAID LEASE.

WHEREAS, the City of El Paso entered into a lease with the El Paso Diablos, Inc. which was subsequently assigned to El Paso Baseball Club, LLC for the facilities known as the Andy and Syd Cohen Center;

WHEREAS, pursuant to the terms of the Lease and its subsequent amendments, El Paso Baseball Club, LLC is obligated to pay rent as specified therein;

WHEREAS, El Paso Baseball Club, LLC desires to hire a baseball facility consultant to evaluate the facilities for possible renovation and has requested that it be allowed to reduce the amount of rent paid by one half the cost of the fee paid to the baseball facility consultant; and

WHEREAS, the Department of Parks and Recreation recommends approval of this arrangement.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That Ordinance numbers 009918, 010482, 010544, 011098, 011779, 012466 and 013481 are amended to allow for the modification to the rental rates pursuant to the Lease Amendment attached hereto as Exhibit "A" and which is fully incorporated herein by reference.

PASSED AND APPROVED this 8th day of June 2004.

THE CITY OF EL PASO

_____
Joe Wardy
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Sylvia Borunda Firth
Assistant City Attorney

APPROVED AS TO CONTENT:

Norman C. Merrifield
Director, Parks and Recreation Department

Document #: 716
Document Name: ORD-04-Cohen Ctr Amend
Document Author: SFIR

EXHIBIT "A"

STATE OF TEXAS)
) LEASE AMENDMENT
COUNTY OF EL PASO)

THIS LEASE AMENDMENT, is entered into this 8th day of June 2004, by and between the City of El Paso ("City") and El Paso Baseball Club LLC ("Lessee").

WHEREAS, the City entered into a Lease Agreement (the "Lease") with the El Paso Diablos, Inc. on December 26, 1989, which was subsequently amended pursuant to Ordinance numbers 009918, 010482, 010544, 011098, 011779, 012466, and 013481 to lease the facilities known as the Andy and Syd Cohen Stadium ("Cohen Stadium");

WHEREAS, the Lease was subsequently assigned from El Paso Diablos, Inc. to Lessee on August 6, 1996;

WHEREAS, Lessee desires to engage the services of a baseball facilities consultant to evaluate the Cohen Stadium facilities for possible renovation; and

WHEREAS, Lessee has requested that it be permitted to reduce the amount of rent paid in an amount equal to one half the cost of the fee to engage the baseball facility consultant; and

WHEREAS, the Department of Parks and Recreation recommends approval of this arrangement.

NOW THEREFORE, in consideration of the mutual conditions and promises contained herein, the parties agree as follows:

1. Baseball Facility Consultant. Lessee acting through its affiliate organization, Brett Brothers Sports International, Inc., has engaged Gregory Prelogar to perform the services specified in the Letter Agreement attached hereto as Exhibit "A" and will be responsible for the payment of any and all expenses incurred in connection with the agreement by and between Brett Brothers Sports International, Inc. and Gregory Prelogar. The cost of services shall not exceed $5,000.00 plus approved expenses and shall be completed by June 30, 2004.

2. Rent Adjustment. In consideration for the agreement of Lessee to provide copies of the study completed by Gregory Prelogar to the City of El Paso, the City has agreed that Lessee may reduce the amount of rent paid to the City in a sum equal to 1/2 the cost of the report, study and expenses; provided however, in no event shall the rent reduction exceed $3,250.00 ($2,500.00 + $750.00 for expenses). In lieu of payment of rent, the

Lessee will provide the Director of the City's Parks and Recreation Department satisfactory evidence that payment has been made to Gregory Prelogar. Upon approval of the receipts and other evidence that payment has been made to Gregory Prelogar, the Director of the Parks and Recreation Department shall notify the Lessee of the amount of credit approved. Rent credit is expressly contingent upon the Director of the Parks and Recreation Department being provided with satisfactory evidence that payment has been made to Gregory Prelogar. Failure to provide such documentation will result in a demand for payment of full rent.

The rent reduction is applicable only to the study by Gregory Prelogar and once the study has been paid for and the appropriate rent credit approved by the Director of Parks and Recreation, Lessee is obligated to resume payment of rent as set forth in the Lease as amended.

3. Ratification. All other terms and conditions of the Lease Agreement as amended shall remain in full force and effect except as expressly modified herein.

WITNESS the following signatures and seals on the date first written above:

THE CITY OF EL PASO

_____
Joe Wardy
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Sylvia Borunda Firth
Assistant City Attorney

APPROVED AS TO CONTENT:

Norman C. Merrifield
Director Parks and Recreation Department

LESSEE: EL PASO BASEBALL CLUB, LLC

By: _____
Printed Name: _____
Title: _____

Gregory Prelogar
Baseball Facility Consultant
2221 E. Northview Avenue
Phoenix, Arizona 85020
(602) 331-7007

Brett Bros. Sports International, Inc.
700 W. Mallon
Spokane, WA 99201

May 3, 2004

Attn: **Mr. Bobby Brett**
President

Re: Cohen Stadium, El Paso, TX

Dear Mr. Brett:

Thank you for the telephone call. Your thoughts about Cohen Stadium are astute and worthy of further discussion. Cohen has served the Diablos and the City well for nearly fifteen years, but is now showing its age. It is not in anybody's interest for it to fall behind advancing standards.

To that end we discussed some degree of preliminary investigation to determine a possible "menu" of items to be part of an upgrade of Cohen Stadium to be more consistent with the technology and approach of ball parks constructed over the past few years. Those items include:

- Widening of the concourse to provide better seating accommodation through elevated sight lines for the physically disabled and to relieve congestion, especially on the 1st base side.
- Expanding the commissary and upgrading the concessions facility for enhanced service.
- Seating upgrades, including replacing bench seating above the cross aisle with chair seating and considering replacement of the aging chair seating in the lower sections while creating some amount of traditional "box" seating to provide overall greater spectator comfort and areas of higher quality experience.
- Creation of tiered areas for group activities. These may be in the form of a buffet style club section in the upper bowl and/or an area of the lower bowl set up similar to the successful Busch Gardens Pavilion in Avista Stadium.
- Building a "Home Run Porch" in some form (bermed or otherwise) beyond the left outfield fence.
- Assessing the finishes of the suite level and the adequacy of the media facility.

There are corollaries to these issues that will become apparent during the course of study. Some of the possible findings may include an overall increase of electrical capacity to the facility, potential moving of the playing field closer to the spectator seating, changes required by the newer building codes presently in effect, and altered seating capacity. There will also be other ancillary issues that will be found and necessarily addressed.

I understand and appreciate at this time your intent is to merely review the conditions sufficiently to generate a descriptive list of potential improvements. To the extent reasonable I will perform an investigation of these and related items for the purpose of providing you a report including rough plan sketches where appropriate to describe the features and supplement a narrative. Also included will be a budgetary cost projection, appropriately itemized to afford you the opportunity to make a determination of your approach to projecting and implementing these or other improvements.

This study/report can be performed for $5,000.00, completed within 3-4 weeks of your acceptance of this proposal and written notice to proceed. It will be informal (stapled, not bound or with hard cover, without colored/presentation rendered drawing technique). I will forward the hard copy of the report to you via the U.S. mail, and send the narrative information in a Microsoft Word format via electronic mail.

As I noted to you, I do not have a full set of record documents for Cohen Stadium. I will need you to provide a copy of them to me prior to my beginning this study. My suggestion is to have them located in the Diablos records, allow me to discuss the specific needs with the team employee there and then have the team copy them (or have them copied) and sent directly to me at the address on the head of this correspondence.

The proposed fee does not include any out of town travel. If you would like to meet in El Paso or elsewhere, the anticipated additional cost of such a trip would be the actual hard cost of expense of such travel plus my standard billing rate ($150.00/hour not to exceed 8 hours per day). Due to my proximity to El Paso and ease of travel, overnight stay is generally not required. Therefore, a trip to El Paso will rarely exceed $1,500.00.

I do not charge for long distance telephone, printing, or other incidental expenses.

Given the short anticipated duration of this effort, the only billing you may expect is at completion and delivery of the finished report product. I expect payment in full within 30 days of billing. In the event you wish minor modifications to the content of the report I will not charge any additional fee and will promptly make the modifications. If you wish to extend the scope of the study to more detailed analysis of items, additional items, or perspective or rendered illustrations, the fee will increase based on mutual agreement.

To accept this proposal and to serve as a notice to proceed, you may print this in hard copy, sign where indicated below and mail an original signed copy to me. You may also simply notify me by electronic mail of your acceptance/intent for me to proceed and I will attach a copy of the E-mail to a copy of this proposal to serve in lieu of an original signature.

Having been intimately involved in the original design and construction of Cohen Stadium I feel a connection to it as well as having a great familiarity. Thank you for your consideration and I look forward to beginning.

Greg Prelogar

Accepted, Bobby Brett