

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL**

ORDINANCE

AUTHORIZING RENEWAL AND LEASE AGREEMENT WITH WARFIELD 4 FOR AN ADDITIONAL FIVE-YEAR TERM, FOR THE CONTINUED USE OF 4,500 SQUARE FEET OF CLINIC SPACE FOR THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT (SAMHD) WOMEN, INFANTS & CHILDREN (WIC) CLINIC LOCATED AT 4343 RITTIMAN ROAD IN COUNCIL DISTRICT 2 FOR THE INITIAL MONTHLY RENT OF \$4,390.00 ESCALATING TO \$4,690.00 DURING THE LAST YEAR OF THE TERM.

* * * * *

WHEREAS, the City of San Antonio has occupied this location as an SAMHD operated WIC Clinic since September 2010, as part of the Special Supplemental Nutrition Program for women, infants, and children. Services provided include food benefits, nutrition education and counseling, and health care referrals at no cost to individuals that qualify; As this location has proven to successfully service the community, SAMHD seeks to renew the lease agreement for an additional five-year term; and

WHEREAS, this location at 4343 Rittiman Road in Council District 2 has proven to successfully service the community, SAMHD seeks to renew the lease agreement for an additional five-year term; **NOW THEREFORE:**

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

SECTION 1. The City Manager or designee, or the Director of the San Antonio Metropolitan Health District or designee, is hereby authorized to execute a Second Renewal and Amendment of Lease Agreement with Warfield 4, for an additional five-year term, in a form substantially similar to **Attachment I**, for the continued use of 4,500 square feet of clinic space located at 4343 Rittiman Road for the period of January 1, 2021 through December 31, 2025 for the San Antonio Metropolitan Health District's Women, Infants, and Children (WIC) Clinic for an initial monthly rent of \$4,390.00 escalating to \$4,690.00 during the last year of the term.

SECTION 2. Monthly funding in the amount up to \$4,390.00 is available for the term of January 1, 2021 through December 31, 2021 in fund 2201636084, internal order 136000000820, GL 5206010 and was previously allocated. Monthly funding for the remainder of the lease agreement through December 2025 will be contingent upon grant funding from the Texas Department of State Health Services to the WIC Nutrition Project.

SECTION 3. Payment not to exceed the budgeted amount is authorized to Warfield 4 upon issuance of a purchase order.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager’s designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance becomes effective immediately upon its passage by eight (8) votes or more and 10 days after passage upon its approval by less than eight (8) votes.

PASSED AND APPROVED this ____ day of December, 2020.

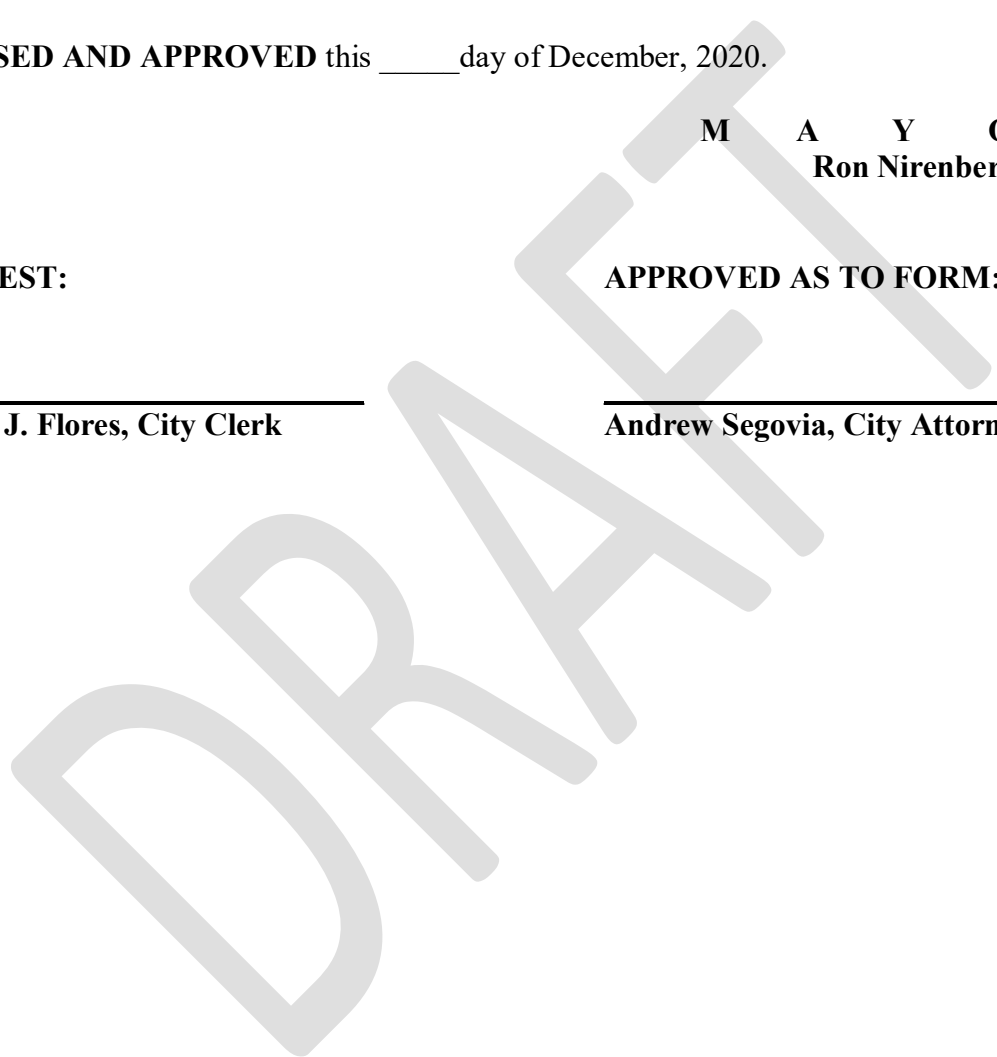
M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Tina J. Flores, City Clerk

Andrew Segovia, City Attorney



Attachment I

Second Renewal, Amendment, and Extension of Lease Agreement (Health Department – WIC Clinic 4343 Rittiman Road)

WHEREAS, Warfield, a Texas general partnership, and the City of San Antonio (“Tenant”) entered into that certain lease dated on or about May 25, 2010 for approximately 4,500 and 632 rentable square feet by Ordinance 2010-04-29-0351 (“Original Lease”); and

WHEREAS, the Original Lease later amended by a Renewal, Amendment, and Extension of Lease Agreement dated on or about October 14, 2015 and authorized by Ordinance 2015-09-17-0799 (“First Lease Amendment”) to remove approximately 632 rentable square feet identified as Premises B from the leased premises for a total square footage of 4,500 rentable square feet comprising of Premises A;

WHEREAS, the Original Lease and First Lease Amendment are herein cumulatively referred to collectively as the “Lease”; and

WHEREAS, on November 1, 2018, Warfield conveyed the property containing Premises A to Warfield 4, a Series of Warfield Properties, LLC, Texas series limited liability company by special warranty deed; and

WHEREAS, Warfield 4, a Series of Warfield Properties, LLC, as successor-in-interest to Warfield, became landlord (“Landlord”) to the Lease; and

WHEREAS, Landlord and Tenant now wish to renew, amend, and extend the Lease.

NOW, THEREFORE, for good and valuable consideration, it is agreed by the parties as follows:

1. Identifying Information.

Original Authorizing Ordinance: 2010-04-29-0351

Previous Ordinances Authorizing Renewal: 2015-09-17-0799

Current Authorizing Ordinance:

Landlord: Warfield 4, a Series of Warfield Properties, a Texas series limited liability company

Landlord’s Address: c/o Ernest Soble Commercial Properties, Inc.,
P.O. Box 790885, San Antonio, Texas 78279-0885

Tenant: City of San Antonio

Tenant’s Address: P.O. Box 839966, San Antonio, Texas 78283-3966

Attachment I

Premises: Approximately 4,500 rentable square feet of the building located at 4343 Rittiman Road and 20 surface parking spaces located adjacent to the building (“Premises”) as depicted in **Exhibit A**.

Second Renewal Term: Five (5) years

Binding Date: This agreement is binding on the parties on the later of (A) the effective date of the Authorizing Ordinance or (B) the later of the signatures of the two parties.

Commencement Date: January 1, 2021

Expiration Date: December 31, 2025

2. Defined Terms.

All terms defined in the Lease and not otherwise defined in this amendment, when used in this amendment, have the meanings ascribed to them in the Lease. References to “Lease” in this amendment include the original Lease.

3. Renewal and Extension.

The Term of this Lease is the *Second Renewal Term* commencing on January 1, 2021 and expiring on December 31, 2025, unless sooner terminated as provided in this Lease. A third renewal option for an additional five (5) year term is granted to Tenant only if Tenant has provided Landlord written notice of its intent to exercise the third renewal option no later than 90 days prior to the expiration of the *Second Renewal Term*. The Monthly Rent for the third renewal term, if exercised, is to be negotiated.

4. Monthly Rent.

Period	Monthly Rent
January 1, 2021 thru December 31, 2021	\$4,390.00
January 1, 2022 thru December 31, 2022	\$4,490.00
January 1, 2023 thru December 31, 2024	\$4,590.00
January 1, 2024 thru December 31, 2025	\$4,690.00

Attachment I

5. Landlord's Work.

Landlord will, at its sole cost and expense, complete the following Tenant requested improvements no later than January 31, 2021:

- (a) Repair openings from window frame in rooms 5, 6 and 7 and exit door that are approximately 1" separated from the wall.
- (b) Replace all faulty ceiling tiles underneath the awning.
- (c) Repair holes, cracks and paint walls in classroom and lobby with some touch up in hallway and labs.
- (d) Replace all the blinds in the lobby.
- (e) Replace approximately 15 vinyl composition floor tiles.
- (f) Repair cracks or faulty caulking on the exterior of the building.

6. Insurance.

6.01. The City of San Antonio maintains self-insurance for General Liability as a political subdivision of the State of Texas. City of San Antonio is subject to the Texas Tort Claims Act and the obligations of City of San Antonio and the rights of persons claiming against City of San Antonio are subject to that Act. City of San Antonio, upon request from Bow River Capital RE II, LLC, can provide evidence of self-insurance.

6.02. Landlord must maintain Commercial General Liability insurance of not less than \$1,000,000 and property and casualty insurance for physical damage to the Premises in the amount of 100% of replacement cost.

6.02.01. Each insurance policy of Landlord required by this Lease must contain the following clauses:

"This insurance for the Building cannot be canceled, limited in scope or coverage, or non-renewed until after 60-days' prior written notice has been given to:

City Clerk, City of San Antonio
City Hall/2nd Floor
P. O. Box 839966
San Antonio, Texas 78283-3966

Attention: Risk Manager and Center City Development Office
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966
Attention: Leasing Manager

"The insurance provided by Tenant with respect to the Premises is primary to any insurance maintained by Landlord. The insurance provided by Landlord with respect to the Common Areas is primary to any insurance maintained by Tenant."

Attachment I

“Any insurance maintained by Landlord with respect to the Premises applies in excess of, and does not contribute with, insurance provided by the City of San Antonio. Any insurance maintained by Tenant with respect to the Common Areas applies in excess of, and does not contribute with, insurance provided by Landlord.”

Each insurance policy required by this Lease must contain the following clause:

“The City of San Antonio, its officials, employees, representatives and volunteers are added as additional insureds as respects operations and activities of, or on behalf of, the named insured performed under this Lease with the City of San Antonio. This policy cannot be invalidated as to Tenant because of Landlord’s breach of representation, warranty, declaration, or condition of this policy.”

6.02.02. Within 30 days after the Commencement Date and promptly after Tenant’s later request, Landlord must, at its own expense, deliver certificates to Tenant’s Risk Manager and to the City Clerk, reflecting all required insurance coverage, together with copies of policies and endorsements. All endorsements and certificates must be signed by an authorized representative of the insurance company and must include the signatory’s company affiliation and title. If requested by Tenant, Landlord must send Tenant documentation acceptable to Tenant that confirms that the individual signing the endorsements and certificates is authorized to do so by the insurance company.

6.02.03. The Notices and Certificates of Insurance must be provided to the same addresses as for notices of cancellation.

7. Release of Claims/Subrogation.

The insurance requirements of this Lease are a bargained-for allocation of risk of loss. Landlord and Tenant each release the other from claims arising from injury or loss to either of them or to third parties to which they are liable, if the injury or loss is covered by insurance the waiving party is required by this Lease to maintain, whether or not the party actually has the insurance (“Covered Claims”). This release is additional to and does not limit any other release contained in this lease. Landlord and Tenant, to the maximum extent allowable without causing cancellation of a required policy, will require their insurers to waive subrogation against each other for Covered Claims.

8. Indemnity.

8.01. These definitions apply to the indemnity provisions of this Contract:

8.01.01. “Indemnified Claims” mean all loss, cost, liability, or expense, directly or indirectly arising, in whole or in part, out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract, whether or not the person is a party to this Lease. Indemnified Claims include attorneys’ fees and court costs and include claims arising from property damage and from personal or bodily injury, including death.

Attachment I

Indemnified Claims also include claims in which an Indemnitee shares liability with the Indemnitor, excluding only claims as to which Indemnitees are solely negligent.

8.01.02. "Indemnitees" means the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

8.01.03. "Indemnitor" means Landlord.

8.02. Indemnitor must indemnify Indemnitees, individually and collectively, from all Indemnified Claims.

8.03. If one or more Indemnitees are finally adjudged to bear fault outside the scope of this indemnity, Indemnitor need not further indemnify the so-adjudged Indemnitees from liability arising from the Indemnitees' adjudicated share of liability. But despite allegations that one or more Indemnitees bear such fault, Indemnitor must nevertheless defend all Indemnitees until final adjudication and all appeals have been exhausted. An Indemnitee may but need not waive appeals. Indemnitor may not recover sums previously spent defending or otherwise indemnifying Indemnitees finally adjudged to bear fault outside the scope of this indemnity and must continue to indemnify other Indemnitees if claims are still asserted against them.

8.04. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees.

8.05. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. Whether or not the City of San Antonio is an Indemnitee as to a particular Indemnified Claim, the City of San Antonio may require Indemnitor to replace the counsel Indemnitor has hired to defend Indemnitees. The City may also require Indemnitor to hire specific-named counsel for so long as the named counsel's hourly rates do not exceed the usual and customary charges for counsel handling sophisticated and complex litigation in the locale where the suit is pending. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.

8.06. In addition to the indemnity required under this Contract, each Indemnitee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.

Attachment I

8.07. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnitee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any Indemnitee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the City of San Antonio is not an Indemnitee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind an Indemnitee must first be approved by City Council.

8.08. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.

8.09. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees and 95% by the Indemnitor. Indemnitor need look only to the City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.

9. HVAC Maintenance.

Landlord shall ensure that HVAC systems provide a minimum of 20% outside air; and the HVAC filters must be MERV 13 or higher and replaced quarterly each year.

10. Effective Date of Amendment.

This Amendment is binding on the parties as of the effective date of the Authorizing Ordinance and performance is contingent on this date.

11. No Default.

Neither Landlord nor Tenant is in default under the Lease and neither party is aware of a cause of action against the other arising out of or relating to the period before the date of the Landlord's signature on this amendment.

12. Same Terms and Conditions.

Except as specifically set forth in this Second Renewal, Amendment, and Extension to Lease Agreement, all the terms and provisions of the Lease shall remain unmodified and in full force and effect.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

Attachment I

In Witness Whereof, the parties have caused their representatives to set their hands.

TENANT:

City of San Antonio, a Texas municipal corporation

By: _____

Printed
Name: _____

Title: _____

Date: _____

Approved as to Form:

City Attorney

Attest:

City Clerk

LANDLORD:

Warfield 4, a Series of Warfield Properties,
a Texas series limited liability company,
by and through its managing agent,
Ernest Soble Commercial Properties, Inc.

By:  _____

Printed
Name: Stephen M Soble

Title: President, Ernest Soble Commercial Properties, Inc.

Date: 9/17/2020

