

AN ORDINANCE 2014-11-13-0909

**AUTHORIZING A LEASE TERMINATION AGREEMENT WITH ST. MARY'S UNIVERISTY FOR USE OF APPROXIMATELY 42,000 SQUARE FEET OF LAND WHICH WAS THE LOCATION OF THE FORMER ST. MARY'S LEARNING CENTER, 3141 CULEBRA ROAD, LOCATED IN COUNCIL DISTRICT 7.**

\* \* \* \* \*

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

**SECTION 1.** The City Manager and her designee, severally, are authorized and directed to execute and deliver on behalf of the City a lease termination agreement in substantially the form attached as **Attachment I**, which is incorporated for all purposes as if fully set forth. The City Manager and her designee, severally, should take all other actions conducive to effectuate the transaction, including agreeing to non-material changes to the approved form and executing and delivering ancillary documents and instruments conducive to effectuating the transaction.

**SECTION 2.** Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 240000000060 and General Ledger 4903101.

**SECTION 3.** The disposition of surplus property must be coordinated through the City's Finance Department to assure the removal of these assets out of the City's financial records and to record the proper accounting transactions.

**SECTION 4.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

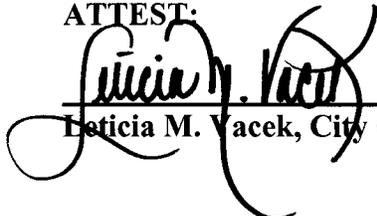
**SECTION 5.** This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

**PASSED AND APPROVED** this 13th day of November, 2014.



M A Y O R  
Ivy R. Taylor

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Robert F. Greenblum, City Attorney

<b>Agenda Item:</b>	<b>20B ( in consent vote: 20A, 20B )</b>						
<b>Date:</b>	11/13/2014						
<b>Time:</b>	10:01:35 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance terminating a 40 year ground lease agreement with St. Mary's University, in Council District 7, for the use of an approximately 42,000 square foot tract of land which is the location of the former St. Mary's Learning Center at 3141 Culebra Road.						
<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				
Diego Bernal	District 1		x				
Keith Toney	District 2		x				
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4	x					
Shirley Gonzales	District 5	x					
Ray Lopez	District 6		x				
Cris Medina	District 7		x			x	
Ron Nirenberg	District 8		x				
Joe Krier	District 9	x					
Michael Gallagher	District 10		x				

## Attachment I

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### LEASE TERMINATION AGREEMENT

This Lease Termination Agreement ("Agreement") is entered into by and between St. Mary's University ("Landlord") and the City of San Antonio, a Texas municipal corporation ("Tenant").

WHEREAS, Landlord and Tenant are parties to that certain Ground Lease Agreement (St. Mary's Learning and Leadership Development Center District 7) dated May 18, 1995, (the "Lease"), attached as **Exhibit A** and incorporated herein for all purposes, for certain real property located at 3141 Culebra St., San Antonio Texas 78228 ("Premises"); and

WHEREAS, the parties now desire to provide for the termination of the Lease, and the return of the leased Premises, along with any and all improvements to the Premises, to Landlord, prior to the current expiration date of the Lease; and

WHEREAS, an Ordinance approving the termination of the Lease was approved by the City of San Antonio on \_\_\_\_\_ (the "Authorizing Ordinance");

NOW, THEREFORE, in consideration of mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. **Termination.** The parties agree that in lieu of the original expiration date of "one day before the same date in 2036 on which the term commenced in 1996," the Lease shall terminate on the later of these dates: (i) the effective date of the Authorizing Ordinance; (ii) the day this Agreement and related Bill of Sale for the building and other improvements on the premises have been fully executed by the last party to sign (as indicated by the date associated with the parties' signatures); or (iii) the day Tenant receives payment for such sale ("Termination Date"). On the Termination Date, Tenant shall quit the Premises and surrender and return the Premises to Landlord, "as is".

2. **Lease Termination Fee.** Tenant and Landlord agree that upon termination Tenant shall not be subject to, nor pay, a Lease Termination Fee or any other penalty associated with the termination of the Lease.

3. **Improvements.** Landlord and Tenant agree that all fixtures, alterations, additions, and improvements, including all buildings and trade fixtures located at or on the Premises revert to, are hereby conveyed to, and shall be the property of Landlord effective as of the Termination Date.

4. **Mutual Release.** Upon both parties satisfying their obligations set forth in this Agreement, Landlord releases, discharges and waives any claims known or unknown, against Tenant, its successor, assigns, officers or directors, arising out of or in any way connected with the Lease or Tenant's possession of the premises through the date hereof, and Tenant releases, discharges and waives any claims, known or unknown, against the Landlord, its successors, assigns, officers or directors, arising out of or in any way connected with the Lease through the date hereof.

5. **Memorandum of Termination.** Upon execution of this Agreement, Landlord may execute and record a Memorandum of Lease Termination Agreement as shown in **Exhibit B**, attached hereto and incorporated herein for all purposes without joinder of Tenant. The Agreement itself shall not be recorded unless both parties agree in writing thereto.

6. **Binding upon Successors and Assigns.** This Agreement shall be for the benefit of and be binding upon, the parties hereto and their respective successors and assigns.

7. **Final Agreement.** This Agreement shall constitute the final agreement and understanding of the parties on the subject matter hereof. This Agreement may be modified only by a further writing signed by the parties.

8. **Texas Law; Illegality.** This Agreement shall be governed by the laws of the State of Texas. In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein.

9. **Counterparts.** This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**TENANT:**

City of San Antonio, a Texas municipal corporation

By: \_\_\_\_\_

Printed Name: Melody Woosley

Title: Director, Department of Human Services

Date: \_\_\_\_\_

**Approved as to Form:**

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

THE STATE OF TEXAS       §  
COUNTY OF BEXAR       §

Before me, the undersigned authority, this instrument was this day acknowledged by \_\_\_\_\_ of and for the City of San Antonio, a Texas municipal corporation, on behalf of that entity in the capacity stated.

Date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

**LANDLORD:**

St. Mary's University

By: Thomas M. Mengler  
Printed Name: Thomas M. Mengler  
Title: President  
Date: November 4, 2014

THE STATE OF TEXAS     §  
COUNTY OF BEXAR     §

This instrument was acknowledged before me this date by Thomas Mengler, the President  
of St. Mary's University, a Texas Nonprofit Corp., in the capacity therein stated and on behalf of  
that entity.

Date: November 4, 2014

Janie B. Salazar  
Notary Public, State of Texas

My Commission expires: June 12, 2015

**EXHIBIT A**  
**Lease**

WFF/agg (11/16/94)  
REV.: 4/20/95-agg (includes all prior Revisions)

File: 94-0094  
ST. MARY'S UNIVERSITY  
CAMPUS, LLC

GROUND LEASE AGREEMENT  
(St. Mary's Learning and Leadership Development Center  
District 7)

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF BEXAR

This Lease Agreement is made in duplicate originals by and between ST. MARY'S UNIVERSITY, hereinafter called LESSOR, and the CITY OF SAN ANTONIO, a Texas Municipal Corporation acting by and through its City Manager, Assistant City Manager, or an Assistant to the City Manager pursuant to Ordinance No. 82089 adopted on APRIL 20, 1995, hereinafter called LESSEE.

**ARTICLE I**

Demise and Description of Property

1.1 LESSOR, for and in consideration of the rent, covenants, and promises herein contained to be kept, performed and observed by LESSEE, does hereby lease that certain real property, hereinafter alternatively called the "Premises" or the "Leased Premises" or "Land" situated in Bexar County, Texas, and described as follows, to-wit:

A tract of approximately 42,000 square feet located at the south entrance to the St. Mary's University Campus facing Culebra Road, San Antonio, Texas, as shown on Exhibit "A" attached hereto, subject to a final plan layout as agreed to by LESSOR and LESSEE.

**ARTICLE II**

Acceptance of Premises

2.1 LESSEE has inspected the Leased Premises and accepts the Leased Premises in an "as-in" condition, SAVE AND EXCEPT, for the construction of an Learning and Leadership Development Center Building with emphasis on adults on a portion of said Leased Premises, along with a paved parking lot, landscaping, fencing, and other

Exhibit A-1

improvements, as necessary, on the remainder of the Premises, which improvements are still to be constructed by LESSEE pursuant to Exhibit B "Addendum to Lease" to be attached hereto and incorporated herein by reference for all purposes, upon final agreement of the parties prior to the start of such construction.

#### ARTICLE III

##### Term

3.1 The term of this Lease Agreement shall be for a period of forty (40) years, commencing on the day following the date on which LESSEE completes the construction per the Addendum to Lease, but in no event shall the term commence later than November 1, 1996. Such term shall end one day before the same date in 2036 on which the term commenced in 1996. The parties agree to execute a Memorandum of Commencement Date, being a form mutually agreed upon by the parties hereto. LESSEE anticipates completion by August 1, 1996, subject to delays in construction caused by shortages in materials, work stoppages due to strikes, acts of God, and, subject to LESSOR's approval as to extensions, if so required, any other normal "construction-related" reasons for delays.

#### ARTICLE IV

##### Access to Premises

4.1 LESSOR grants to LESSEE access to the Leased Premises for construction of all improvements thereon and thereafter during LESSEE's business hours.

4.2 LESSOR reserves the right to enter upon the land constituting the Leased Premises at anytime, subject to prior notice being delivered to LESSEE, except in the case of an emergency, for which no prior notice will be required.

#### ARTICLE V

##### Rental Rate

5.1 For and during the term of this Lease, LESSEE shall pay to LESSOR as rent for the Leased Premises the sum of \$1.00 per year each and every year for the entire term of the Lease.

5.2 Further, as additional consideration, LESSEE shall pay to LESSOR as additional rental for the Leased Premises an amount equal to the annual fair market rental for such Leased Premises less \$1.00 per year, as calculated by LESSOR; provided, however, that payment thereof will be deferred during the term of the Lease. At the conclusion of the lease term all deferred rental will be due and payable by LESSEE to LESSOR; provided that said LESSEE can fully discharge its obligation to pay such deferred rental by conveying title to the building, fencing, and other improvements to LESSOR, as abutting owner thereto. LESSOR will use its reasonable efforts to provide to

LESSEE a calculation of the Annual Fair Market Rental within sixty (60) days after the date of execution of this Lease Agreement, but in any event no later than sixty (60) days before the Commencement Date.

5.3 LESSEE's payment of rent is subject to an annual appropriation by the City Council of the CITY OF SAN ANTONIO, as approved by Ordinance as part of the budget process for each fiscal year during the term hereof, with said amounts to be paid from current funds available each year. In light thereof, LESSOR agrees to accept the payment from LESSEE, as prepayment of the entire amount of the rent set forth in Section 5.1 hereof, the sum of \$40.00, which may be paid by LESSEE on or before the Commencement Date of the Lease Agreement.

5.4 Further as additional consideration, LESSEE grants to LESSOR the right, acting by and through its faculty and student body, to use the Learning and Leadership Development Center constructed on the Leased Premises during the Center's business hours.

ARTICLE VI  
Use of Leased Premises

6.1 The Leased Premises are to be used by LESSEE to operate and maintain a Learning and Leadership Development Center to combat illiteracy in the City of San Antonio, to include, but not be limited to, classes for adults in reading and writing, adult basic education, GED preparation, citizenship, and computer enhanced learning and for no other purpose. LESSOR agrees that no religious ceremonies of any sort will be held on the Leased Premises at any time during the term hereof, giving evidence to the principle of separation of church and state.

ARTICLE VII  
No Waste, Nuisance, or Unlawful Use

7.1 LESSEE shall not commit, or allow to be committed, any waste on the Leased Premises, create or allow any nuisance to exist on the Leased Premises, or use or allow the Leased Premises to be used for an unlawful purpose, or any purpose other than that permitted pursuant to Article VI, Section 6.1, and shall comply with the "Rules and Regulations" as set out in Exhibit C attached hereto.

ARTICLE VIII  
Payment of Operating Expenses and Taxes

8.1 LESSEE shall pay for all utilities (gas, water, sewer, electrical, telephone, and cable TV), custodial services, and supplies required.

8.2 LESSEE agrees to pay all state, city and county taxes which may be assessed on the improvements (regardless of whether the same are assessed as personal property) and personal property contained in and on the Leased Premises. LESSOR will present a statement to LESSEE upon receipt by LESSOR. Such statement will show the assessed value and taxes due on the improvements and personal property portions, excluding the land. LESSEE shall tender payment of such portion prior to said taxes becoming delinquent. LESSOR agrees to pay all state, city and county taxes and all assessments against the land.

8.3 The parties agree that during the term of this Lease, all improvements to the land shall be considered personal property, unless otherwise determined by taxing authorities, but, notwithstanding any such determination, LESSEE shall pay all taxes associated with the improvements on the land.

ARTICLE IX  
Repair and Maintenance

9.1 LESSEE shall maintain all components of the building known as *St. Mary's Learning and Leadership Development Center*, to include, but not be limited to, keeping heating and air-conditioning equipment in operational condition, and repairing any damage to, or defective condition in any part or appurtenance of the Building's plumbing, electrical, heating, air-conditioning or other system serving, located in, or passing through the Premises. LESSEE shall, at LESSEE's own expense, and, as LESSEE's sole responsibility, keep the Premises in good order, condition and repair during the term hereof, including repair and replacement of window glass, all fixtures installed by LESSEE, heating and air-conditioning, equipment, outside walls, and the roof. LESSEE, at LESSEE's sole cost and expense, shall comply with all laws and ordinances, and all rules and regulations of all governmental authorities and of all insurance bodies at any time in force, applicable to the Premises or to LESSEE's use thereof, except that LESSEE shall not hereby be under any obligations to comply with any ordinance, rule or regulation requiring any structural alteration of, or in connection with, the Premises, unless such alteration is required by reason of a breach of any of the LESSEE's agreements hereunder. LESSOR is not responsible for any maintenance or repair work on the Leased Premises, including without limitation, undertaking any repairs that are necessary to bring the improvements into compliance with any applicable laws, rules or regulations.

9.2 All repairs of the roof, walls, common areas, stairway, and structural elements, specifically including the foundation, shall be the sole obligation of LESSEE.

9.3 LESSEE, at its sole cost and expense, shall maintain the parking areas, landscaping, fencing, and other improvements and shall provide, at its sole expense, all other repairs and maintenance of the land constituting the Leased Premises.

ARTICLE X  
Insurance

10.1 LESSEE will self-insure to provide for and maintain comprehensive general public liability coverage on the Leased Premises and its contents for the term of the Lease, with combined single limits, for bodily injury and property damage, in the amount of \$500,000.00 being the statutory limit under the Texas Tort Claims Act. LESSEE agrees to provide to LESSOR evidence of such self-insurance herein and as secured under Section 10.2.

10.2 LESSEE shall secure such self-insurance and, at its sole cost and expense, any additional insurance beyond the amount for which LESSEE self-insures as LESSEE deems advisable to insure against loss of any of its property by fire or other casualty in the Leased Premises. LESSEE shall be entitled to receive all of the insurance proceeds, if any, received in addition to and above any self-insurance amount, since LESSEE is responsible for the payment of any premiums in the process of securing and maintaining said insurance during the term hereof.

ARTICLE XI  
Responsibility

11.1 Neither LESSEE nor LESSOR shall be liable or responsible for any loss or damage to any property or person on or about the Leased Premises occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority or other matter beyond the reasonable control of LESSEE or LESSOR, except as results from LESSEE's sole active negligence or LESSOR's sole active negligence, in either instance, as determined by a court of competent jurisdiction and upon final adjudication or settlement. It is the express intent of LESSEE and LESSOR that their respective liabilities be limited herein to acts caused by their respective sole negligence. Nothing herein shall be intended to represent an agreement by either LESSOR or LESSEE to indemnify the other party for accidents or other occurrences on the Leased Premises.

ARTICLE XII  
Destruction of Improvements

12.1 If the building located on the Leased Premises is more than fifty (50%) percent destroyed, LESSEE may at its option, terminate the Lease Agreement, after removing the damaged structure and improvements from the Leased Premises, at its sole expense, unless LESSEE elects within thirty (30) days after such destruction, to repair same and completes repairs within one hundred eighty (180) days thereafter.

ARTICLE XIII  
Peaceful Enjoyment

13.1 LESSOR covenants that LESSEE shall and may peacefully have, hold, and enjoy the Leased Premises, subject to the other terms hereof, provided that LESSEE pays the rental and other sums herein recited to be paid by LESSEE and performs all of LESSEE's covenants and agreements herein contained.

ARTICLE XIV  
Mortgage of Lessor's Interest

14.1 LESSOR shall have the right to mortgage its fee simple interest in the land with the following conditions:

LESSEE will have the following rights:

to cure any default of LESSOR, so long as the Mortgagee will recognize the rights of LESSEE to peaceful possession under this existing Lease Agreement in case of foreclosure or any other action vesting fee title in a Mortgagee or, agree to the execution of a new Lease, if mutually agreed to by LESSEE and Mortgagee, should LESSOR default and Mortgagee become owner of the Leased Premises.

14.2 With respect to any future mortgages and as a condition of such subordination, LESSEE agrees (1) to subordinate its leasehold interest to any mortgage executed by LESSOR, as Owner, or otherwise, as applicable, which said mortgage creates a lien against the Leased Premises, and (2) to affirm to the mortgage holder of said mortgage, if foreclosure thereof occurs, in exchange for said Mortgagee's recognition of LESSEE's right to remain in peaceable possession of the Leased Premises under the existing Lease Agreement with LESSOR, as long as LESSEE is not in default in payment of rent or otherwise. LESSOR shall, within thirty (30) days following the Commencement Date of this Lease Agreement, use its best efforts to secure a Non-Disturbance and Attornment Agreement from any existing mortgage holder and all future mortgage holders.

14.3 It is the intent of the parties hereto, and LESSOR agrees to incorporate into any legal documents evidencing a sale or mortgage or other hypothecation of the Leased Premises that any subsequent Mortgagee or Purchaser or LESSOR of the Leased Premises will be bound by all the provisions of this Lease Agreement, and will recognize LESSEE's rights to remain in peaceful possession of the Premises.

ARTICLE XV  
Assignment or Sublease

15.1 LESSEE agrees not to assign or sublease the Leased Premises, lease any part thereof, or any right or privilege connected therewith, or to allow any other person, except LESSEE's agents and employees, to occupy the Leased Premises or any part thereof, without first obtaining the LESSOR's written consent, such consent not to be unreasonably withheld. LESSOR may make an assignment to a mortgagee without prior consent of LESSEE as long as the provisions of ARTICLE XIV, above are complied with.

ARTICLE XVI  
Default and Remedies Lessee's Default

16.1 An Event of Default in the Lease Agreement shall occur should LESSEE neglect or fail to perform or observe any of the terms, provisions, conditions or covenants herein contained and on LESSEE's part to be performed or in any way observed and if such neglect or failure should continue for a period of thirty (30) days after receipt by LESSEE of written notice of such neglect or failure. However, if more than thirty (30) days shall be required because of the nature of the Event of Default, LESSEE shall be allowed to cure if within said thirty (30) days period LESSEE commences and thereafter diligently proceeds to cure such Event of Default but under no circumstances shall the period of notice and cure exceed sixty (60) days from the date of such event of Default by LESSEE. LESSEE will be notified of any monetary default through the Director of FINANCE, CITY OF SAN ANTONIO, P. O. Box 839966, San Antonio, Texas 78283-3966. Any other notice of default shall be directed to Mr. Joseph R. Kaiser, Social Services Manager, CITY HALL/PLAZA DE ARMAS, Department of Community Initiatives/Literacy Services Division, 115 Plaza De Armas, Suite 220, San Antonio, Texas 78205, ATTN.: Director, with copies in each instance to be sent to the CITY CLERK, City of San Antonio, P. O. Box 839966/2nd Floor, San Antonio, Texas 78283-3966.

16.2 Upon default and failure of LESSEE to cure as stated above, LESSOR may terminate this Lease Agreement by written notice to LESSEE or without terminating, LESSOR may, without being obligated to do so, reenter and relet the Leased Premises or any part thereof upon the best rent and best terms possible as soon as reasonably possible and with reasonable effort on the part of LESSOR. LESSEE shall be liable for the payment each year as due during the remaining balance of the lease term for said difference in rent occasioned by the reletting, so long as LESSOR has relet to a viable LESSEE, other than a related party.

16.3 LESSEE shall have the right, within thirty (30) days after the date of termination of this Lease Agreement, except when termination is a result of LESSEE's default under the provisions of this Lease Agreement, to remove from the Leased Premises all of its furniture, fixtures, equipment and furnishings, including any glass partitions, any alarm systems or other items which are not the property of LESSOR, but which are generally classified as "trade fixtures" or personal property, excluding any

permanent improvements to the Leased Premises. With respect to any damage caused by LESSEE's sole active negligence in such removal, LESSEE shall have the obligation to restore the land constituting the Leased Premises to its condition prior to such removal, save and except for normal wear and tear.

Lessor's Default

16.4 An Event of Default shall occur should LESSOR fail to perform any of its covenants or obligations hereunder after the date of commencement of this Lease Agreement, or in the instance of any of the following events:

1. Appointment of a receiver to take possession of LESSOR's assets; and
2. LESSOR's General Assignment of assets for the benefit of creditors; and
3. LESSOR's insolvency; and
4. LESSOR's taking or suffering action under the Bankruptcy Act, which action constitutes a breach of this Lease; and

said LESSEE shall have as its sole remedy the right terminate this Lease Agreement; however, LESSEE shall not exercise LESSEE's right to terminate unless and until (1) LESSEE gives written notice of such default (which notice shall specify the exact nature of said default with particularity and how the same may be cured) to the LESSOR, and (2) said LESSOR fails to cure or cause to be cured said default within thirty (30) days from the receipt of such notice from LESSEE. However, if more than thirty (30) days shall be required because of the nature of the Event of Default, LESSOR shall be allowed to cure if within said thirty (30) day period LESSOR commences and diligently proceeds to cure said Event of Default, but in no event shall such date extend later than sixty (60) days after the date of the Event of Default by LESSOR.

16.5 All obligations of LESSOR hereunder will be construed as covenants, not conditions; and all such obligations will be binding upon LESSOR only during the period of LESSOR's possession of the Leased Premises and not thereafter.

ARTICLE XVII  
Effect of Waiver

17.1 Either party's waiver of a breach of one covenant or condition of this Lease Agreement is not a waiver of a breach of any other covenants or conditions, or of a subsequent breach of the one waived. LESSOR's acceptance of rent installments after a breach is not a waiver of the breach, except of a breach of the covenant to pay the rent installment or installments accepted.

ARTICLE XVIII  
Effect of Eminent Domain Proceedings

18.1 Eminent Domain proceedings commenced by entities other than LESSEE which result in the condemnation of a part of the Leased Premises herein will allow LESSEE to terminate this Lease Agreement in its entirety. If 40% of the Leased Premises is condemned, either LESSOR or LESSEE may terminate this Lease Agreement in its entirety. If the Lease Agreement is terminated, LESSEE and LESSOR shall each be entitled to compensation for any loss arising from such condemnation, as their respective interests may appear.

ARTICLE XIX  
Additions and Improvements

19.1 LESSEE shall construct all improvements on the Leased Premises, at LESSEE's sole cost and expense. The attached Addendum is a summary of the Plans and Specifications. LESSOR has, or will, review and approve said Plans and Specifications prior to the Commencement of Construction and, if necessary, agree to join LESSEE in seeking any approvals thereof by the applicable authorities. LESSOR's prior approval of the Plans and Specifications shall not be unreasonably withheld or delayed.

19.2 All fixtures, alterations, additions and improvements including the building made by LESSEE, (including trade fixtures), permanently attached to the Leased Premises shall be the property of LESSEE throughout the term of this Lease.

ARTICLE XX.  
Security/Parking

20.1 LESSEE agrees to provide security of the interior of the Leased Premises; however, LESSOR agrees to provide campus police patrols to monitor the exterior parking lot portion of the Leased Premises.

20.2 LESSEE will require parking within the fenced Leased Premises during its weekday business hours and on special occasions, such as receptions, open houses, etc. after such hours or on some weekends. However, after LESSEE's business hours, most weekends, when not used by LESSEE and on special events, such as the annual Oyster Bake, LESSOR may use said parking spaces for its students, faculty, staff, and invitees, at their respective assumed risk. LESSEE disclaims any responsibility or liability for accidents or occurrences not within its control or not resulting from its sole active negligence when the parking spaces are used by said LESSOR, its students, faculty, staff, or invitees at times when the LESSEE's *Learning and Leadership Development Center* is closed.

ARTICLE XXI  
Holding Over

21.1 Should LESSEE hold over the Leased Premises, or any part thereof, after the expiration or termination of the term of this Lease Agreement, unless otherwise agreed to in writing in advance, such holding over shall constitute and be construed as a tenancy at sufferance with a charge of \$2.00 per year for rent prorated daily for the number of days LESSEE occupies the Leased Premises. The inclusion of the preceding sentence shall not be construed as LESSOR's consent for the LESSEE to hold over.

ARTICLE XXII  
Texas Law to Apply

22.1 This Agreement shall be construed under and in accordance with the laws of The State of Texas, and all obligations of the parties created hereunder are performable in Bexar County, Texas.

ARTICLE XXIII  
Parties Bound

23.1 This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns, except as otherwise expressly provided herein.

ARTICLE XXIV  
Legal Construction

24.1 In case any one or more of the provisions contained in this Lease Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ARTICLE XXV  
Prior Agreements Superseded

25.1 This Agreement, including the Addendum to Lease and all exhibits attached hereto, constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

ARTICLE XXVI  
No Substantial Interest

26.1 LESSOR acknowledges that it is informed that Texas law prohibits contracts between the CITY OF SAN ANTONIO (LESSEE herein) and any local public official ("official"), such as a city officer or employee, and that the prohibition extends to an officer and employee of CITY agencies such as City-owned utilities and certain City Boards and Commissions, and to contracts involving a business entity in which the official has a substantial interest, as defined by Texas law, if it is reasonably foreseeable that an action on the matter would confer an economic benefit on the business entity. LESSOR certifies (and this Lease Agreement is made in reliance thereon) that to the best of its knowledge and belief, neither it, its individual officers, employees, or agents, nor any person having a substantial interest in this Lease Agreement is an officer or employee of the City or any of its agencies and further that LESSOR has, if applicable, complied with the CITY Disclosure Requirements.

ARTICLE XXVII  
Counterparts, One Agreement

27.1 This Agreement and all other copies of this Agreement, insofar as they relate to the rights, duties, and remedies of the parties, shall be deemed to be One Agreement. This Agreement may be executed concurrently in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXVIII  
Notice

28.1 Unless otherwise provided herein, any notice, tender, or delivery to be given hereunder by either party to the other may be effected by personal delivery in writing or by Certified Mail, Postage Prepaid, Return Receipt Requested.

LESSOR:

*Mr. Daniel J. White  
Vice-President  
Administration & Finance  
ST. MARY'S UNIVERSITY  
One Camino Santa Maria  
San Antonio, Texas 78228-8540*

Exhibit A-11

LESSEE:

Attention: CITY CLERK  
City of San Antonio  
P. O. Box 839966/2nd Floor  
San Antonio, Texas 78283-3966

ARTICLE XXVIX  
Memorandum of Lease

29.1 LESSOR and LESSEE each agree to execute a Memorandum of Lease for this Lease Agreement in recordable form upon reasonable request to so provide such documentation. However, the Lease Agreement itself shall not be recorded, unless both parties agree in writing thereto.

AGREED TO THIS 18TH DAY OF MAY, 1995 (DATE OF EXECUTION).

LESSOR:

ST. MARY'S UNIVERSITY  
One Camino Santa Maria  
San Antonio, Texas 78228-8540

LESSEE:

THE CITY OF SAN ANTONIO,  
a Texas Municipal Corporation

BY: Donald J. White  
Title: VP ADM & FINANCE

BY: [Signature]  
City Manager

**EXHIBIT B**

**Form of Memorandum of Lease Termination Agreement**

**MEMORANDUM OF LEASE TERMINATION AGREEMENT**

STATE OF TEXAS           §  
  §           KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF BEXAR       §

THIS MEMORANDUM OF LEASE TERMINATION AGREEMENT (this "Memorandum") is made by St. Mary's University ("St. Mary's").

**RECITALS**

A. Landlord and the City of San Antonio, a Texas municipal corporation ("City") have entered into that certain Lease Termination Agreement (the "Agreement") dated effective as of \_\_\_\_\_, 2014, pursuant to which St. Mary's and the City, subject to the terms, provisions, conditions, and covenants set forth in the Agreement, agree to terminate that certain Ground Lease Agreement (St. Mary's Learning and Leadership Development Center District 7) dated May 18, 1995 ("Lease"), between St. Mary's and the City for that certain tract of land and improvements situated in Bexar County, Texas, and being more particularly described in Exhibit A attached hereto and made a part hereof for all purposes.

B. St. Mary's executes this Memorandum, which is to be recorded in the Official Public Records of Real Property of Bexar County, Texas, in order that third parties may have notice of the termination of the Lease.

**AGREEMENT TERMS**

Specific reference is hereby made to the following terms and provisions of the Agreement:

1. Additional Information. Persons having an interest in the provisions of the Agreement may obtain additional information from St. Mary's or the City at the following addresses:

If to St. Mary's:

St. Mary's University  
1 Camino Santa Maria  
San Antonio, Bexar County, Texas 78228  
Attention: Vice President of Administration and Finance

If to City:

City of San Antonio  
P.O. Box 839966101  
San Antonio, Bexar County, Texas 78283-3966  
Attention: Director, Department of Human Services

Exhibit B-1

This Memorandum is executed for the purpose of recordation in the Official Public Records of Real Property of Bexar County, Texas in order to give notice of all of the terms, provisions, conditions and covenants of the Agreement. This Memorandum is not intended and shall not be construed to amend, modify, or change any of the terms, provisions, conditions or covenants of the Agreement, and both the Agreement and this Memorandum shall be deemed to constitute a single instrument. In the event of any conflict between this Memorandum and the Agreement, the Agreement shall in all events control.

EXECUTED as of the dates set forth in the acknowledgements below, to be effective, however, for all purposes as of \_\_\_\_\_, 2014.

ST. MARY'S UNIVERSITY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

AFTER RECORDING RETURN TO:

James P. Plummer  
Norton Rose Fulbright  
300 Convent, Suite 2100  
San Antonio, Texas 78205

Exhibit B-2

**EXHIBIT A**  
**Legal Description**

LOT NUMBER THREE (3), BLOCK "2", N.C.B.  
9292 ACCORDING TO THE MAP RECORDED IN  
VOLUME 9537, PAGE 130, DEEDS AND PLATS  
OF BEXAR COUNTY, TEXAS

Exhibit B-3