

AN ORDINANCE

2014 - 09 - 18 - 0703

AUTHORIZING THE EXECUTION OF AN AMENDMENT AND EXTENSION TO AN EXISTING LEASE WITH THE FREE TRADE ALLIANCE OF SAN ANTONIO AT THE INTERNATIONAL CENTER BUILDING FOR ADDITIONAL SQUARE FOOTAGE AND FOR A FIVE YEAR TERM ENDING OCTOBER 1, 2019, LOCATED AT 203 SOUTH SAINT MARY'S STREET, IN COUNCIL DISTRICT 1.

* * * * *

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 an instrument with Free Trade Alliance of San Antonio 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 all ancillary instruments and agreements conducive to effectuating the transaction.

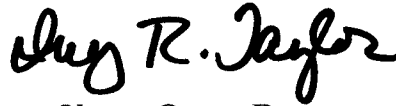
SECTION 2: Funds generated by this ordinance will be deposited as per the table below:

Amount	General Ledger	Internal Order	Fund
\$55,020.00	4401110	280006100001	11001000
\$19,994.88	4401111	280006100001	11001000
Total Amt \$75,014.88			

SECTION 3: 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 4. This ordinance is effective immediately upon receipt of eight affirmative votes; otherwise, it is effective 10 days after passage.

PASSED AND APPROVED this 18th day of September, 2014.

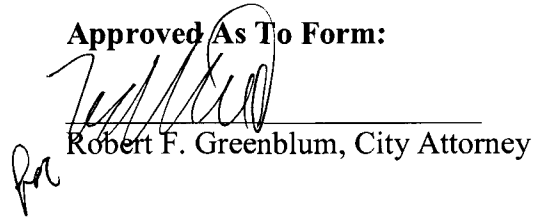


M A Y O R
Ivy R. Taylor

Attest:


Leticia M. Vacek, City Clerk

Approved As To Form:


Robert F. Greenblum, City Attorney

Agenda Item:	12 (in consent vote: 5, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 21, 22, 23, 24)
Date:	09/18/2014
Time:	10:37:52 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the execution of an amendment and extension to an existing lease with the Free Trade Alliance of San Antonio at the International Center Building for additional square footage and for a five year term, respectively, located at 203 South Saint Mary's Street, in Council District 1 for an additional five-year period ending October 1, 2019. [Peter Zanoni, Deputy City Manager; Mike Etienne, Director, EastPoint & Real Estate Services Office]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Diego Bernal	District 1		x				
Keith Toney	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Mari Aguirre-Rodriguez	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x			x	

ATTACHMENT I

Renewal of Lease Agreement
(Free Trade Alliance)

This Renewal of Lease Agreement is between Tenant and the City of San Antonio (“Landlord”), pursuant to the Ordinance Authorizing Renewal.

Whereas, Tenant and Landlord entered into a four year Lease agreement beginning in December of 2003 and subsequently renewed the agreement to expire in January of 2010 and

Whereas, the City Council of San Antonio passed Ordinance 2010-04-08-0296 authorizing the City Manager and her designee, severally, to execute and deliver an amendment to this Lease increasing the square footage of the office space leased and corresponding rent; and

Whereas, Tenant never executed this amendment but stayed in possession of the expanded premises and paid adjusted increased rental amounts all as directed by this Ordinance; and

Whereas, Tenant and Landlord now desire to amend and extend the Lease period to September of 2024 with this form; and

Whereas, Tenant and Landlord agree that by executing this form, both parties acknowledge their intention that the Lease continued in effect for the authorized period of the Ordinance to expire in January of 2012; and

Whereas, Tenant has continued to occupy the Premises in holdover capacity since that time.

1. Identifying Information.

**Ordinance Authorizing 2nd
Renewal:**

Tenant: Free Trade Alliance San Antonio

Tenant’s Address: 203 S. St. Mary’s St., Suite 130, San Antonio, Texas
78205

Lease: Office Lease Agreement (International Center) (Free Trade Alliance) relating to approximately 2,521 square feet in the International Center between Landlord and Tenant and authorized by the Ordinance Authorizing Original Lease

**Ordinance Authorizing
Original Lease:** 98529, December 4, 2003

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Ordinance Authorizing 1st Renewal:	2007-03-08-0267
Beginning of 1st Renewal Term:	January 16, 2007
Expiration of 1st Renewal Term:	January 31, 2010
Ordinance Authorizing Expansion of Premises and Continuance of Tenancy:	2010-04-08-0296
Month to Month Occupancy:	Tenant has been occupying the Premises month to month since January 31, 2012.
Beginning of 2nd Renewal Term:	October 1, 2014 (subsequent to City Council authorization) The effective date of the Ordinance Authorizing 2 nd Renewal
Expiration of 2nd Renewal Term:	September 30, 2019

2. Defined Terms.

All terms used in this instrument and not otherwise defined herein but defined in the Lease or any previous amendment to it have the meanings previously ascribed to them.

3. Premises.

Article I. Demise of Premises, Section 1.1 is hereby deleted in its entirety and the following is inserted in its place:

1.1 Premises is defined as 6,100 rentable square feet consisting of Suites 130 and 140 located in the building commonly known as the International Center Building located at 203 South Saint Mary's Street, San Antonio, Texas as more fully depicted in Exhibit A.

4. Improvements.

Article VII TENANT'S WORK, Sections 7.1 and 7.7 are deleted and replaced with the following:

7.1 "Tenant's Work" means the improvements listed on **Exhibit B**. Tenant must contract and pay for Tenant's Work, except that Tenant need not spend more than \$250,000. Once Tenant spends \$250,000 on Tenant Work, it has no further obligation to Landlord regarding such work. Tenant must complete the \$250,000 in Tenant's Work no

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later than June 30, 2015. If Tenant does not do so, Base Rent increases by Landlord's liquidated damages, as calculated below. Tenant acknowledges that the Base Rent is reduced because of the substantial finish-out Tenant claims as necessary and, if Tenant fails to expend the full \$250,000, the Base Rent will be too heavily discounted. Liquidated damages are calculated by subtracting from \$250,000 the amount Tenant actually expended by June 30, 2015 on Tenant's Work (the "Discount not Realized"). If the difference is a positive number, the difference is divided by the number of months remaining in the 2nd Renewal Term and the monthly Rent is increased by that amount commencing with the next payment due so that the entirety of the Discount not Realized is paid back as liquidated damages to Landlord prior to the expiration of the 2nd Renewal Term.

7.7 Landlord must, to Tenant's reasonable satisfaction, install thermal insulation under the Premises' floor from the underside and install soundproofing on the window glass facing Market Street. Tenant hereby acknowledges that Landlord shall have no other obligation to contribute towards the cost of TENANT's Work. Further, Tenant accepts Premises and existing improvements "as is." Landlord neither represents nor warranties, expressly or impliedly, the fitness of existing improvements for TENANT's use including, but not limited to, HVAC systems, plumbing systems, electrical systems and structural soundness. In the event that modifications are required to any existing building systems to accommodate TENANT's Work, then the cost to make such modifications shall be borne solely by the Tenant and Landlord shall have no obligation to contribute to the cost.

5. Permitted Use.

Article II. Use, Section 2.1 is deleted in its entirety with the following inserted in its place:

2.1. The Permitted Use is limited exclusively to office use to support promotion of international commerce and trade in San Antonio. No other use is permitted.

6. Term of Lease

Article III. TERM OF LEASE/RENEWAL is deleted in its entirety with the following inserted in its place:

The term of this Lease shall be for five (5) years commencing October 1, 2014 (conditioned upon City Council authorization) and ending September 30, 2019 as detailed in Section 1, unless terminated earlier. This Second Renewal to the Original Lease does not authorize any renewal or extension of the term beyond September 30, 2019 and any occupancy occurring subsequent to that date, provided Tenant has not timely exercised its right to renew as provided pursuant to Section 7 of the Renewal of Lease Agreement, shall be considered a holdover subject to the terms and conditions outlined in Section 5.3 of the Lease.

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7. Rent.

Article V. Rent, is hereby deleted in its entirety and the following is inserted in substitution thereof:

ARTICLE V.
RENT

5.1 Rent includes all sums due to Landlord under this lease no matter how denominated. The monthly charge for Rent is as follows:

Rental Period	Annual Rate Per SF	Monthly Rate
October 1, 2014 - September 30, 2015	\$12.30	\$6,251.24
October 1, 2015 - September 30, 2016	\$12.54	\$6,376.26
October 1, 2016 - September 30, 2017	\$12.79	\$6,503.79
October 1, 2017 - September 30, 2018	\$13.05	\$6,633.87
October 1, 2018 - September 30, 2019	\$13.31	\$6,766.54

5.2. Tenant must pay Rent in the amounts described in this section in advance on the first day of each month or within 10 days thereafter without penalty. Due but unpaid amounts bear interest at the prime rate of interest in effect on the due date as published from time to time in The Wall Street Journal (or, if The Wall Street Journal ceases publication, another financial publication reasonably selected by Landlord) plus four percent per annum from the due date until paid in full. In addition, if Tenant is delinquent in paying an amount for more than 10 days after the date due, Tenant must pay to Landlord upon demand a late charge equal to five percent of the delinquent sum. Interest and late charges are in addition to all Landlords' other rights and remedies.

5.3 Tenant shall have the right to renew this lease for an additional five-years provided Tenant provides written notice to Landlord of its intent to renew the lease no later than June 1, 2019. All terms and conditions of the lease shall remain in effect during the renewal term except Rent which shall be paid during the renewal term according to the following schedule:

Rental Period	Annual Rate Per SF	Monthly Rate
October 1, 2019 - September 30, 2020	\$13.58	\$6,901.87
October 1, 2020 - September 30, 2021	\$13.85	\$7,039.91
October 1, 2021 - September 30, 2022	\$14.13	\$7,180.71
October 1, 2022 - September 30, 2023	\$14.41	\$7,324.32
October 1, 2023 - September 30, 2024	\$14.70	\$7,470.81

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5.4. Tenant's covenant to pay Rent and Landlord's covenants are independent. Tenant must not abate Rent for any reason.

8. Costs of Common Areas

Article XV, Costs of Common Areas is deleted in its entirety and shall have no further force or effect,

9. Assignment and Subleasing.

Article XXIII is deleted in its entirety and the following is inserted in its place:

ARTICLE XXIII. ASSIGNMENT AND SUBLETTING

23.1 Any attempt at assignment of Tenant's rights, duties, and obligations hereunder is void and terminates the Lease. Tenant must, upon such termination, immediately and peacefully vacate the Premises within three days after Landlord's notice to Tenant. In no event shall any attempted assignment relieve Tenant of its primary liability under this Lease, and Tenant shall in no way be released from the full and complete performance of all its obligations under this Lease through the date of termination. Landlord may lock Tenant out of the Premises after the three day period and Tenant forfeits the value of any Tenant constructed improvements. Landlord, at its sole discretion, may consider Tenant equipment remaining in the Premises as abandoned and retain any and all as Landlord property or Landlord may remove said property from the Premises. If Landlord elects to remove Tenant equipment from the Premises, Tenant is obligated to pay all costs incurred for such removal upon demand. When disposing of abandoned property, Landlord need not be commercially reasonable and need not provide Tenant with an accounting of said disposal.

23.2 Tenant will not sublet in total more than 3,050 rentable square feet of the Premises without Landlord's consent. Furthermore, Tenant may not sublet more than 1,000 rentable square feet of the Premises to a single entity. Notwithstanding Tenant's right to sublet in these instances without Landlord's consent, all subleases must be compliant with the Permitted Use as this term is defined in the Lease. In the event that Tenant desires to exceed the 3,050 rentable square foot threshold for all subleases in total or 1,000 rentable square feet of the Premises for any individual sublease, Landlord's consent to a sublet must first be obtained which will require Tenant to notify Landlord not less than 60 days prior to the proposed effective date of the sublet with a written request outlining the (i) proposed use; (ii) area of occupancy in plan form with confirming square footage; (iii) term of the sublet and; (iv) amount of rent to be collected from the proposed subtenant. Following any subletting, 50% of the rent or other consideration paid to Tenant by the sublessee on a rentable square foot basis in excess of the rentable square foot rent provided in Article V RENT shall be the property of Landlord and shall be paid to Landlord within three days of sublessee remittance (the "Sublet Premium"). Tenant's

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failure to remit Landlord's share of sublease rent is a material default. A failure to notify when required subjects all subleases to the Sublet Premium.

23.3 Tenant must remain fully and primarily liable under this Lease, notwithstanding any sublease, and each sublessee is required to attorn to Landlord (by instrument reasonably satisfactory to Landlord).

10. 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 this renewal.

11. Same Terms and Conditions.

This renewal instrument is a fully integrated statement of the modifications to the Lease. Except as expressly modified by this renewal, the Lease remains a comprehensive statement of the rights and obligations of Landlord and Tenant. Landlord and Tenant reaffirm the Lease as modified by this agreement. Landlord and Tenant reaffirm the Lease as modified by this agreement and represent to each other that no written right or obligation of either party has been waived such that it would impair exercise of the right or enforcement of the obligation on a future occasion.

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BLANK**

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12. Public Information.

Tenant acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this agreement waives an otherwise applicable exception to disclosure.

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

Landlord

Tenant

City of San Antonio, a Texas municipal corporation

Free Trade Alliance San Antonio, a Texas nonprofit corporation

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

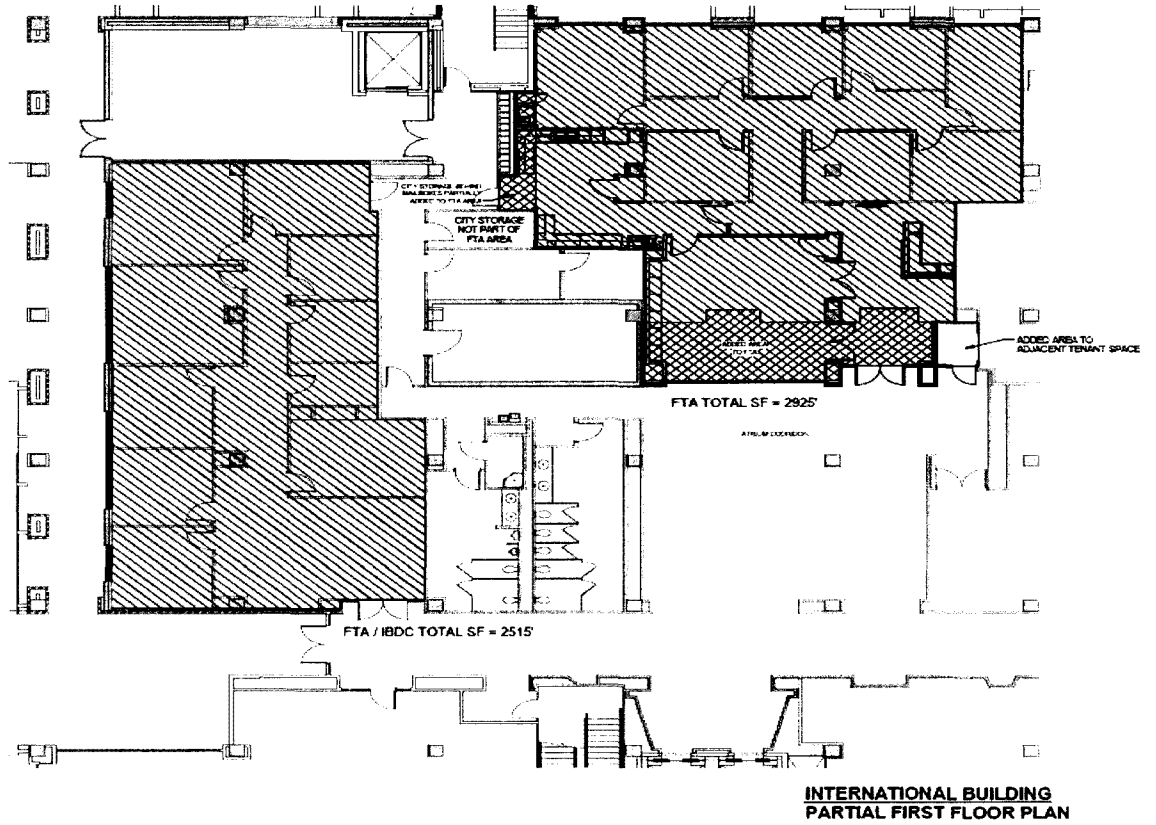
Date: _____

Approved as to Form:

City Attorney

ATTACHMENT I

Exhibit A: Depiction of Premises (Indicating Occupied Area)



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Exhibit B List of Improvements to be completed by TENANT

TENANT agrees to complete prior to June 30, 2015 the following work to the Premises:

1. Retain a licensed architect and engineer to develop construction drawings necessary to obtain a permit from the City of San Antonio to complete all of Tenant's Work.
2. Hire a contractor and timely obtain all required building permits to complete all of Tenant's Work prior to June 30, 2015.
3. Complete the demolition and construction of walls, lighting systems, HVAC modifications, electrical modifications, Plumbing modifications, carpet, paint and any other work necessary to build out the plan as shown on Exhibit A of the Renewal of Lease Agreement.
4. Obtain a Certificate of Occupancy confirming that the work has been completed and is suitable for use as office space.