

AN ORDINANCE **2017-02-09-0069**

**AUTHORIZING AN AMENDMENT TO THE EXISTING FIVE YEAR LEASE AGREEMENT FOR THE LEASE OF 2,400 SQUARE FEET OF OFFICE SPACE FOR THE HEALTHY START PROGRAM, LOCATED AT 102 W. WHITE STREET IN COUNCIL DISTRICT 3.**

\* \* \* \* \*

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

**SECTION 1.** The City Manager, or her designee, is hereby authorized to execute an amendment to a lease agreement between the City of San Antonio and Harlandale United Methodist Church, which was approved by Ordinance 2015-02-12-0092, for the rental of office space located at 102 W. White Street to be used by the San Antonio Metropolitan Health District's continued operation of the City of San Antonio's Healthy Start Program for a five-year term ending on March 31, 2020. A copy of the 1<sup>st</sup> Amendment to Lease Agreement, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment I**.

**SECTION 2.** Fund 2602236055 entitled "Healthy Start 16-17" and Internal Order 136000000686 and General Ledger number 5206010 are hereby designated for use in the accounting for the fiscal transaction of this contract for the remaining term of the contract.

**SECTION 3.** Payment not to exceed the budgeted amount is authorized and should be encumbered with a purchase order. The chart below identifies the costs associated with this lease during the term. The utility rent for the remaining lease term will be calculated as per the formula described in the 1st Amendment to Lease Agreement, not to exceed the budgeted amount.

Term	Base Rent	Utility Rent	Total
4/1/15-3/31/16	1,030.23	580.00	1,610.23
4/1/16-3/31/17	1,030.23	536.00	1,566.23
4/1/17-3/31/18	1,086.23	*TBD	*TBD
4/1/18-3/31/19	1,086.23	*TBD	*TBD
4/1/19-3/31/20	856.00	*TBD	*TBD


\*adjusted every 12 months on April 1st

**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 shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

**PASSED AND APPROVED** this 9<sup>th</sup> day of February, 2017.

  
M A Y O R  
Ivy R. Taylor

Attest:

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

Approved As To Form:

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

<b>Agenda Item:</b>	<b>6 ( in consent vote: 6, 7, 8, 9, 11, 12, 13 )</b>						
<b>Date:</b>	02/09/2017						
<b>Time:</b>	09:28:35 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing an amendment to the existing five year Lease Agreement for the lease of 2,400 square feet of office space for the Healthy Start Program, located at 102 W. White Street in Council District 3. [Lori Houston, Assistant City Manager; John Jacks, Interim Director, Center City Development & Operations Department]						
<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				
Roberto C. Treviño	District 1		x			x	
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				



# **1<sup>st</sup> Amendment to Lease Agreement**

(102 W White St. - Harlandale United Methodist Church Lease)

This 1<sup>st</sup> Amendment to Lease Agreement is entered into between Landlord and Tenant as of the Effective Date.

## **1. Identifying Information.**

### **Authorizing Ordinance:**

**Landlord:** Harlandale United Methodist Church

**Landlord's Address:** 6025 S. Flores Street  
San Antonio, TX 78214

**Tenant:** City of San Antonio

**Tenant's Address:** P.O. Box 839966, San Antonio, Texas 78283-3966  
Attention: Center City Development Office – Real Estate  
Leasing

**Lease:** Lease Agreement between the City of San Antonio and Harlandale United Methodist Church, pertaining to 2,400 rentable square feet of office space on the 1<sup>st</sup> Floor, located at 102 W White Street, San Antonio, Bexar County, Texas and authorized by the Ordinance Authorizing Original Lease. [The above address is altered to reflect the correct address of 102 W White Street.]

**Ordinance Authorizing  
Original Lease:** 2015-02-12-0092

## **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. Rent.**

Section 3 *Rent*, of the Lease is deleted in its entirety and the following is inserted in substitution thereof.

3.01 Rent for the Initial Term is depicted in the table immediately below, comprising Base Rent and Utilities, is inclusive of all costs and expenses associated with

Tenant's occupancy except for costs for any services expressly identified as Tenant's responsibility in Section 9 of the Lease, and there is no pass through or additional charges of any kind during this Term.

TERM	BASE RENT	UTILITY RENT	TOTAL
4/1/15 – 3/31/16	\$1030.23	\$580.00	\$1,610.23
4/1/16 – 3/31/17	\$1030.23	\$536.00	\$1,530.59
4/1/17 – 3/31/18	\$1086.23	*TBD	*TBD
4/1/18 – 3/31/19	\$1086.23	*TBD	*TBD
4/1/19 – 3/31/20	\$856.00	*TBD	*TBD

\*adjusted every 12 months on April 1<sup>st</sup>

The audit report mandated under the terms of the Lease in month 13 revealed a Utility overcharge of \$3,168.00 due to \$220.00 overpayment per month during the initial 12 months of the Lease, and \$264.00 overpayment per month in months 13 and 14 of the Lease. Landlord acknowledges receipt of this overpayment and agrees to credit Tenant the \$3,168.00 using the Revised Utility Payment based on the Experience Exchange Report from the Building Owners and Managers Association (BOMA) to properly account for the credits under Tenant's grant funding. Using this report, the Revised Utility Payment based on BOMA Report is calculated using the total of the Electricity, Gas and Water/Sewer under the Utility Section (Mid Range – High) reflects the amount of \$580.00 per month that City should have paid during the period between April 2015 - March 2016, and the \$536 that should have been paid monthly during the period between April 2016 – May 2016. Landlord will credit Tenant \$536.00 per month for periods June 1, 2016- October 1, 2016 and a credit of \$488.00 for the month of November 2016 for a total credit of \$3,168.00, thereby resolving the overcharge issue in the manner annotated in below table.

Internal Order	PO #	Month	Actual Utility Pmt made to Landlord	Revised Utility Pmt based on BOMA Report	Variance
136000000643	4500400285	4/2015	800.00	580.00	220.00
136000000643	4500400285	5/2015	800.00	580.00	220.00
136000000653	4500400285	6/2015	800.00	580.00	220.00
136000000653	4500400285	7/2015	800.00	580.00	220.00
136000000653	4500400285	8/2015	800.00	580.00	220.00
136000000653	4500400285	9/2015	800.00	580.00	220.00
136000000653	4500402750	10/2015	800.00	580.00	220.00
136000000653	4500402750	11/2015	800.00	580.00	220.00
136000000653	4500402750	12/2015	800.00	580.00	220.00
136000000653	4500402750	1/2016	800.00	580.00	220.00
136000000653	4500402750	2/2016	800.00	580.00	220.00



136000000653	4500402750	3/2016	800.00	580.00	220.00
136000000686	4500402750	4/2016	800.00	536.00	264.00
136000000686	4500402750	5/2016	800.00	536.00	264.00
136000000686	4500407790	6/2016	0.00 (due)	536.00	(536.00) credit
136000000686	4500407790	7/2016	0.00 (due)	536.00	(536.00) credit
136000000686	4500407790	8/2016	0.00 (due)	536.00	(536.00) credit
136000000686	4500407790	9/2016	0.00 (due)	536.00	(536.00) credit
136000000686	4500409328	10/2016	0.00 (due)	536.00	(536.00) credit
136000000686	4500409328	11/2016	48.00 (due)	536.00	(488.00) credit
			11,248.00	11,248.00	0.00

3.02. 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. Tenant further may be more than 10 days late twice in a calendar year without penalty. On the third and each later occasion in a calendar year on which Tenant is more than 10 days late, Landlord may deliver to Tenant written notice of delinquency. If Tenant does not pay the full amount due within 15 days from delivery of Landlord's notice, then Tenant owes a late charge of 5% of the delinquent amount as additional rent. The late charge represents a fair and reasonable estimate of costs Landlord will incur because of the late payment. Interest and late charges are in addition to all Landlord's other rights and remedies. Due to contract amendment negotiations during the period between June 1, 2016 and November 1, 2016, the above referenced late fees and penalties will not apply to that period.

3.03 The monthly utility payment for the first year of the least agreement is calculated using the total of the Electricity, Gas and Water/Sewer under the Utility Section (Mid Range – High) of the 2015 Experience Exchange Report (per square foot figure) from BOMA. In the second year of the lease agreement the monthly utility payment is calculated using the total of the Electricity, Gas and Water/Sewer under the Utility Section (Mid Range – High) of the 2016 Experience Exchange Report from BOMA. The monthly utility payments for Years 1 and 2 are depicted in the table above and is inclusive of all costs and expenses associated with Tenant's occupancy except for costs for any services expressly identified as Tenant's responsibility in Section 9 of the Lease, and there is no pass through or additional charges of any kind during this Term. A new Experience Exchange report from BOMA will be used to calculate the monthly utility payments in the subsequent years of the lease agreement every April 1. The adjustment, higher or lower, will be based on a formula that multiplies the premises size of 2,400 square feet by the BOMA price per square foot figure (Utility Section: Mid Range – High) for the year in which the calculation is made. The Tenant will be responsible for the BOMA annual subscription. Any reference to Utilities or utilities in the Lease shall include water, sewer service, gas, electricity and any other utility service not expressly the responsibility of Tenant as provided in the Lease. Furthermore, as a condition for Landlord providing Utilities as part of the Utilities payment by Tenant, Landlord shall be solely responsible for any inspection fees or other requirements



imposed by the utility provider as a condition for the lawful use of a particular utility service.

3.04. If Landlord receives prepaid rent from or for the account of Tenant, Landlord must apply the prepaid rent according to Tenant's directions.

3.05. Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant must not abate Rent.

#### **4. Term, Renewal, Early Termination**

Section 4.02 of the Lease is deleted in its entirety and the following is inserted in substitution thereof:

4.02. Tenant shall have the option to renew for a 60 month term at the monthly rental rate of \$915.00 inclusive of all costs save a monthly utility payment to be determined on an annual basis by the figures in the Utility Section (Mid Range – High) of the Experience Exchange Report from BOMA. Any reference to Utilities or utilities in the Lease shall include water, sewer service, gas, electricity and any other utility service not expressly the responsibility of Tenant as provided in the Lease.

#### **5. 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 Landlord's signature on this amendment.

#### **6. Same Terms and Conditions.**

This amendment is a fully integrated expression of the changes the parties intend to make to the Lease. The parties acknowledge that, except as expressly set forth in this amendment, the remains in full force and effect according to its terms, and the parties reaffirm the obligations thereof. Both Landlord and Tenant are bound thereby. Neither party is in default under the Lease as amended herein. There have been no amendments or other modifications to the Lease except as expressly described in this amendment.

#### **6. Public Information.**

Landlord 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.

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

**Landlord**

**Tenant**

Signature: Jo Beth Bufano

Printed  
Name: Jo Beth Bufano

Title: BOARD PRESIDENT

Date: 12-22-16

City of San Antonio, a Texas municipal  
corporation

Signature: \_\_\_\_\_

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

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

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

**Approved as to Form:**

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

Attest:

\_\_\_\_\_  
City Clerk