

Ground Lease and Management Agreement Alamo Plaza

This Ground Lease and Management Agreement (“Lease”) is between the CITY OF SAN ANTONIO (“CITY”), acting by and through its City Manager pursuant to Ordinance No. __, and the State of Texas, acting by and through the Texas General Land Office, on behalf of the Alamo complex (“GLO”)

Background

- A. The GLO currently operates on behalf of the State of Texas the Alamo complex consisting of the Alamo Church, the Long Barrack, various other buildings on the Alamo grounds, the Alamo gardens and three buildings on Alamo Plaza known as the Crockett, Old Palace, and Woolworth buildings.
- B. The City owns Alamo Plaza, the streets surrounding the Alamo Church and Plaza, the Cenotaph, the areas surrounding the Cenotaph, and the areas where the bandstand and gazebo are located.
- C. The City, GLO, and the Alamo Endowment entered into a Cooperative Agreement in October 2015 that established a process and respective roles and responsibilities to develop a Master Plan that encompasses the Alamo Plaza Historic District and the Alamo Complex. The Cooperative Agreement also created an Executive Committee that includes the Commissioner of the General Land Office and the Mayor of San Antonio and a Management Committee that includes two representatives from the City, the GLO, and the Alamo Endowment. The City Council adopted the Cooperative Agreement as the foundation for the Master Plan.
- D. On May 11, 2017, the San Antonio City Council approved the Master Plan conceptual elements and authorized continued efforts in the interpretive design and implementation of the Master Plan.
- E. Design firms selected by the Management Committee were subsequently hired to further develop and design the Master Plan.
- F. After approximately 200 stakeholder meetings, 51 public meetings around the state, and further Council input, on August 30, 2018, the Alamo Citizens Advisory Committee approved a revised Alamo Plan, as reflected in the August 2018 Alamo Plan book (“the Alamo Plan”).
- G. The Alamo Management Committee established under the Cooperative Agreement approved the Alamo Plan on September 4, 2018.

- H. The Executive Committee approved the Alamo Plan on October 2, 2018.
- I. The State of Texas has appropriated approximately \$105 million to preserve and maintain the Alamo and to develop and implement the Alamo Plan.
- J. The City of San Antonio has appropriated \$38 million to facilitate the implementation of the Alamo Plan of which \$21 million is from the 2017 Bond Program approved by the voters and \$17 million is from Certificates of Obligation.
- K. The Parties now seek to enter into a Ground Lease and Management Agreement that incorporates and facilitates the implementation of the Alamo Plan.

Now therefore, the Parties enter in this Ground Lease and Management Agreement under the following terms:

1. Leased Premises.

1.01. Premises under this Lease means the Alamo Plaza and associated streets, sidewalks, and walkways as more particularly described in Exhibit A (“Premises”), which is incorporated into this Lease. Parcel A of the Premises will consist of the Alamo Plaza areas identified on Exhibit A. Parcel B of the Premises will consist of the area covered by Alamo Street from Peacock Alley to the southern edge of Paseo del Alamo, and Houston Street from the western edge of Alamo Street to East 3rd Street.

1.02. City leases the Premises to GLO, and GLO leases the Premises from City under the terms of this Lease. GLO is to have and hold the Premises, together with all rights, privileges, easements, appurtenances, improvements (except any existing monuments) and immunities belonging to or in any way appertaining to them. The foregoing includes easements, rights, and privileges of City, existing now or at any time during the Lease term, in, to, or under adjacent streets, sidewalks, alleys, party walls, and property contiguous to the Premises. GLO shall respect and honor utility easements existing within the Premises. City represents that it is not aware of any existing leases, licenses or easements on the Premises that would interfere with GLO’s quiet enjoyment of the Premises.

1.03. GLO acknowledges and accepts that the Premises includes a parcel subleased by the City to GLO as part of this Lease.

2. Lease Term.

2.01. The Lease term for Parcel A shall be fifty (50) years commencing on January 1, 2019 and terminating on December 31, 2068. The Lease term for Parcel B shall begin on the date proscribed in Section 2.02 and end coterminous with Parcel A on December 31, 2068. GLO may automatically renew this Lease for two (2) additional twenty (25) year terms by providing written notice to the City no later than 180 days before the expiration of the then current term.

2.02. The commencement of the Lease for Parcel B is based on City completion of street improvements in the vicinity and GLO's commencement of design and/or construction of the planned Alamo museum and visitors center. The commencement of the Lease for Parcel B is the earliest of the following triggering events in subparagraphs (a) and (b):

- a. date of written notification from the City of the completion of the street closings of Alamo Street from Peacock Alley to Market Street, Crockett Street from Bonham to Losoya, and Houston Street from Broadway to East 3rd Street; or
- b. July 1, 2021.
- c. Notwithstanding the above, should staging for construction, improvements, or other activities become necessary after July 1, 2020, but before the triggering events identified above for commencement of the Lease for all of Parcel B, the City will coordinate with the GLO to accommodate such staging by temporarily closing portions of a Parcel B as appropriate.
- d. Notwithstanding the above, the City may allow GLO to commence leasing sections of Parcel B before the triggering events identified above occur, if the street closing activities relating to the leased section(s) are completed prior to July 1, 2021.

2.03. Unless renewed, this Lease terminates without further notice when the initial term expires. If renewed, it terminates without further notice when the renewed term expires. GLO's holding over expiration is not a renewal of the Lease and does not give GLO rights under the Lease in or to the Premises.

2.04. If GLO holds over and continues in possession of the Premises after the initial term (or any extension) expires, GLO's occupancy will be at will and subject to all the terms of this Lease.

2.05. At the end of the initial Lease term or any renewal term GLO shall have the option to purchase the Premises for fair market value contingent on City approval of the purchase. If GLO elects to exercise this option, it shall notify the City at least 180 days before expiration of the Lease term.

3. Rent.

3.01. In consideration of GLO's commitment to operate the Premises with the highest standards consistent with the significance of this internationally recognized historic site and consistent with terms of this Lease, GLO shall pay no base rent to City.

3.02. GLO voluntarily commits to contribute an annual amount of \$50,000 to the Downtown San Antonio Public Improvement District ("PID") as long as the PID activities continue to provide the category of services outlined below to the Premises:

- a. Maintenance (sidewalks, gateway entry cleanup, pressure washing, graffiti abatement, bird abatement) of the Premises;
- b. Beautification & Landscaping of the Premises;
- c. Hospitality/Ambassador Services Outreach;
- d. Security Assistance;
- e. Marketing & Event Programming; and
- f. Other services focused on maintaining and improving the downtown area for residents, businesses, and visitors.

Every five years the City and GLO shall mutually agree if any adjustment will be made to the voluntary PID contribution based on cost of services or scope of services but in no event will any five-year adjustment be more than 10% of the current annual contribution amount.

4. Taxes.

4.01. The City and the GLO are exempt by law from payment of any property taxes. In the event any taxes, general and special assessments, or other charges of any kind are levied on or assessed against the Premises, any interests in the Premises and/or any improvements on the Premises during the Lease term, the GLO shall be solely responsible for (i) contesting any such taxes or assessment and (ii) ensuring that all taxes, charges, and assessments are discharged by the taxing authority.

5. Utilities.

5.01. GLO must pay all charges for water, heat, gas, electricity, sewers, and all other utilities used on the Premises throughout the Lease term, including any connection fees.

5.02. GLO will exercise commercially reasonable efforts to incorporate energy efficiency design and practices in the construction, maintenance, and upkeep of the buildings on the premises and in the management of the Premises.

6. Management and Use of Premises.

6.01. GLO shall manage and operate the Premises consistent with the Alamo Plan and with the approved concept elements set forth in this Lease.

6.02. GLO represents and warrants that it will comply with the following specific minimum operational requirements in the management and use of the Premises:

- a. Subject to the terms of this Lease, the Alamo Plaza area of the Premises shall remain open, accessible, and free of charge to the public except for:
 - 1) Scheduled special events
 - 2) Closures for routine or special maintenance or construction projects
 - 3) Security or public safety concerns stemming from an unexpected or temporary event, including but not limited to weather events
 - 4) Any other special circumstance or situation that would necessitate temporary closure or limited access to the Premises.
- b. GLO shall provide high quality programming and services that enhances the historic and cultural significance of the site. GLO will use its best efforts to tell the full story of the Texas revolution and the Battle of the Alamo, the whole history of the Alamo and work with all traditional groups that have historical or cultural ties to the Premises, for example but not limited to Tejano, indigenous, and Texian groups, to provide programming consistent with the vision of the Alamo Plan. GLO shall continue to work with the Alamo Citizens Advisory Committee consistent with the Cooperative Agreement.
- c. GLO shall promote, schedule, and manage events and activities on the leased Premises. GLO shall maintain an accessible schedule of public events and activities. GLO shall establish a process where educational or non-profit groups can request to hold events or activities within Alamo Plaza areas of the Premises consistent with the programming, character, and educational objectives of the Alamo Plan. GLO shall provide the City with advance notice of public or private events that will reasonably require additional public safety, traffic control, or other City resources.

6.03. In keeping with the open public character of the Premises, GLO shall not:

- a. Charge a fee to enter the Alamo Plaza areas of the Premises.

- b. Shall not allow any long term vending or concessions on the Premises unless approved in writing by the City Manager or her designee. A kiosk for Alamo information and tour sales shall be allowed on the Premises without further approval.
- c. Make any permanent improvements or changes to the Premises inconsistent with the Alamo Plan.

6.04. The Alamo presently hosts over 100 military events per year. These are managed through a standard operating procedure which considers the level of support and resources required. It is understood that these accommodations will continue on the Premises per these practices and procedures.

6.05. The GLO acknowledges that the Paseo Del Alamo allows public access from Alamo Street to Losoya Street through the Paseo del Alamo. In the event that access to the Paseo Del Alamo from the adjacent property located at 301 Alamo Plaza is substantially impacted during the Lease term, the GLO will work with the adjacent property owner to reasonably accommodate their access needs to the Paseo Del Alamo. Additionally, the Parties acknowledge that the Alamo Plan includes restricting vehicular traffic on Alamo Street directly in front of 301 and 307 Alamo Plaza and that pedestrian access will continue along this portion of Alamo Street. Permanently restricting pedestrian access to this portion of the street would require steps proscribed by applicable law for the closure and abandonment of the street.

6.06. City, or its designee, shall have the right to use, free of charge, all or a portion of the Premises for a minimum of 4 times per calendar year (“City Days”) for special events or programs by coordinating and scheduling with GLO no later than 120 days before the City intended use. City use of the Premises will not supersede, preempt or unreasonably interfere with previously scheduled events. The City’s events or programs must be consistent with other events hosted by the GLO within the Alamo Plaza or associated buildings and the events or programs must respect the sense of place and reverence of the Alamo Plaza and associated buildings. City shall not pay any rental fees associated with use of the Premises under this Section but shall be responsible for all costs incurred by GLO related to the events including costs for goods or services, security by Alamo Rangers, equipment purchase and rental, and costs of subcontractors. City is required to provide its own set up, break down and clean up. City shall also be responsible for cancellation costs consistent with GLO’s cancellation policy for events.

6.07. Special City Days: The GLO will provide for five special evenings per year for the City of San Antonio where all of the museum exhibits and programs are available to the public at no charge. On these free evenings, the site will be fully operational for the public and managed in accordance with the practices of normal museum operating hours. The GLO and City will work jointly to promote these evenings in a way that fosters attendance by those who would not normally

be able to attend the Alamo. The GLO may seek sponsorships and underwriting to offset the increased expenses of providing these special evenings.

6.08. GLO shall comply with all applicable local, state and federal laws, rules, and regulations applicable to the operation and management of a historical, culturally significant site on the Premises under this Lease, including but not limited to the state and federal antiquities codes and health and safety codes.

6.09. The Parties acknowledge that no non-governmental organizations or quasi-governmental organizations, including the United Nations, United Nations Educational Scientific and Cultural Organization (UNESCO), or any of their associated or subsidiary organizations, shall ever have any authority over the Alamo Plan, the Alamo complex, the operations under this Lease or GLO's management of the Alamo complex.

7. Construction and Maintenance.

7.01. GLO shall construct, restore, renovate, and maintain buildings and other improvements on the Premises consistent with the Alamo Plan and in accordance with the following:

- a. GLO shall submit detailed plans for construction authorized above, and work in coordination with the City of San Antonio to ensure that construction plans shall be consistent with the Alamo Plan and compatible from a scheduling perspective with planned construction or development in the surrounding area.
- b. GLO shall bear the cost of the work unless the City is authorized to contribute to the cost.
- c. GLO shall keep the Premises free of mechanic's and materialmen's liens.
- d. Except for routine maintenance of existing buildings and improvements on the Premises, GLO shall timely notify the City, before work begins, of the time work will begin and the general nature of the work.

7.02. City will offer reasonable cooperation to GLO concerning easements, dedications, zoning, and restrictions of the Premises as follows:

- a. On GLO's request, City will join with GLO in executing and delivering the documents, from time to time and throughout the Lease term, as may be reasonable, appropriate, necessary, or required by the several governmental agencies, public utilities, and companies to grant easements and make dedications consistent with Alamo Plan for the Premises.

b. On GLO's request, City will execute the documents, petitions, applications, and authorizations as are appropriate or required to submit the Premises, or any part of them, for the purposes of obtaining conditional use permits, zoning, rezoning, tentative and final tract approval, precise plan approval, if such actions are consistent with the Alamo Plan for the Premises .

c. City shall cooperate with GLO to identify any adjacent parcels, easements, or leases that will need to be incorporated into this Lease or handled in a separate instrument to fully implement the Alamo Plan.

d. Upon reasonable request, City shall facilitate and execute documents to allow for the start of preliminary work on the Premises.

e. City and GLO shall have a strong collaborative relationship to manage security issues related to the Alamo Plan for the protection of the visitors and the historic structures. Both Parties will endeavor to continue and improve this relationship.

7.03. GLO expects to begin construction of the improvements and alterations detailed in the Alamo Plan in a timely manner once GLO obtains all necessary permits, funding, approvals and other authorizations. GLO shall coordinate with the City to facilitate the issuance of approvals and permits. If GLO does not start any construction by January 1, 2022 for reasons other than force majeure or failure of the City to meet its obligations under this Lease then GLO shall develop and submit a plan to the City to start construction on a date certain. If restoration and construction has not commenced by September 1, 2022 then the City may terminate this Lease upon 30 days written notice.

7.04. Any buildings, improvements, additions, alterations, and fixtures (except furniture and trade fixtures) constructed, placed, or maintained on any part of the Premises during the Lease term become part of the real property of the Premises and must remain on the Premises and shall become City's property when the Lease terminates.

7.05. GLO may, at any time while it occupies the Premises, or within a reasonable time thereafter, remove any furniture, machinery, equipment, or other trade fixtures owned or placed by GLO in, under, or on the Premises. Before the Lease terminates, GLO must repair any damage to any buildings or improvements on the Premises resulting from removal. Any such items not removed by termination become City's property.

7.06. GLO may not encumber its leasehold interest on the Premises without obtaining City's consent, but no such encumbrance is or can be a lien on City's fee title.

7.07. GLO must keep and maintain all buildings and improvements erected on the Premises in a good state of appearance and repair (except for reasonable wear and tear) at GLO's own expense consistent with the highest standards consistent with this internationally recognized historic site.

7.08. GLO must not cause or permit any mechanic's or other liens to be filed against the fee of the Premises or against GLO's leasehold interest (excluding any leasehold mortgage). If such a lien is recorded, GLO must either cause it to be removed, or if GLO in good faith wishes to contest the lien, take timely action to do so at GLO's sole expense. If GLO loses the contest, GLO must cause the lien to be discharged and removed before any judgment is executed.

8. Concept Elements.

8.01. GLO shall engage a qualified and experienced consultant to conduct a feasibility study to determine the options for preserving the historical Crockett, Old Palace, and Woolworth buildings through adaptive use of the existing structures or facades. GLO shall ensure the study meets Department of the Interior Standards and shall share the feasibility study with the Alamo Citizen's Advisory Committee for their input and recommendation concerning the historical preservation and recognition of the buildings before the design plans are submitted to the Historical Design Review Commission and the Texas Historical Commission.

8.02. GLO shall ensure that the design for the planned museum within the current footprint of the Crockett, Old Palace, and Woolworth buildings is reviewed by the Historical Design Review Commission and approved by the Texas Historical Commission before finalizing the architectural design. GLO shall ensure that Alamo Plan recognizes and interprets the historical significance of the Woolworth building in the Civil Rights movement.

8.03. GLO acknowledges the City owns the Cenotaph located in Alamo Plaza. GLO and the City shall work together and coordinate the restoration and relocation of the Cenotaph consistent with the Alamo Plan so that the Cenotaph retains a place of prominence and honor within Alamo Plaza. The City shall maintain a park police presence in the southern part of Alamo Plaza to maintain its safety and to protect the Cenotaph.

8.04. GLO and the City acknowledge the many Fiesta traditions that occur in Alamo Plaza and that the street closures associated with the Alamo Plan will require rerouting of major parade routes including the annual Battle of Flowers Parade and the Fiesta Flambeau parade. GLO shall work in coordination with the City of San Antonio, the Fiesta Flambeau Parade Association, the Battle of Flowers Association, Texas Cavaliers, and the Fiesta San Antonio Commission to reasonably accommodate the events traditionally held within Alamo Plaza and to reroute and reasonably accommodate for the traditions associated with the parades including the floral tributes in front of the Alamo Church. GLO and City further

acknowledge that the City and the Fiesta San Antonio Commission have a separate contract to facilitate Fiesta events and City shall ensure the GLO has a current copy of the Fiesta Commission Contract.

8.05. The City shall implement the process for closing Alamo Street from Peacock Alley to Market Street, Crockett Street from Bonham to Losoya, and Houston Street from Broadway to East 3rd Street to only allow for pedestrian traffic in an effort to recapture and delineate the historic mission plaza, respect the historic Mission footprint and battlefield, and create a sense of place and reverence. GLO will coordinate with the City, including review and input from Centro San Antonio, to develop and implement a service and delivery plan to accommodate the area businesses and service providers.

8.06. Access to the Premises

- a. The Alamo Plan includes a new 2.5-acre outdoor space that recaptures and delineates most of the original Historic Mission Footprint. This historic mission space will have six access points and will be open to the public 24/7 through the museum entries as described in the Alamo Plan.
- b. The historic mission space will be open via the six museum entries for the 16 hours when the Alamo indoor museum is closed to the public, generally, from 6:00 PM to 9 AM. The Alamo museum operating hours may be adjusted at various times during the year based on seasonal attendance, special events/ programs, or special circumstances such as weather events.
- c. GLO shall ensure that the public may enter the Alamo complex, the Church, the new Museum and the outdoor historic mission footprint through a main entry when the museum is open (generally 9 am until 6 pm). The Alamo Museum Director shall open two additional access/exit points during the Museum operating hours (generally 9 am until 6 pm), if there is no Museum programming (excluding audio tours) scheduled for the historic mission footprint. The Alamo Museum Director also may open these two additional access/exit points on peak visitor days. These additional museum entries will be staffed by museum personnel and the same security checks and access rules that apply to the visitors entering through the main entrance will apply to these additional museum entries. GLO shall manage the Premises to minimize the time people spend in line in any portion of their visit to the Alamo complex. This will include scheduling people to visit the Alamo Church, so they will have a certain time of admission, avoiding lines and designing a world class museum entry system allowing for efficient entry while having the highest regard for the safety and protection of the Alamo and its visitors. GLO will monitor and report to City the entry wait-time of Alamo visitors. The Alamo wait-time target will be less than 5 minutes with a maximum wait-time of 10 minutes. The maximum allowable duration for the wait-times

to exceed 10 minutes is 30 minutes per day. After the improvements in the Alamo Plan are completed, GLO will report on the wait-times against these objectives to the City each month. If the wait-times are outside of the target max for over 30 minutes per day, then GLO and City will meet and discuss actions to achieve these targets, which include but are not limited to opening the two additional museum entries.

- d. On the following days, all three of the museum entries will be opened to the public. These additional museum entries will be staffed by museum personnel and the same security checks and access rules that apply to the visitors entering through the main entrance.
 - i. Four days to be selected by the Mayor of San Antonio.
 - ii. Dates of Fiesta (TBD)
 - iii. 3rd Monday in January
 - iv. 3rd Monday in February
 - v. March 31
 - vi. April 21
 - vii. Veteran's Day
 - viii. Dec 25, 26, 27, 28, 29, 30, 31
 - ix. Jan 1
 - x. Day before the Alamo Bowl
 - xi. Day of the Alamo Bowl
 - xii. Weekend of NCAA Final Four being hosted in San Antonio
 - xiii. Weekend of NCAA Division I Football National Championship being hosted in San Antonio
 - xiv. Other dates reasonably agreed to between the City and GLO in which there is a high expectation of significant crowds in downtown.

These dates may be modified by written mutual consent of the City Manager and the GLO Chief Clerk, or their designees, based on data and information concerning visitor experience.

9. Funding.

9.01. The State of Texas has appropriated approximately \$105 million to the GLO to preserve, maintain and operate the Alamo complex, and to develop and implement the Alamo Plan. GLO has used and will continue to use these appropriated funds to preserve, maintain, and operate the Alamo complex, and develop and implement the Alamo Plan.

9.02. The City has appropriated \$38 million to facilitate the development and implementation of the plan to revitalize the Alamo of which \$21 million is from the 2017 Bond Program approved by the voters and \$17 million is from Certificates of Obligation. The City shall pay or reimburse GLO or spend the appropriated funds in the approximate amount of \$38 million to develop and

implement the Alamo Plan as long as the projects and funding are for the public realm and complies with other Bond requirements.

9.03. The City and GLO shall develop a schedule for payments, reimbursements, or cost sharing from the City for the funding of projects associated with the Alamo Plan. The schedule shall be based on the overall timeline for completion of the Alamo Plan and shall be cadenced with key construction and program element milestones and shall be incorporated into this Lease as Attachment C. Neither the City nor GLO shall be obligated to make any payments, reimbursements, or pay costs for any element or activity inconsistent with the Alamo Plan or Bond requirements.

10. Information Sharing

10.01. GLO and the City will regularly share pertinent information about activities within the Alamo complex including the following:

- a. Attendance including visitor demographics
- b. Events and programs each are conducting in the area
- c. Major development or construction activity in the immediate area

Information sharing shall be in a frequency, scope, and format to be reasonably agreed upon by the Parties.

10.02 Upon reasonable written notice from City, GLO will permit access to the Premises so that City or its agents, representatives, or employees may review GLO's compliance with the terms of this Lease.

11. Dispute Resolution

11.01. The Parties commit to a process of early identification and resolution of issues and disputes relating to this Lease. During the term of the Lease, the Management Committee shall meet as needed but no less than annually to cover the following:

- a. Review and monitor progress on construction activities; and
- b. Discuss other strategic issues that may require coordination between GLO and the City
- c. Bring forward and maintain a list (including date issue was first discussed at a meeting of the Executive Committee) of issues from either Party related to the compliance with the terms of this Lease.

If the Management Committee is dissolved, the Parties shall appoint a new committee comprised of an equal number of representatives from the City, GLO, and the Alamo Endowment (or its successor) to discuss and review strategic matters and initially address dispute resolution issues.

11.02. The Management Committee shall diligently work to identify and resolve issues related to compliance with this Lease by developing options to address or correct noncompliance. If the Management Committee cannot resolve a dispute or issue related to compliance with this Lease within 90 days of initial discussion at the Management Committee then the Management Committee shall refer the issue to the GLO Chief Clerk or their designee and to the City Manager or their designee.

11.03. If the City Manager and the GLO staff cannot resolve the dispute referred to them within 90 days of referral then the Parties will schedule at least one mediation session with a third party mediator to attempt to resolve the dispute.

11.04. If the Parties cannot resolve the dispute by mediation then either Party may submit a claim to a court of competent jurisdiction.

12. Liability

12.01 City and GLO are both government entities under state law and shall each be responsible for the actions of their own employees, staff, and agents. Nothing within this Lease shall be construed as waiving any immunity or protection afforded to either entity under state or federal law.

13. Indemnification

13.01 GLO will include the City in the list of parties being indemnified by GLO's contractors operating under rights granted by this Lease Agreement to ensure that City receives the benefit of all indemnities under the contract documents.

14. Assignment and Subletting

14.01. GLO shall not assign this Lease to any third party, except the GLO may assign specific rights and responsibilities under the Lease to the Alamo Endowment, Alamo Trust Inc. or either of their successors. Any other attempt at transfer, assignment, or subletting of GLO's rights, duties, and obligations is void and may result in termination of the Lease.

15. Default and Remedies.

15.01. Upon the occurrence of a substantive default and the exhaustion of the dispute resolution procedures herein, the City may declare this Lease and all rights and interests created by it to be terminated, may seek any and all damages occasioned by the GLO's or may seek any other remedies available at law or in equity.

15.02. The following are considered substantive defaults under this Lease:

- a. Substantial failure of either Party to implement the Alamo Plan consistent with the fund allocation and timing;
- b. Assignment or sublease of the Premises without the prior consent of City except as expressly provided in this Lease;
- c. Systemic and persistent failure to comply with the terms, provisions or covenants of this Lease, other than the payment of money;
- d. Systemic and persistent failure to develop and maintain the Premises consistent with the Alamo Plan.

15.03. If GLO defaults in performing any obligation arising out of this Lease, the Parties shall first exhaust the dispute resolution procedures herein. If those procedures are unsuccessful and GLO does not correct the default within 30 days after receipt of written notice to GLO and any notice to whom is required by this Lease, City may take action to correct the non-compliance upon 60 days written notice.

15.04. Upon the City's election to terminate this Lease for cause pursuant to this Section, the City, its agent or attorney, may take possession of the premises and GLO shall make good any deficiency. Any termination of this Lease shall not relieve the GLO from the payment of any sum or sums that shall then be due and payable to the City, or any claim for damages then or theretofore accruing against the GLO, and any such termination shall not prevent the City from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from the GLO or any default hereunder.

15.05. GLO and City recognize that termination of this Lease is an extraordinary remedy that will only be exercised under if no other remedy can reasonably correct or restore compliance with this Lease. GLO acknowledges that the City may pursue specific performance or equitable remedies allowed by law to ensure compliance including but not limited to access to the Premises and the retention of materials, goods, or services to maintain the operation and management of the Premises consistent with the Alamo Plan and approved concept elements herein.

15.06. If the City terminates this Lease without cause then the GLO will be entitled to recover all costs associated with the implementation of the Alamo Plan including but not limited to costs of construction, equipment, and infrastructure. In addition, GLO will be entitled to recover costs associated with terminating contracts for goods and services related to the operation of the Alamo Complex. The Parties acknowledge that if the City terminates this Lease without cause the calculation of damages related to loss revenues and opportunities cannot be reasonably calculated given the length of the Lease and the implementation variables associated with the Alamo Plan. Consequently, if the City terminates this Lease without cause then in addition to the costs described above the City

shall pay GLO an additional payment of \$50 million [FIFTY MILLION DOLLARS].

15.07. All rights, options and remedies of the City contained in this Lease agreement shall be construed and held to be cumulative and no one of them shall be exclusive of the other, and the City shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or at equity, whether or not stated in this Lease agreement.

15.08. No waiver by the City of a breach of any of the covenants, conditions, or restrictions of this Lease agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction herein contained.

16. General Provisions.

16.01. This Lease does not create a joint venture or partnership between the Parties.

16.02. This Lease shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, it is understood that all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Lease may be terminated by GLO. In that event, the Parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.

16.03. If constructing the improvements, curing any default (other than failure to pay rent, insurance premiums, or taxes), or performing any other obligation is delayed by war; civil commotion; act of God; fire or other casualty; or any other circumstance beyond the control of the party (Force Majeure Event) then the Party obligated to perform is excused from performance during the delay period. The Party experiencing the Force Majeure must provide timely written notice to the other Party describing the circumstances of the event, the mitigation actions being undertaken, and the expected date the Force Majeure Event will end.

16.04. This Lease is entered into in San Antonio, Bexar County, State of Texas. The Construction Of This Lease And The Rights, Remedies, And Obligations Arising Thereunder Are Governed By The Laws Of The State Of Texas except for Texas conflicts of law rules must not cause the application of the laws of a jurisdiction other than Texas. The obligations performable under this Lease are performable in San Antonio, Bexar County, Texas.

16.05. If any portion of this Lease is determined to be invalid or unenforceable, then the determination shall apply to the specific provision or portion of the Lease and does not affect the remainder of the Lease.

16.06. This Lease can only be modified by a written agreement signed by the Parties. This Lease benefits only the Parties and their successors and permitted assigns. There are no third-party beneficiaries. This Lease supersedes and replaces all previous oral or written agreements, memoranda, resolutions, correspondence or other communications between the parties hereto relating to the subject matter hereof.

16.07. Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at the designated addresses and to the principal point of contact. Notice is complete three days after deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving written notice to the other Party.

16.08 This Lease may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this Lease, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all parties.

16.09. The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions of this Lease. No such additional document(s), however, may alter the rights or obligations of the parties as contained in this agreement

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

City of San Antonio, a Texas municipal corporation **Texas General Land Office**

By: _____ By: _____
GEORGE P. BUSH

Commissioner
Texas General Land Office

Printed
Name: _____

Title: _____

Date: _____

Date: _____

Attest:

City Clerk

DRAFT

Exhibit A

DRAFT