

AN ORDINANCE

2008-12-11-1155

**AUTHORIZING THE EXECUTION OF A 20-YEAR LEASE AGREEMENT WITH THE BEXAR COUNTY HOSPITAL DISTRICT, d/b/a UNIVERSITY HEALTH SYSTEM (UHS) FOR APPROXIMATELY 8,705 SQUARE FEET OF CLINIC SPACE AT THREE (3) CITY OF SAN ANTONIO PROPERTIES FOR THE PROVISION OF TRANSFERRED CLINICAL PREVENTIVE HEALTH SERVICES AT THOSE LOCATIONS; AND AUTHORIZING THE EXECUTION OF A 20-YEAR LEASE FROM UHS TO THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT FOR APPROXIMATELY 6,472 SQUARE FEET OF RENT-FREE CLINIC AND OFFICE SPACE IN THREE (3) UHS FACILITIES IN EXCHANGE FOR THE PROVISION OF HEALTH SERVICES AT THOSE LOCATIONS.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio (CITY) transferred clinical preventive health services from the San Antonio Metropolitan Health District (SAMHD) to the University Health System (UHS) via an amendment to an existing Interlocal Agreement in January 2008; and

**WHEREAS**, this transition involved the transfer of 125 SAMHD staff positions, the lease of space in ten (10) SAMHD clinics, the transfer of \$1.8 million in grants to UHS, and payment of approximately \$4.2 million in City General Funds for the initial service period through December 31, 2008; and

**WHEREAS**, as part of this transition, City Council approved a plan to transfer up to six (6) of the clinics to UHS. After eight (8) months in operation, it was determined that only five (5) of the facilities should be transferred, and said transfer was presented for consideration, and approved, by the San Antonio Planning Commission on August 13, 2008, and presented to City Council for consideration on December 11, 2008; and

**WHEREAS**, SAMHD will continue to provide health services at three (3) clinics that have been conveyed to UHS, and UHS will continue to provide clinical preventive health services at three (3) city-owned facilities post-transfer; and

**WHEREAS**, the reciprocal lease agreements for these properties are essential components of the transition of clinical preventive health services to UHS, and are integral to the long-term success of this transition; **NOW THEREFORE:**

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

**SECTION 1.** The City Manager or her designee, or the Director of the San Antonio Metropolitan Health District (SAMHD) or his designee, is authorized to execute a 20-year lease agreement with the Bexar County Hospital District, d/b/a University Health System (UHS) for approximately 8,705 square feet of clinic space at three (3) city-owned properties for the

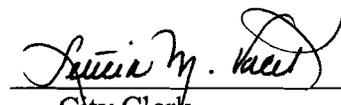
provision of clinical preventive health services at those locations and the execution of a 20-year lease from UHS to SAMHD for approximately 6,472 square feet of rent-free clinic and office space in three UHS facilities in exchange for the provision of health services at those locations. A copy of the agreements, in substantially final form, are attached hereto and incorporated herein for all purposes as **Attachments I and II** respectively. The City Manager, or her designee, or the Director of SAMHD, or his designee, is further authorized to negotiate and execute any and all necessary documents to effectuate and complete said agreements.

**SECTION 2.** 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 3.** This ordinance shall be effective on and after December 21, 2008.

PASSED AND APPROVED this 11<sup>th</sup> day of December, 2008.

  
M A Y O R

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
City Attorney



Request for  
**COUNCIL  
ACTION**



## Agenda Voting Results - 26B


<b>Name:</b>	26A, 26B
<b>Date:</b>	12/11/2008
<b>Time:</b>	05:52:35 PM
<b>Vote Type:</b>	Motion to Approve
<b>Description:</b>	An Ordinance authorizing the execution of a 20-year lease agreement with UHS for approximately 8,705 square feet of clinic space at three (3) City properties to UHS in exchange for the provision of clinical preventive health services at those locations; and authorizing the execution of a 20-year lease from UHS to SAMHD for approximately 6,472 square feet of clinic and office space in three (3) UHS facilities.
<b>Result:</b>	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				x
Sheila D. McNeil	District 2	x					
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x			x	
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7	x					
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x				
John G. Clamp	District 10	x					

**Lease**  
**(City to UHS)**

---

**Table of Contents**

1. Basic Information, Definitions ..... 1

2. Grant ..... 2

3. Rent ..... 2

4. Sharing Ratios, Operation, and Maintenance ..... 2

5. Term ..... 4

6. Tenant’s Affirmative Promises ..... 4

7. Tenant’s Negative Promises ..... 5

8. Landlord’s Affirmative Promises ..... 6

9. Landlord’s Negative Promise ..... 6

10. Alterations ..... 7

11. Insurance ..... 7

12. Release of Claims/Subrogation ..... 7

13. Environmental Matters ..... 7

14. Landlord’s Municipal Powers ..... 8

15. Casualty/Total or Partial Destruction ..... 9

16. Condemnation/Substantial or Partial Taking ..... 9

17. Holdover ..... 9

18. Default, Remedies for Default ..... 9

19. Warranty Disclaimer ..... 12

20. Abandoned Property ..... 12

21. Appropriations ..... 12

22. Sublease, Assignment ..... 12

23. Dispute Resolution ..... 12

24. Miscellaneous ..... 13

25. Public Information ..... 15

Exhibit A: Bob Ross ..... 16

Exhibit B: Westend ..... 17

Exhibit C: Naco-Perrin ..... 18

Exhibit D: Standards for Clinical Preventive Health Minimum Level of Services ..... 19

Exhibit E: Schedule of Contents ..... 20

---

**1. Basic Information, Definitions.**

**Effective Date:** January 1, 2009

**Authorizing Ordinance:**

**Landlord:** City of San Antonio

**Landlord’s Address:** P.O. Box 829966, San Antonio, Texas 78283-3966 (Attention: Director of Health)

**Tenant:** Bexar County Hospital District d/b/a University Health System

**Tenant’s Address:** 4502 Medical Drive, San Antonio, Texas 78229 (Attention: President and CEO)

**Permitted Use:** Operation of health clinic

**Commencement Date:** January 1, 2009

**Initial Term:** 20 years

**Base Rent:** In-Kind Services as Described Below

**Address for Payment of Rent:** City of San Antonio, P.O. Box 830066, San Antonio, Texas  
78283.2966 (Attention: Director, Finance Department)

**Building:** A building in which Premises are located. The Buildings containing Premises are set forth below.

1. Bob Ross Center, 2219 Babcock, San Antonio, Bexar County, Texas, as graphically depicted on **Exhibit A**.
2. Frank Garrett Center (Westend), 1226 N.W. 18<sup>th</sup> Street, San Antonio, Bexar County, Texas, as graphically depicted on **Exhibit B**.
3. Naco-Perrin Clinic, 4020 Naco-Perrin Road, San Antonio, Texas, as graphically depicted on **Exhibit C**.

**Premises:** That portion of a Building designated on the pertinent exhibit as being allocated to Tenant.

## 2. Grant.

Landlord leases the Premises and their contents as set out in Exhibit E attached hereto to Tenant, and Tenant takes the Premises and the listed contents from Landlord on the terms and conditions of this Lease.

## 3. Rent.

Tenant need not pay cash rent under this Lease, but it must provide clinical preventive health services in the clinics listed in Exhibits A through C, and in accordance with the definition of services and minimum service volumes set out in **Exhibit D**. It may also provide other health-related services in addition to those set out in **Exhibit D**.

## 4. Sharing Ratios, Operation, and Maintenance.

4.01. The parties' respective Sharing Ratios for each of the Buildings are:

<i>Building</i>	<i>City Space</i>	<i>UHS Space</i>	<i>Total Space</i>	<i>City's Sharing Ratio</i>	<i>UHS's Sharing Ratio</i>
Bob Ross	21,525	2,415	23,940	89%	11%
Frank Garrett/Westend Clinic (for utilities calculation)	21,871	1,898	23,769	92%	8%

Westend Clinic (for janitorial and interior clinic maintenance calculation)	588	1898	2486	24%	76%
Naco-Perrin	2,087	4,391	8,400	32%	68%

4.02. "Current Expenses" are expenses a federal income taxpayer would be permitted to deduct in the year incurred.

4.03. Landlord and Tenant allocate between themselves the Current Expense of the following services to each Building ("Allocated Current Expenses"):

- (a) HVAC reasonable for the Permitted Use, to include the maintenance of the ventilation system in each facility;
- (b) hot and cold water for lavatories, drinking, and medical clinic use;
- (c) elevator service, if necessary, to provide access to and from the Premises;
- (d) electricity for normal office machines and the Building's standard lighting,
- (e) lighting in Common Areas, including maintenance and repair of Exit Lights;
- (f) security alarms for the Building;
- (g) maintenance and operation of fire alarm and sprinkler systems;
- (h) maintenance and replacement of bathroom fixtures as necessary;
- (i) removal and replacement of floor coverings, wall hangings and/or cloth-covered furnishings that may need to be repaired or replaced;
- (j) janitorial service,
- (k) periodic window washing.
- (l) maintenance and repair of the exterior of the Building, including walls, foundation, roof, and windows.
- (m) maintenance and repair of the common areas of the Building.

4.04. Expenses other than Current Expenses incurred in the above categories are allocated entirely to Landlord unless agreed to in writing by the parties with respect to a particular Building. Maintenance and repair of each party's space is allocated to the party occupying the space. Each party shall be responsible for its own computer and telecommunications services and equipment.

4.05. As to each Building, Landlord and Tenant may agree in writing which party provides which services. The party providing a service bills the other monthly for the other's portion of the Allocated Current Expenses, according to their respective Sharing Ratios. Within 30 days of invoice, the billed party will reimburse the billing party for its Allocated Current Expenses according to the Sharing Ratios for the Premises to which the invoice relates. Absent an agreement to the contrary, Landlord contracts for all services subject to Allocated Current Expenses.

4.06. Tenant must submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.

4.07. Notice of maintenance issues should be sent in writing to the individuals listed below for each party:

**Landlord:**

Mr. Doug Eckhardt  
San Antonio Metropolitan Health District  
[Doug.eckhardt@sanantonio.gov](mailto:Doug.eckhardt@sanantonio.gov)

**Tenant:**

Mr. Jason Lott  
University Health System  
[jason.lott@uhs-sa.com](mailto:jason.lott@uhs-sa.com)

With copy to:

Ms. Theresa Arredondo  
University Health System  
[Theresa.arredondo@uhs-sa.com](mailto:Theresa.arredondo@uhs-sa.com)

**5. Term.**

5.01. The term of this Lease is the Initial Term, unless sooner terminated as provided in this Lease.

5.02. If Tenant is not in default under this Lease, Tenant may renew it for up to two additional 10-year terms by providing Landlord with 120-days prior written notice. All renewal terms are under the same terms and conditions as the Initial Term, including rent, operation, maintenance, and sharing ratios.

5.03. Either party may terminate this lease at any time after the fifth year on 180-days prior written notice to the other party as to one or more of the Buildings in which Premises are located. Upon such a termination, Tenant must vacate the building, and neither party has any obligations to the other relating to the period after termination.

**6. Tenant's Affirmative Promises.**

Tenant promises that it will:

6.01. Accept the Premises in their present condition "AS IS," the Premises being currently suitable for the Permitted Use.

6.02. Obey (a) all applicable laws relating to the use, condition, and occupancy of the Premises and Building; (b) any requirements imposed by utility companies serving or insurance companies covering the Premises or Building; and (c) any rules and regulations for the Building and Common Areas adopted by Landlord.

6.03. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises, and show the Premises to prospective purchasers or tenants.

6.04. After casualty loss not terminating the lease, rebuild the interior partitions, ceilings, wiring, light fixtures, and plumbing, but only if the loss is caused by Tenant's negligence.

6.05. Vacate the Premises and return all keys to the Premises on the last day of the Term, subject to any holdover rights.

6.06. On request, execute an estoppel certificate that states the Commencement Date and Termination Date of the lease, identifies any amendments to the lease, describes any rights to extend the Term or purchase rights, lists defaults by Landlord, and provides any other information reasonably requested. Tenant need not sign any certificate that purports to modify Tenant's obligations in any respect, except for a change in the address for notice or payment of rent.

6.07. Timely perform all material obligations of all other agreements between Landlord and Tenant relating to Tenant's operations of the clinics subject to this lease, including but not limited to, maintaining the level of clinical preventive health services set out in **Exhibit D** attached hereto, and reporting requirements set out in the Interlocal Agreement of December 11, 2008 between UHS and the City.

6.08. At the expiration or other termination of this Lease, or upon replacement or upgrade of equipment by either party, return to Landlord all Landlord's clinic contents set out in **Exhibit E** that Tenant is entitled to use under this Lease. Upon return, all such clinic contents must be in substantially the same condition in which Tenant received it, ordinary wear and tear excepted. Tenant need not replace consumable supplies upon returning the Premises.

## **7. Tenant's Negative Promises.**

Tenant promises that it will not:

7.01. Use the Premises for any purpose other than the Permitted Use.

7.02. Create a nuisance.

7.03. Interfere with any other tenant's normal business operations or Landlord's management of the Building.

7.04. Permit waste.

7.05. Use the Premises in any way that would increase insurance premiums or void insurance on the Building.

7.06. Change Landlord's lock system, without Landlord's prior written consent.

7.07. Alter the Premises, without Landlord's prior written consent.

7.08. Allow a lien to be placed on the Premises.

## **8. Landlord's Affirmative Promises.**

Landlord promises that it will:

8.01. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.

8.02. Obey all applicable laws with respect to Landlord's operation of the Building and Common Areas.

8.03. Notify Tenant of any plans for demolition, construction or renovation of the premises.

8.04. Notify Tenant of any notification or citation related to violations of the City Code and/or fire code for the premises.

8.05. Allow Tenant the nonexclusive right to use the Common Areas subject to any reasonable rules and regulations that Landlord may prescribe.

8.06. Inspect each premises every six months with a Tenant representative to evaluate the effectiveness of maintenance efforts and identify environmental issues and hazards that must be remedied.

## **9. Landlord's Negative Promise.**

9.01. Landlord must not interfere with Tenant's possession of the Premises as long as Tenant is not in default.

9.02. Landlord must not interfere with Tenant's ability to conduct preconstruction risk assessments for air quality, infection control, utility requirements, noise, vibration if demolition, construction, or renovation occurs at any of the Premises, so long as the assessment does not interfere with Landlord's efforts to conduct and complete construction or renovation.

## **10. Alterations.**

10.01. Physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at the end of the Term and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.

10.02. Tenant need not remove electronic networking cables installed within walls or above suspended ceilings and need not remove network jacks properly installed according to manufacturer's directions.

## **11. Insurance.**

11.01. Tenant will self-insure as it deems advisable. As a political subdivision of the State of Texas, Landlord is subject to the Texas Tort Claims Act, and the obligations of Landlord and the rights of persons claiming against Landlord are subject to that Act.

11.02. Landlord likewise will self-insure as it deems advisable. As a political subdivision of the State of Texas, Landlord is subject to the Texas Tort Claims Act, and the obligations of Landlord and the rights of persons claiming against Landlord are subject to that Act.

## **12. Release of Claims/Subrogation.**

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

## **13. Environmental Matters.**

13.01. "Environmental Laws" means applicable federal, state, and local laws relating to protection of the public health, welfare, and the environment, including without limitation, those laws relating to the storage, handling, and use of chemicals and other hazardous substances, those relating to the generation, processing, treatment, storage, transport, disposal, or other management of waste materials of any kind, and those relating to the protection of environmentally sensitive areas.

13.02. "Hazardous Material" means "hazardous substance," "pollution or contaminant," "petroleum," and "natural gas liquids," as those terms are defined by or used in Environmental Laws, or that are regulated because of their effect or potential effect on human health and the environment.

13.03. "Release" means depositing, spilling, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing.

13.03. In its use of the Premises, Tenant must comply with all applicable Environmental Laws and must cause its employees, agents, and contractors on the Premises to do so as well. Tenant will obtain all permits required under Environmental Law for its use of the Premises. At least 180 days before expiration of any such permit, Tenant must present proof to Landlord that it has applied for renewal.

13.04. Tenant must not allow the Release of any Hazardous Material from its use of the Premises on, onto, or from the Property. Tenant further must not to handle, use, or otherwise manage any Hazardous Material on the Premises or the Property in violation of any Environmental Laws or in any but a reasonable and prudent manner.

13.05. Tenant must immediately provide to Landlord copies of: (i) any documents required to be submitted to a Governmental Authority under Environmental Law; (ii) any notice alleging a violation of Environmental Law, or (iii) any demand from or allegation by any third party in relation to Hazardous Materials or Environmental Law. Tenant must promptly deliver to Landlord any information it receives regarding any Release of Hazardous Materials on, to, from, or about the Premises.

13.06. Landlord may conduct, at Tenant's expense, periodic inspections of the Premises and Tenant's operations thereon to assure compliance with Tenant's environmental covenants. Tenant need not pay the expense of more than one such inspection in any 12-month period.

13.07. If Tenant breaches any of its representations, warranties or covenants, Tenant at its sole expense, must take all actions required, including environmental cleanup of the Premises, to comply with the representations, warranties, and covenants or applicable law. Tenant must take all action required by applicable Environmental Laws. If Tenant's actions under this provision involve cleaning up a Release of Hazardous Materials, Tenant must perform the cleanup consistently with residential use of the Premises and will not use any institutional controls or engineering controls in lieu of clean-up. Tenant will further obtain a Certificate of Completion from the TCEQ's Voluntary Cleanup Program. Institutional controls include laws, rules, or regulations or private prohibitions limiting use of a property, such as a prohibition against water well use within a certain contaminated tract or area of a local government's jurisdiction. Engineering controls mean physical apparatus such as an asphalt or concrete cap, detention basin, extraction well, or other engineered device to control, contain, or remove pollutants.

#### **14. Landlord's Municipal Powers.**

Landlord is a municipality as well as landlord under this Lease. As a municipality, it may from time to time exercise municipal powers unrelated to the Lease that will nevertheless adversely affect Tenant. Such actions may include redirection of traffic, street closures, or other actions intended to facilitate public safety or the conduct of major events. No

such action by Landlord as a municipality is a breach of Landlord's duties as landlord or entitles Tenant to any relief under this Lease. In such case, Tenant will have no more rights than it would if its landlord were a private entity.

**15. Casualty/Total or Partial Destruction.**

If the Premises are damaged by casualty and cannot be restored within ninety days, Landlord has an option to restore the Premises. If Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, Landlord will notify Tenant of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord within ten days. If Tenant does not terminate this lease, the lease will continue, and Landlord will restore the Premises as provided above.

**16. Condemnation/Substantial or Partial Taking.**

16.01. If the Premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate.

16.02. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, Landlord will, at Landlord's expense, restore the Premises, and the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.

16.03. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.

**17. Holdover.**

If Tenant holds over after termination or expiration of this Lease, it is a Tenant at sufferance under the terms of this Lease.

**18. Default, Remedies for Default.**

18.01. If Tenant permits or fails to prevent any of the following occurrences, it is a Tenant event of default:

18.01.01. Tenant fails to comply with any term, provision or covenant of this Lease, other than the payment of rental or expenses demanded by Landlord and does not cure such failure within 30 days after written notice thereof to Tenant, or any representation or warranty by Tenant or any guarantor of this Lease is false or misleading in any material respect when given to Landlord.

18.01.02. This Lease or the Premises or any part thereof is taken upon execution or by other process of law directed against Tenant, or is taken upon or subject to any attachment at the instance of any creditor or claimant against Tenant, and the attachment is not to be discharged or disposed of within 30 days after the levy thereof.

18.01.03. Tenant or any guarantor of the Lease files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or voluntarily takes advantage of any such

law or act by answer or otherwise, or is dissolved, or makes a transfer in fraud of creditors or makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts as they mature.

18.01.04. Involuntary proceedings under any such bankruptcy law or insolvency act or for the dissolution of Tenant or any guarantor of the Lease is instituted against Tenant or such guarantor, as the case may be, or a receiver or trustee of all or substantially all of the property of Tenant or any guarantor is appointed, and such proceeding is not dismissed or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment.

18.01.05. Tenant deserts, vacates or abandons all or any portion of the Premises, or ceases to physically occupy any substantial portion of the Premises and continuously operate its business on the Premises, or fails to commence business operations in the Premises on or before the Commencement Date. If Tenant removes or makes preparations to remove its goods, equipment, inventory, and fixtures (other than in the normal course of business) in amounts sufficient to indicate a probable intent to vacate the Premises, Tenant's breach is established conclusively.

18.01.06. Tenant does or permits to be done anything which creates a lien upon the Premises which is not removed or released within 30 days of its filing.

18.02. Remedies Upon Default. Upon the occurrence of any Tenant event of default, Landlord has the option to pursue anyone or more of the following:

18.02.01. In addition to, and without limiting any other remedies available to Landlord at law or in equity, immediately terminate this Lease and all rights of Tenant hereunder. If that event, Tenant must immediately surrender the Premises to Landlord. If Tenant fails to do so, Landlord may, without prejudice to any other remedy, enter and take possession of the Premises or any part thereof and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages.

18.02.02. Enter upon and take possession of the Premises or any part thereof and expel or remove Tenant and any other person who may be occupying said Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefor without having terminated the Lease.

18.03. Repossession and Alteration of Locks. Landlord's exercise of one or more remedies is not acceptance of Tenant's purported surrender of the Premises, whether by agreement or by operation of law. Surrender can occur only by the written agreement of Landlord and Tenant. No such alteration of locks or other security devices and no removal or other exercise of dominion by Landlord over the property of Tenant or others at the Premises is unauthorized or constitutes conversion. Tenant consents to Landlord's exercise of dominion over Tenant's property within the Premises in case of Tenant's default. Tenant waives (A) all claims for damages by reason of such reentry,

repossession, or alteration of locks or other security devices and (B) all claims for damages by reason of any distress warrant, forcible detainer proceedings, sequestration proceedings, or other legal process. Re-entry by Landlord may be pursuant to judgment obtained in forcible detainer proceedings or other legal proceedings or without the necessity for any legal proceedings, as Landlord may elect. Landlord is not liable in trespass or otherwise for such re-entry.

18.04. Default by Landlord. If Landlord defaults, Tenant's exclusive remedy is an action for damages (Tenant hereby waiving the benefit of any laws granting it a lien upon the property of Landlord or on rent due Landlord). Tenant is not permitted to withhold Rent. Before filing any such action Tenant must give Landlord 30-days prior written notice specifying the alleged default and giving Landlord opportunity to cure. Unless and until Landlord fails to timely cure a default after written notice, Tenant has no remedy or cause of action by reason thereof. All obligations of Landlord are covenants, not conditions. Landlord's liability to Tenant for default is limited to actual, direct, but not consequential, damages. **Tenant hereby waives its statutory lien under § 91.004 of the Texas Property Code.**

18.05. Rights Respecting Personal Property. If Landlord takes possession of the Premises under the authority of this Lease, Landlord may keep in place and use all furniture, fixtures, and equipment at the Premises, including that owned by or leased to Tenant at all times before foreclosure thereon by Landlord or repossession thereof by any lessor thereof or lienholder thereon. Landlord may also remove from the Premises (without obtaining a distress warrant, writ of sequestration, or other legal process) all or any part of the furniture, fixtures, equipment, and other property and place same in storage anywhere in the county in which the Premises are located. In such case, Tenant is liable to Landlord for costs incurred by Landlord in the removal and storage. Landlord also may relinquish all or any part of the furniture, fixtures, equipment, and other property to any person ("Claimant") who presents to Landlord a copy of any instrument represented to have been executed by Tenant, if the instrument purports to grant Claimant the right under various circumstances to take possession of the property. Landlord need not inquire into the authenticity of the instrument or Tenant's or Tenant's predecessor's signature thereon. Landlord further need not investigate or inquire into the validity of the factual or legal basis on which Claimant purports to act. These rights of Landlord are additional to any other rights that Landlord has or may hereafter have at law or in equity. Tenant stipulates that the rights herein granted Landlord are commercially reasonable.

18.06. Cumulative Remedies. Each right and remedy provided to Landlord in this Lease is cumulative to every other right or remedy provided to Landlord by this Lease or applicable law, including, but not limited to, suits for injunctive relief and specific performance. The exercise or beginning of the exercise by Landlord of one or more of the right or remedy does not preclude the simultaneous or later exercise by Landlord of another remedy. All costs incurred by Landlord in collecting any amounts and damages owed by Tenant under this Lease or to enforce any provision of it, including reasonable attorneys' fees from the date any such matter is turned over to litigation counsel, are also recoverable by Landlord from Tenant.

## **19. Warranty Disclaimer.**

**There are no implied warranties of merchantability, of fitness for a particular purpose, or of any other kind arising out of this lease, and there are no warranties that extend beyond those expressly stated in this lease. Tenant acknowledges it has had ample opportunity to perform due diligence regarding the Premises and accepts the Premises in their present condition, as-is.**

## **20. Abandoned Property.**

Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

## **21. Appropriations.**

21.01. Notwithstanding anything in this agreement to the contrary, all obligations of Landlord to make payments hereunder are subject to the appropriation of sufficient funds for such payments by City Council. If for any reason City Council fails to appropriate sufficient funds or grant expenditure authority, or funds become unavailable by operation of law, Landlord is relieved of the obligation to make such payments during the term of the non-appropriation.

21.02. Notwithstanding anything in this agreement to the contrary, all obligations of Tenant to make payments hereunder are subject to the appropriation of sufficient funds for such payments by Tenant's Board of Managers. If for any reason the Board fails to appropriate sufficient funds or grant expenditure authority, or funds become unavailable by operation of law, it shall relieve Tenant from the obligation to make such payments during the term of the non-appropriation.

## **22. Sublease, Assignment.**

Tenant cannot assign or sublease this lease without Landlord's prior written consent. Assignments include any transaction in which (A) a material part of Tenant's assets are sold outside the ordinary course of business or (B) a change in the identity of those owning, holding, or controlling the power to vote of 50% of the equity interest in Tenant. Despite the above, Tenant may assign operation of the clinics to Community Medical Associates.

## **23. Dispute Resolution.**

23.01. Before bringing any action arising out of this agreement, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

23.02. Filing suit on a claim that should be mediated waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after

appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

23.03. Mediation must be conducted in San Antonio, Bexar County, Texas.

23.04 The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

23.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

23.06. Mediator fees must be borne equally.

23.07. The parties need not mediate before going to court (1) for either party to seek emergency injunctive relief or (2) for Landlord to seek forcible entry and detainer relief against Tenant.

## **24. Miscellaneous.**

24.01. *Applicable Law.* This Agreement is entered into in San Antonio, Bexar County, State of Texas. **Its Construction And The Rights, Remedies, And Obligations Arising Under It Are Governed by The Laws of The State Of Texas.** But the Texas conflicts of law rules must not be used to apply the laws of a jurisdiction other than Texas. Both parties' obligations under this agreement are performable in San Antonio, Bexar County, Texas, and venue for any action arising under this agreement is only in Bexar County, Texas.

24.02. *Severability.* If any part of this agreement is found invalid or unenforceable, the finding does not affect the remainder.

24.03. *Successors.* This Agreement inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

24.04. *Integration.* **This Written Agreement Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.**

24.05. *Modification.* This Agreement may be changed only by a written agreement, signed by the party against whom enforcement of any modification is sought. Subject to that restriction, any of this Agreement's terms may be modified by the party entitled to their benefit, but no modification, express or implied, affects the right of the

modifying party either (i) to apply any other term or condition or (ii) to apply the same term or condition to a later or earlier occasion.

24.06. *Third Party Beneficiaries.* This Agreement benefits the parties and their successors and permitted assigns only. It has no third party beneficiaries.

24.07. *Notices.* Notices must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth at the beginning. If the addressee is a corporation, notices must be addressed to the attention of its President. 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 notice.

24.08. *Captions.* Paragraph captions are for ease of reference only and do not affect the interpretation.

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

24.10. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be necessary to effect fully the provisions hereof. But no such additional documents can alter the rights or obligations of the parties stated in this agreement

**Remainder of Page Intentionally Left Blank**

**25. 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.

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

**Landlord**

**Tenant**

**City of San Antonio**, a Texas municipal corporation

**Bexar County Hospital District d/b/a University Health System**

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

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

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

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

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

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

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

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

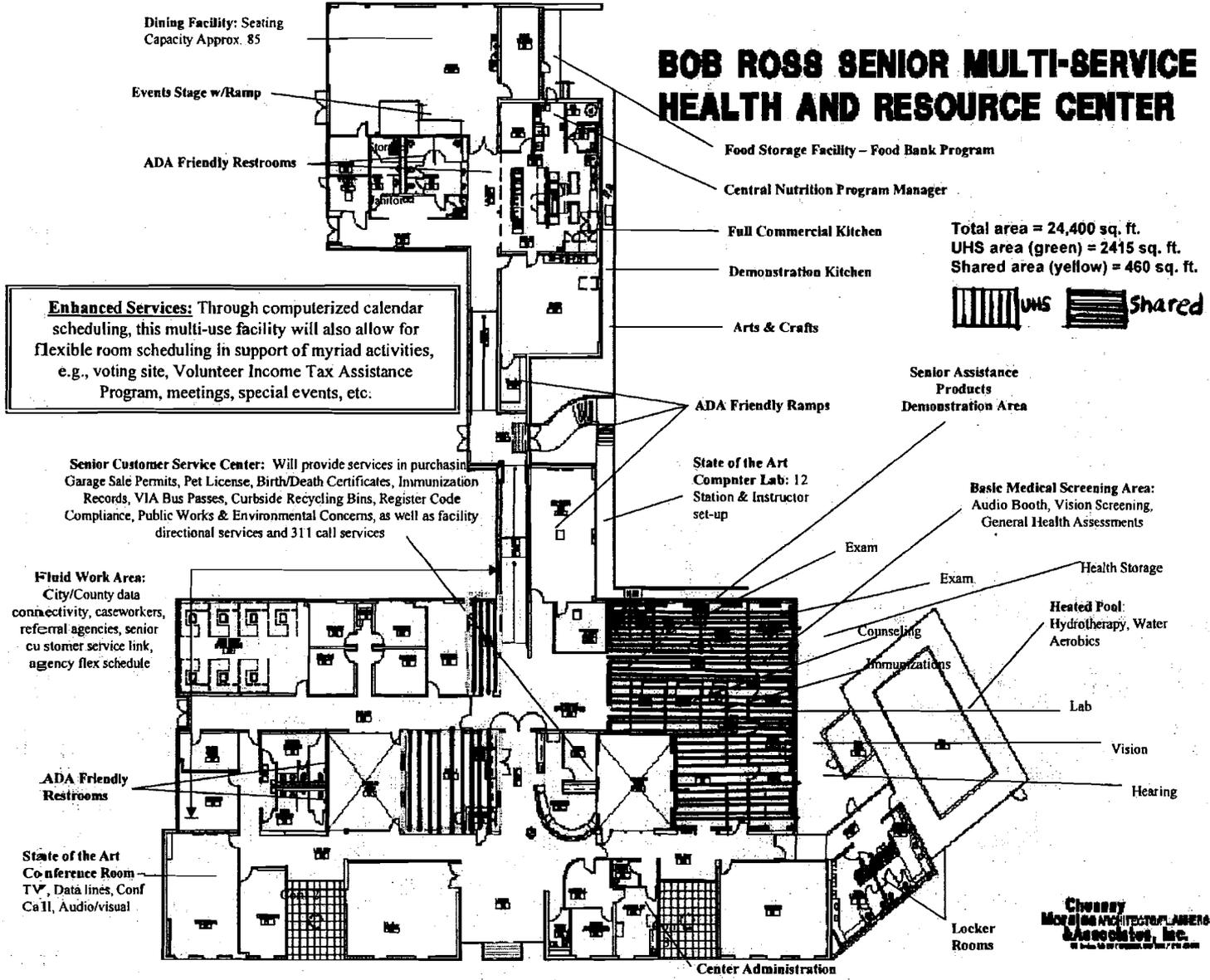
**Attest:**

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

**Approved as to Form:**

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

# BOB ROSS SENIOR MULTI-SERVICE HEALTH AND RESOURCE CENTER

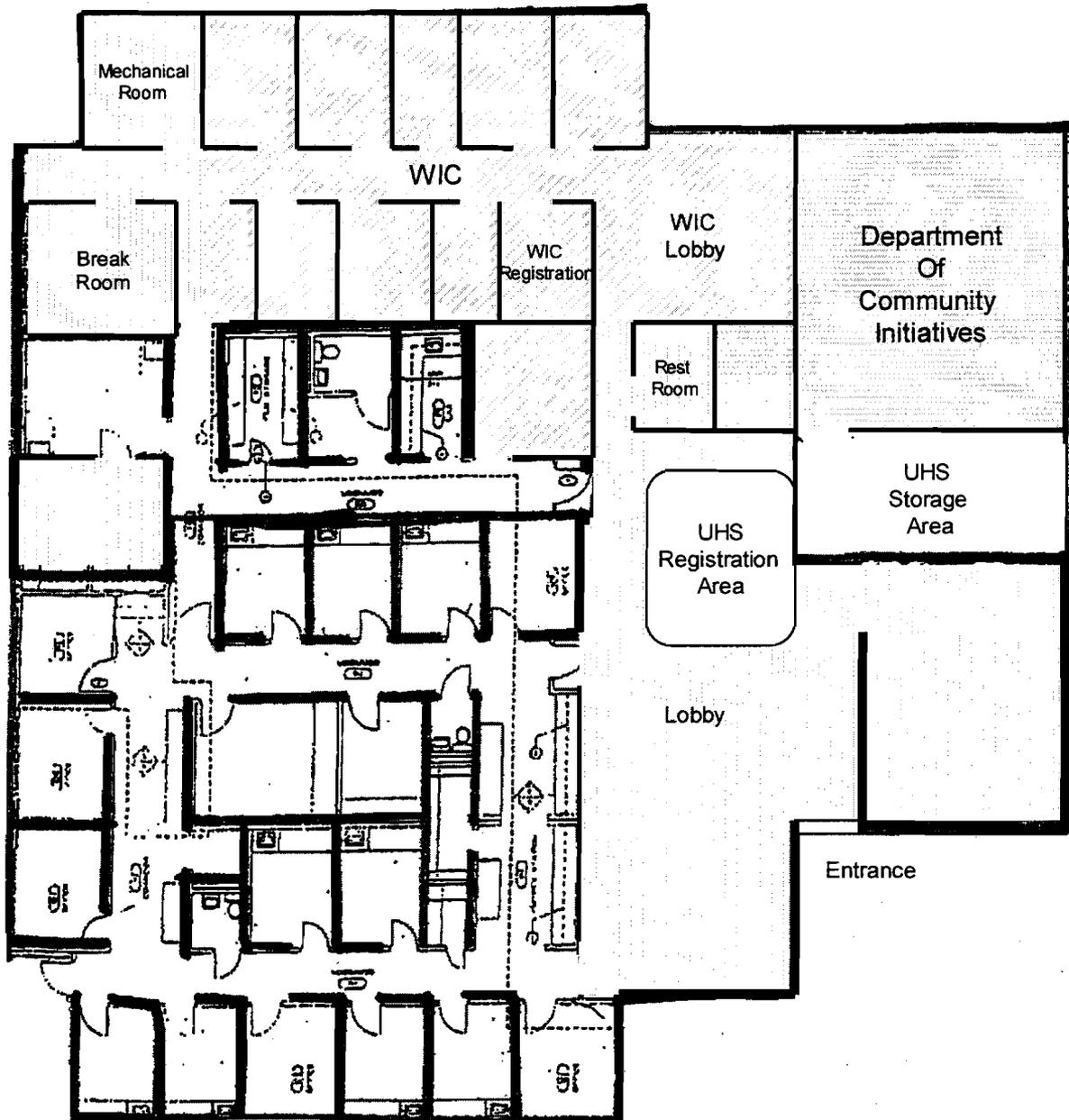


**Cherry**  
**MORRIS ARCHITECT PLANNERS**  
**& Associates, Inc.**  
10000 W. 10th Avenue, Suite 100, Denver, CO 80202



**Exhibit C: Naco-Perrin**

**Naco-Perrin Clinic  
4020 Naco-Perrin Blvd.**



City - 32.2%  
UHS - 67.8%

-  WIC - 1420.5 sq. ft.
-  Community Initiatives - 666.5 sq. ft.
-  UHS - 4391.25 sq. ft.
-  Shared Space - 1921.75 sq. ft.

Total - 8,400 sq. ft.

## Exhibit D: Standards for Clinical Preventive Health Minimum Level of Services

---

The table below defines the minimum level of clinical preventive health services required under this lease. Clinical preventive health services are those that focus on the prevention, identification or arrest of disease in its early stages through the promotion of healthy lifestyles, immunization against infectious disease, and screening for asymptomatic disease and disease risk factors. Specifically, these services may include prenatal care, well child exams, family planning services, STD screening and treatment, TB screening, chronic disease screening and education, and any other service recommended by the most recent or current report of the U.S. Preventive Health Services Task Force for the prevention and control of disease.

Clinic	Mean service volume Feb – Sep 2008	Estimated annual volume	Performance Minimum (75% of mean)
Westend Clinic (Frank Garrett Center)	294	3,528	2,646
Naco Perrin	573	6,876	5,157
Bob Ross	134	1,608	1,206

## Exhibit E: Schedule of Contents

---

### San Antonio Metropolitan Health District

### Inventory of Clinic Furniture and Equipment Leased To UHS

#### No. Item

#### Bob Ross Center

audiometer

2 biohazard sharps containers attached to wall

2 biohazard white step on trash can

cabinet (beige) 30 drawer

4 cabinet (five shelf, beige)

cholesteck w/ printer

2 exam light

2 exam table, adult, non-motorized

glucometer

otoscope/ophthalmoscope

oxygen tank w/ regulator

paper shredder

refrigerator, full-size

refrigerator, table top

scale, adult

scale, body composition analyzer

Bob Ross Center (cont) 2 sphygmomanometer, (automatic & manual)

stool rolling, black

		table (gray, adjustable)
		tanita machine
		thermometer, electric
	2	tray stand (metal surgical)
		vision machine
		wheel chair
Naco-Perrin Clinic	2	audiometer (Baush & Lomb)
	2	audiometer (gsi)
		baby scale
		bookshelf
		cabinet
		cabinet (2 door, 5 shelf)
		cabinet (30 drawer)
		cabinet (blue)
		cenapmonitor
	3	chair
		chair (rolling)
		chair (rolling, gray)
	5	desk
		desk/table
		exam bed
Naco-Perrin Clinic (cont)	3	exam stool
	4	exam table

	3	file cabinet
	2	file cabinet 4 drawer
	2	file cabinet 5 drawer
	2	goodlite
		hemastat
		microscope
	3	otoscope (Welch Allen)
		refrigerator/freezer
	2	scale
	2	storage cabinet
	3	table (small)
		tv stand
		wall mount
Westend Clinic at the Frank Garrett Center	2	bookcase
		cabinet
		cart (blue)
		cart (small)
		credenza (wood)
	2	exam table
	4	file cabinet 30-drawer
		file cabinet 4-drawer
Westend Clinic (cont)	3	file cabinet 5-drawer
		file cabinet 6-drawer

microhematocrit system

2 oto/opthal. scope

refrigerator

refrigerator (whirlpool-green)

refrigerator -immunizations

2 scale

tv (RCA)

2 tv cart - metal

**Lease**  
(UHS toCity)

**Table of Contents**

1. Basic Information, Definitions .....	1
2. Grant .....	2
3. Rent.....	2
4. Sharing Ratios, Operation, and Maintenance. ....	2
5. Term. ....	3
6. Tenant’s Affirmative Promises.....	4
7. Tenant’s Negative Promises.....	4
8. Landlord’s Affirmative Promises.....	5
9. Landlord’s Negative Promise.....	5
10. Alterations.....	5
11. Insurance.....	6
12. Release of Claims/Subrogation.....	6
13. Environmental Matters.....	6
14. Casualty/Total or Partial Destruction.....	7
15. Condemnation/Substantial or Partial Taking.....	7
16. Holdover.....	8
17. Default, Remedies for Default.....	8
18. Warranty Disclaimer.....	10
29. Abandoned Property.....	10
20. Appropriations.....	10
21. Sublease, Assignment.....	11
22. Dispute Resolution.....	11
23. Miscellaneous.....	12
24. Public Information.....	13
Exhibit A: Eastside.....	14
Exhibit B: Kenwood.....	15
Exhibit C: Zarzamora.....	16

**1. Basic Information, Definitions.**

**Effective Date:** January 1, 2009

**Landlord:** Bexar County Hospital District d/b/a University Health System

**Landlord’s Address:** 4502 Medical Drive, San Antonio, Texas 78229 (Attention: President and CEO)

**Tenant:** City of San Antonio

**Tenant’s Address:** P.O. Box 829966, San Antonio, Texas 78283-3966 (Attention: Director of Health)

**Permitted Use:** Operation of health clinic

**Commencement Date:** January 1, 2009

**Initial Term:** 20 years

**Base Rent:** In-Kind Services as Described Below

**Address for Payment of Rent:** N/A

**Building:** A building in which a Premises is located.

**Premises:** The Premises are the following clinics:

1. **Exhibit A.** Eastside Branch Clinic, 210 N. Rio Grande
2. **Exhibit B.** Kenwood Clinic, 302 Dora
3. **Exhibit C.** Zarzamora Clinic, 4503 S. Zarzamora

## 2. Grant.

Landlord leases the Premises to Tenant, and Tenant takes the Premises from Landlord on the terms and conditions of this Lease.

## 3. Rent.

Tenant need not pay cash rent under this Lease, but it must provide preventive and/or population-based health services, including but not limited to those set out in Health & Safety Code Chapter 121 in the clinics listed in Exhibits A through C.

## 4. Sharing Ratios, Operation, and Maintenance.

4.01. The parties respective Sharing Ratios for each of the Buildings are:

<i>Building</i>	<i>City Space</i>	<i>UHS Space</i>	<i>Total Space</i>	<i>City's Sharing Ratio</i>	<i>UHS's Sharing Ratio</i>
Eastside	4,989	3,699	11,910	57%	43%
Kenwood	306	3,795	5,277	7%	93%
Zarzamora	1,177	4958.75	8,471	19%	81%

4.02. "Current Expenses" are expenses a federal income taxpayer would be permitted to deduct in the year incurred.

4.03. Landlord and Tenant allocate between themselves the Current Expense of the following services to each Building ("Allocated Current Expenses"):

- (a) HVAC reasonable for the Permitted Use;
- (b) hot and cold water for lavatories and drinking;
- (c) elevator service, if necessary, to provide access to and from the Premises;

- (d) electricity for normal office machines and the Building's standard lighting,
- (e) lighting in Common Areas,
- (f) security alarms for the Building,
- (g) janitorial service,
- (h) periodic window washing.
- (i) maintenance and repair of the exterior of the Building, including walls, foundation, roof, and windows.
- (j) maintenance and repair of the common areas of the Building.

4.04. Expenses other than Current Expenses incurred in the above categories are allocated entirely to Landlord. Maintenance and repair of each party's space is allocated to the party occupying the space. Each party is responsible for its own computer and telecommunications services and equipment.

4.05. As to each Building, Landlord and Tenant may agree in writing which party provides which services. The party providing a service bills the other monthly for the other's portion of the Allocated Current Expenses, according their respective Sharing Ratios. Within 30 days of invoice, the billed party will reimburse the billing party for its Allocated Current Expenses according to the Sharing Ratios for the Premises to which the invoice relates. Absent an agreement to the contrary, Landlord contracts for all services subject to Allocated Current Expenses.

4.06. Tenant must submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.

## **5. Term.**

5.01. The term of this Lease is the Initial Term, unless sooner terminated as provided in this Lease.

5.02. If Tenant is not in default under this Lease, Tenant may renew it for up to two additional 10-year terms by providing Landlord with 120-days prior written notice. All renewal terms are under the same terms and conditions as the Initial Term, including rent, operation, maintenance, and sharing ratios.

5.03. Either party may terminate this lease at any time after the fifth year on 180-days prior written notice to the other party as to one or more of the Buildings in which Premises are located.. Upon such a termination, Tenant must vacate the building, and neither party has any obligations to the other relating to the period after termination.

## **6. Tenant's Affirmative Promises.**

Tenant promises that it will:

6.01. Accept the Premises in their present condition "AS IS," the Premises being currently suitable for the Permitted Use.

6.02. Obey (a) all applicable laws relating to the use, condition, and occupancy of the Premises and Building; (b) any requirements imposed by utility companies serving or insurance companies covering the Premises or Building; and (c) any rules and regulations for the Building and Common Areas adopted by Landlord.

6.03. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises, and show the Premises to prospective purchasers or tenants.

6.04. After casualty loss not terminating the lease, rebuild the interior partitions, ceilings, wiring, light fixtures, and plumbing, but only if the loss is caused by Tenant's negligence.

6.05. Vacate the Premises and return all keys to the Premises on the last day of the Term, subject to any holdover rights.

6.06. On request, execute an estoppel certificate that states the Commencement Date and Termination Date of the lease, identifies any amendments to the lease, describes any rights to extend the Term or purchase rights, lists defaults by Landlord, and provides any other information reasonably requested. Tenant need not sign any certificate that purports to modify Tenant's obligations in any respect, except for a change in the address for notice or payment of rent.

6.07. Timely perform all material obligations of all other agreements between Landlord and Tenant relating to Tenant's operations of the clinics subject to this lease, including but not limited to, the Interlocal Agreement between UHS and the City.

## **7. Tenant's Negative Promises.**

Tenant promises that it will not:

7.01. Use the Premises for any purpose other than the Permitted Use.

7.02. Create a nuisance.

7.03. Interfere with any other tenant's normal business operations or Landlord's management of the Building.

7.04. Permit waste.

7.05. Use the Premises in any way that would increase insurance premiums or void insurance on the Building.

7.06. Change Landlord's lock system, without Landlord's prior written consent.

7.07. Alter the Premises, without Landlord's prior written consent.

7.08. Allow a lien to be placed on the Premises.

## **8. Landlord's Affirmative Promises.**

Landlord promises that it will:

8.01. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.

8.02. Obey all applicable laws with respect to Landlord's operation of the Building and Common Areas.

8.03. Allow Tenant the nonexclusive right to use the Common Areas subject to any reasonable rules and regulations that Landlord may prescribe.

8.04 Allow Tenant to retain any property and equipment within its allocated space upon expiration of the lease.

8.05. Notify Tenant of any plans for demolition, construction or renovation of the premises, and make any accommodations necessary to allow continued provision of services by Tenant at the location or some suitable alternative.

## **9. Landlord's Negative Promise.**

Landlord promises that it will not interfere with Tenant's possession of the Premises as long as Tenant is not in default.

## **10. Alterations.**

10.01. Physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at the end of the Term and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.

10.02. Tenant need not remove electronic networking cables installed within walls or above suspended ceilings and need not remove network jacks properly installed according to manufacturer's directions.

## **11. Insurance.**

11.01. Tenant will self-insure as it deems advisable. As a home-rule municipality, Tenant is subject to the Texas Tort Claims Act, and the obligations of Tenant and the rights of persons claiming against Tenant are subject to that Act.

11.02. Landlord likewise will self-insure as it deems advisable. As a political subdivision of the State of Texas, Landlord is subject to the Texas Tort Claims Act, and the obligations of Landlord and the rights of persons claiming against Landlord are subject to that Act.

## **12. Release of Claims/Subrogation.**

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

## **13. Environmental Matters.**

13.01. "Environmental Laws" means applicable federal, state, and local laws relating to protection of the public health, welfare, and the environment, including without limitation, those laws relating to the storage, handling, and use of chemicals and other hazardous substances, those relating to the generation, processing, treatment, storage, transport, disposal, or other management of waste materials of any kind, and those relating to the protection of environmentally sensitive areas.

13.02. "Hazardous Material" means "hazardous substance," "pollution or contaminant," "petroleum," and "natural gas liquids," as those terms are defined by or used in Environmental Laws, or that are regulated because of their effect or potential effect on human health and the environment.

13.03. "Release" means depositing, spilling, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing.

13.03. In its use of the Premises, Tenant must comply with all applicable Environmental Laws and must cause its employees, agents, and contractors on the Premises to do so as well. Tenant will obtain all permits required under Environmental Law for its use of the Premises. At least 180 days before expiration of any such permit, Tenant must present proof to Landlord that it has applied for renewal.

13.04. Tenant must not allow the Release of any Hazardous Material from its use of the Premises on, onto, or from the Property. Tenant further must not to handle, use, or

otherwise manage any Hazardous Material on the Premises or the Property in violation of any Environmental Laws or in any but a reasonable and prudent manner.

13.05. Tenant must immediately provide to Landlord copies of: (i) any documents required to be submitted to a Governmental Authority under Environmental Law; (ii) any notice alleging a violation of Environmental Law, or (iii) any demand from or allegation by any third party in relation to Hazardous Materials or Environmental Law. Tenant must promptly deliver to Landlord any information it receives regarding any Release of Hazardous Materials on, to, from, or about the Premises.

13.06. Landlord may conduct, at Tenant's expense, periodic inspections of the Premises and Tenant's operations thereon to assure compliance with Tenant's environmental covenants. Tenant need not pay the expense of more than such inspection in any 12-month period.

13.07. If Tenant breaches any of its representations, warranties or covenants, Tenant at its sole expense, must take all actions required, including environmental cleanup of the Premises, to comply with the representations, warranties, and covenants or applicable law. Tenant must take all action required by applicable Environmental Laws. If Tenant's actions under this provision involve cleaning up a Release of Hazardous Materials, Tenant must perform the cleanup consistently with residential use of the Premises and will not use any institutional controls or engineering controls in lieu of clean-up. Tenant will further obtain a Certificate of Completion from the TCEQ's Voluntary Cleanup Program. Institutional controls include laws, rules, or regulations or private prohibitions limiting use of a property, such as a prohibition against water well use within a certain contaminated tract or area of a local government's jurisdiction. Engineering controls mean physical apparatus such as an asphalt or concrete cap, detention basin, extraction well, or other engineered device to control, contain, or remove pollutants.

#### **14. Casualty/Total or Partial Destruction.**

If the Premises are damaged by casualty and cannot be restored within ninety days, Landlord has an option to restore the Premises. If Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, Landlord will notify Tenant of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord within ten days. If Tenant does not terminate this lease, the lease will continue, and Landlord will restore the Premises as provided above.

#### **15. Condemnation/Substantial or Partial Taking.**

15.01. If the Premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate.

15.02. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, Landlord will, at Landlord's expense, restore the Premises, and the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.

15.03. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.

## **16. Holdover.**

If Tenant holds over after termination or expiration of this Lease, it is a Tenant at sufferance under the terms of this Lease.

## **17. Default, Remedies for Default.**

17.01. If Tenant permits or fails to prevent any of the following occurrences, it is a Tenant event of default:

17.01.01. Tenant fails to comply with any term, provision or covenant of this Lease, other than the payment of rental or expenses demanded by Landlord and does not cure such failure within 30 days after written notice thereof to Tenant, or any representation or warranty by Tenant or any guarantor of this Lease is false or misleading in any material respect when given to Landlord.

17.01.02. This Lease or the Premises or any part thereof is taken upon execution or by other process of law directed against Tenant, or is taken upon or subject to any attachment at the instance of any creditor or claimant against Tenant, and the attachment is not to be discharged or disposed of within 30 days after the levy thereof.

17.01.03. Tenant or any guarantor of the Lease files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or voluntarily takes advantage of any such law or act by answer or otherwise, or is dissolved, or makes a transfer in fraud of creditors or makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts as they mature.

17.01.04. Involuntary proceedings under any such bankruptcy law or insolvency act or for the dissolution of Tenant or any guarantor of the Lease is instituted against Tenant or such guarantor, as the case may be, or a receiver or trustee of all or substantially all of the property of Tenant or any guarantor is appointed, and such proceeding is not dismissed or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment.

17.01.05. Tenant deserts, vacates or abandons all or any portion of the Premises, or ceases to physically occupy any substantial portion of the Premises and continuously operate its business on the Premises, or fails to commence business operations in the Premises on or before the Commencement Date. If Tenant removes or makes preparations to remove its goods, equipment, inventory, and fixtures (other than in the normal course of business) in amounts sufficient to indicate a probable intent to vacate the Premises, Tenant's breach is established conclusively.

17.01.06. Tenant does or permits to be done anything which creates a lien upon the Premises which is not removed or released within 30 days of its filing.

17.02. Remedies Upon Default. Upon the occurrence of any Tenant event of default, Landlord has the option to pursue anyone or more of the following:

17.02.01. In addition to, and without limiting any other remedies available to Landlord at law or in equity, immediately terminate this Lease and all rights of Tenant hereunder. If that event, Tenant must immediately surrender the Premises to Landlord. If Tenant fails to do so, Landlord may, without prejudice to any other remedy, enter and take possession of the Premises or any part thereof and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages.

17.02.02. Enter upon and take possession of the Premises or any part thereof and expel or remove Tenant and any other person who may be occupying said Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefore without having terminated the Lease.

17.03. Repossession and Alteration of Locks. Landlord's exercise of one or more remedies is not acceptance of Tenant's purported surrender of the Premises, whether by agreement or by operation of law. Surrender can occur only by the written agreement of Landlord and Tenant. No such alteration of locks or other security devices and no removal or other exercise of dominion by Landlord over the property of Tenant or others at the Premises is unauthorized or constitutes conversion. Tenant consents to Landlord's exercise of dominion over Tenant's property within the Premises in case of Tenant's default. Tenant waives (A) all claims for damages by reason of such reentry, repossession, or alteration of locks or other security devices and (B) all claims for damages by reason of any distress warrant, forcible detainer proceedings, sequestration proceedings, or other legal process. Re-entry by Landlord may be pursuant to judgment obtained in forcible detainer proceedings or other legal proceedings or without the necessity for any legal proceedings, as Landlord may elect. Landlord is not liable in trespass or otherwise for such re-entry.

17.04. Default by Landlord. If Landlord defaults, Tenant's exclusive remedy is an action for damages (Tenant hereby waiving the benefit of any laws granting it a lien upon the property of Landlord or on rent due Landlord). Tenant is not permitted to withhold Rent. Before filing any such action Tenant must give Landlord 30-days prior written notice specifying the alleged default and giving Landlord opportunity to cure. Unless and until Landlord fails to timely cure a default after written notice, Tenant has no remedy or cause of action by reason thereof. All obligations of Landlord are covenants, not conditions. Landlord's liability to Tenant for default is limited to actual, direct, but not consequential, damages. **Tenant hereby waives its statutory lien under § 91.004 of the Texas Property Code.**

17.05. Rights Respecting Personal Property. If Landlord takes possession of the Premises under the authority of this Lease, Landlord may keep in place and use all furniture, fixtures, and equipment at the Premises, including that owned by or leased to Tenant at all times before foreclosure thereon by Landlord or repossession thereof by any lessor thereof or lienholder thereon. Landlord may also remove from the Premises (without obtaining a distress warrant, writ of sequestration, or other legal process) all or any part of the furniture, fixtures, equipment, and other property and place same in storage anywhere in the county in which the Premises are located. In such case, Tenant is liable to Landlord for costs incurred by Landlord in the removal and storage. Landlord also may relinquish all or any part of the furniture, fixtures, equipment, and other property to any person ("Claimant") who presents to Landlord a copy of any instrument represented to have been executed by Tenant, if the instrument purports to grant Claimant the right under various circumstances to take possession of the property. Landlord need not inquire into the authenticity of the instrument or Tenant's or Tenant's predecessor's signature thereon. Landlord further need not investigate or inquire into the validity of the factual or legal basis on which Claimant purports to act. These rights of Landlord are additional to any other rights that Landlord has or may hereafter have at law or in equity. Tenant stipulates that the rights herein granted Landlord are commercially reasonable.

17.06. Cumulative Remedies. Each right and remedy provided to Landlord in this Lease is cumulative to every other right or remedy provided to Landlord by this Lease or applicable law, including, but not limited to, suits for injunctive relief and specific performance. The exercise or beginning of the exercise by Landlord of one or more of the right or remedy does not preclude the simultaneous or later exercise by Landlord of another remedy. All costs incurred by Landlord in collecting any amounts and damages owed by Tenant under this Lease or to enforce any provision of it, including reasonable attorneys' fees from the date any such matter is turned over to litigation counsel, are also recoverable by Landlord from Tenant.

## **18. Warranty Disclaimer.**

**There are no implied warranties of merchantability, of fitness for a particular purpose, or of any other kind arising out of this lease, and there are no warranties that extend beyond those expressly stated in this lease. Tenant acknowledges it has had ample opportunity to perform due diligence regarding the Premises and accepts the Premises in their present condition, as-is.**

## **19. Abandoned Property.**

Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

## **20. Appropriations.**

20.01. Notwithstanding anything in this agreement to the contrary, all obligations of Landlord to make payments hereunder are subject to the appropriation of sufficient funds for such payments by the Landlord's Board of Managers. If for any reason the Board fails to appropriate sufficient funds or grant expenditure authority, or funds

become unavailable by operation of law, Landlord is relieved of the obligation to make such payments during the term of the non-appropriation.

20.02. Notwithstanding anything in this agreement to the contrary, all obligations of Tenant to make payments hereunder are subject to the appropriation of sufficient funds for such payments by City Council. If for any reason City Council fails to appropriate sufficient funds or grant expenditure authority, or funds become unavailable by operation of law, it shall relieve Tenant from the obligation to make such payments during the term of the non-appropriation.

## **21. Sublease, Assignment.**

Tenant cannot assign or sublease this lease without Landlord's prior written consent. Assignments include any transaction in which (A) a material part of Tenant's assets are sold outside the ordinary course of business or (B) a change in the identity of those owning, holding, or controlling the power to vote of 50% of the equity interest in Tenant.

## **22. Dispute Resolution.**

22.01. Before bringing any action arising out of this agreement, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

22.02. Filing suit on a claim that should be mediated waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

22.03. Mediation must be conducted in San Antonio, Bexar County, Texas.

22.04 The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

22.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

22.06. Mediator fees must be borne equally.

22.07. The parties need not mediate before going to court (1) for either party to seek emergency injunctive relief or (2) for Landlord to seek forcible entry and detainer relief against Tenant.

## **23. Miscellaneous.**

23.01. *Applicable Law.* This Agreement is entered into in San Antonio, Bexar County, State of Texas. **Its Construction And The Rights, Remedies, And Obligations Arising Under It Are Governed by The Laws of The State Of Texas.** But the Texas conflicts of law rules must not be used to apply the laws of a jurisdiction other than Texas. Both parties' obligations under this agreement are performable in San Antonio, Bexar County, Texas, and venue for any action arising under this agreement is only in Bexar County, Texas.

23.02. *Severability.* If any part of this agreement is found invalid or unenforceable, the finding does not affect the remainder.

23.03. *Successors.* This Agreement inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

23.04. *Integration.* **This Written Agreement Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.**

23.05. *Modification.* This Agreement may be changed only by a written agreement, signed by the party against whom enforcement of any modification is sought. Subject to that restriction, any of this Agreement's terms may be modified by the party entitled to their benefit, but no modification, express or implied, affects the right of the modifying party either (i) to apply any other term or condition or (ii) to apply the same term or condition to a later or earlier occasion.

23.06. *Third Party Beneficiaries.* This Agreement benefits the parties and their successors and permitted assigns only. It has no third party beneficiaries.

23.07. *Notices.* Notices must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth at the beginning. If the addressee is a corporation, notices must be addressed to the attention of its President. 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 notice.

23.08. *Captions.* Paragraph captions are for ease of reference only and do not affect the interpretation.

23.09. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of their number, counterparts constitute only one agreement. In making proof

of this agreement, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

23.10. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be necessary to effect fully the provisions hereof. But no such additional documents can alter the rights or obligations of the parties stated in this agreement

## Remainder of Page Intentionally Left Blank

### 24. 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.

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

#### Landlord

#### Tenant

**City of San Antonio**, a Texas  
municipal corporation

**Bexar County Hospital District d/b/a  
University Health System**

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

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

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

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

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

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

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

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

**Attest:**

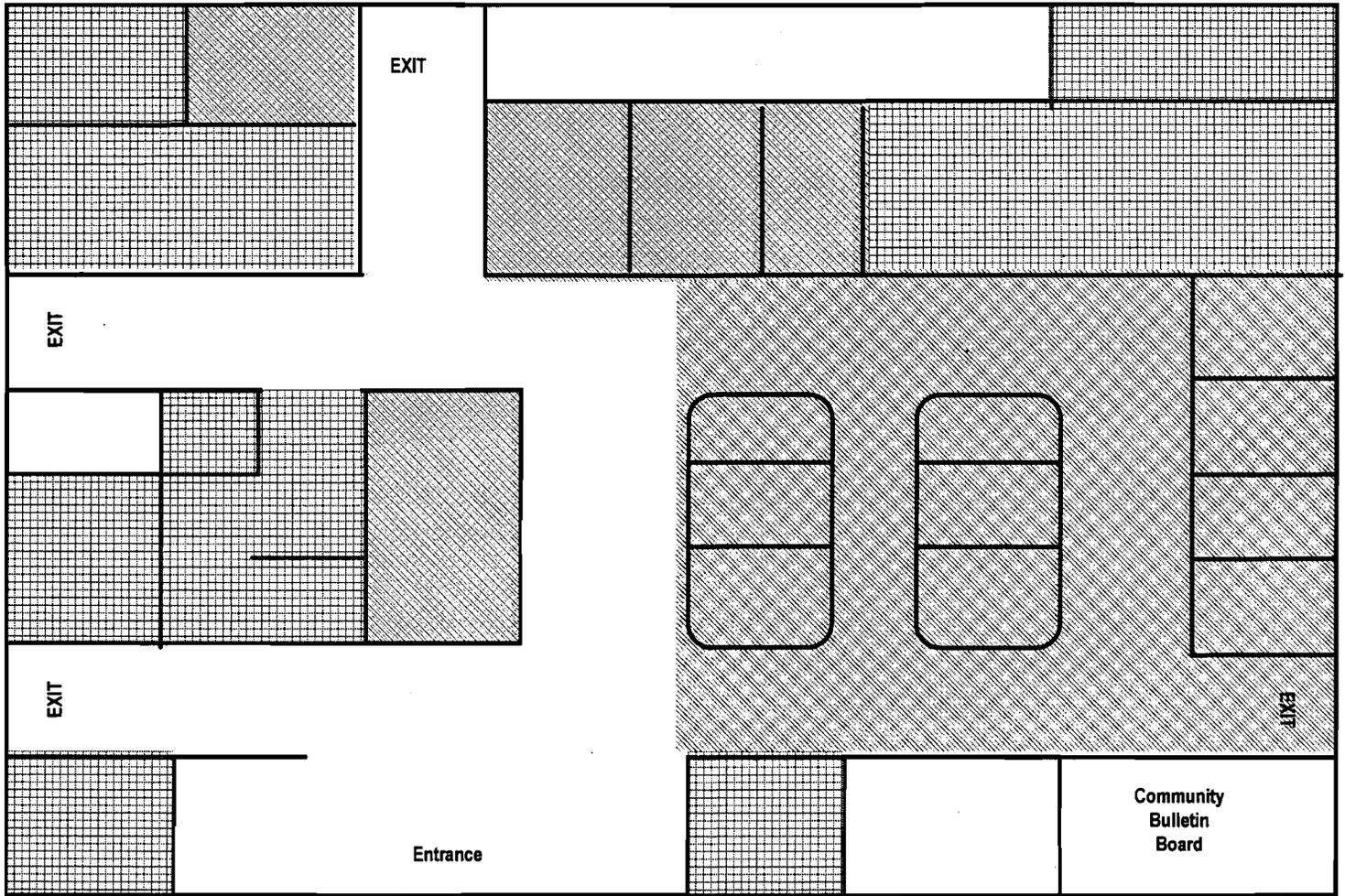
\_\_\_\_\_  
City Clerk

**Approved as to Form:**

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

# Exhibit A: Eastside Branch Clinic

## Eastside Public Health Clinic 210 Rio Grande



UHS -3,699 Sq. Ft.

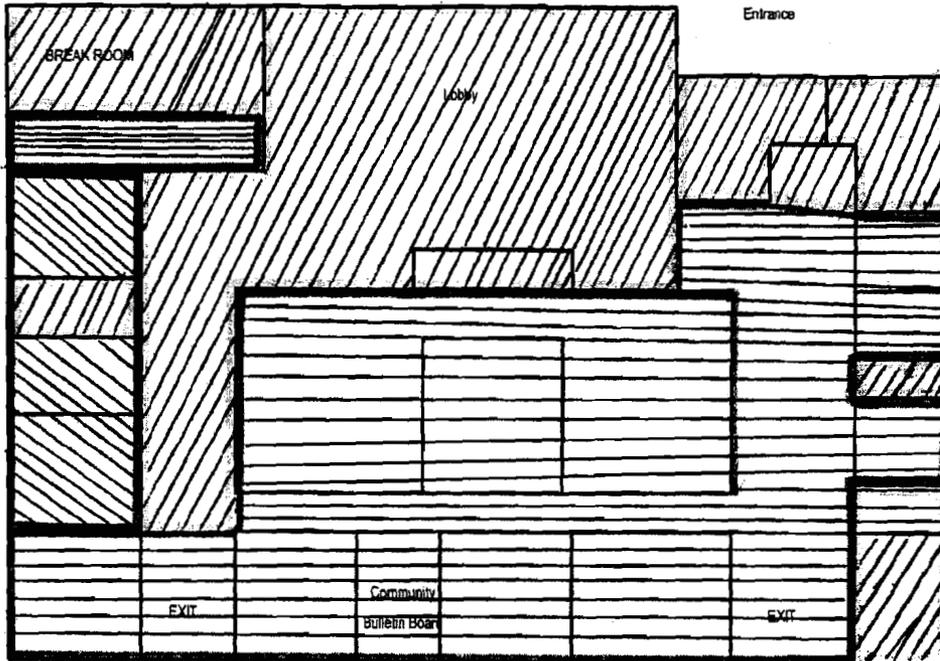
SAMHD - 4,989 Sq. Ft.

Shared - 3,222 Sq. Ft.



# Exhibit B: Kenwood Clinic

## Kenwood Public Health Clinic 302 Dora Street



Designated Meeting Place: Back Grassy Area (by Portable Building)  
Blue - SAMHD 306 Sq ft    Green - UHS 3795 Sq ft    Yellow - Shared 1176 sq ft



# Exhibit C: Zarzamora Clinic

Zarzamora Clinic  
4503 S Zarzamora

