

AN ORDINANCE 2013-02-14-0112

**AUTHORIZING AMENDMENTS TO THE FUNDING AGREEMENT
AND THE LEASE WITH ALAMO COLLEGES FOR THE GOOD
SAMARITAN PROPERTY, LOCATED ON THE 1600 BLOCK OF
DAKOTA STREET IN COUNCIL DISTRICT 2.**

* * * * *

WHEREAS, in December 2011, by Ordinance 2011-12-15-1023, City Council approved the expenditure of \$2,000,000.00 for a Funding Agreement with Alamo Colleges for renovation of the historic Good Samaritan Hospital building located at 1602 Dakota and for real estate acquisition costs, and, by Ordinance 2011-12-15-1024, authorized a 25-year lease for the Good Samaritan building and lot for the operation by Alamo Colleges of a Veterans Outreach and Transition Center (VOTC) at the renovated facility (the "Project"); and

WHEREAS, by amendment to the Funding Agreement, the City will provide additional funding of \$1,167,679.00 for the Good Samaritan Hospital renovation project, and by amendment to the Lease, the Leased Premises will be expanded to include various lots surrounding the Good Samaritan building for use by Alamo Colleges for parking for the VOTC, which lots the City has acquired or is in the process of acquiring pursuant to Ordinance 2011-12-15-1022; **NOW THEREFORE:**

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

SECTION 1. The City Manager or her designee is authorized to execute the Amendment to Funding Agreement with Alamo Colleges, set out in substantially final form in **Attachment I**.

SECTION 2. The City Manager or her designee is authorized to execute the Amendment to Lease with Alamo Colleges, set out in substantially final form in **Attachment II**, to include the following lots in the Leased Premises for use as parking by Alamo Colleges for operation of the VOTC:

- 1520 Dakota Street, NCB 1509, Blk 9, Lot 12
- 1604 Dakota Street, NCB 1508, Blk 8, Lot 2A
- 1610 Dakota Street, NCB 1508, Blk 8, Lot 3A
- 208 Connelly Street, NCB 1508, Blk 8, Lot 7A
- 120 Connelly Street, NCB 1495, Blk 3, Lot 15

SECTION 3. The additional funding for the Project of up to \$1,167,679.00 is allocated for the renovations to the Good Samaritan Hospital building under the Funding Agreement, as amended. In no event shall the City's total cost of the Project for real estate acquisition and building renovations exceed \$3,167,769.00.

SECTION 4. Funding for this Ordinance is available as part of the Fiscal Year 2013 budget per the table below.

Amount	Cost Center/IO	General Ledger	Fund
\$167,679.00	7001990059	5201040	11001000
\$1,000,000.00	131000002114	6102100	27040000
Total Amount \$1,167,679.00			

SECTION 5. Payment not to exceed the budgeted amount is authorized to Alamo Community College District and should be encumbered with a purchase order.

SECTION 6: 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.

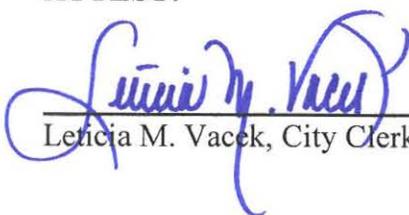
SECTION 7. This Ordinance shall be effective immediately upon passage by eight affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED AND APPROVED this 14th day of February, 2013.



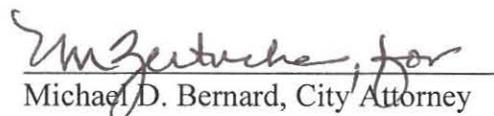
M A Y O R
Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

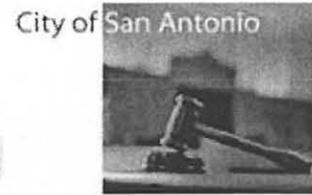
APPROVED AS TO FORM:



Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 9

Name:	6, 7, 9, 10, 11A, 12, 13, 14, 15						
Date:	02/14/2013						
Time:	10:01:08 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing amendments to the funding agreement with Alamo Colleges for the Veterans Outreach and Training Center in the increased amount of \$1,167,679.00, and amendments to the lease agreement for the Center located in the 1600 block of Dakota Street in Council District 2. [Carlos Contreras, Assistant City Manager; Lori Houston, Director, Center City Development Office]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				x
Leticia Ozuna	District 3		x			x	
Rey Saldaña	District 4	x					
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
W. Reed Williams	District 8	x					
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

ATTACHMENT I

First Amendment to Funding Agreement

Good Samaritan/Veteran's Outreach Transition Center - 1602 Dakota Street

This First Amendment to Funding Agreement is entered into between Alamo Community College District ("ACCD") and the City of San Antonio ("CITY"), to be effective as of the last date signed below, which amendment is being entered into by the parties in consideration of additional funding to be provided by the City to Alamo Community College District for the Project.

1. Identifying Information.

Authorizing Ordinance: 2013-__-__-_____

Grantee: Alamo Community College District, a political subdivision of the State of Texas, acting by and through its Board of Trustees

Grantee's Address: 201 West Sheridan
San Antonio, Texas 78240-1429

Funding Agreement: Funding Agreement – Good Samaritan – 1602 Dakota Street,
January 11, 2012

**Ordinance Authorizing
Original Funding
Agreement:** 2011-12-15-1023

2. Defined Terms.

All terms defined in the Funding Agreement and not otherwise defined in this amendment, when used in this amendment, have the meanings ascribed to them in the Funding Agreement.

3. Amendments to Funding Agreement, Article III, Milestones.

Article III, Milestones is amended to read as follows:

Section 3.01 Feasibility Milestones. By July 31, 2013, ACCD will prepare the Master Plan for the Building, the Schedule, the Operating Manifest, and Operating Budget and shall determine the Quality Standard and obtain the CITY's approval thereof.

Section 3.02 Commencement of Construction. The Construction Commencement Date shall occur not later than September 3, 2013, and ACCD shall provide the Certificate of Commencement of Construction to the CITY on or before such date. The Certificate of

Commencement of Construction form is attached as Exhibit B hereto and incorporated herein for all purposes.

Section 3.03 Capital Budget. ACCD will prepare and the CITY will approve the Capital Budget for the Building.

Section 3.04 Substantial Completion. Subject to Force Majeure Events, as provided in Section 18.01, ACCD shall cause the Substantial Completion of the Project not later than the Scheduled Completion Date of August 29, 2014, and to evidence and confirm such Substantial Completion, ACCD shall deliver to the CITY a certificate of substantial completion for the Project in the form set forth in Exhibit C attached hereto and incorporated herein.

Section 3.05 Preconstruction Milestones. Not later than the date specified herein, or if no date is specified, not later than September 3, 2013:

- A. **Completion of Final Plans.** Not later than February 28, 2013, ACCD shall complete and submit to the CITY and obtain the CITY's approval of the Final Plans for the Project.
- B. **Pre-Construction Consultation.** Prior to awarding any Construction Contracts for the Project, ACCD shall cause the completion of a Phase 1 environmental analysis of the Property, shall submit the Plans and Specifications to the CITY's Historic Design and Review Commission (at the meeting of which CITY agrees to send representatives to appear in support of approving the Project substantially as submitted), obtain preliminary CITY review of the Plans and Specifications, and solicit proposals from prospective General Contractors for the Project. ACCD shall thereafter, either prior to selecting a General Contractor or, at its election, thereafter but prior to the CITY issuing a building permit for the Project, meet with the CITY Representative to determine whether the Project as specified in the Plans and Specifications, as they may have been revised by interaction with the CITY, can reasonably be expected to be completed, including comprehensive completion bonding and a contingency reserve of approximately ten percent (10%) of the costs of the proposal of ACCD's intended General Contractor, without total Project Costs exceeding the amount of the CITY Contribution. If ACCD reasonably expects that the Project cannot be completed without total Project Costs exceeding the amount of the CITY Contribution, then unless the parties renegotiate the Plans and Specifications and the Capital Budget to reduce total Project Costs, or the City determines, in its absolute discretion, and subject to CITY Council approval, to increase the amount of the CITY Contribution, or both, with the result that anticipated total Project Costs will not exceed the amount of the CITY Contribution, then neither party shall be under any obligation to proceed further, nor will either party have any liability to the other by reason thereof or otherwise under this Funding Agreement.

- C. Construction Contracts. ACCD shall provide a copy of each of the Construction Contracts for all Work, services, and purchase orders for all materials to be supplied for construction of the Project to the CITY at least ten (10) Business Days following the execution of a Construction Contract or purchase order, with all Construction Contracts required to be furnished to the CITY on or before September 3, 2013.
- D. Operating Budget. ACCD shall provide the CITY with a final Operating Budget projecting the anticipated income and expenses on a five (5) year rolling budget. The Operating Budget shall demonstrate that ACCD can operate the Building on a fiscally sound basis.
- E. Operating Reserve. The Operating Budget will include an Operating Reserve to cover operating deficits. ACCD's Contribution will include the Operating Reserve.
- F. Development Plan. Not later than September 3, 2013, ACCD shall prepare and submit to the CITY the Development Plan for the Project.
- G. Completion of Preconstruction Milestones. ACCD shall not proceed with commencement of construction of the Project until all Preconstruction Milestones have been fully satisfied.

Section 3.06 Extensions. The CITY may extend the time for performance of any target date, scheduled date, Deadline or Milestone appearing anywhere in this Funding Agreement. All milestones and deadlines set forth in this Agreement shall be adjusted forward if CITY does not put ACCD in possession of the Property by September 3, 2013, or if the CITY's Historical Design and Review Commission delays the Project by postponing a hearing, requiring a second hearing or requiring a substantial revision of the Plans and Specifications. Any such delay shall postpone all such milestones and deadlines by the amount of the delay.

4. Amendments to Funding Agreement, Article IV, Development of the Project.

Sections 4.04 and 4.05 of Article IV, Development of the Project, are amended to read as follows:

Section 4.04 Operation of the Project. The Building will remain open to the public after the Work is completed. By August 29, 2014, ACCD shall develop an Operating Manifest and submit it to the CITY for approval. ACCD shall operate the Building according to the Operating Manifest.

Section 4.05 Completion of Project. By August 29, 2014, ACCD shall have completed the renovation of the entire Building according to the Master Plan and Quality Standard, but delay in completion shall not constitute a default until the date specified at Section 15.03Q hereof.

5. Amendments to Funding Agreement, Article VI, Construction of the Project.

Section 6.02.B of Article VI, Construction of the Project, is amended to read as follows:

Section 6.02 Capital Budget.

- A. Attached hereto as Exhibit F is the Preliminary Capital Budget for the Project.
- B. No later than September 3, 2013, ACCD will deliver the final Capital Budget for the Project to the CITY for review and approval, which will be based upon the Master Plan.
- C. The Parties have agreed that any expenses of any nature on the Project will be the obligation of the CITY, subject to the amount of the CITY Contribution. The costs of any extended maintenance contracts are not included in the Capital Budget and are the obligation of ACCD under the CITY Lease.

5. Amendments to Funding Agreement, Article IX, Financing of the Project.

Section 9.02 of Article IX, Financing of the Project, is amended to read as follows:

Section 9.02 The CITY Contribution. The CITY will obtain and secure up to TWO MILLION SEVEN HUNDRED SIXTY-SEVEN THOUSAND, SIX HUNDRED SEVENTY-NINE AND ZERO/HUNDRED DOLLARS (\$2,767,679.00) for the Capital Budget, to be made when and in the amounts needed to fund the CITY Contribution, which will be funded through the issuance of certificates of obligation or from any other legally available funds of the CITY which the CITY decides to use. In the event construction and/or renovation costs exceed the CITY Contribution, the CITY may, in its sole discretion and with City Council approval, either (1) authorize additional funds as needed; or (2) consider, and approve, reasonable change(s) in the scope of the Project to ensure completion within the amount of the CITY Contribution. Notwithstanding the foregoing, once CITY has completed all real estate acquisitions for the Project, and to the extent funds remain available from the original sum of \$2,000,000.00 which City Council authorized for this Funding Agreement and for real estate acquisition costs under Ordinance 2011-12-15-1023, then CITY shall add said funds to the CITY Contribution. Under no circumstances will this Agreement be construed to obligate ACCD to pay any funds for the Project.

6. Amendments to Funding Agreement, Article XV, Termination Events, Events of Default, and Remedies.

Section 15.03.Q of Article XV, Termination Events, Events of Default, and Remedies, is amended to read as follows:

Section 15.03 Events of Default. Each of the following will be an Event of Default: ...

- Q. The failure of ACCD to complete the entire Project by August 29, 2014, unless caused by the CITY's issuance of a Change Order that cannot be implemented without total Project Costs exceeding the amount of the CITY Contribution.

7. Amendments to Exhibit A, Definitions.

The definitions of "CITY Contribution" and "Scheduled Completion Date" are amended to read as follows:

"CITY Contribution" means the funding of \$2,767,679.00 by the City under the terms of this Funding Agreement. In the event construction and/or renovation costs exceed the CITY Contribution, the CITY may, in its sole discretion and with City Council approval, either (1) authorize additional funds as needed; or (2) consider, and approve, reasonable change(s) in the scope of the Project to ensure completion within the amount of the CITY Contribution. Notwithstanding the foregoing, once CITY has completed all real estate acquisitions for the Project, and to the extent funds remain available from the original sum of \$2,000,000.00 which City Council authorized for this Funding Agreement and for real estate acquisition costs under Ordinance 2011-12-15-1023, then CITY shall add said funds to the CITY Contribution. Under no terms will this Funding Agreement be construed to obligate ACCD to pay any funds for the Project.

"Scheduled Completion Date" means August 29, 2014.

8. No Default.

Neither party is in default under the Funding Agreement and neither party is aware of a cause of action against the other arising out of or relating to the period before the effective date of this amendment.

9. Same Terms and Conditions.

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

ATTACHMENT II

First Amendment to Lease Agreement

Good Samaritan/Veteran's Outreach Transition Center - 1602 Dakota Street

This First Amendment to Lease Agreement is entered into between Tenant and the City of San Antonio (Landlord), to be effective as of the last date signed below.

1. Identifying Information.

Authorizing Ordinance: 2013-__-__-_____

Tenant: Alamo Colleges, a political subdivision of the State of Texas,
acting by and through its Board of Trustees

Tenant's Address: 201 West Sheridan
San Antonio, Texas 78240-1429

Lease: Lease—Good Samaritan—1602 Dakota Street, December 15, 2011

**Ordinance Authorizing
Original Lease:** 2011-12-15-1024

2. Defined Terms.

All terms defined in the Lease and not otherwise defined in this amendment, when used in this amendment, have the meanings ascribed to them in the Lease.

3. Amendments to Defined Terms.

The following Defined Terms in the Lease are amended to read as follows:

Premises: Structure and lot at 1602 Dakota Street, San Antonio, Texas 78203; and
1520 Dakota Street, NCB 1509, Lot 12, Blk 9;
1604 Dakota Street, NCB 1508, Blk 8, Lot 2A;
1610 Dakota Street, NCB 1508, Blk 8, Lot 3A;
208 Connelly Street, NCB 1508, Blk 8, Lot 7A;
120 Connelly Street, NCB 1495, Blk 3, Lot 15 (all of the foregoing shall be the "Premises", as more particularly described in the attached Exhibit A).

Permitted Use: Immediate use of Premises at 1602 Dakota Street for interior demolition and construction of improvements to building for eventual use as Veteran's Outreach and Transition Center program to be operated by St. Philip's

College of Alamo Colleges, which program is more specifically described in the attached Exhibit B. Immediate use of 1520 Dakota Street, 1604 Dakota Street, 1610 Dakota Street, 208 Connelly Street, and 120 Connelly Street for construction staging and related activities for renovations to 1602 Dakota Street, including demolition of City-owned structures at 1604 Dakota and 1610 Dakota for access to the structure and construction site at 1602 Dakota Street, and for eventual use as parking for staff, students, faculty, visitors, and public access to the Veteran's Outreach and Transition Center program.

4. Exhibit A.

Exhibit A is revised as attached hereto.

5. No Default.

Neither Landlord nor Tenant is in default under the Lease and neither party is aware of a cause of action against the other arising out of or relating to the period before the date of Landlord's signature on this amendment.

6. Same Terms and Conditions.

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

7. 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.

[Signature page follows]

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

Landlord

Tenant

City of San Antonio, a Texas municipal corporation

Alamo Colleges, a political subdivision of the State of Texas, acting by and through its Board of Trustees

Signature: _____

Signature: John W. Strybos

Printed Name: _____

Printed Name: John W. Strybos

Title: _____

Title: Associate Vice Chancellor of Facilities & Construction Management

Date: _____

Date: 2/11/2013

Attest:

City Clerk

Approved as to Form:

City Attorney

Exhibit A

Legal Description of Premises:

Lot 1, Block 8, New City Block 1508, in the City of San Antonio, Bexar County, Texas, commonly known as 1602 Dakota Street, San Antonio, Bexar County, Texas 78203;

1520 Dakota Street, NCB 1509, Lot 12, Blk 9;

1604 Dakota Street, NCB 1508, Blk 8, Lot 2A;

1610 Dakota Street, NCB 1508, Blk 8, Lot 3A;

208 Connelly Street, NCB 1508, Blk 8, Lot 7A;

120 Connelly Street, NCB 1495, Blk 3, Lot 15.