TM
3/12/2015
Item No. 19A.

AN ORDINANCE 2015-03-12-0193

AUTHORIZING THE EXECUTION OF A SUBLEASE AGREEMENT BETWEEN THE CITY OF SAN ANTONIO AS SUBLESSEE AND FAMILY SERVICE ASSOCIATION OF SAN ANTONIO, INC. (FSA) AS LESSEE FOR THE CONTINUED USE OF APPROXIMATELY 1,615 SQUARE FEET OF OFFICE SPACE LOCATED AT 3014 RIVAS ST., THE NEIGHBORHOOD PLACE, FOR A FIVE-YEAR TERM.

* * * * *

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

SECTION 1. The City Manager and her designee, severally, are authorized and directed to execute and deliver on behalf of the City a sublease agreement for the use of office space between the City of San Antonio and Family Service Association of San Antonio, Inc. (FSA), for a five-year term, at the monthly rate of $918.75 substantially in the form of **Attachment I**, which is incorporated by reference for all purposes as if fully set forth. The City Manager and designee, severally, should take all other actions reasonably necessary or convenient to effectuate the transaction, including agreeing to non-material changes to the approved form and executing and delivering all ancillary instruments and agreements conducive to effectuating the transaction.

SECTION 2. Funding in the amount of $6,431.25 for this ordinance is available for Fund 11001000, Cost Center 3801010001 and General Ledger 5206010, as part of the Fiscal Year 2015 Budget.

SECTION 3. Payment not to exceed the budgeted amount is authorized to Family Service Association of San Antonio, Inc. and should be encumbered with a purchase order.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance is effective immediately upon receipt of eight affirmative votes; otherwise, it is effective 10 days after passage.

PASSED AND APPROVED this 12th day of March, 2015.

Ivy R. Taylor

M A Y O R
Ivy R. Taylor

Attest:

Leticia M. Vacek, City Clerk

Approved As To Form:

Martha G. Sepeda, Acting City Attorney

Agenda Item:	**19A (in consent vote: 7, 8, 9, 10, 11, 12, 14, 17, 18B, 19A, 19B, 20, 21, 22, 24, 25, 26, 28, 30, 31)**
Date:	03/12/2015
Time:	10:06:53 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the execution of a Sublease Agreement between the City of San Antonio as Sublessee and Family Service Association of San Antonio, Inc. as Lessee for the continued use of approximately 1,615 square feet of office space located at 3014 Rivas St., The Neighborhood Place, for a five-year term.
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x				x
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6	x					
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x			x	

ATTACHMENT 1

City of San Antonio Commercial Sublease from FSA/Edgewood ISD Original Lease

(Neighborhood Place Sublease 2015)

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1. Names.

This Commercial Sublease (the "Sublease") is made by Family Service Association of San Antonio, Inc. ("Lessee"), and City of San Antonio ("Sublessee") either and/or both of which shall also be identified in this Sublease as a "party" or "parties," whichever is applicable. This Sublease is subject to: 1) the Edgewood Independent School District ("Edgewood") Original Lease with Lessee (as hereinafter identified); 2) Edgewood's written acknowledgement as of the date of the signing of this Sublease by the last party to sign it or the effective date of Sublessee's authorizing Ordinance, whichever is later, that Sublessee is an acceptable sublessee under the provisions of Paragraph 4.1 of the Original Lease; and 3) that Edgewood offers no objection to the modifications to the Sublessee's obligations under the Original Lease made by this Sublease. All such modifications

affect only the rights and obligations of Sublessee as against Lessee and Edgewood. None of the modifications affect the rights and obligations between Lessee and Edgewood.

2. Sublease Premises.

Lessee is subleasing to Sublessee, and Sublessee is subleasing from Lessee:

The following part of the premises at The Neighborhood Place (formerly known as H.K. Williams Elementary School) located at 3014 Rivas Street, San Antonio, Texas 78228 ("The Neighborhood Place"). Specifically, Sublessee is leasing Rooms 23 (865 square feet), and Room 24 (750 square feet) for a total of 1,615 square feet (the "Sublease Premises") as more particularly depicted on the site plan attached to this Sublease as **Exhibit A**, which Sublease Premises shall be used for its Training for Job Success Program. Additionally, Sublessee's program use shall include the right to use the common hallways, restrooms and similar areas, and may reserve, on a first come, first serve basis, the cafetorium, designated meeting rooms, and gymnasium area in The Neighborhood Place, by prior notice to Lessee. Sublessee shall use the Sublease Premises for the purposes set forth herein, in compliance with applicable law and ordinance, and shall not cause a nuisance or interfere with the rights of other sublessees of The Neighborhood Place.

3. Original Lease.

A. Except as otherwise provided in this Sublease, specifically 1) Sublessee is self-insured; 2) Sublessee cannot indemnify Lessee; and 3) Rent is solely for Sublease Premises, this subtenancy is subject to all the terms and conditions of the Lease of District Property (the "Original Lease") dated September 18, 2012 between Edgewood, as Lessor, and Family Service Association of San Antonio, Inc, as Lessee.

B. Except as specified in this Sublease, Sublessee will perform and observe all of the terms and conditions of the Original Lease as if Sublessee were named as Tenant in the Original Lease, but only as to the Sublease Premises. Sublessee need not comply with obligations of the Original Lease not pertaining to the Sublease Premises. Sublessee will do nothing that will create a breach by Lessee of any of the terms or conditions of the Original Lease. Sublessee's obligation to pay rent under this Sublease is in lieu of any obligation Sublessee might otherwise have to pay rent under the Original Lease.

C. Subject to applicable confidentiality and privacy laws, rules and regulations, Sublessee shall allow Lessee, Lessee's employees and/or agents, or Edgewood during Lessee's normal business hours, reasonable access to and entrance on Sublease Premises to inspect the Sublease Premises or to conduct any scheduled maintenance and/or repairs as may be required, upon reasonable prior notice by Lessee to Sublessee or at any time during an emergency or for public safety in order to protect and secure the Sublease Premises. Sublessee acknowledges that pursuant to the Original Lease, Edgewood may enter the Sublease Premises at any time during an emergency or for public safety in order to protect and secure the Sublease Premises.

D. Sublessee shall not alter the Sublease Premises, except as permitted by the terms of the Sublease, without the express, written permission of Lessee. Any such alterations of the Sublease Premises, whenever permitted, shall be considered "IMPROVEMENTS" under Article 14 of the Original Lease and must be in strict compliance with the requirements thereof.

E. No construction and/or renovations of/on the Sublease Premises shall be permitted without express, written permission of Lessee. All permitted construction and/or renovation shall be based on detailed written drawings and specifications that have received prior written approval of Lessee. Any renovation work completed must adhere to City building code requirements.

F. Lessee retains all compliance obligations as to portions of The Neighborhood Place under the Original Lease not listed above.

4. Term and Termination of Sublease.

This Sublease is binding upon the parties based upon the later of 1) the date of execution by the last party to sign this Sublease; or 2) the effective date of the authorizing Ordinance, whichever is later.

The term of this Sublease is five (5) years or until the earlier of the expiration of the Original Lease between Lessee and Edgewood by termination or non-renewal, beginning subsequent to City Council approval and Sublessee's right of occupancy begins on that date. Either party may cancel after 24 months with a ninety (90) day written notice to the non-terminating party. Notwithstanding anything to the contrary, in the event of termination or non-renewal of the Original Lease, however occasioned, this Sublease shall immediately terminate. In the event of termination or nonrenewal of the Sublease, the Sublease Premises shall be immediately surrendered to Lessee. The Sublease Premises shall be surrendered in substantially the same condition as when the Sublease commenced and as improved during the term of the Sublease, reasonable wear and tear excepted. Lessee shall have no liability to Sublessee for the early termination of this Sublease. However, if the Original Lease terminates due to Lessee's breach, it is likewise a default of Lessee under this Sublease. In such circumstance, Sublessee will be entitled to all relief provided by law or equity.

5. Rent.

A. Sublessee will pay rent in advance by the 1st day of each month. Sublessee's first rent payment will be due the first of the month after City Council approval, in the amount of $918.75 to Family Service Association of San Antonio, Inc., 702 San Pedro, San Antonio, TX 78212. Lessee shall forward invoices to:

P.O. Box 829966
San Antonio, Texas 78283-3966
(Attention: Real Estate Leasing Division, Office of EastPoint and Real Estate Services)

B. As a part of the rent stated in 5A above and with the exception of telecommunications needs that Sublessee must provide for itself, Lessee shall provide all utilities including, but not limited to, conditioned heat and air, lighting and electrical services to the Sublease Premises and HVAC, electrical, water, sewer, gas, and dumpster services to The Neighborhood Place in common with other occupants of the Neighborhood Place.

C. Lessee acknowledges that the rent provided for in this sublease satisfies its obligations under Article 4 of the Original Lease.

6. Option to Extend Sublease.

Lessee grants Sublessee the option to extend this Sublease for an additional five (5) years, on the same terms and conditions as set forth in this Sublease. To exercise this option, Sublessee must give Lessee written notice, 90 days prior to expiration of the Sublease. Sublessee, by action of the Director of the Department of Human Services, may exercise this option only if Sublessee is in substantial compliance with the terms of this Sublease and will lease the Sublease Premises on the same terms as in this Sublease unless otherwise approved by the parties and subsequent Ordinance. Any exercise of this option, regardless of funding source, shall require prior City Council approval. As any use of state grant funds must comply with any grant requirements or stipulations, the parties agree that such use shall not change or otherwise conflict with the provisions of the Original Lease agreement between Edgewood and Lessee. Notwithstanding anything to the contrary, this option to extend is subject to the extension of the Original Lease for at least a like term, and in the event of termination or non-renewal of the Original Lease, however occasioned, this Sublease shall immediately terminate. Lessee shall have no liability to Sublessee for the early termination of this Sublease as provided above.

7. Notices From Edgewood.

A. If Edgewood notifies Sublessee of any breach of the terms or conditions of the Original Lease that Sublessee is obligated to perform, Sublessee shall immediately notify Lessee in writing. Sublessee shall promptly cure any such breach.

B. If Edgewood notifies Lessee of any breach of the terms or conditions of the Original Lease that Sublessee is obligated to perform, Lessee shall immediately notify Sublessee in writing. Sublessee shall promptly cure any such breach.

C. Lessee will deliver to Sublessee notice of Edgewood's early termination of the Original Lease within 5 working days of Lessee's receipt of such notice. Failure to provide the notice herein specified shall not affect such early termination.

8. Subletting and Assignment.

Sublessee will not assign this Sublease or further sublet any part of the Sublease Premises without the written consent of Lessee and the approval of Edgewood. Lessee will not unreasonably withhold such consent.

9. Insurance.

A. Sublessee is self-insured. Sublessee need not comply with the insurance requirements of the Original Lease.

B. Lessee shall maintain Commercial General Liability insurance of not less than $1,000,000 and property and casualty insurance for physical damage to the Premises.

10. Condition of Sublease Premises.

Lessee shall provide routine maintenance of The Neighborhood Place, and shall provide such maintenance within the Sublease Premises, such as replacement of light fixtures and, A/C filter replacement on an as needed basis, with sublessee determining the need for the sublease premises, and regular janitorial services of The Neighborhood Place. Sublessee accepts the Sublease Premises in "as is" condition. Lessee need not provide any repairs or improvements before the lease term begins.

Except maintenance as otherwise required of Lessee, Sublessee shall, at Sublessee's sole cost and expense, maintain the Sublease Premises throughout the term of this Sublease and keep the Sublease Premises clean, sanitary and in good condition, free from disrepair, waste and/or nuisance, reasonable wear and tear excepted.

In the event Sublessee shall neglect or refuse to reasonably maintain the Sublease Premises, Lessee shall have the right, following 30 days' written notice to correct the problem, to make minor repairs or maintain the Sublease Premises, subject however, to the terms and conditions of the Original Lease. In that event, Sublessee shall reimburse Lessee for the cost and expense of such repairs and/or maintenance.

11. Disputes.

11.01. Subject to Edgewood's rights as set out in the Original Lease, before bringing any action arising out of this Sublease, 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.

11.02. Filing suit on a claim that should be mediated hereunder 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.

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

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

11.05. 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.

11.06. Mediator fees must be borne equally.

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

12. Entire Agreement.

This is the entire agreement between the parties. It replaces and supersedes any and all oral agreements between the parties, as well as any prior writings.

13. Successors and Assignees.

This Sublease binds and benefits the heirs, successors, and assignees of the parties.

14. Notices.

All notices must be in writing. A notice may be delivered to a party at the address that follows a party's signature or to a new address that a party designates in writing. A notice may be delivered:

(1) in person
(2) by certified mail, or
(3) by overnight courier.

15. Governing Law.

This Sublease will be governed by and construed in accordance with the laws of the state of Texas.

16. Counterparts.

This Sublease may be signed by the parties in different counterparts and the signature pages combined will create a document binding on all parties.

17. Modification.

This Sublease may be modified only by a written agreement signed by all the parties and with prior approval of City Council and Edgewood.

18. Waiver.

If one party waives any term or provision of this Sublease at any time, that waiver will only be effective for the specific instance and specific purpose for which the waiver was given. If either party fails to exercise or delays exercising any of its rights or remedies under this Sublease, that party retains the right to enforce that term or provision at a later time.

19. Severability.

If any court determines that any provision of this Sublease is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this Sublease invalid or unenforceable and shall be modified, amended, or limited only to the extent necessary to render the provision valid and enforceable.

20. Prohibited Interests in Contracts.

20.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

(i) a City officer or employee;

(ii) his parent, child or spouse;

(iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;

(iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

20.02. Lessee warrants and certifies as follows:

(i) It officers and agents are not officers of the City.

(ii) It has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

20.03. Lessee acknowledges that City's reliance on the above warranties and certifications is reasonable.

21. Appropriations.

Should any obligations of the City of San Antonio under this instrument be funded through the City of San Antonio General Fund, they will be subject to the discretion of City Council whether to appropriate funding for any given year of a term. If the City Council fails to appropriate money for this Sublease in an annual City of San Antonio Budget or fails to authorize expenditure of any grant funds, the City may terminate this Sublease and have no further liability to Lessee.

22. Asbestos.

Lessee must deliver to Sublessee an Asbestos Survey of the Premises and the Building not later than the commencement date of this Sublease, in accordance with the provisions of § 6-293 of the City Code of the City of San Antonio, Texas.

23. Alterations of Sublessee's Obligations Under the Lease Excerpt.

23.01. Lessee acknowledges that Sublessee is an acceptable Sublessee under the provisions of paragraph 4.1 of the Original Lease.

23.02. Sublessee need maintain only the interior of the Sublease Premises. Lessee is responsible for all other maintenance obligations of the Original Lease.

23.03. Lessee retains all security responsibilities imposed by the Original Lease, including those set forth in Article 9.

23.04. Sublessee's obligation to contribute to insurance premiums under Article 10 of the Original Lease is satisfied by payment of the above specified rent to Lessee. Sublessee is self-insured and need not buy any commercial insurance.

23.05. As a political subdivision of the State of Texas, Sublessee cannot lawfully indemnify anyone, and no indemnity obligations of the Original Lease apply to Sublessee. Lessee shall have no right to recover attorney's fees against Sublessee.

24. Property Damage and Destruction.

Article 13 of the Original Lease is incorporated into this Sublease to govern the relationship between Lessee and Sublessee as to the Sublease Premises. Sublessee has no rebuilding or repair obligations outside the Sublease Premises. Lessee's obligation to repair is judged as if it has property and casualty insurance for physical damage to the Premises in the amount of their actual cash value, whether or not it has actually purchased that level of insurance.

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Signatures
To
Commercial Sublease

LESSEE

FAMILY SERVICE ASSOCIATION OF SAN ANTONIO, INC.,
a Texas Non-Profit Corporation

By: _____
NANCY L. HARD, President/CEO
702 San Pedro Ave
San Antonio, Texas 78212

Dated: 1-12-2015

SUBLESSEE

CITY OF SAN ANTONIO,
a Texas municipal corporation

By: _____

Printed
Name: _____

Title: _____

Date: _____

Attest:

_____
City Clerk

Approved As To Form:

_____
City Attorney

EDGEWOOD OFFERS NO OBJECTION TO THE SUBLEASE 2015 AT THE NEIGHBORHOOD PLACE BETWEEN FAMILY SERVICE ASSOCIATION OF SAN ANTONIO AND THE CITY OF SAN ANTONIO AND EDGEWOOD ACKNOWLEDGES THAT SUBLESSEE IS AN ACCEPTABLE SUBLESSEE UNDER THE PROVISIONS OF PARAGRAPH 4.1 OF THE ORIGINAL LEASE

EDGEWOOD

Edgewood Independent School District,
a Texas independent school district

By: Dr. J A Cervantes

Printed
Name: José A. Cervantes, Ph.D.

Title: Superintendent of Schools

Date: 1-21-15
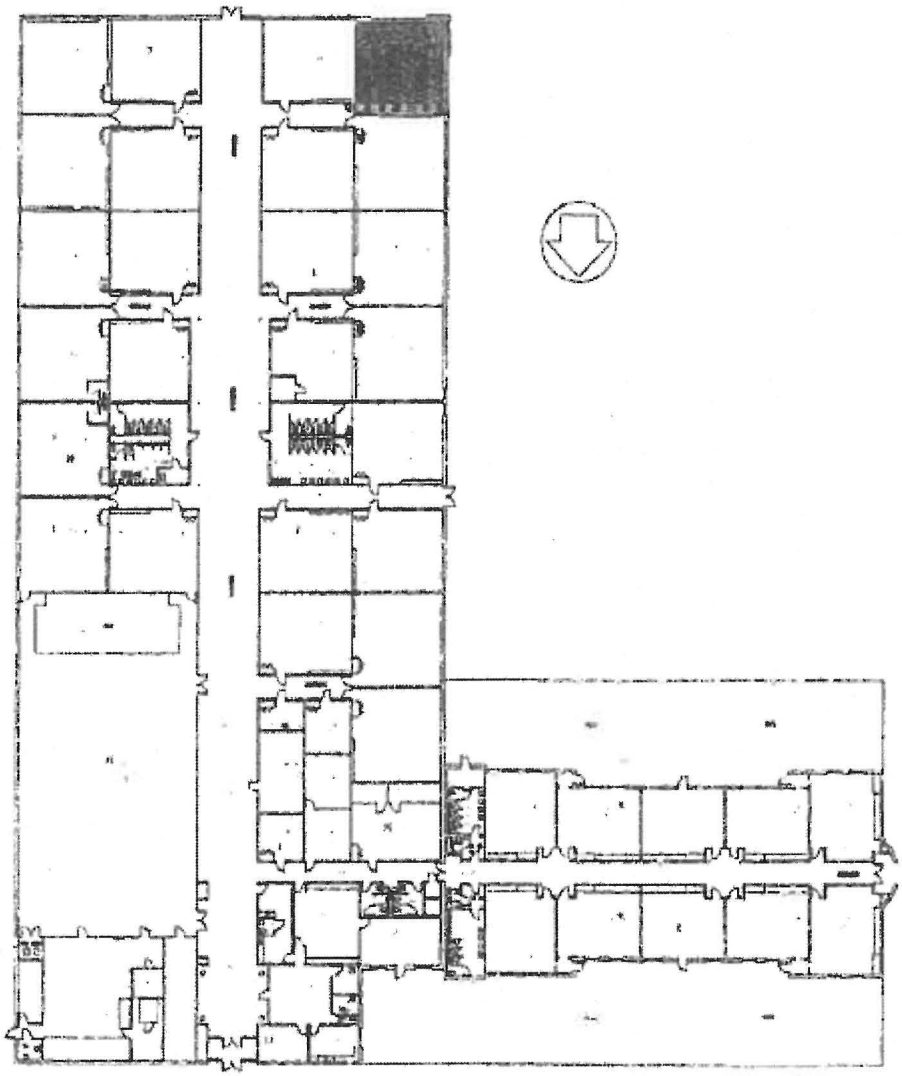
Exhibit "A"
To
Commercial Sublease (subleased space in yellow)