

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

(HIDTA/SAPD Lease )

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This 1<sup>st</sup> Amendment of Lease Agreement (“Amendment”) is entered into between Landlord and Tenant and shall be incorporated into the Original Lease executed by Tenant on May 22, 2014 and both Amendment and Original Lease referred to as the “Lease” as provided below.

## 1. Identifying Information, Definitions.

**Ordinance Authorizing 1<sup>st</sup> Amendment:** 2024- XX-XX-XXXX

**Ordinance Authorizing Original Lease:** 2014-05-08-0320

**Landlord:** Boyd State San Antonio, LLC successor in interest to Brass Centerview 2012, LLC.

**Landlord’s Address:** C/O Boyd Watterson Asset Management, LLC  
1301 East 9<sup>th</sup> Street, Suite 2900  
Cleveland, OH 44114

**Tenant:** City of San Antonio

**Tenant’s Address:** P.O. Box 839966, San Antonio, Texas 78283-3966  
(Attention: Leasing Manager, Building and Equipment Services)

**Premises:** 53,000 Rentable Square Feet in the Building located at 4204 Woodcock Street, San Antonio Texas as depicted on Exhibit A of the Lease

**Occupancy Commencement Date** October 1, 2014 is confirmed as the Occupancy Commencement Memorandum as provided in the Lease Section 2.02 was not executed.

**Lease Initial Term** 20 years commencing October 1, 2014 and ending September 30, 2034 unless terminated sooner.

## 2. Defined Terms.

All terms used in this instrument and not otherwise defined herein but defined in the Lease have the meanings previously ascribed to them. References to “Lease” in this 1<sup>st</sup> Amendment include the Original Lease and all subsequent amendments.

### 3. Rent.

3.01. Section 3.01 of the Lease shall be amended to extend the Rent Period through September 30, 2034 according to the following chart:

	Monthly Rent		
	HIDTA	SAPD	Total
Now through September 30, 2024	\$ 52,946.03	\$ 34,279.72	\$ 87,225.75
October 1, 2024 - September 30, 2025	\$ 48,256.50	\$ 31,243.50	\$ 79,500.00
October 1, 2025 - September 30, 2026	\$ 50,267.19	\$ 32,545.31	\$ 82,812.50
October 1, 2026 - September 30, 2027	\$ 52,277.88	\$ 33,847.13	\$ 86,125.00
October 1, 2027 - September 30, 2028	\$ 54,288.56	\$ 35,148.94	\$ 89,437.50
October 1, 2028 - September 30, 2029	\$ 56,299.25	\$ 36,450.75	\$ 92,750.00
October 1, 2029 - September 30, 2030	\$ 58,309.94	\$ 37,752.56	\$ 96,062.50
October 1, 2030 - September 30, 2031	\$ 60,320.63	\$ 39,054.38	\$ 99,375.00
October 1, 2031 - September 30, 2032	\$ 62,331.31	\$ 40,356.19	\$ 102,687.50
October 1, 2032 - September 30, 2033	\$ 64,342.00	\$ 41,658.00	\$ 106,000.00
October 1, 2033 - September 30, 2034	\$ 66,352.69	\$ 42,959.81	\$ 109,312.50

3.02 All other terms and condition of Section 3 in the Lease shall remain in effect.

### 4. Term, Extension & Termination.

4.01 As provided in Section 1 of this Amendment and Section 1 of the Lease the Initial Term shall be 20 years from the Occupancy Commencement Date.

4.02 Section 4.02 of the Lease shall be amended as follows:

- The right to renew requires Tenant to provide at least nine (9), months' notice, (i.e. no later than January 1, 2034 written notice must be delivered to Landlord confirming Tenant's intent to renew the Lease). The Renewal Term length shall remain at five (5) years. The nine (9) months' required notice shall be calculated using the natural expiration date of the existing Lease Term, not including any holdover period.
- Rent during the Renewal Term shall be at the then Fair Market Rent for an arm's-length renewal leases including Tenant's receiving the benefit of all typical lease concession, tenant improvement allowances, and brokerage commissions for a comparable term for comparable space on a full-service gross basis in comparable buildings in the San Antonio marketplace. Fair Market Rent during the entire Renewal Term shall be determined as follows:

#### First Round

Within 30 days of the date Tenant provides notice to Landlord of its intent to renew the Lease (Renewal Notice) each party shall hire a broker, or an MAI certified appraiser either of which must be appropriately licensed in the State of Texas (Appraiser or Broker) to produce an opinion of value. The opinion of value will be developed in accordance with USPAP standards if a certified appraiser is used or supported by rental details for other similar properties if a broker is used. These two opinions of value of rent during

the entire Renewal Term shall outline rent during each year of the Renewal Term on a full-service gross basis without any pass throughs (and taking into account any lease concessions, tenant improvement allowances, Landlord work, and any brokerage commissions included as part of any such Renewal Term) and shall be exchanged within 75 days of Landlord's receipt of the Renewal Notice. The information exchanged will represent the entire opinion of value document including all research and other information used by the Appraiser or Broker to determine their respective values. In the event the opinion of value for the entire Renewal Term are within 10% of each other (the amount of the 10% delta shall be determined by multiplying the value of the lower opinion of value for rent to be paid for the entire Renewal Term by 10%, then adding that amount to the value of the lower opinion of value), if the sum of that formula is equal to or less than the value of the higher opinion of value then the First Round process shall govern the determination of the Rent during the Renewal Term, and the Landlord shall accept, and the Tenant shall pay Rent at the rate equal to the average of Landlord's opinion and Tenant's opinion over the entire Renewal Term. By way of this example, if Tenant's opinion of value over the 5-year Renewal Term has a value of \$6,625,000 and Landlord's is \$7.0 million, then the 10% delta has not been exceeded so the Renewal Term is determined by adding the \$6,625,000 to \$7.0 mil, then dividing that sum by 2 and that value by 60 (representing 60 months in the Renewal Term) thereby setting the rent at a constant rate each month during the entire Renewal Term. However, if Landlord's opinion of value exceeds \$6,625,000 plus 10% or \$7,287,500 then the terms of the Second Round shall prevail.

#### Second Round

In the event that the opinions of value from each opinion differ by more than 10% as determined by the formula in the First Round, then within 90 days of the Renewal Notice, Landlord and Tenant shall mutually (i) develop a scope of work for the third opinion of value; (ii) select an MAI certified Appraiser (brokers cannot participate in the Second Round) and; (iii) hire the Appraiser. Landlord shall be solely responsible for executing any contracts and otherwise hiring the Appraiser, the cost charged by the Appraiser shall be borne equally by Tenant and Landlord. The Second Round Appraisal's opinion of value shall then be averaged with the one opinion of value from the First Round, either Landlord's opinion of value or Tenant's opinion of value, that is closest in value (either higher or lower) to the Second-Round appraisal and the averaged value of these two opinions of value as determined in the Second Round shall represent the Base Rent accepted by both Tenant and Landlord. By way of example if the first round opinions of value are \$6,625,000 for Tenant and \$8.0 mil for Landlord and the second round appraiser indicates the value should be \$7.5 mil, then Landlord's opinion shall be used in the formula as it is \$500,000 different as opposed to Tenant's opinion which represents a difference of \$875,000, so in this instance the \$7.5 mil figure is added to the Landlord's \$8.0 mil figure, that sum is divided by 2 and that calculation is divided by 60 to determine the rent during each month of the Renewal Term.

Section 4.03 Early Termination shall be stricken in its entirety.

All other terms and conditions of Lease Section 4 shall remain in effect.

## 5. Holdover

Section 16.01 is hereby amended and restated in its entirety as follows:

“16.01. If the Lease has not been earlier terminated according to its terms and Tenant is current on rent, both after the Initial Term and after any renewals provided for in this instrument, Tenant may hold-over for up to six additional months on a month-to-month basis. Tenant need not give advance notice of intent to exercise this hold-over right, and it need not hold over all of the allowable six months. The rent during a holdover shall be as follows:

Months 1 and/or 2 of the Holdover	Rent is at the rate in effect as of the last month of the term that has expired, either Initial Term or Renewal Term
Months 3 and/or 4 through 6	Rent is at 125% of the rate in effect as of the last month of the term that has expired, either Initial Term or Renewal Term
Any month after the end of the 6 <sup>th</sup> month of the Holdover	Rent is at 150% of the rate in effect as of the last month of the term that has expired, either Initial Term or Renewal Term

Council's authorization of this instrument is authority for the City as Tenant to enter into the hold-over period without further council action if the Director of the department then managing this Lease on behalf of the City of San Antonio deems the holdover beneficial. Notwithstanding the foregoing, in the event that Landlord has executed a letter of intent with a prospective tenant for all or any portion of the Premises and provided written notice to Tenant that Landlord has executed such a letter of intent for all or any portion of the Premises, then subject to the maximum 6-month holdover described in this Section, Tenant's holdover rights shall be limited to the later of (i) 60 days from the receipt of such notice from Landlord, or (ii) 60 days after the expiration of the then-current term.”

All other terms of Section 16 of the Lease shall remain in effect.

## 6. Tenant Improvements.

6.01 Within 30 days of the date Tenant delivers to Landlord a fully executed version of this Amendment document, Landlord will initiate the renovation of the Premises at Landlord's sole cost and expense as specified in Exhibit A (Scope of Work) and diligently pursue the completion of the entire Scope of Work so the work is fully completed no later than April 1, 2025.

6.02 Landlord will provide an allowance of up to, but not exceeding, one million sixty thousand (\$1,060,000) dollars (Additional TI Work) to be spent for improvements to the Premises excluding the Scope of Work. In no event shall Landlord be required to spend more than \$1,060,000 in connection with the Additional TI Work, including any permitted management fee in connection with the Additional TI Work. Tenant must provide instruction to Landlord no later than September 30, 2025 for the expenditure of funds related to this Additional TI Work and Landlord will cause an architect or engineer, if necessary, and contractors be timely hired to accomplish the Additional TI Work requested by Tenant. Tenant may request several projects at different times up until September 30, 2025 and may ultimately decide to

abandon any request if the work cannot be completed within a price acceptable to Tenant. Prior to initiating the actual construction for any requested Additional TI Work, Landlord will provide for Tenant's review a plan and budget to accomplish the work and Tenant must expressly approve the work before Landlord proceeds. In the event Tenant elects not to proceed, then Tenant shall be responsible for any actual costs incurred by Landlord to hire 3<sup>rd</sup> parties to develop plans for the requested work. Landlord in its role of managing the Additional TI work including, but not limited to, hiring professional, applying for permits and executing contracts to accomplish the work along with managing the payment of services to the involved parties shall be allowed to pass through a charge equal to 5% to the cost to accomplish the Additional TI Work. Upon the later of (i) a date that is 30 days after Landlord has provided receipts for all of the Additional TI Work completed at Tenant's request (a fact confirmed by either the expiration of the no later than September 30, 2025 date for Tenant to request Additional TI Work or Tenant affirming in writing that there are no further requests), including documentation that any contractor or vendor hired to provide the Additional TI Work has been paid in full and signed a release of lien to that effect or (ii) a date occurring 30 days after all the Additional TI Work approved by Tenant is fully completed and Landlord has submitted a detailed invoice accounting for the Additional TI Work, Tenant shall pay Landlord in a lump sum for all or any portion of the Additional TI Work. Any sums not paid within such 30-day period shall bear interest at the rate of 8% per annum until paid, and Tenant's obligation to make such lump sum payment shall survive the expiration or earlier termination of this Lease. Landlord and Tenant shall confirm the details of all expenditures related to the Additional TI Work in a format similar to the Initial Cost Memorandum as depicted in Exhibit E of the Lease.

6.03 Landlord will initiate, at the request of Tenant, the replacement of carpet, floor coverings, minor non-structural alterations and painting of the Premises. To accomplish this work, Landlord will provide an allowance of \$6.50 per rentable square foot based on the size of the Premises as of October 1, 2029 (Refurbishment Allowance). Landlord shall have no obligation to commence the work related to the Refurbishment Allowance prior to October 1, 2029 but once initiated, the work will be completed diligently to completion. In the event the cost to accomplish this work exceeds the Refurbishment Allowance, Tenant can elect to reduce the scope or fund any shortages payable to Landlord within 30 days of the completion of all of the related work. Landlord will provide a budget of the expenditure related to Tenant's request to expend the Refurbishment Allowance with 30 days of receiving Tenant's written request to initiate refurbishment of the Premises. Regardless of how much of the Refurbishment Allowance is expended, the Rent outlined in Section 3 of this Amendment shall remain unchanged. This allowance is not subject to a supervision fee as provided in Section 6.02 above. In the event the Tenant elects not to request any work attributable to the refurbishment Allowance on or before October 1, 2031, then Landlord shall be relieved of any obligation to make any alterations related to the Refurbishment Allowance.

## **7. Appropriation.**

The following is hereby added as a new paragraph in Section 20 of the Lease:

Landlord acknowledges that Tenant's ability to fund this Lease with respect to those portions of the Premises occupied by HIDTA is based on grants and other funding through the HIDTA program. Tenant shall be permitted reduce the square footage of the Premises (the "Reduction Right") to include only those portions of the Premises located on the first (1<sup>st</sup>) and second (2<sup>nd</sup>) floor of the Building which are currently occupied by the San Antonio Police Department, provided that (i) Tenant may only exercise the reduction right in the event that, through no fault of Tenant or any other governing agency, entity, or body of Tenant, Tenant's funding under the HIDTA program is terminated, (ii) Tenant must give prior written notice to Landlord of its election to exercise the Reduction Right specifying the effective date of the Reduction Right (which shall be no less than thirty (30) days from the date of such notice) (the "Reduction Date")

and provide evidence reasonably acceptable to Landlord that Tenant's funding under the HIDTA program has terminated, (iii) Tenant may only elect to reduce the Premises as to an entire defined unit within the Building (i.e., Tenant may not continue to occupy a portion of a unit and pay rent only on such portion), (iv) Landlord shall retain, subject to reimbursement by Tenant, an architect to measure the space to be retained by Tenant and calculate what the remaining rentable square feet of the remaining Premises, and, notwithstanding what is stated in Section 3.05 of the Lease, Rent and other shall be adjusted on a per rentable square foot basis to reflect the square footage of the remaining Premises, and (iv) in the event any portion of costs of the Additional TI Work and/or Expansion TI Work have not be paid by Tenant, Tenant shall pay, on or before the Reduction Date, in a lump sum payment, the remaining unpaid costs of the Additional TI Work and/or Expansion TI Work which remain outstanding as of the Reduction Date.

## **8. Expansion Right.**

New Section 30 is added to the Lease as follows:

### **30. Expansion Right**

Tenant shall have a one-time right to expand the Premises by 2,000 – 7,000 RSF of contiguous office space within the Building with six (6) months prior written notice delivered on or before October 1, 2026, (Expansion Space). The annual rental rate for space for the Expansion Space will be at the rate of \$21.50 per Rentable Square Foot, with annual escalation to occur effective annually each October 1<sup>st</sup> during the remaining Initial Term of \$0.50 per rentable square foot, with the term being coterminous with the expiration of the Premises, which shall be September 30, 2034. The Tenant Improvement Allowance for the Expansion Premises shall be \$30.00 per rentable square foot based on a mutually agreeable plan developed by an architect retained by Landlord but paid using the Tenant Improvement Allowance using Building Standard, or Landlord approved, finishes, subject to the supervision fee as provided in Section 6.02 of this Amendment. Upon the later of (i) the date that is 30 days after Landlord has provided receipts for all of the tenant improvements in the Expansion Premises subject to the Tenant Improvement Allowance (the "Expansion TI Work") completed at Tenant's request (which Tenant shall affirm in writing that there are no further requests) including documentation that any contractor or vendor hired to provide the Expansion TI Work has been paid in full and signed a release of lien to that effect or (ii) the date occurring 30 days after all the Expansion TI Work approved by Tenant is fully completed, Tenant shall pay Landlord in a lump sum for all or any portion of the Expansion TI Work. Any sums not paid within such 30-day period shall bear interest at the rate of 8% per annum until paid, and Tenant's obligation to make such lump sum payment shall survive the expiration or earlier termination of this Lease. The rent commencement for the Expansion Space shall be the 1<sup>st</sup> day of the first full month occurring upon substantial completion of the Expansion TI Work as confirmed by Landlord obtaining a certificate of occupancy to use the Expansion Space for the intended occupancy. All other terms and conditions to be the same as those contained in the Lease. The Expansion Space shall be considered part of the Premises as that term is defined in the Lease with all rights and benefits attributable to the Premises prior to the commencement of Rent for the Expansion Space, accruing to the Expansion Space.

## **9. 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 this Amendment.

## **10. Same Terms and Conditions.**

This Amendment is a fully integrated statement of the modifications to the Lease. Except as expressly modified by this Amendment, the Lease remains a comprehensive statement of the rights

and obligations of Landlord and Tenant. Landlord and Tenant reaffirm the Lease as modified by this agreement and represent to each other that no written right or obligation of either party has been waived such that it would impair exercise of the right or enforcement of the obligation on a future occasion. If this Amendment conflicts with the Lease, this Amendment controls.

#### **11. Public Information.**

Landlord acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this agreement waives an otherwise applicable exception to disclosure.

Signature Page Follows

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

**Tenant**

City of San Antonio, a Texas municipal  
corporation

By: \_\_\_\_\_

Printed

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

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

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

Approved as to Form:

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

**Landlord**

Boyd State San Antonio, LLC

By: Joseph A. DiMartino

Printed Name: Joseph A. DiMartino

Title: Authorized Signatory

Date: 8/26/2024



## Exhibit A Scope Of Work

Landlord shall perform the following improvements to the existing Premises at their cost and expense using commercially reasonable efforts to begin within 30 days of the execution of this Amendment:

- Landlord shall provide appropriate venting to the Men's and Women's restrooms, that currently have showers, and will remediate any damage due to the humidity issues, including but not limited to any rusted metal fixtures, appliances, or flashing.
- Landlord shall replace the existing t-bar drop ceiling in the first floor men's and women's locker rooms with a hard lid drywall ceiling painted in a finish that will resist mold and mildew.
- Landlord shall provide new LED lighting throughout the parking areas, to appropriately cover the building parking areas and entranceways including the courtyard area at front of building.
- Landlord will replace the carpeting in the building lobby area on 1st and second floor with building standard carpet, this carpet was in the building at time of occupancy and is estimated to be over 15 years old.
- Landlord shall update the exterior Landscaping to remove any existing bushes or plants that could obstruct views and replace the overgrown vegetation and bushes with vegetation that will not grow taller than 3 feet and produce sufficient seasonal color over the course of the growing season along with any required modifications to the in-ground sprinkler system. Landlord to provide the proposed Landscaping plan, for Tenant's review.
- Landlord to complete the current window tinting project, started over a year ago, so that all windows receive the new appropriate window tinting to match existing work that has been done.