

**CITY OF SAN ANTONIO
DEPARTMENT OF COMMUNITY INITIATIVES
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Dennis J. Campa, Director, Department of Community Initiatives

SUBJECT: Third Amendment to the Office Space Lease Agreement of the Cypress Tower Building for use by the Child Care Delivery System Division

DATE: November 18, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes execution of a third amendment to the lease agreement with WKB Value Partners, L.P. to release suites 250 and 260 within the Cypress Tower Building. The Department of Community Initiatives, Child Care Delivery System Division, currently occupies the space. It also authorizes payment of a termination fee and the execution of any other necessary documents in connection with the amendment.

Staff recommends the approval of this ordinance.

BACKGROUND INFORMATION

Ordinance No. 93827, passed and approved on April 26, 2001, authorized a five-year lease agreement with WKB Value Partners, L.P. for office space within the Cypress Tower Building located at 1222 North Main. This office space accommodates the Child Care Delivery System Division (CCDSD) services including customer service, vendor management for San Antonio and Bexar County and resource and referral services.

Ordinance No. 95594 passed and approved on April 11, 2002, authorized a first amendment to the Lease Agreement with WKB Value Partners, L.P. for temporary relocation due to remediation activities at the Cypress Tower Building. Ordinance No. 98532 passed and approved on December 4, 2003, authorized a second amendment to the Lease Agreement with WKB Value Partners, L.P. to relocate staff from suite 803 to suite 250.

This third amendment will release 3,301 sq. ft. of office space in two suites located on the second floor of the building. Due to reduced funding and a restructuring of the Division, the program now requires less office space. An increase in space requirements is not anticipated anytime in the foreseeable future.

POLICY ANALYSIS

This ordinance continues existing City policy that addresses the core issues of Family Strengthening and Workforce Development by providing childcare subsidies for parents in order to

allow them to work or participate in education or job training. It also continues existing policy to use both General Fund and grant funds to support the City's investment priorities to provide quality childcare in the community.

FINANCIAL IMPACT

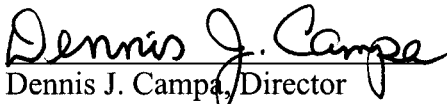
This change in floor space usage will reduce the monthly rent by approximately \$4,324, or \$51,891 on an annual basis. This ordinance authorizes a one-time termination fee of \$7,925.32 to pay for un-amortized landlord costs related to prior moving and construction work in the second floor space. Net annual savings the first year will amount to approximately \$43,966. The termination fee will be charged to the 2005 Child Care Delivery System grant program. This action requires no additional General Fund commitment.

COORDINATION

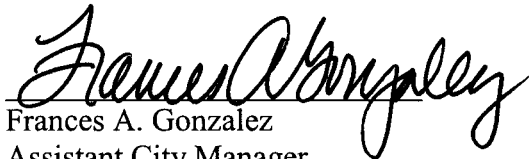
The Department of Community Initiatives has coordinated with Asset Management, Risk Management and the City Attorney's Office.

SUPPLEMENTARY COMMENTS

Provisions of the Ethics Ordinance do not apply.



Dennis J. Campa, Director
Department of Community Initiatives



Frances A. Gonzalez
Assistant City Manager



J. Rolando Bono
Interim City Manager

AN ORDINANCE

APPROVING A THIRD AMENDMENT TO THE LEASE AGREEMENT AUTHORIZED BY ORDINANCE NO. 93827 PASSED AND APPROVED ON APRIL 26, 2001, WITH WKB VALUE PARTNERS, L.P., TO RELEASE OFFICE SPACE IN SUITES 250 AND 260 FOR THE DEPARTMENT OF COMMUNITY INITIATIVES, CHILD CARE DELIVERY SYSTEM DIVISION, WITHIN THE CYPRESS TOWER BUILDING; AUTHORIZING THE EXECUTION OF SAID AMENDMENT AND ANY OTHER NECESSARY DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING PAYMENT OF THE TERMINATION FEE IN THE AMOUNT OF \$7,925.32.

* * * * *

WHEREAS, Ordinance No. 93827 passed and approved on April 26, 2001, authorized a Lease Agreement with WKB Value Partners, L.P. for rental space at the Cypress Tower Building; and

WHEREAS, Ordinance No. 95594 passed and approved on April 11, 2002, authorized a First Amendment to the Lease Agreement with WKB Value Partners, L.P. for temporary relocation due to remediation activities at the Cypress Tower Building; and

WHEREAS, Ordinance No. 98532 passed and approved on December 4, 2003, authorized a Second Amendment to the Lease Agreement with WKB Value Partners, L.P. to relocate staff from suite 803 to suite 250 and to make other revisions to said lease at the Cypress Tower Building; and

WHEREAS, releasing suites 250 and 260 will be in the best interest of the Child Care Delivery System because of reduced funding and staff; **NOW THEREFORE:**

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

SECTION 1. The Third Amendment to the Lease Agreement that was authorized by Ordinance 93827 passed and approved on April 26, 2001 with WKB Value Partners, L.P., which releases all office space in suites 250 and 260, is approved.

SECTION 2. The Interim City Manager, or in his stead, an Assistant City Manager, or an Assistant to the City Manager, or the Director of Department of Community Initiatives is hereby authorized to execute said Third Amendment to the Lease Agreement and any other necessary documents in connection therewith. A copy of the Third Amendment, in substantially final form, is attached hereto and incorporated herein for all purposes as attached.

SECTION 3. Payment of a one-time termination fee in the amount of \$7,925.32 is authorized. Funds for payment of said lease termination fee are appropriated from Grant Fund Internal Order number 138000000270 entitled "2005 Child Care Delivery System Program."

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, subject to concurrence by the Interim City Manager, an Assistant City Manager or an Assistant to the City Manager, may correct allocations to specific Revenue Internal Orders and Fund Numbers as necessary to carry out the purpose of the ordinance.

SECTION 5. This ordinance shall become effective on and after November 28, 2004.

PASSED AND APPROVED this ____ day of _____, 2004.

M A Y O R

ATTEST: _____
City Clerk

APPROVED AS TO FORM: _____
City Attorney

THIRD AMENDMENT TO OFFICE LEASE

This Third Amendment to Office Lease (this "Third Amendment") is made and entered into by and between **WKB VALUE PARTNERS, L.P.**, a Delaware limited partnership ("Landlord"), and **THE CITY OF SAN ANTONIO**, a Texas municipal corporation, ("Tenant"), effective as of the date Landlord executed this Third Amendment (the "Effective Date").

WITNESSETH:

WHEREAS, Landlord and Tenant heretofore executed and entered into that certain Office Lease dated June 4, 2001, as amended by that certain First Amendment to Office Lease Agreement dated May 12, 2002, as amended by that certain Second Amendment to Office Lease dated November 3, 2003 (as amended, the "Lease"), pursuant to which Tenant is currently leasing certain premises containing 19,439 square feet of Rentable Area in the Cypress Tower Office Building, located at 1222 N. Main, San Antonio, Texas 78212 (the "Building"), consisting of the following areas: (i) Suite 260 of the Building, consisting of 2,413 square feet of Rentable Area; (ii) Suite 400 of the Building, consisting of 16,138 square feet of Rentable Area; and (iii) Suite 250 of the Building, consisting of 888 square feet of Rentable Area; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to terminate the Lease as to a portion of the Premises and to modify certain terms and provisions of the Lease, all as more particularly set forth herein below; and

NOW, THEREFORE, for and in consideration of the premises contained herein, and other good and valuable consideration paid by each of Landlord and Tenant to the other, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree that the Lease is hereby ratified and amended as follows:

1. Defined Terms. All capitalized terms used herein shall have the same meaning as defined in the Lease, unless otherwise defined in this Third Amendment.
2. Released Space. Effective as of November 30, 2004 (the "Termination Date"), with respect to the Released Space only, Tenant hereby surrenders the approximate 888 square feet of Rentable Area located in Suite 250 and the approximate 2,413 square feet of Rentable Area located in Suite 260 (collectively, the "Released Space"), subject to the following:
 - (a) With respect to the Released Space only, as of the Termination Date, Tenant agrees to surrender the Released Space in substantially the same condition as existed upon commencement of the Lease, reasonable wear and tear excepted, and with all personal property of Tenant removed therefrom. Tenant hereby releases, as of the Termination Date, all of its right, title and interest in, and in respect of, the Released Space. Tenant covenants, agrees and represents that Tenant shall have no further right to use, occupy or have possession of the Released Space or any portion thereof after the Termination Date and Tenant hereby acknowledges and agrees that as of the Termination Date, pursuant to Paragraph 31 of the Second Amendment to Office Lease Agreement, the Tenant shall pay the

Landlord the sum of \$7,925.32 (the "Termination Fee"), as consideration for the agreement by Landlord to terminate this Lease as to the Released Space only.

- (b) With respect to the Released Space only, Tenant covenants and agrees that it has full right, power and authority to terminate and surrender the Released Space in the manner aforesaid.
 - (c) Subject to Paragraph 2(a) above and Paragraph 2(e) below, with respect to the Released Space only, Landlord agrees (i) to forever release and discharge Tenant from all obligations, covenants and agreements of Tenant arising under or in connection with the Released Space after the Termination Date and (ii) not to sue Tenant for obligations, covenants and agreements of Tenant arising under or in connection with the Released Space after the Termination Date.
 - (d) Subject to Paragraph 2(e) below, with respect to the Released Space only, Tenant agrees (i) to forever release and discharge Landlord from all obligations, covenants and agreements of Landlord arising under or in connection with the Released Space after the Termination Date and (ii) not to sue Landlord for obligations, covenants and agreements of Landlord arising under or in connection with the Released Space after the Termination Date.
 - (e) Tenant shall also be responsible for any Operating Costs reimbursable that may be due from Tenant for the period of time from January 1, 2004 through the Termination Date, when the actual Operating Costs for the calendar year 2004 for the Building are determined in 2005.
3. Confirmation of Premises. Effective on and as of the Termination Date, Landlord and Tenant stipulate and agree that the "Premises" shall consist of 16,138 square feet of Rentable Area located in Suite 400 of the Building.
4. Miscellaneous. With the exception of those terms and conditions specifically modified and amended herein, the Lease shall remain in full force and effect in accordance with all its terms and conditions. In the event of any conflict between the terms and provisions of this Third Amendment and the terms and provisions of the Lease, the terms and provisions of this Third Amendment shall supersede and control.
5. Counterparts/Facsimiles. This Third Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of such counterparts shall constitute one agreement. To facilitate execution of this Third Amendment, the parties may execute and exchange facsimile counterparts of the signature pages and facsimile counterparts shall serve as originals.

[SIGNATURE PAGE TO FOLLOW]

SIGNATURE PAGE TO THIRD AMENDMENT TO OFFICE LEASE
BY AND BETWEEN
WKB VALUE PARTNERS, L.P., AS LANDLORD, AND
THE CITY OF SAN ANTONIO, AS TENANT

IN WITNESS WHEREOF, Landlord and Tenant, acting herein by duly authorized individuals, have caused these presents to be executed as of the Effective Date set forth herein.

LANDLORD:

**WKB VALUE PARTNERS, L.P.,
a Delaware limited partnership**

**By: Koll Bren Schreiber Realty Advisors,
Inc., a Delaware corporation, as agent**

**By: _____
Walter C. Foster,
Senior Vice President**

Date: _____, 2004

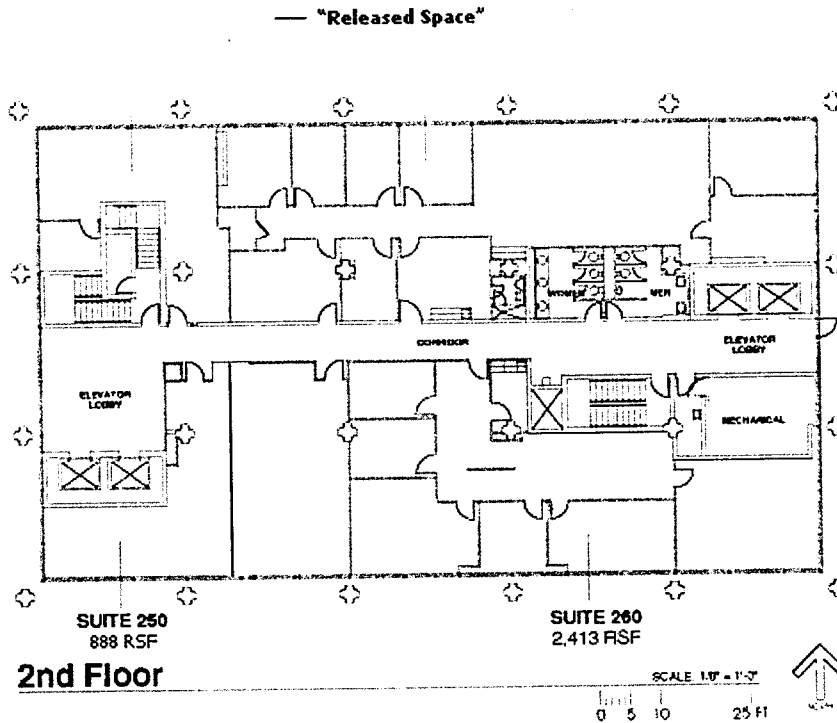
TENANT:

**THE CITY OF SAN ANTONIO,
a Texas municipal corporation**

**By: _____
Name: _____
Title: _____**

Date: _____, 2004

EXHIBIT A
DESCRIPTION OF RELEASED SPACE



CYPRESS TOWER
1222 N. MAIN SAN ANTONIO, TX. 78212

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WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to terminate the Lease as to a portion of the Premises and to modify certain terms and provisions of the Lease, all as more particularly set forth herein below; and

NOW, THEREFORE, for and in consideration of the premises contained herein, and other good and valuable consideration paid by each of Landlord and Tenant to the other, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree that the Lease is hereby ratified and amended as follows:

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**By: _____
Walter C. Foster,
Senior Vice President**

Date: _____, 2004

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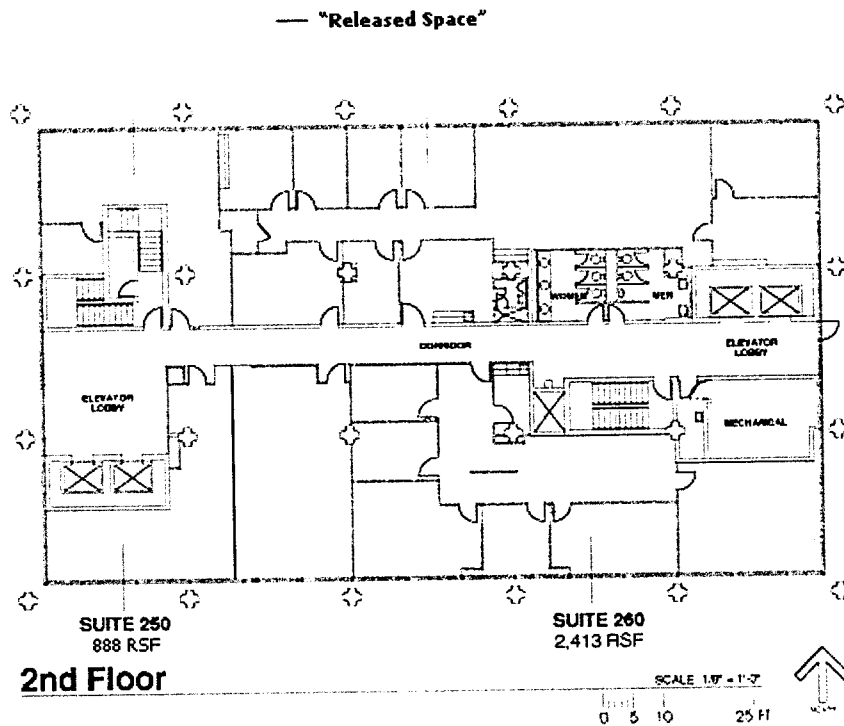
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