

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Health *8*
AGENDA DATE: January *2*, 2013
CONTACT PERSON/PHONE: Bruce Parsons/Jane Tomchik 541-4897
DISTRICT(S) AFFECTED: 8

SUBJECT:

Discussion and action on a resolution to authorize the City Manager to sign a Lease by and between Ricardo Rios with regard to the property located at 1505 E. Missouri, El Paso, Texas for twelve (12) months, commencing on the Effective Date and ending January 1, 2014, with an option to extend the lease for one additional one-year period by City Manager.

BACKGROUND / DISCUSSION:

The Health Department received continued funding for the HIV prevention program in November and therefore requires that the lease for the clinic location be executed for an additional year.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?
In January of 2012, Council approved a funded contract with DSHS to provide HIV prevention services until December 31, 2012. In June, Council approved an expansion of the leased location.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

Grant funding

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A
NA

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA: _____

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Lease by and between the RICARDO RIOS (“Lessor”) and the CITY OF EL PASO (“Lessee”), with regard to the property located at 1505 E. Missouri, El Paso, Texas for twelve (12) months, commencing on the Effective Date and ending January 1, 2014, with an option to extend the lease for one additional one-year period by City Manager.

ADOPTED this _____ day of _____, 2013

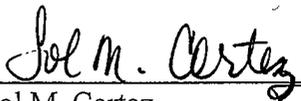
THE CITY OF EL PASO

ATTEST:

John F. Cook,
Mayor

Richarda D. Momsen,
City Clerk

APPROVED AS TO FORM:



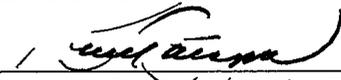
Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:



Jane Tomchik
Real Estate Services, City Development

APPROVED AS TO CONTENT:



Bruce A. Parsons, Interim Director
Department of Public Health

STATE OF TEXAS)
)
COUNTY OF EL PASO)

LEASE

THIS LEASE (the "Lease"), made to be effective as of _____, 2013 (the "Effective Date"), by and between Ricardo Rios (hereinafter "Lessor") and the City of El Paso, a Texas municipal corporation (hereinafter "City"), witnesseth:

1. The Lessor hereby leases to the City the following described property: Approximately **1729** square feet of usable space located at **1505 East Missouri** and hereinafter referred to as the Leased Premises. This does not include areas that are in addition to the primary building such as parking areas, sidewalks adjacent to the building, landscaped areas, and any other areas that the general public may access. The initial term of this Lease shall be for twelve (12) months, commencing on the Effective Date and ending January 1, 2014.
 - 1.1 In the event the City is not in default of any terms of this Lease, the City shall have the option to extend this Lease until January 1, 2015. Lessee may exercise said extension period by notifying Lessor in writing of the City's election at least ninety (90) days prior to the expiration of the initial term. In the event the election is so exercised, the Lease shall be extended until January 1, 2015 under the same terms and conditions. The City Manager for the City of El Paso shall have authority to approve the exercise of said extension on behalf of the City without the necessity of City Council approval.
2. At or before conclusion of this term, the City shall continue this Lease for an additional one (1) year term provided the Mpowerment Program grant is renewed for an additional year. During the renewal period(s), all terms and conditions of this Lease shall remain unchanged and in effect.
3. Rental rate shall be the sum of **\$950.00** per month. This amount shall not change during any lease renewal period.
4. The Lessor and the City agree and understand that any holding over of the City on the premises at the expiration of this Lease, or extension hereto, shall operate and be constructed as a tenancy from month-to-month for no more than six months at the then current monthly rental, and all provisions of this Lease shall remain effective, so long as the City retains possession of the Leased Premises.
5. The City will pay for the following utilities used at the Leased Premises: water, gas, electricity, and phone and internet services.
6. The City agrees to use the Leased Premises for general office, classroom and clinic purposes consistent with the City of El Paso's Department of Public Health Mpowerment Program.

7. The Lessor will keep the exterior walls, foundation, roofs, doors, windows, plumbing, cooling and heating systems, and other equipment of the building in good working order and shall maintain the same in compliance with all governmental requirements and regulations. The Lessor shall not be required to repair damages caused by negligence of the City's employees or agents. The City agrees to take good care of the interior of the Leased Premises and fixtures and suffer no waste. At the end of the term and any extension thereof, the City will leave the Leased Premises in good order and condition, ordinary wear and tear and damage by fire and the elements only accepted.
8. The City shall be responsible for the security of the rental space.
9. The City shall be responsible for keeping the Leased Premises free of pest infestation.
10. The City shall be responsible for the removal and eventual disposal of all trash from the Leased Premises. The City shall also be responsible for the removal of all medical waste.
11. No improvements, alterations or additions shall be made in or to the Leased Premises without the consent of the Lessor first obtained in writing, such consent not to be unreasonably withheld. All alterations, additions and improvements installed at the expense of the City shall be done of equal workmanship and materials as in the existing Leased Premises. Such alterations, additions and improvements may be removed by the City, unless to do so would cause permanent damage to the Leased Premises, in which case the alterations, additions or improvements shall become the property of the Lessor, and shall remain upon and be surrendered with the Leased Premises as a part thereof at the termination of this Lease.
12. The Lessor, at his sole cost and expense shall, throughout the term of this Lease, or any extension hereof, provide and keep in force for the benefit of the Lessor, comprehensive general liability insurance in an amount not less than ONE MILLION DOLLARS, (\$1,000,000.00) covering the Lessor and its employees, ONE MILLION DOLLARS (\$1,000,000.00) for protection of the general public per occurrence for bodily injury or wrongful death. All policies of insurance shall be written by insurance companies authorized to do business in Texas. All insurance policies required by this Lease shall contain a provision that the policy shall not be canceled or reduced in any amount without at least sixty (60) days notice to the City.
13. The City shall not assign this agreement or sublet the Leased Premises, or any part thereof, without obtaining the consent of the Lessor in writing.
14. If the Leased Premises are destroyed or partly destroyed by fire or other cause, the Lessor may, if it so elects, either rebuild or put said Leased Premises in good condition for physical occupancy, within a reasonable time after such destruction or partial destruction, or decide not to rebuild the Leased Premises, in which case the Lessor shall notify the City of this decision within ten (10) days following the fire or casualty. The Lessor agrees, however, that if it rebuilds the Leased Premises, either another similar location acceptable to the City will be provided or the rent shall be abated in the proportion that the Leased

Premises are rendered unusable or the City can not use the Leased Premises as defined by this Lease.

15. The City shall not place any signs at or about the Leased Premises, except when first approved by the Lessor within a reasonable time upon execution of this Lease, such approval not to be unreasonably withheld. The Lessor shall have the right to remove any sign or signs in order to paint the Leased Premises or make any other alterations and shall subsequently re-install said signs to their original location or to such other location requested by the City at the Leased Premises.
16. Lessor shall be allowed to place a commercial sign in front of the building advertising Lessor's practice of law.

17. CONTRACTUAL RELATIONSHIP

- 17.1 The City is an independent contractor and is otherwise a tenant in a landlord-tenant relationship with the Lessor. Except as may be expressly and unambiguously provided in this Lease, no partnership or joint venture is intended to be created by this Lease, nor any principal-agent or employer-employee relationship between the parties or any of other officers, employees, agents or sub-contractors.
 - 17.2 As an independent contractor, the City and Lessor both understand, acknowledge and agree that each of them shall be responsible for the acts and omissions of their respective employees, officers, agents, representatives and contractors, and that the City shall not be deemed to be an employer of Lessor's employees, and Lessor shall not be deemed to be an employer of the City's employees.
 - 17.3 The City shall select its own employees and such employees shall be and shall act under the exclusive and complete supervision and control of the City. Lessor shall select its own employees and such employees shall be and shall act under the exclusive and complete supervision and control of Lessor.
18. Any notices required or desired shall be sent certified mail, return receipt requested to the following address:

To City: City of El Paso
 City Manager, 10th Floor
 City of El Paso
 2 Civic Center Plaza
 El Paso, Texas 79901-1153

Copy to: City of El Paso
 Real Estate Services, City Development
 2 Civic Center Plaza
 El Paso, Texas 79901-1153

Copy to: City of El Paso
Department of Public Health
Attn: Bruce A. Parsons
5115 El Paso Drive
El Paso, Texas 79905-2818

To Lessor: Ricardo Rios
Attorney at Law
10516 Montwood Drive
El Paso, TX 79935

Changes may be made to the names and addresses noted herein through timely written notice to the other party.

19. Lessor shall be responsible for all maintenance and repair of the Leased Premises, including but not limited to heating, cooling, plumbing, and electrical needs. Building shall have adequate heating and air conditioning with venting to all areas as proven by a test and balance report submitted prior to acceptance of the Leased Premises and must be maintained in good working conditions all year. Lessor shall initiate any repairs essential to the health and safety of the occupants such as the alarm system, air conditioning, or heating within 72 hours of notice by the City.
20. Personal Property. The City may, without Lessor's consent, install temporary partitions, shelves, bins, equipment, trade fixtures and other personal property in the Leased Premises. These items shall remain the City's property and may be removed by the City prior to the expiration or earlier termination of this Lease. The City shall repair any damage to the Leased Premises caused by such removal.
21. If the Lessor defaults on any of the covenants contained herein, the City may cancel the lease, if, after thirty (30) days written notice, the Lessor has either not cured the default or commenced action to cure the default. Any default which the Lessor begins to cure within ten (10) days after notice thereof shall not be deemed cured unless the Lessor completely cures default within a reasonable time thereafter. Upon cancellation of this lease under the terms of this provision the City shall have no further obligation under the terms of the Lease.
22. Termination by Mutual Consent. The parties may terminate this Lease by mutual consent upon such terms as they may agree in writing.
23. The City may terminate this Lease for convenience at any time providing thirty (30) days written notice to the Lessor.
24. The awarding and performance of any payment by the City is dependent upon the availability of funding to the City. In the event that funds relating to this Lease do not become available, such as by City Council not appropriating the funds, the City shall have no obligation to pay the Lessor for the City's fiscal year during which time such funding is

not available or appropriated. Should the parties experience a funding unavailability, the parties may mutually determine if the Lease will be terminated or whether an amendment of the parties' obligations is possible. Termination or cancellation shall be as provided herein, and there shall be no penalty charges incurred by the terminating party for such termination or cancellation.

25. Force Majeure. Neither part to this Lease will be liable for failure to comply with any term of this Lease when such failure is caused by an event of war, fire, earthquake, flood, strike, any law, rule, regulation or act of governmental authority, or any other act, event, cause or occurrence rendering a party to this Lease unable to perform its obligations, which is not within its reasonable control. The party affected by such event will immediately notify the other party in writing.
26. Surrender of Premises. At the expiration of the term of this Lease, the City shall surrender the Leased Premises to Lessor in as good order, clean condition and repair as at the complete execution date of this Lease, reasonable wear and tear and damage by fire and extended coverage perils and other causes beyond the reasonable control of the City, excepted. The City shall have the right prior to said termination to remove any equipment, furniture, trade fixtures or other personal property placed in the Leased Premises by the City.
27. Right to Assurance. Whenever one party to this Lease in good faith has reason to question the other party's intent to perform, said party may demand that the other party give written assurance of its intent to perform. In the event that a demand is made and no assurance is given within thirty (30) calendar days, the demanding party may treat this failure as an anticipatory repudiation of the Lease.
28. Quiet Enjoyment. So long as the City pays the rent and performs the City's covenants, the City shall peacefully and quietly hold the Leased Premises throughout the term free from any hindrance or molestation by Lessor or any other person or entity whatsoever.
29. If any provision of this Lease is found by court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected.
30. Venue shall be in El Paso, El Paso County, Texas. The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Lease.
31. The covenants and conditions herein are the full and complete terms of this Lease and no alteration, amendments or modifications of said terms and conditions shall be binding unless first reduced to writing and signed by both parties.

IN WITNESS WHEREOF, Lessor and City have signed this Lease to be effective as of the day and year first above written.

LESSOR: RICARDO RIOS

By: _____

Name Printed: _____

Title: _____

CITY: THE CITY OF EL PASO

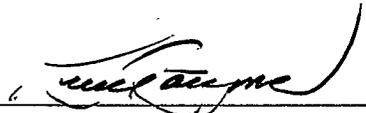
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:

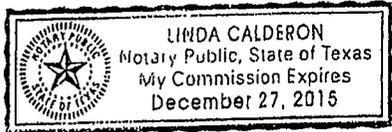


Bruce A. Parsons
Interim Director, Department of Public Health

APPROVED AS TO CONTENT:



Jane Tomchik
Real Estate Services, City Development



[Handwritten signature]

LESSOR: RICARDO RIOS

By: *Ricardo Rios*

Name Printed: Ricardo Rios

Title: owner

CITY: THE CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:

Bruce A. Parsons
Interim Director, Department of Public Health

APPROVED AS TO CONTENT:

Jane Tomchik
Real Estate Service, City Development