

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL CORRESPONDENCE SHEET
DEPARTMENT OF ASSET MANAGEMENT**

TO: Mayor and City Council

FROM: Rebecca Waldman, Director, Department of Asset Management

THROUGH: Terry M. Brechtel, City Manager

COPIES: Erik J. Walsh, Assistant to the City Manager; Mark H. Webb, Assistant Director, Department of Asset Management; File

SUBJECT: Sales Contract of 1.215 acres at Southwest Business & Technology Park

DATE: December 18, 2003

SUMMARY AND RECOMMENDATIONS

This Ordinance authorizes the execution of a sales contract with Abner Guajardo for the sale of 1.215 acres of City owned property at the Southwest Business & Technology Park (former Van de Walle property) at a price of \$43,621.39 per acre for a total purchase price of \$53,000.00 and authorizes payment of \$3,180.00 from the sales proceeds for the payment of real estate broker's fees and \$578.00 for the purchase of a title insurance policy.

Staff recommends approval.

BACKGROUND

In 1997, the City purchased 555.947 acres of property in Southwest San Antonio, known at that time as the Van de Walle Farm. In 1999, the Planning Commission and the City Council approved the parcelization plan for the property that recommended the lease or sale of the property. Since then, the City engaged the team of Providence Commercial Real Estate and the Weitzman Group to work as the City's real estate brokerage team. Working with the brokers, a comprehensive marketing plan, which included changing the name to the "Southwest Business and Technology Park" (SWBTP), was developed and implemented. A site map is attached and labeled Exhibit "A". The real estate brokers have been actively pursuing numerous potential tenants to locate at the SWBTP, including manufacturing, distribution, technology and other businesses.

Beginning in March 2003, Mr. Gujardo, the owner of Alamo Broom, began discussions with staff and the real estate brokers to acquire property from the City as a location for an office/distribution warehouse for his company. As such, Mr. Guajardo has negotiated with the City to purchase approximately 1.215 acres of property located off Acme Road (Exhibit "B") for the total price of \$53,000.00. Because the property is located within a designated Reinvestment Zone, the City can negotiate directly with a buyer to sell the property for at least fair market value.

The Planning Commission recommended the sale of this property at its regular meeting of November 26, 2003.

POLICY ANALYSIS

The sale of this property will facilitate the expansion plans of Mr. Guajardo, as well as the development of the SWBTP. This action is consistent with prior Planning Commission/City Council action that approved the parcelization plan for the area, as well as City Council direction to sell/lease property in the SWBTP. The advantages of the sale include placing the property back on the property tax rolls for the benefit of all taxing entities, including Edgewood Independent School District, as well as providing funds to assist in the future development of SWBTP.

FINANCIAL IMPACT

The purchase price of the 1.215 acres is \$43,621.39 per acre, which equals the appraised value as determined by an independent appraisal, for a total purchase price of \$53,000.00.

From the proceeds of the sale, the City will pay brokerage fees of \$3,180.00 to the broker Providence/Weitzman team, as provided in the City Council approved real estate broker agreement, and \$578.00 for the purchase of a title policy to First American Title Company. The remaining funds of approximately \$49,242.00 will be placed in a fund designated for use associated with the development of the Southwest Business and Technology Park.

Under the terms of the contract, Abner Guajardo has a 175-day period to perform an environmental review, as well as determine and secure, if necessary, the appropriate zoning designation for the intended use of the property.

SUPPLEMENTARY COMMENTS

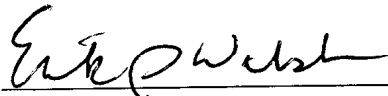
The required Ethics Ordinance Disclosure Statement is attached.

COORDINATION

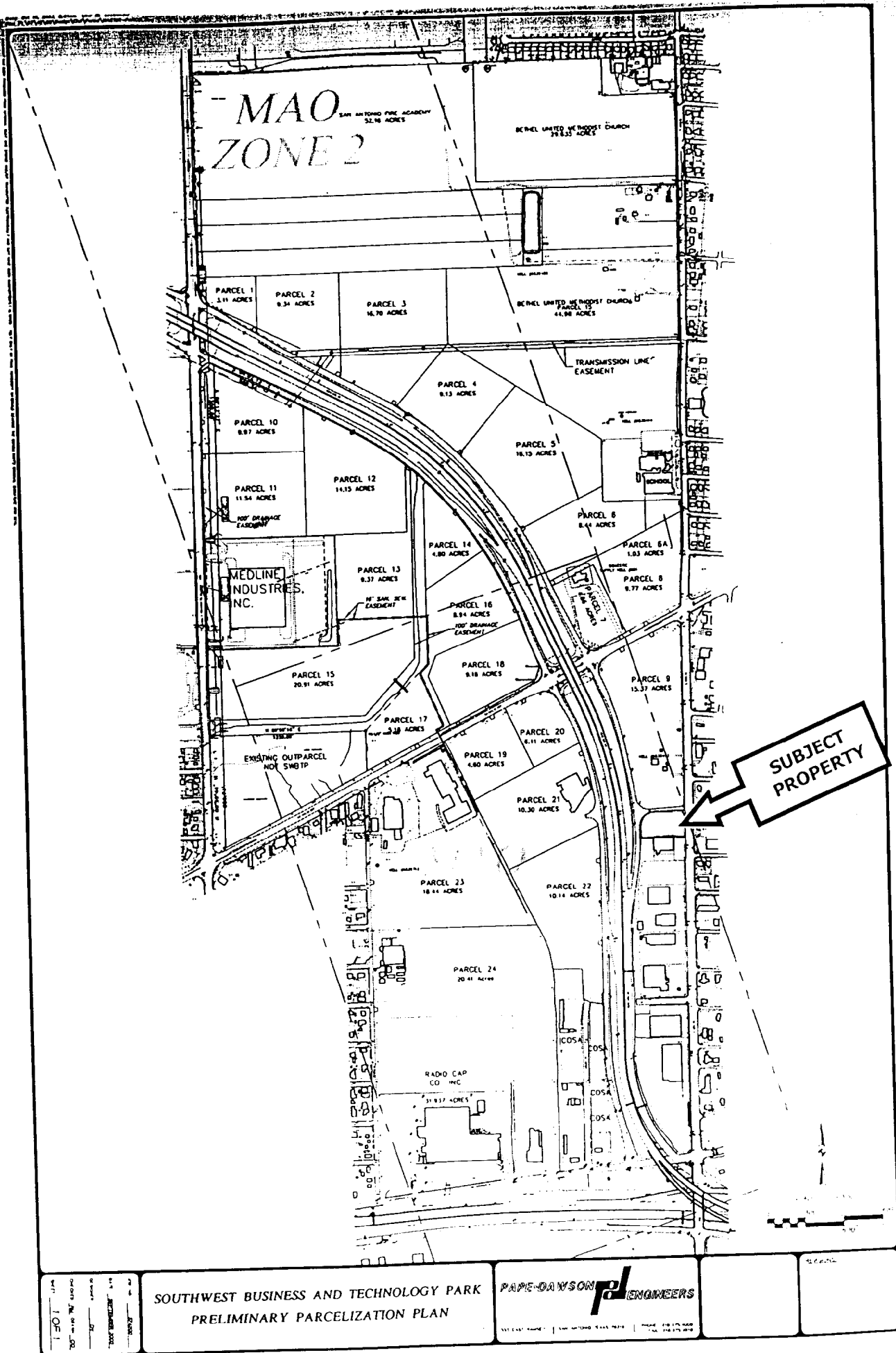
This item has been coordinated with the City Attorney's Office.



mw Rebecca Waldman, Director
Department of Asset Management



Erik J. Walsh
Assistant to the City Manager

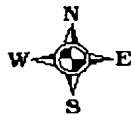


SOUTHWEST BUSINESS AND TECHNOLOGY PARK
PRELIMINARY PARCELIZATION PLAN

PAPE-DAWSON **PL** ENGINEERS

EXHIBIT "A"

STATE HWY. 151



WINTERGARDEN

WINTER GARDEN

AR 913G

36+ AC

1.215 ac.

16504

6
1.320 AC

3

5
1.420 AC

EXHIBIT "B"

S. ACME ROAD

ACMERD.

11.2	8	59
12.1 (A)	25	
32.7 (P)	25	
120	1	2
25	25	
50.06 (P)	25	
125	59	58
41.1	25	
39.8	25.0	
125.0	1	2
20.3	25.0	2
25.8	25	
120	1	2
20.1	25	3
42.10	25	
120	87	88
28.3	25	

STATE OF TEXAS)

COUNTY OF BEXAR)

**52,925 SQUARE FEET OF THE SOUTHWEST BUSINESS &
TECHNOLOGY PARK--SALES CONTRACT**

This Sales Contract ("Contract") is made and entered into by and between the City of San Antonio ("CITY"), a Texas Municipal Corporation, acting by and through its City Manager or her designee, pursuant to Ordinance No. _____ dated _____, 2003 and Abner Guajardo, Sole Proprietor ("BUYER"), with each a "PARTY" and collectively the "PARTIES".

WHEREAS, CITY currently owns a tract of land known as the "Southwest Business & Technology Park" located in the vicinity of U.S. Highway 90 West at its intersection with Herbert Lane in the corporate limits of the CITY, including a certain 52,925 square feet more or less ("Property"), as legally described hereafter, which BUYER desires to purchase; and

WHEREAS, CITY is authorized to convey this Property for fair market value pursuant to § 272.001 (b)(6) of the Texas Local Government Code, said Property being located in a reinvestment zone targeted for development under a Parcelization Plan adopted by City of San Antonio Resolution on April 4, 1999; and

WHEREAS, BUYER is willing to acquire the Property for fair market value;

NOW THEREFORE, in consideration of the covenants, conditions and provisions set forth herein, the PARTIES hereto agree as follows:

I. PURPOSE

1.01 The purpose of this Contract is to set forth the terms and conditions by which CITY will convey and BUYER will accept fee simple title to the Property.

II. SALE AND PURCHASE/CONSIDERATION/EARNEST MONEY

2.01 Pursuant to Texas Local Government Code Chapter 272, CITY, for the consideration described in Paragraph 2.02 of this Contract and subject to the terms and conditions hereof, hereby contracts to GRANT, SELL and CONVEY to BUYER by Deed Without Warranty and subject to the designated exceptions, fee simple title to the following described Property situated within the corporate limits of the City of San Antonio, Bexar County, Texas, to wit:

That certain tract of unimproved land containing 52,925 square feet of land, more or less, known as NCB 16504 Block 3 Lot E, IRR 320 feet of 7, San Antonio, Bexar County, Texas, to be more fully legally described by a metes and bounds description to be attached hereto and incorporated herein verbatim for all purposes as Exhibit "A", upon completion of a final survey and field notes, with a determination of the exact square footage subject to further site planning and said final survey, together with all easements, rights of way, licenses, leases, rights, titles, interests, and appurtenances thereto, hereinafter referred to as the "Property".

The conveyance shall be subject to any and all recorded and unrecorded easements and any and all restrictions of record as well as certain covenants and restrictions as set out in Paragraph 6.02 (1) of this Contract. CITY agrees to and shall place of record at or before the Closing Date any existing unrecorded easements within CITY's knowledge and control, if any.

2.02 BUYER agrees to pay and CITY agrees to accept the payment of not less than \$45,000.00 for the Property or \$0.85 per square foot, based on 52,925 square feet, subject to a determination of the appraised value by an appraisal of the Property, which will be obtained at CITY's sole cost and expense. In the event that the appraised value of the Property exceeds \$0.85 per square foot, based on 52,925 square feet, then BUYER, within ten (10) days after BUYER'S receipt of the appraisal from CITY, will provide written notice to CITY of BUYER's intention to either: (1) accept the appraised value, thereby agreeing to pay the higher purchase price, and continue with the transaction, or (2) terminate this

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Contract effective as of the date of CITY's receipt of such written notice from BUYER to CITY, whereupon the Earnest Money referenced herein will be returned to BUYER, with any accrued interest thereon, and both CITY and BUYER will be released from any and all obligations and liabilities under this Contract. The Parties agree that the appraised value will be the Property's fair market value ("FMV"), based on the number of square feet appraised, but is subject to adjustment for any difference in the number of square feet as subsequently determined by the most recent survey referenced in this Contract multiplied by the per square foot price herein. The FMV shall be paid by BUYER to CITY in one lump sum on the Closing Date. The purchase price shall be adjusted on the Closing Date based on the actual number of square feet in the Property conveyed as evidenced by the most recent survey as of the Closing Date.

2.03 Not later than two (2) business days after the "Effective Date" of this Contract, as defined below, BUYER agrees to deposit the sum of \$2,500.00 as earnest money with First American Title Company ("Escrow Agent/Title Company"), 1919 NW Loop 410, Suite 200, San Antonio, Texas 78213 Attention: Corina Cashion on or before two (2) business days from receipt of this Contract by Escrow Agent/Title Company. If BUYER fails to timely deposit the earnest money, CITY may terminate this Contract by providing written notice to BUYER before BUYER deposits the earnest money. The Escrow Agent/Title Company is instructed by the PARTIES to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to BUYER, with such earnest money and interest to be credited to the purchase price on the Closing Date. Such deposit shall hereafter be referred to as the "Earnest Money." The Earnest Money must be in the form of a cashier's check or money order made payable to First American Title Company. Disbursement of the Earnest Money by the Escrow Agent/Title Company, should the transaction fail to close, is discussed in detail in Paragraph 26.02.

III. INSPECTION/PLATTING PROCESS

3.01 In consideration of the sum of \$100.00 ("Inspection Fee") and other good and valuable consideration CITY hereby consents to allow the BUYER and/or its designated representative(s) to enter upon the Property to conduct inspections. BUYER shall notify CITY of its intent to inspect no less than twenty-four hours in advance.

3.02 At BUYER's expense, the BUYER may conduct tests and studies of the Property as provided in Article IV of this Contract. BUYER agrees that it will not damage or impair the Property in any way as a result of its activities thereon. In the event that damage or impairment of the Property does occur due to BUYER's activities, BUYER agrees to repair and/or restore the Property at its cost and expense.

3.03 The consideration stated in Paragraph 3.01 is tendered by BUYER and accepted by CITY as independent of and apart from the purchase price of the Property set out in Article II of this Contract and is non-refundable. This amount will NOT be credited to the purchase price. BUYER has tendered this amount directly to CITY.

3.04 CITY agrees to cooperate in allowing BUYER to commence the platting process for the Property during the inspection period set forth herein.

3.05 The inspection period will end no later than five (5) days before the Closing Date set forth in Section 6.01.

IV. CONTINGENCIES

4.01 **ENVIRONMENTAL CONTINGENCIES:** Within the parameters of Article III. of this Contract, CITY understands and agrees that the proposed acquisition of the Property by BUYER is contingent upon the results of certain tests and studies BUYER may perform or have performed, at its own discretion and at its own expense. BUYER or its designated representative(s) may perform a soil test and its own Phase I, Phase II, and/or Phase III Environmental Assessment, as necessary, in order to (1) determine the presence of any "Hazardous Materials" which, for the purposes of this Contract, shall include hazardous

substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Hazardous Materials Transportation Act; the Resources Conservation and Recovery Act; all as amended, as well as, State, and local laws, petroleum and petroleum products and any other hazardous or toxic materials, substances or wastes under any federal, state or local laws or regulations relating to protection of health, safety or the environment or (2) raise any other environmental or other concerns which would affect BUYER's decision to proceed with purchase of the Property. Under no circumstances, does this Contract create or place any duty of remediation on either PARTY.

4.02 BUYER may conduct any and all inspections of the Property and determine the results up to, but not including, the fifth (5th) calendar day prior to Closing Date. CITY agrees to provide BUYER entry to the Property for such inspections.

4.03 CITY agrees to provide BUYER copies of all tests, studies, and reports pertaining to the Property in its possession, if any, including any environmental tests, studies and reports prior to BUYER's entry onto the Property for purposes set out under this Article IV. To the extent possible, CITY agrees to clarify any issues or concerns identified in the Phase I Environmental report provided by CITY.

4.04 BUYER agrees to provide CITY legible copies of any and all tests, studies and reports on the Property prepared by the BUYER or at its direction or on its behalf.

4.05 If BUYER, in BUYER's sole discretion, is not satisfied with any aspect of the Property, including, but not limited to, the results of the inspection(s) performed, the Phase I environmental assessment and any previous environmental remediation work performed by CITY, if any, or the costs necessary for BUYER to perform its own Phase I, II and/or Phase III environmental assessment, as necessary, and remediation work, at BUYER's sole cost and expense, then BUYER may terminate this Contract by giving CITY written notice of its election to terminate (a "Termination Notice") on or before the last day of the Inspection Period; provided, however that such Termination Notice with respect to any termination based on dissatisfaction with the inspections conducted under Paragraph 4.02 hereof, may be given at any time up to, but not including, the fifth (5th) calendar day prior to the Closing Date. Upon receipt by CITY of a timely delivered Termination Notice, the entire Earnest Money will be refunded to BUYER. Subject to other express termination rights contained herein, failure on the part of BUYER to give CITY a timely Termination Notice within the required five (5) calendar day period shall constitute BUYER's acceptance of the Property for BUYER's intended use and by such non-action BUYER understands and agrees that BUYER waives any objections at the Closing Date as to the conditions of the Property and the contingencies set forth in this Article IV. In the event of termination under this paragraph, each PARTY shall be responsible for its own costs and expenditures incurred up to and including the date of termination except that the Inspection Fee set out in Paragraph 3.01 shall be retained by CITY. Under no circumstances, does this Contract create or place any duty of remediation on either PARTY.

4.06 **ADDITIONAL CONTINGENCIES:** The Property is currently zoned "I-1" with a "C-3R" buffer and "MAOZ-1" under the City of San Antonio Uniform Development Code, as amended, being Chapter 35 of the City of San Antonio City Code. If:

- (1) BUYER determines that such zoning or applicable rules or regulations thereunder prevent BUYER's intended use of the Property and CITY is unable to secure approval of the proper zoning designation from the Zoning Commission, or
- (2) BUYER determines that the Property is located within the 100 year flood plain as designated by the appropriate governmental authority, or
- (3) BUYER determines it will be unable to secure a building permit for construction on the Property in accordance with BUYER's intended use,

then BUYER may terminate this Contract by giving written notice of termination to CITY at least five (5) calendar days before the Closing Date, specifying to CITY the reasons for such termination under this Paragraph 4.06. Failure on the part of BUYER to give CITY the notice within the required five (5)

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calendar day period shall constitute BUYER's acceptance of the Property for BUYER's intended use and by such non-action BUYER waives any objections at the Closing Date as to the contingencies set forth in this Paragraph 4.06. In the event of termination under this paragraph, each PARTY shall be responsible for its own costs and expenditures incurred up to and including the date of termination except that the amount set out in Paragraph 3.01 shall be retained by CITY. CITY agrees to cooperate with and assist BUYER in submitting a request for re-zoning, if it is necessary that an application for re-zoning under the Uniform Development Code be submitted in the name of the owner of the Property and any anticipated re-zoning is initiated prior to the Closing Date.

4.07 If BUYER does not terminate as provided in Paragraphs 4.05 and 4.06 of this Contract, the BUYER accepts the Property in its present AS IS, WHERE IS AND WITH ALL FAULTS CONDITION", except as otherwise agreed to herein. CITY disclaims any warranty of suitability for BUYER's intended use, required zoning, issuance or availability of any building or other permits, licenses, orders, approvals, plans, authorizations, or acknowledgements whatsoever of CITY's consent or the approval or consent of any other necessary authority for BUYER to pursue development of the Property, or the existence of any other appurtenances required by BUYER, except for the representations of CITY as to utilities in Paragraph 7.02 and as otherwise represented in Article III. above.

V. TITLE POLICY AND SURVEY

5.01 CITY, at CITY's expense, will furnish BUYER an owner's Policy of Title Insurance (the "title policy") issued by First American Title Company, 1919 NW Loop 410, Suite 200, San Antonio, Texas 78213 Attention: Corina Cashion, designated above as "Escrow Agent/Title Company." The policy will be in the amount of the purchase price, dated at or after the Closing Date, insuring BUYER against loss under the title policy, subject only to (1) those title exceptions permitted by this Contract or as may be approved by BUYER in writing, (2) the standard printed exceptions contained in the promulgated form of title policy, and (3) present covenants, conditions, restrictions and easements, but no liens other than those created under the Contract, if any, (collectively the "Permitted Exceptions"), unless this Contract provides otherwise. The standard printed exception as to area boundaries may be deleted from the title policy at the expense of BUYER. Further, BUYER may object to any restrictive covenants on the Property within the time period required under Paragraph 5.03. Within ten (10) business days after the Effective Date of this Contract, CITY will furnish BUYER a commitment for title insurance (the "commitment") including copies of recorded documents evidencing title exceptions, if any shown on Schedule B and Schedule C of the title commitment. CITY authorizes the Escrow Agent/Title Company, to deliver the commitment and related documents to BUYER at BUYER's address.

5.02 Within thirty (30) calendar days after the Effective Date of this Contract, CITY, at BUYER's expense, and in cooperation with BUYER, shall cause to have done a Category 1A Land Title Survey of the Property to be purchased under this Contract and the Surveyor or the CITY shall deliver a true and correct copy of same to BUYER. The survey must be performed by a Registered Land Surveyor. The survey will verify if the Property is located in the FEMA 100-year flood plain.

5.03 Within fifteen (15) calendar days after BUYER receives all of the required documents described in Paragraphs 5.01 and 5.02, BUYER may object in writing to matters disclosed in the items if:

- (1) the matters disclosed constitute a defect or encumbrance to title other than those permitted by this Contract or liens that CITY will satisfy at the Closing Date or BUYER will assume at the Closing Date; or
- (2) the items show that any part of the Property lies in a 100-year flood plain.

5.04 CITY, may, but is not obligated to, cure BUYER's timely objections within twenty (20) calendar days after CITY receives the objections. The Closing Date will be extended as necessary to cure the objections. If CITY fails to cure by the time required, BUYER may terminate this Contract by providing five (5) calendar days written notice to CITY within five (5) calendar days after the time by which CITY must cure the objections. If BUYER terminates under this paragraph, the Earnest Money will be refunded to BUYER with accrued interest.

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5.05 BUYER's failure to timely object or terminate under this Article V. is a waiver of BUYER's right to object except that BUYER will not waive the requirements in Schedule C of the commitment pertaining to the satisfaction of all liens and authority requirements which CITY hereby agrees to cure so that they do not appear as exceptions to the owner's policy of title insurance issued at the Closing Date.

VI. CLOSING AND ESCROW

6.01 Subject to the contingencies set out under Article IV. of this Contract, the Closing Date of this transaction will be on or before the one hundredth eightieth (180th) calendar day following the Effective Date of this Contract as evidenced below, or within ten (10) calendar days after objections to title have been cured, whichever date is later (the "Closing Date"). The Closing Date may be extended by mutual consent of the PARTIES. If either PARTY fails to close by the Closing Date, the non-defaulting PARTY may exercise the remedies in Article IX.

6.02 On the Closing Date, the following documents shall be delivered or caused to be delivered to the appropriate PARTY:

- (1) Deed Without Warranty duly executed by CITY to BUYER subject to the exceptions and provisions of this Contract including, but not limited to, all covenants, restrictions and easements of record and those which are open and obvious on the Property;
- (2) tax statements or a certificate showing no delinquent taxes on the Property;
- (3) an assignment of any and all leases to or on the Property, if any;
- (4) to the extent assignable, an assignment to BUYER of any licenses, permits and other entitlements related to the Property;
- (5) evidence that the person executing this Contract is legally capable and authorized to bind their respective PARTY;
- (6) Copies of Documentation authorizing this transaction by the respective Governing Bodies of the PARTIES;
- (7) BUYER will pay the purchase price in good funds acceptable to the Escrow Agent/Title Company;
- (8) both PARTIES will execute and deliver any notices, statements, certificates, or other document required by this Contract or by law necessary to convey the Property and close the sale.

6.03 Except as provided in this Contract or by law, the PARTIES agree to pay on the Closing Date any and all outstanding costs, fees and other expenses incurred by said PARTY with respect to this transaction, if any.

6.04 On the Closing Date, the Earnest Money must first be applied toward the purchase price, less any cash down payment, then to BUYER's closing costs, and any excess will be refunded to BUYER.

6.05 The PARTIES agree to each pay one-half of any escrow fee charged by Escrow Agent/Title Company. CITY will pay the costs associated with delivering the Commitment, issuance of the Title Policy, and obtaining, preparation and filing of the Deed Without Warranty and tax statements or certificates. Each PARTY will pay its own respective attorney fees. Except as otherwise provided in this Contract, BUYER will pay for any other expense or costs to satisfactorily complete this transaction.

6.06 If this sale or BUYER's use of the Property after the Closing Date results in additional assessments of taxes for periods before the Closing Date, the assessments will be the obligation of BUYER. This paragraph survives the Closing Date.

VII. REPRESENTATIONS AND COVENANTS

7.01 The PARTIES represent that they each have the full right, power, and authority to execute and deliver this Contract and to consummate the purchase and sale transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other actions with respect to third parties.

7.02 Unless informed to the contrary within ten (10) calendar days of the Effective Date of this Contract, the CITY represents that:

- (1) all bills and other payments due with respect to the ownership, operation, and maintenance of the Property have been paid or will be paid prior to the Closing Date;
- (2) until the Closing Date, CITY will: (a) maintain and operate the Property in accordance with good and prudent business practices; (b) continue all insurance policies or contracts, if any, relative to the Property, in full force and effect, (c) not commit or permit to be committed any waste of the Property or introduce any environmental hazards thereto; and (d) not, without the prior written consent of BUYER, enter into any agreement or instrument relating to the Property or take any action that would encumber the Property before the Closing Date that would be outside the normal scope of maintaining and operating the Property or that cannot be terminated upon thirty (30) days notice without penalty;
- (3) to the best of CITY's knowledge, there are no actions, suits, claims, assessments, or proceedings pending or, threatened that could materially adversely affect the ownership, operation, or maintenance of the Property or CITY's ability to perform hereunder;
- (4) to the best of CITY's knowledge, there are no labor disputes, organizational campaigns, or union contracts existing or under negotiation with respect to the Property or the operation thereof;
- (5) to the best of CITY's knowledge, there are no adverse or other parties in possession of the Property and no person or entity has been granted any license, lease or other right relating to the use or possession of the Property or any part thereof;
- (6) to the best of CITY's knowledge, CITY does not have and is not aware of any understanding or agreement between CITY and any taxing or assessing authority respecting the imposition or deferment of any taxes or assessments respecting the Property in whole or in part except as provided by constitutional and/or statutory law.
- (7) to the best of CITY's knowledge, there are no contracts or other agreements for services, supplies or materials affecting the use, operation or management of the Property, EXCEPT for that certain Mowing and Cultivating Contract between CITY and Wesley Atkison, effective 2002, which said contract for the provision of services to Property covered under this Contract will be terminated by CITY prior to the Closing Date;
- (8) there are no other sales contracts outstanding for acquisition or lease of the Property or any part thereof;
- (9) CITY has not received from any governmental authority notice of any violation of any zoning, building, fire, environmental or health code or any other statute, ordinance, rule, regulation or order applicable to the Property, or any part thereof, that will not have been corrected prior to the Closing Date;
- (10) to the best of CITY's knowledge, no person or entity has generated, treated, stored, disposed of, released or transported Hazardous Materials at, on, from or beneath the Property, except as may have been disclosed to BUYER in any environmental report or assessment delivered by CITY to BUYER. As earlier noted, for purposes of this Contract, "Hazardous Materials" shall be defined as indicated in Paragraph 4.01 above. During CITY's ownership of the Property, there have been no governmental or regulatory actions concerning the Property regarding the cleanup, removal or remediation of Hazardous Materials;
- (11) all water, sewer, gas, electric and, to the best of CITY's knowledge, telephone facilities required for the normal operation are available to service the Property.

7.03 If this sale or BUYER's use of the Property after the Closing Date results in additional assessments of taxes for periods before the Closing Date, the assessments will be the obligation of BUYER. Each of the above representations is true and correct and shall survive the Closing Date.

VIII. POSSESSION

8.01 Provided that all the preconditions to closing set forth herein have been met CITY shall deliver and BUYER agrees to accept possession and control of the Property on the date of funding in its present "AS IS, WHERE IS AND WITH ALL FAULTS CONDITION", as detailed above in Paragraph 4.07,

except as otherwise agreed to herein and subject to CITY's disclaimers set forth in Paragraph 4.07 above.

IX. DEFAULT AND REMEDIES

9.01 If BUYER shall default in any of its obligations hereunder, subject to the cure provisions of Article XXV. hereof, CITY may terminate this Contract and receive the Earnest Money, including all accrued interest, as liquidated damages, thereby releasing the PARTIES from this Contract and this Contract shall be null and void, except obligations and rights which by their terms expressly survive termination of this Contract.

9.02 If CITY shall default in any of its obligations hereunder, subject to the cure provisions of Article XXV. hereof, BUYER may terminate this Contract and receive the Earnest Money, including all accrued interest, as liquidated damages, thereby releasing the PARTIES from this Contract and this Contract shall be null and void, except obligations and rights which by their terms expressly survive termination of this Contract.

X. NONWAIVER

10.01 Unless otherwise expressly provided herein, no waiver by the PARTIES of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such PARTY. No delay or omission in the exercise of any right or remedy accruing to BUYER or CITY upon any breach under this Contract shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by BUYER or CITY of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other breach, or of a subsequent breach of the same or any other term, covenant or condition herein contained. All rights, powers, options or remedies afforded to BUYER or CITY either hereunder or by law shall be cumulative and not alternative, and the exercise of one right, power, option or remedy shall not bar other rights, powers, options or remedies allowed herein or by law, unless expressly provided to the contrary herein.

XI. FURTHER ACTS, DEEDS AND ASSURANCE

11.01 In addition to the acts and deeds recited herein and contemplated to be performed under this Contract, the PARTIES shall further perform, execute and/or deliver or cause to be performed, executed and/or delivered at the Closing Date or after the Closing Date, any and all further acts, deeds and assurances as may reasonably be required to consummate the transaction contemplated hereunder.

XII. RULES OF CONSTRUCTION

12.01 The PARTIES acknowledge that they have each reviewed and have had their respective legal counsel review this Contract and both PARTIES hereby agree that the normal rule of construction which holds that any ambiguities are to be resolved against the drafting PARTY shall not be employed in the interpretation of this Contract or any Addenda or Exhibits hereto.

XIII. SEVERABILITY

13.01 In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein; it is also the intention of the PARTIES hereto that in lieu of each clause or, provision of this Contract that is invalid, illegal, or unenforceable, there be added as a part of the Contract a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XIV. NOTICE

14.01 For the purposes of this Contract, all written communication among the PARTIES to this Contract shall be deemed sufficient if either delivered by facsimile transmission to the numbers set forth below or mailed (by registered or certified mail, postage prepaid), hand-delivered, or delivered via overnight courier to the addresses set forth below and will be presumed delivered the same day if delivered by facsimile before 5:00 p.m. Central time, or the next business day if delivered thereafter; five (5) days after mailing if mailed; the next day if delivered via overnight courier, and immediately if hand delivered.

BUYER: Abner Guajardo
9007 Mansfield
San Antonio, TX 78251
(210) 682-5803/Fax (210) 682-2712

ATTORNEY:
Name: West & West Attorneys
Address: 2929 Mossrock, Suite 204
San Antonio, TX 78230
210) 340-2200/Fax (210) 340-2577

CITY: City Clerk
City of San Antonio (or Hand delivered
P.O. Box 839966 to 2nd Floor, City
San Antonio, Texas 78283-3966 Hall, Military Plaza,
(210) 207-____/Fax (____) ____-____ San Antonio, Texas)

with copies to the Director of the Department of Asset Management at the same mailing address, but physically located on the second floor of the Main Plaza Building, 114 W. Commerce, San Antonio, Texas 78205.

14.02 Any change to the address under Paragraph 14.01 must be made in writing and delivered to the other PARTY's last known address.

XV. CONDEMNATION

15.01 If before the Closing Date, condemnation proceedings are commenced against any part of the Property, BUYER may:

- (1) terminate this Contract by providing written notice to CITY within fifteen (15) days from BUYER's receipt of notice of the condemnation proceedings from CITY, in which event the Earnest Money, plus all accrued interest, will be refunded to BUYER; or
- (2) appear and defend in the condemnation proceedings and any reward will belong to BUYER and the purchase price will not be reduced.

15.02 CITY represents, that, to the best of its knowledge, as of the Effective Date of this Contract it is not aware of any pending or threatening condemnation proceedings.

XVI. CAPTIONS

16.01 The captions contained in this Contract are for convenience only and in no way limit or enlarge the terms or conditions of this Contract.

XVII. TIME OF THE ESSENCE

ah.

17.01 Time is of the essence in the performance of this Contract. The PARTIES require strict compliance with the times for performance.

XVIII. AMENDMENT

18.01 Except as otherwise provided in this Contract, no amendment, modification, deletion, release, termination or extension of, alteration, variance or change in, or supplement to, the provisions of this Contract shall be valid and effective or otherwise binding on the PARTIES hereto, unless, and until, such amendment, etc. shall have been reduced to writing, authorized by formal action by the PARTIES' respective governing bodies and executed by the PARTIES.

XIX. APPLICABLE LAW

19.01 This Contract has been negotiated, entered into and is performable in Bexar County, Texas, and shall be governed and interpreted according to the laws of the State of Texas.

19.02 The PARTIES agree that venue of any court action brought directly or indirectly by reason of this Contract should lie in the federal and state courts having jurisdiction over Bexar County, Texas.

XX. AUTHORITY

20.01 The undersigned signatories for BUYER and CITY each represent that they are empowered and fully authorized to sign this Contract on behalf of BUYER and CITY in accordance with the terms and conditions stated herein.

XXI. ASSIGNMENT

21.01 No PARTY hereto shall make, in whole or in part, any assignment of this Contract or any obligation hereunder without the prior written consent of the other PARTY. Notwithstanding the foregoing, BUYER may assign this Contract to any entity controlled by, controlling or under common control with BUYER without first obtaining CITY's consent but shall provide notice of the assignment to CITY and the Escrow Agent no less than ten (10) calendar days prior to the Closing Date, and further, upon any such assignment, BUYER agrees and understands that BUYER shall not be released from the obligations of this Contract.

XXII. GENDER

22.01 Words of gender used in this Contract shall be held and construed to include any other gender and words in the singular shall be held to include the plural, unless the context otherwise requires.

XXIII. BROKER FEES

23.01 All obligations of the PARTIES for payment of brokers fees are contained in separate written agreements between each PARTY and its respective broker. CITY represents that it has only utilized the services of Providence Commercial Real Estate/The Weitzman Group in this transaction and BUYER represents that it has only utilized the services of Prudential Alamo Realty as a broker. CITY agrees to pay the entire commission to Providence Commercial Real Estate/The Weitzman Group who shall then pay a portion thereof to Prudential Alamo Realty pursuant to a separate agreement.

XXIV. ENTIRE AGREEMENT

24.01 The PARTIES hereto expressly acknowledge and agree that, with regard to the subject matter of this contract and the transactions contemplated herein (1) there are no oral agreements between the PARTIES hereto; and (2) this contract, including exhibits and addenda (a) embodies the final and complete agreement between the PARTIES; (b) supersedes all prior and contemporaneous

negotiations, offers, proposals, agreements, commitments, promises, acts, conduct, courses of dealings, representations, statements, assurances and understandings, whether oral or written.

XXV. CURE

25.01 Notwithstanding anything to the contrary contained herein, if BUYER or CITY defaults in the performance of its respective obligations under this Contract, then the non-defaulting PARTY shall send a written notice to cure such default to the defaulting PARTY. If the defaulting PARTY fails to cure such default, within ten (10) days after the date such notice is received, then the non-defaulting PARTY shall have the remedies set forth in Article IX.

XXVI. ESCROW AGENT/TITLE COMPANY

26.01 By its signature below, Escrow Agent/Title Company agrees to act as escrow agent for the transactions set forth herein, pursuant to the terms hereof. Escrow Agent/Title Company is hereby expressly authorized to regard and to comply with and obey any and all orders, judgments or decrees entered or issued by any court with or without jurisdiction, and in case the said Escrow Agent/Title Company obeys or complies with any such order, judgment or decree of any court it shall not be liable to any of the PARTIES or any other person, firm or corporation by reason of such compliance, notwithstanding any such order, judgment or decree being entered without jurisdiction or being subsequently reversed, modified, annulled, set aside or vacated.

26.02 If this transaction fails to close and one PARTY makes written demand for the Earnest Money, Escrow Agent/Title Company will give notice of the demand by providing the other PARTY a copy of the demand. If Escrow Agent/Title Company does not receive written objection to the demand from the other PARTY within fifteen (15) calendar days after the date Escrow Agent sent the demand to the other PARTY, Escrow Agent/Title Company may disburse the Earnest Money and all accrued interest to the PARTY making the demand. Escrow Agent/Title Company may require payment of unpaid expenses incurred on behalf of the PARTIES and a written release of liability of Escrow Agent/Title Company from all PARTIES.

XXVII. EFFECTIVE DATE

27.01 The Effective Date of this Contract for the purpose of performance of all obligations shall be _____, 2003.

EXECUTED IN TRIPLICATE, EACH OF WHICH SHALL HAVE THE FULL FORCE AND EFFECT OF AN ORIGINAL.

CITY:
CITY OF SAN ANTONIO, a Texas
Municipal corporation
BY: _____
City Manager

BUYER:
ABNER GUAJARDO
Sole Proprietor
BY: _____
PRINTED NAME: Abner Guajardo

ATTEST:
BY: _____
City Clerk

APPROVED AS TO FORM:

City Attorney
ATTACHMENTS:
EXHIBIT "A" Description of land

BROKER INFORMATION AND RATIFICATION OF FEE

CITY agrees to pay its Broker, Providence Commercial Services/ The Weitzman Group, Joint Venture the sum of six (6%) per cent of the Purchase Price and, by this separate agreement, Providence Commercial Services The Weitzman Group, Joint Venture agrees to pay to Prudential Alamo Realty the sum of three (3%) per cent of the Purchase Price.

Upon receipt the undersigned Broker agrees to the sum set forth herein as full and final payment for services rendered to CITY in connection with the sale of approximately a 52,925 square feet of land known as NCB 16504 Block 3 Lot E, IRR 320 feet of 7 located in San Antonio, Bexar County, Texas, as such square footage is described in Exhibit "A" to the foregoing Contract.

Providence Commercial Real Estate Services, Inc/
The Weitzman Group, Joint Venture
BY: Providence Commercial Real Estate
Services, Inc., Managing Joint Venturer
100 NE Loop 410, Suite 950
San Antonio, Texas 78216
Phone (210) 366-4444
Fax (210) 366-4515

Steve Garza, Principal

ESCROW AGENT/TITLE COMPANY AGREEMENT RECEIPT

The Escrow Agent by its execution hereof, acknowledges and agrees to the provisions of Article XXVI. of this Contract.

First American Title Company

By: _____

Printed Name: _____

Title: _____

Escrow Agent/Title Company acknowledges receipt of the Contract and the Deposit of Earnest Money in the amount of \$2,500.00 in the form of _____ on this ____ day of _____, 2003.

Escrow Agent/Title Company:
First American Title Company
Address : 1919 NW Loop 410, Suite 200
San Antonio, TX 78213
Attention: Corina Cashion

By: _____

Printed Name: _____

Title: _____

Phone: (210) ____ - ____ /Fax: (210) ____ - ____

06/26/03

11:09

210 366 4515

PROVIDENCE COMM.

002

15.37 ACRES

PARCEL 1
19.86 ACRES

PARCEL 2
14.96 ACRES

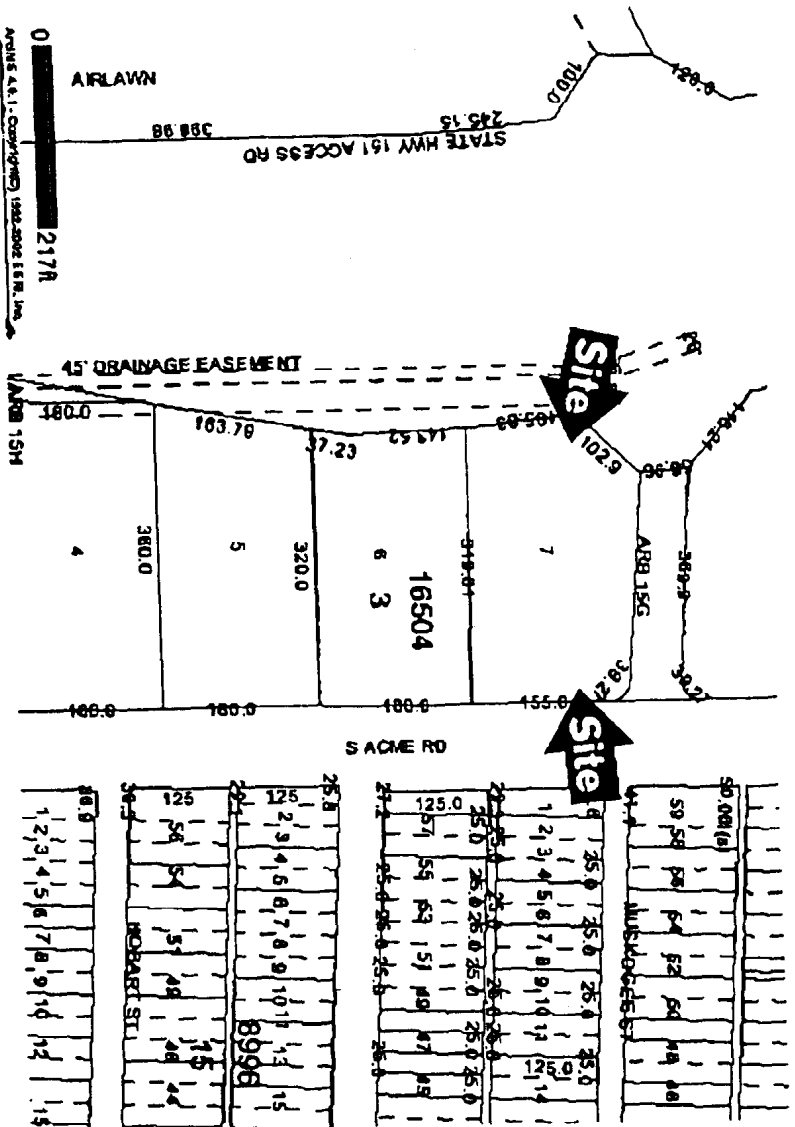
S.H. 161

Site

AO ZONE

4
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CITY OF
SAN ANTONIO



City of San Antonio
Discretionary Contracts Disclosure*

*For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2
Attach additional sheets if space provided is not sufficient.
State "Not Applicable" for questions that do not apply.*

** This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.*

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and the Code of Ethics, an individual or business entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any individual who would be a party to the discretionary contract:

Abner Guajardo

(2) the identity of any business entity¹ that would be a party to the discretionary contract:

Alamo Broom Company, Inc.

and the name of:

(A) any individual or business entity that would be a **subcontractor** on the discretionary contract;

Master Works

and the name of:

(B) any individual or business entity that is known to be a **partner**, or a **parent** or **subsidiary** business entity, of any individual or business entity who would be a party to the discretionary contract;

N/A

¹ A business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

- (3) the identity of any *lobbyist* or *public relations firm* employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

N/A

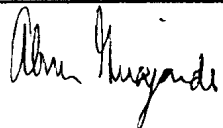
Political Contributions

Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any *current* or *former member* of City Council, any *candidate* for City Council, or to any *political action committee* that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

To Whom Made:	Amount:	Date of Contribution:
N/A		

Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, reasonably understood, raise a question² as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

N/A		
Signature: 	Title: President Company: Alamo Broom Co., Inc.	Date: July 17, 2003

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.