

39

AGENDA ITEM NO. 7

CITY OF SAN ANTONIO
OFFICE OF THE CITY COUNCIL
INTERDEPARTMENTAL CORRESPONDENCE

TO: Mayor and Council Members

FROM: Councilman Richard Perez, District 4

COPIES TO: J. Rolando Bono, Interim City Manager; Leticia Vacek, City Clerk; Andrew Martin, City Attorney; Gayle McDaniel, Assistant to City Council; Peter Zaroni, Director of Management & Budget; Milo Nitschke, Director of Finance

SUBJECT: REQUEST FOR COUNCIL CONSIDERATION - LEASE AGREEMENT

DATE: April 13, 2005

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Your concurrence is hereby requested to place an item on the April 21, 2005 Council agenda for Council consideration.

This item will request an ordinance to authorize the execution of a Lease Agreement with SW Diagnostic Building, Inc. for 1,000 square feet of leased space located at 102 Palo Alto Rd., Suite 460, for the District 4 Constituent Office. The terms of the lease allow for a rental rate of \$1,000 per month with a commencement period of May 1, 2005 through April 30, 2007 and authorizes one two-year renewal period, subject to City Council approval and contingent upon appropriation of funds.

Staff members have reviewed this request and concurred with this action. Your favorable consideration of this matter is requested.


Richard Perez
Council Member District 4

*I appreciate
all of your
support*


Ed Garza
Mayor

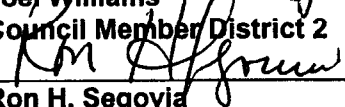

Enrique Barrera
Council Member District 6


Roger O. Flores
Council Member District 1

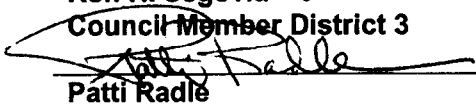

Julian Castro
Council Member District 7


Joe Williams
Council Member District 2


Carroll Schubert
Council Member District 9


Ron H. Segovia
Council Member District 3


Art. A. Hall
Council Member District 8


Patti Radle
Council Member District 5


Chip Haass
Council Member District 10

Lease Agreement
(Council District No. 4 Constituent Office)

This Lease Agreement ("Lease") is entered into by and between Landlord (identified below) and the City of San Antonio, a Texas municipal corporation, acting by and through its City Manager or designee ("Tenant"), pursuant to the Authorizing Ordinance.

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1. Information

Landlord: SW Diagnostic Building, Inc.

Landlord's Address: 88 Briggs Avenue, Suite 260, San Antonio, Texas
78224

Authorizing Ordinance
(Number and Date):

Premises: 1,000 usable square feet located at 102 Palo Alto Road,
Suite 460, San Antonio, Texas 78221, as more
particularly described on **Exhibit A**, incorporated by
reference for all purposes as if it were fully set forth.

City Council District: 4

Initial Term: Two years, beginning May 1, 2005 and ending April 30, 2007

Renewal Term: One two year renewal at the option of Tenant, subject to mutual agreement on rent

Rent: \$1,000 per month

Address for Payment: 88 Briggs Avenue, Suite 260, San Antonio, Texas 78224-8001

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2. Premises/Use/Parking

2.1 Description Of Premises. The Premises are as identified above and are to be used for a City of San Antonio City Council member constituent office for the district indicated above. Use of the Premises for personal business or political campaigning is prohibited. The building in which the Premises are located is referred to in this lease as the "Building."

2.2 Parking. Parking at the Premises is unassigned. Tenant has the non-exclusive right to use the parking areas for the Building. If tenants are assigned spaces in the lot, Tenant will have no fewer than three spaces allocated to its space.

3. Granting Clause

3.1 Grant. Landlord leases to Tenant, and Tenant takes from Landlord, the Premises, to have and to hold the Premises for the Term(s) of this agreement, unless sooner terminated as herein provided, to be continuously used and occupied by Tenant, only for permitted use(s).

3.2 Acceptance Of Premises. Tenant has inspected the Premises, through its District Council Member and members of his staff, and accepts the Premises in an "as-is" condition.

3.3 Additional Contingencies For Occupancy. Landlord must comply with the San Antonio City Charter, City Code, City and County ordinances, federal and state laws (collectively "Code") and confirms that the Premises, following completion of the improvements and the Building will be, and will continue to be during any occupancy governed in whole or in part by this instrument (1) in good and satisfactory condition, (2) suitable for Tenant's intended purpose and (3) in compliance with the Americans with Disabilities Act and all applicable regulations thereunder, including a restroom located within the Premises. Further, occupancy by Tenant is also subject to, and contingent upon, the following, unless otherwise satisfied by Landlord, as indicated herein:

(1) **Asbestos Survey.** Landlord has provided to Tenant an Asbestos Survey of the Premises and the Building in which the Premises is located, in accordance with the provisions of City of San Antonio Ordinance No. 89710 passed and approved May 6, 1999.

(2) **Mold: Procedure if Presence of Mold Suspected.** If Tenant delivers notice to Landlord of the possible presence of mold in the Premises, Landlord must inspect within three business days from receipt of the notice. Landlord must report the findings to Tenant within three business days from the date of the inspection. If mold is present, Landlord may, at its election, remediate the Premises. If Landlord does not remediate, then Tenant may elect to terminate this Lease with three (3) calendar days' written notice. Landlord will notify Tenant of Landlord's election to remediate or not at the same time as Landlord reports its findings to Tenant.

4. Initial Term/Renewal Option

4.1 The Initial Term is as indicated above.

4.2 This lease is contingent on (i) the City Council of the City of San Antonio adopting an ordinance authorizing this lease and (ii) Tenant's occupancy not being sooner terminated according to this agreement.

4.3 **Public Information Act.** As a local government, Tenant is subject to the Texas Public Information Act, thus making this Lease subject to that act.

4.4 **Officeholder Reelection.** This Lease is granted for the use of the officeholder of City Council District indicated above to serve as a constituent office. If officeholder does not continue in office, officeholder's successor in office may but need not step into officeholder's shoes in occupying the Premises for any Term of this Lease. The successor officeholder's occupancy will be on the same terms and conditions as the previous officeholder, and the successor officeholder will be presumed to continue this Lease unless Tenant gives written notice of termination. If the boundaries of the District are modified for any reason such that the Premises are no longer included within its boundaries, then this Lease will terminate on 30 days' prior written notice by Tenant to Landlord. Both Tenant and Landlord will thereupon be relieved of any further obligations hereunder, except for sums owing or liabilities incurred for the period before termination.

4.5 **Renewal Option:** Tenant may, at its option, renew and extend this lease for the Renewal Term by delivering written notice of intent to do so to Landlord, but Landlord and Tenant must reach a mutual agreement on rent for the Renewal Term to occur. Subject to the agreement on rent, the Renewal Term will be governed by this lease. The Renewal Term must be approved by the passage of a future ordinance by the San Antonio City Council."

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4.6 Termination Without Cause. Tenant may terminate this Lease for any reason during any term by giving 30 days advance written notice to Landlord. If Tenant terminates, except for matters pertaining to the period before termination, Tenant will not be liable to Landlord for any matters arising out of or relating to this lease or the Premises after the date of termination.

4.7 Showing Premises Before Termination. Upon advance notice to Tenant, Landlord will have the right to show the Leased Premises to other prospective tenants during the 30-day period.

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5. Parties' Respective Obligations

5.1 Taxes, etc. Landlord must pay, before delinquency, all state, city, and county taxes against the real property on which the Building, including the Premises, is located and all assessments and other fees arising out of the Premises' improvements.

5.2 Utilities. Landlord represents that all electric and water connections are available to the Premises. Landlord must, at Landlord's sole cost and expense, pay all monthly charges for utility services, as necessary, including but not limited to, electric, water, and sewer. Tenant must pay for any telephone, cable, satellite or other television services, and connections for security service, if used by Tenant.

5.3 Repair and Maintenance. During Tenant's occupancy of the Premises, at its sole cost and expense, Landlord must repair and maintain, in a commercially reasonable condition for its intended office space purposes, the entire exterior and interior of the Premises, including, but not limited to the exterior roof, foundation, load bearing walls, and other structural members/elements of the Premises and of the Building in which the Premises are located, as well as the exterior and interior (i) plumbing system and fixtures, (ii) electrical systems and fixtures, (iii) ceiling and walls, (iv) windows and doors, (v) HVAC, (vi) the parking lot, (vii) landscaping and (viii) Common Areas of the Premises and of the Building if any, and all other portions of the exterior and interior of the Premises, not otherwise detailed herein to include (ix) a trash receptacle for use by Tenant. Tenant must notify Landlord of needed repairs, and Landlord has a reasonable time to make the repairs.

5.4 Janitorial Service. Landlord is not responsible for providing janitorial service for the Premises. Tenant may provide its own janitorial services.

5.5 Landlord's Disclaimer. Landlord is not liable to Tenant or those claiming through Tenant for injury, loss, or damage or any kind arising from acts of another tenant or third party. Landlord does not provide security services.

6. Rent/Security Deposit

6.1 Rent. Rent is due on the first of each month during any occupancy hereunder.

6.2 Security Deposit. Tenant will not pay a security deposit.

6.3 Place of Payment. Tenant will mail all payments to the Address for Payment.

6.4 Grace Period. Tenant has a grace period of 10 days past the due date of any payment of rent or other sum due hereunder before Tenant is in default.

6.5 Payment Subject To Annual Appropriation. Tenant expects to pay all obligations of this Lease from projected revenue sources, but all obligations of Tenant are subject to annual appropriation by the City Council. If Tenant is unable to pay sums due hereunder because City Council fails to appropriate money to pay such sums, Landlord's sole remedy is to terminate this Lease. After termination under this paragraph, Landlord may seek to collect sums due relating to the period before termination, but Tenant waives no sovereign immunity or other defenses to which it may be entitled.

6.6 Prohibition Of Unfunded Debt. The Texas Constitution (Article II, Section 5) prohibits unfunded debts of local governments. The prohibition includes contractual indemnity clauses, thus making any indemnity by Tenant void *ab initio*.

7. Landlord's Improvements.

Before Tenant occupies the Premises, Landlord must finish out the Premises, including installing, taping, and floating sheetrock, painting walls, and installing lighting fixtures, the HVAC system, and carpet and other flooring.

8. Landlord's Access to Premises

If a representative of Tenant is present and accompanies Landlord or its representative, Landlord may, upon reasonable notice, enter on the Premises during Tenant's business hours for the purposes of abating nuisances, protecting or inspecting the Premises, or making repairs, additions, or alterations thereto or to the Building. Under the same conditions, Landlord or his representative may further enter the Premises for the purpose of exhibiting them to prospective purchasers or, within 30 days before expiration of a term of this Lease, to prospective tenants. Further, Landlord may, without Tenant's consent, enter the Premises for emergency purposes, such as, but not limited to, curing of plumbing or electrical problems.

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9. Transfer of Landlord's Interest

Landlord may (1) mortgage or (2) sell or otherwise transfer, in whole or in part its interest in the real property and Building, including the Premises, located thereon (collectively as "Property") with the following conditions:

a. Transfer of Landlord's Interest. Landlord must notify Tenant of any transfer of the Premises, the name and address of the transferee, and the date, if any, that Tenant is to start tendering payments to the transferee.

b. Attornment. Tenant will attorn to the mortgage holder or transferee in exchange for the mortgage holder's or transferee's written recognition of Tenant's right to remain in peaceful possession of the Premises under the Lease, subject to Tenant not being in default under the Lease. Further, Landlord will use its best efforts to secure a subordination, non-disturbance and attornment agreement from the present mortgage holder protecting Tenant from Landlord's default thereunder.

c. Estoppel Certificate. Tenant will furnish from time to time, within 30 days after receipt of a written request from Landlord or Landlord's mortgagee, a statement certifying, if applicable and to the extent true, the following: (i) Tenant is in possession of the Premises; (ii) the Premises are acceptable; (iii) the Lease is in full force and effect, (iv) the Lease is unmodified; (v) Tenant claims no present charge, lien, or claim of offset against rent; (vi) the rent is paid for the current month but is not prepaid for more than one month and will not be prepaid for more than one month in advance; (vii) Landlord is not in default under the Lease; and (viii) such other matters as may be reasonably required by Landlord or Landlord's mortgagee. Such statements may be executed by the City Manager or the manager's designee without City Council approval.

10. Assignment or Sublease

Except for successor officeholders, Tenant will not assign or sublease the Premises, or any part thereof, without first obtaining Landlord's prior written consent. Landlord's consent must not be unreasonably withheld.

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11. Alterations and Additions/Signage

11.1 Alterations And Additions. Tenant will not permit, make, or allow to be made, any alterations or physical additions in or to the Premises without the prior written consent of Landlord, which consent must not be unreasonably withheld. Tenant may, at its own cost and expense, install an alarm/security system within the Premises, without Landlord's prior written consent, including the right for the installer of such system to enter into the Premises on or before the Commencement Date for the purpose of such installation, if so desired by Tenant. Tenant may, within 15 days after the Termination Date, or the end of any holdover period, remove from the Premises all of its furniture, fixtures, equipment, trade fixtures, furnishings, and other personal property, including any partitions, alarm/security systems, or other items not the property of Landlord. If Tenant damages the Premises in removing such items, Tenant will restore the Premises to its condition prior to such removal, save and except for normal wear and tear, and subject to appropriation of funds by the San Antonio City Council for such restoration. Tenant may place pictures and decorations on the interior walls and doors without Landlord's prior written consent.

11.2 Signage. Tenant may place a sign or signs on the Premises at a location or locations mutually agreed to by the parties.

12. Quiet Enjoyment

Landlord hereby covenants that Tenant, upon paying rent as herein reserved, and performing all covenants and agreements herein contained on Tenant's part, will and may peacefully and quietly have, hold, and enjoy the Premises.

13 Destruction Of Premises

13.1 Destruction Of Less Than 20% Of Premises. If less than 20% of the Premises is destroyed or otherwise made untenable in whole or in part by fire, other casualty, or for any other reason during any occupancy under this Lease, Landlord will (1) commence the repair of the Premises to the condition it was in prior to such damage or destruction within 30 days after the partial destruction, and (2) diligently pursue the repair work in the order of priority designated by Tenant, and (3) complete such repairs within 90 days after the date of destruction. Rent for the Premises will be reduced proportionately or fully abated to the extent to which the repair operations interfere with the normal conduct of Tenant's business on the Premises. If the repairs cannot be so made within 90 days after the date of such partial destruction, Tenant may terminate this Lease on 10 days' prior written notice to Landlord.

13.2 Destruction Of 20% Or More Of Premises. If 20% or more of the Premises is destroyed or otherwise made untenantable in whole or in part by fire, other casualty, or for any other reason during any occupancy under this Lease, then either Landlord or Tenant may terminate this Lease in its entirety, with 30 days prior written notice to the other party. Rent will cease to be due as of the date the Premises is partially destroyed or otherwise made untenantable in whole or in part by fire, other casualty, or any other reason.

13.3 Landlord's Obligation To Restore Premises. If neither party terminates, then Landlord must provide written notice ("Restoration Notice") to Tenant within 45 days of such event of casualty stating a good faith estimate, certified by an independent architect or bonded general contractor, of the period of time (the "Stated Restoration Period") required for the repair and restoration of the Premises. Tenant will thereafter have the right, at its election, to terminate the Lease if either (i) the Stated Restoration Period is greater than 120 days following the event of casualty or (ii) Landlord fails to substantially complete the repair and restoration of the Premises within the Stated Restoration Period (subject to delays due to Acts of God, strikes, labor disputes, or shortages of materials or other causes which are agreed to by Tenant). Rent will abate (pro rata to the space lost) as of the date the Premises is partially destroyed or otherwise made untenantable in whole or in part by fire, other casualty, or for any other reason. Termination by Tenant may be by written notice thereof to Landlord within 10 days after expiration of the Stated Restoration Period if the repairs have not been substantially completed.

14. Insurance

14.1 Landlord's Insurance Coverage. Landlord must maintain Commercial General Liability insurance of not less than \$2,000,000 combined single limits for bodily injury and property damage; and property and casualty insurance for physical damage in an amount not less than 80% of the actual cash value of the Premises.

14.2 Tenant's Insurance Coverage. Tenant will provide such self-insurance as it deems advisable to insure against loss of any of its property in the Premises.

15. Indemnification

15.1 Landlord must indemnify Tenant and its elected officials, employees, agents, officers, and volunteers and hold them harmless of and from any and all loss, cost, liability, or expense arising from or relating to Landlord's acts or omissions related to this Lease. The provisions of this indemnification are solely for the benefit of the parties hereto and do not create or grant any rights, contractual or otherwise, to any other person or entity. Landlord must

promptly advise Tenant in writing of any claim or demand against Tenant or Landlord known to Landlord subject to this indemnity and must investigate and defend against all subject claims at Landlord's cost. Notwithstanding any condition imposed by a policy of insurance, Tenant retains the right, at its option and at its own expense, to participate in any such defense provided by any insurance or self-insurance of Landlord under this article without relieving Landlord of any of its obligations under this article.

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15.2 Landlord and Tenant both acknowledge and understand that Tenant is a political subdivision of the State of Texas and that Tenant is subject to and shall comply with the applicable provisions of the Texas Tort Claims Act.

16. Effect of Eminent Domain Proceedings

Condemnation of all or part of the Premises or of the Building entitles Tenant to terminate this Lease in its entirety, with 30 days' written notice to Landlord. If less than 50% of the Premises is condemned and Tenant elects to continue in possession, following 30 days written notice to Landlord, Tenant's monthly rental for the remainder of the then effective Term will in such case be reduced in proportion to the percentage that the Premises taken bears to the total rentable square footage of the original Premises. If 50% or more of the Premises is condemned or otherwise made untenable, either Landlord or Tenant may terminate this Lease in its entirety, and Tenant and Landlord will each be entitled to compensation for any loss arising from such condemnation. Landlord and Tenant may pursue their rights to such compensation separately. Rental payments will be abated proportionately for any period of time in which Tenant is unable to occupy any portion of the Premises, based on the number of useable square feet therein.

17. Default and Remedy: Tenant's Default

17.1 Tenant's Events of Default; Right To Cure. If Tenant neglects or fails to perform or observe any of the terms, provisions, conditions or covenants herein contained, other than the payment of Rent, and such failure continues for a period of 30 days after written notice specifying the nature of the default with particularity and how the same may be cured, it is an Event of Default under this lease. If Tenant fails to pay rent timely, and such failure continues for a period of 10 days after the due date, it is an Event of Default under this lease.

17.2 Landlord's Remedy. Upon failure of Tenant to timely cure an Event of Default, Landlord may terminate this Lease on 10 days' prior written notice to

Tenant. Landlord's remedy is limited to termination of this Lease and Tenant's liability for the payment of rent is limited to rent due as of the date of termination, without acceleration of rent for the balance of the Lease. Landlord is conclusively presumed to be able to mitigate all rent damages by reletting the Premises.

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18. Default and Remedy: Landlord's Default

18.1 Landlord's Events Of Default; Right To Cure. It is an Event of Default if Landlord neglects or fails to perform or observe any of the terms, provisions, conditions, or covenants herein contained and if such failure continues for 30 days after written notice, which notice will specify the exact nature of the default with particularity and how the same may be cured. It is a defense for Landlord if Landlord has commenced a cure within 30 days and pursued it diligently, but the cure is reasonably taking longer to effect. The defense lapses if the cure takes longer than 60 days from commencement. Further, the occurrence of any of the following events is an Event of Default:

- a. Appointment of a receiver to take possession of Landlord's assets,
- b. Landlord's general assignment of assets for the benefit of creditors,
- c. Landlord's insolvency, and
- d. Landlord's taking or suffering action under the Bankruptcy Act, which action constitutes a breach of this Lease.

18.2 Tenant's Remedy. Upon the occurrence of an Event of Default, as stated above, Tenant will have the right to immediately terminate this Lease by providing five days' prior written notice to Landlord. Tenant's remedy will be limited to termination of this Lease, and Landlord's liability for the payment of any amounts due to Tenant will be limited to amounts due as of the date of termination.

19. Miscellaneous

19.01 Holdover. Except as otherwise provided in this Lease, if Tenant holds over without Landlord's prior written notice to vacate, the tenancy will be from month to month only, at a rental equal to the rent paid for the last month of the immediately expired term. Occupancy by Tenant during a holdover period is "occupancy under this lease" for the purposes of lease provisions referring to "occupancy under this lease." Landlord does not consent to holding over by the inclusion of this provision in the lease.

19.02 Representation Of Authority. The signer of this Lease for Landlord represents and warrants that he or she has full legal authority to execute this Lease on

behalf of Landlord and to bind Landlord to all of terms, conditions, provisions, and obligations herein contained.

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19.03. Release From Liability/Notice of Sale. If Landlord sells or otherwise conveys to an unaffiliated transferee all of its interest in the Premises, Landlord has no liability arising out of or related to the period after the transfer, if the transferee assumes all of Landlord's responsibilities hereunder. Landlord will notify Tenant in writing upon the closing of such sale and will secure the agreement of the purchaser to simultaneously notify Tenant of the name of the purchaser and place for future payment of rent.

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19.04. Foreclosure. If the Premises are foreclosed Tenant must attorn to the purchaser and recognize such sale and such purchaser as Landlord under this Lease, if the purchaser recognizes Tenant's rights under this Lease and will agree not to disturb Tenant's possession of the Premises so long as Tenant is not in default hereunder.

19.05. Waiver of Lien. Landlord waives all common law and statutory liens against the property of Tenant.

19.06. Yielding Up. Tenant will, upon expiration or termination, yield up the Premises peacefully to Landlord, in good order and condition, except for damage by fire or casualty not caused by Tenant, unavoidable accident of a third party, acts of God, taking by eminent domain, acts of public authority, and reasonable use and wear.

19.07. Authority To Execute. The parties executing this Lease on behalf of Landlord warrant that each of them has full authority to execute this Lease on behalf of the entity for whom he or she is acting herein.

19.08. Applicable Law. This Agreement is entered into in San Antonio, Bexar County, State of Texas. **The Construction Of This Agreement And The Rights, Remedies, And Obligations Arising Thereunder Shall Be Governed By The Laws Of The State Of Texas.** Provided, however, the Texas conflicts of law rules shall not be used to cause the application of the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

19.09. Severability. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

19.10. Successors. This Agreement inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

19.11. Integration. This Written Agreement Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior,

Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.

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| **19.12. Modification.** This Agreement may not be changed orally but only by a written agreement, signed by both parties. 05/02/15 AM 9:38

| **19.13. Third Party Beneficiaries.** This Agreement is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries hereof.

19.14. Notices. Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested. Notices to Landlord must be sent to the address specified at the beginning of this agreement, with a copy to Suren Kamath, P.O. Box 100462, San Antonio, Texas 78201. Notice to Tenant must be sent to the address set forth below. If the addressee is a corporation, notices must be addressed to the attention of its President. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to conform to the requirement that mailings be done by certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

Tenant Address for Notice:

City Clerk
P.O. Box 839966
San Antonio, TX 78283-3966

and City Council Member, District 4
P.O. Box 839966
San Antonio, TX 78283-3966

| **19.15. Pronouns.** In construing this Agreement, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire Agreement, not to any particular provision of it.

| **19.16. Captions.** Paragraph captions in this Agreement are for ease of reference only and do not affect the interpretation hereof.

| **19.17. Mediation.** As a condition precedent to bringing any action to enforce or interpret this agreement or any aspect thereof, including an action for declaratory relief, the disputants must first submit in good faith to mediation by a mediator qualified under § 154.052, Texas Civil Practice and Remedies Code. Suit may be filed only after the sooner to occur of (i) a full day of mediation by a mediator qualified as provided above or (ii) certification by the mediator that further attempts to mediate would be fruitless. Laches, waiver, and estoppel based upon any reasonable delay relating to attempts to mediate as herein provided may not be asserted by either party hereto.

19.18. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this agreement, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all parties.

19.19. Further Assurances. The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, may alter the rights or obligations of the parties as contained in this agreement

19.20. Ambiguities Not to Be Construed against Party Who Drafted Contract. The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this contract.

19.21. No Special Relationship. The parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.

20. Conflict of Interest

Landlord acknowledges that it is informed that the Charter of the City of San Antonio ("Tenant" herein) and its Ethics Code prohibit a City officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any contract with the City or any City agency such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individuals or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns 10% or more of the voting stock or shares of the business entity, or 10% or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity. Landlord warrants and certifies, and this lease is made in reliance thereon, that it, its partners, employees and agents are neither officers nor employees of the City. Landlord further warrants and certifies that it has tendered to the City, as Tenant herein, a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

Executed To Be Effective 10 Days After The Date Of Passage Of The City Of
San Antonio Ordinance Referenced On Page 1.

Tenant:

City of San Antonio, a Texas municipal
corporation, by:

Signature: _____

Printed
Name: _____

Title: _____

Date: _____

Landlord:

S.W. Diagnostic Building, Inc.,
A Texas business corporation

By: *Suren Kamath*

Printed Name: SUREN KAMATH

Title: PRESIDENT

Date Signed: 3/16/2005

Attest:

City Clerk

Approved as to Form:

City Attorney

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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.

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* 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:

None

(2) the identity of any **business entity**¹ that would be a party to the discretionary contract:

S.W. Diagnostic Building, Inc.

and the name of:

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

None

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;

*SUREN KAMATH.
VIDYA KAMATH, MD.*

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.

None

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:
<i>None</i>	<i>- 0 -</i>	<i>N/A</i>

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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.

Signature: <i>Steve Canty</i>	Title: <i>President</i> Company: <i>SW Diagnostic Building, Inc.</i>	Date: <i>2/09/2005</i>

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.

EXHIBIT "A"

PLAN

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