

AN ORDINANCE **2009-03-05-0165**

AUTHORIZING A THREE-YEAR LEASE OF OFFICE SPACE FROM NBY PROPERTIES, LLC, FOR USE BY THE POLICE DEPARTMENT'S SAN ANTONIO FEAR FREE ENVIRONMENT UNIT AT 4883 WEST COMMERCE STREET, COUNCIL DISTRICT 5, AND A ONE-TIME PAYMENT OF \$25,680.00 FOR OCCUPANCY RELATED EXPENSES.

* * * * *

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

SECTION 1. The City Manager and her designee, severally, are authorized and directed to execute and deliver on behalf of the City a lease agreement substantially in the form of **Attachment I**, which is incorporated by reference for all purposes as if fully set forth. The City Manager and designee, severally, should take all other actions reasonably necessary or convenient to effectuate the transaction, including agreeing to non-material changes to the approved form and executing and delivering all ancillary instruments and agreements conducive to effectuating the transaction.

SECTION 2. Funding for this ordinance is available per the table below as part of the FY09 Budget:

CC/FC/IO	General Ledger No	Fund No
1703100001	5301010	11001000

SECTION 3. Payment not to exceed the budgeted amount is authorized to NBY Properties, LLC and should be encumbered with a purchase order.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5. This ordinance becomes effective ten days after passage unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this 5th day of March 2009.

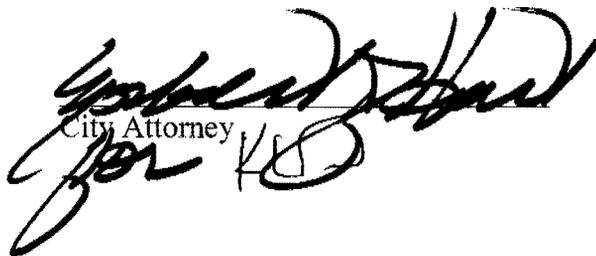

M A Y O R
PHIL HARDBERGER

Attest:



City Clerk

Approved As To Form:



City Attorney
for HS

Attachment I

Lease Agreement for Police Storefront in Crosstowne Shopping Center

4883 W. Commerce, San Antonio, Texas 78237

Date: _____, 2009

Landlord: NBY Properties, LLC

Landlord's Address: 4518 Macro Drive, San Antonio, Texas 78218
(contact: Flint Bourgeois 210-662-7140 ext. 1113)

Tenant: City of San Antonio

Tenant's Address: P.O. Box 839966
San Antonio, TX 78283 (Director of CIMS)

Premises: Approximately **1,318 SF** at 4883 W. Commerce, San Antonio, Bexar County, Texas. The Premises location within the Crosstowne Shopping Center building is shown on **Exhibit A**. The building is located on the real property described on **Exhibit B**.

Base Rent: Base Rent of \$1.00 per year shall be due and payable on March 1st of each year

Term (months): 36 months

Commencement Date: March 1, 2009

Termination Date: February 28, 2012

Security Deposit: None

Cancellation Option: At or anytime after March 1, 2010, Landlord shall have the option to cancel this Lease for any reason upon providing 60 days prior written notice to Tenant.

Use: Tenant shall use the Premises for **Police storefront operation** and related uses. Tenant shall use the Leased Premises solely for the purpose of operating a San Antonio Fear Free Environment substation ("SAFFE Substation"), a division of the San Antonio Police Department. Tenant also expressly agrees that the SAFFE Substation shall be open to the public, at a minimum, **Monday through Friday from 9 am to 5 pm** and for other police related functions including but not limited to use of the Premises by police officers for the purpose of accessing computers and completing reports. In the event that the SAFFE program scope is modified during the Term, Landlord agrees to allow other community policing uses **provided that such uses continue to provide a uniformed police presence** at the Premises. Tenant shall continuously during the term of this lease agreement occupy the Leased Premises and engage in such business, except

while the Leased Premises are un-tenantable because of fire or other casualty. **Tenant shall turn off the lights, appliances and HVAC when the Premises are not occupied.**

Amount of Liability Insurance

It is agreed and understood that Tenant is self-insured and in lieu of securing coverage through an insurance provider, Tenant may provide evidence of self insurance to satisfy this requirement.

Renewal Options: Landlord and Tenant may agree to extend this Lease on a Month to Month basis after the Termination Date.

"Rent" means base rent plus any other sums of money due Landlord by Tenant.

"Landlord" means Landlord and its agents, employees, or representatives.

"Tenant" means Tenant and its agents, employees, invitees, licensees, or visitors.

"Essential Services" means heating, ventilating, air conditioning, (and the maintenance thereof), water, and utility service and connections reasonably necessary for occupancy of the premises for the use stated above.

INITIAL MONTHLY MAINTENANCE, TAX AND INSURANCE CHARGE:
None

"MAINTENANCE" means all costs for the ownership, operation, management and maintenance and repair of the building of which the Premises are a part.

"TAXES AND INSURANCE" means all ad valorem taxes and all insurance costs incurred by Landlord with respect to the land and building of which the Premises are a part.

A. Tenant agrees to-

1. Lease the premises for the entire term beginning on the commencement date and ending on the termination date.
2. Accept the premises in their present condition **"AS IS"**.
3. Obey all laws, ordinances, orders, and rules and regulations applicable to the use, condition, and occupancy of the premises, including the rules and regulations of the shopping center adopted by Landlord.
4. Pay the base rent to Landlord at Landlord's address.

5. **Intentionally Omitted.**
6. **Intentionally Omitted.**
7. **Intentionally Omitted.**
8. **Intentionally Omitted.**
9. **Intentionally Omitted**
10. **Intentionally Omitted**
11. Allow Landlord to enter the premises at reasonable times to perform Landlord's obligations, inspect the premises, and show the premises to prospective purchasers or tenants.
12. **Intentionally Omitted**
13. Repair any damage to the premises caused by Tenant. Keep the sidewalks, service ways, and loading areas adjacent to the premises clean and unobstructed.
14. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.
15. **Self-insure or** maintain public liability insurance for the premises and the conduct of Tenant's business, naming Landlord as an additional insured, in the amounts stated in the basic lease terms and definitions.
16. **Self-insure or** maintain insurance on Tenant's personal property.
17. Deliver evidence of self-insurance or certificates of insurance to Landlord before the commencement date and thereafter when requested.
18. **Landlord and Tenant acknowledge that the Tenant is a political subdivision of the State of Texas and that the Tenant is subject to and shall comply with the applicable provisions of the Texas Tort Claims Act, as set out in Civil Practice and Remedies Code, Section 101.001et seq. and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.**
19. **Provide a lighted "Police Station" sign on the exterior of the Premises.**
20. Vacate the premises on termination of this lease and upon termination of this Lease to leave the premises in a clean, neat and orderly condition and to return all keys to the Landlord.

21. **To operate a police storefront operation in the Premises. In the event that Tenant fails to maintain a police storefront operation in the Premises, the Landlord may terminate the Lease upon 10 days prior written notice.**

B. Tenant agrees not to--

1. Use the premises for any purpose other than that stated in the lease terms and definitions.

2. (a) Create a nuisance, (b) interfere with any other tenant's normal business operations or Landlord's management of the building, (c) permit any waste, or (d) use the premises in any way that is extra hazardous, would increase insurance premiums, or would void insurance on the building.

3. **Intentionally Omitted.**

4. Alter the premises except as approved by Landlord. Landlord approves the changes and alterations detailed on the build-out plans attached hereto as **Exhibit C**.

5. Allow a lien to be placed on the premises.

6. Assign this lease or sublease any portion of the premises without Landlord's written consent which shall not be unreasonably withheld.

7. Use the roof above the premises.

8. Place any additional signs on the premises without Landlord's prior written consent, which shall not be unreasonably withheld.

C. Landlord agrees to--

1. Lease to Tenant the premises for the entire term beginning on the commencement date and ending on the termination date.

2. Obey all laws, ordinances, orders, and rules and regulations applicable to the use, condition, and occupancy of the building.

3. Provide normal utility service connections to the building.

4. Repair, replace, and maintain the (a) roof, (b) foundation, (c) HVAC systems serving the Premises and (d) structural soundness of the exterior walls, excluding windows, store fronts, and doors.

5. Insure the building against all risks of direct physical loss in an amount equal to at least 80 percent of the full replacement cost of the building as of the date of the loss and liability; Tenant will have no claim to any proceeds of Landlord's insurance policy.

6. **Intentionally Omitted.**

7. Provide the Essential Services at no charge to Tenant.

D. Landlord agrees not to --

1. Interfere with Tenant's possession of the premises as long as Tenant is not in default.

E. Landlord and Tenant agree to the following:

1. **Alterations.** Any physical additions or improvements to the premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at termination of this lease and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the premises to the condition existing at the commencement date, normal wear excepted. Tenant need not provide Landlord with keys to new locks.

2. **Abatement.** Tenant's covenant to pay rent and Landlord's covenants are independent of each other. Except as otherwise provided, Tenant shall not be entitled to abate rent for any reason.

3. **Release of Claims/Subrogation.** LANDLORD AND TENANT RELEASE EACH OTHER AND LIENHOLDER FROM ALL CLAIMS OR LIABILITIES FOR DAMAGE TO THE PREMISES OR LAND AND BUILDING OF WHICH THE PREMISES ARE A PART, DAMAGE TO OR LOSS OF PERSONAL PROPERTY WITHIN THE BUILDING, AND LOSS OF BUSINESS OR REVENUES THAT ARE COVERED BY THE RELEASING PARTY'S PROPERTY INSURANCE OR THAT WOULD HAVE BEEN COVERED BY THE REQUIRED INSURANCE OR SELF INSURANCE IF THE PARTY FAILS TO MAINTAIN THE PROPERTY COVERAGES REQUIRED BY THIS LEASE. THE PARTY INCURRING THE DAMAGE OR LOSS WILL BE RESPONSIBLE FOR ANY DEDUCTIBLE OR SELF INSURED RETENTION UNDER ITS PROPERTY INSURANCE. LANDLORD AND TENANT WILL NOTIFY THE ISSUING PROPERTY INSURANCE COMPANIES OF THE RELEASE SET FORTH IN THIS PARAGRAPH AND WILL HAVE THE PROPERTY INSURANCE POLICIES ENDORSED, IF NECESSARY, TO PREVENT INVALIDATION OF COVERAGE. THIS RELEASE WILL NOT APPLY IF IT INVALIDATES THE PROPERTY INSURANCE COVERAGE OF THE RELEASING PARTY. THE RELEASE IN THIS PARAGRAPH WILL APPLY EVEN IF THE

DAMAGE OR LOSS IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF THE RELEASED PARTY, BUT WILL NOT APPLY TO THE EXTENT THE DAMAGE OR LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE RELEASED PARTY.

4. **Notice to Insurance Companies.** Landlord and Tenant will notify the issuing insurance companies of the release set forth in the preceding paragraph and will have the insurance policies endorsed, if necessary, to prevent invalidation of the insurance coverage.

5. **Casualty/Total or Partial Destruction.** (a) If the premises are damaged by casualty and can be restored within ninety days, Landlord will, at its expense, restore the premises to substantially the same condition as they existed before the casualty. If Landlord fails to complete restoration within ninety days from the date of written notification by Tenant to Landlord of the casualty, Tenant may terminate his lease by written notice to Landlord. (b) If the premises cannot be restored within ninety days, Landlord has an option to restore or not to restore the premises. If Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, it will notify Tenant of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord within ten days. If Tenant does not terminate this lease, it shall continue and Landlord shall restore the premises as provided in (a) above. (c) To the extent the premises are untenable after the casualty and the damage was not caused by Tenant, the rent will be adjusted as may be fair and reasonable.

6. **Condemnation/Substantial or Partial Taking.** (a) If the premises cannot be used for the purposes contemplated by this Lease because of condemnation or purchase in lieu of condemnation, this Lease will terminate, (b) whether or not any portion of the premises is taken by condemnation or purchase in lieu of condemnation, Landlord or Tenant may elect to terminate this lease if fifty percent (50%) or more of the common area is taken, (c) if there is a condemnation or purchase in lieu of condemnation and this Lease is not terminated, Landlord will, at Landlord's expense, restore the premises, and the rent payable during the unexpired portion of the term will be adjusted as may be fair and reasonable, or (d) Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation belonging to the Landlord; however, Tenant may pursue any and all remedies available to it.

7. **Uniform Commercial Code.** Intentionally Omitted

8. **Default by Landlord/Events.** Defaults by Landlord are (a) failing to comply with any provision of this lease within thirty days after written notice or (b) failing to provide essential services to Tenant within ten days after written notice.

9. **Default by Landlord/Tenant's Remedies.** Tenant's remedies for Landlord's default are to (a) sue for damages, and (b) if Landlord does not provide an essential service for thirty days after default, terminate this lease. Landlord's liability, however, shall be limited to Landlord's interest in the building of which the premises are a part.

10. **Default by Tenant/Events.** Defaults by Tenant are (a) failing to timely pay the rent, (b) abandoning or vacating a substantial portion of the premises, or (c) failing to comply within ten days after written notice with any provision of this lease other than the defaults set forth in (a) and (b) above.

11. **Default by Tenant/Landlord's Remedies.** In addition to all other rights and remedies allowed by law, Landlord's remedies for Tenant's default shall include the right to (a) enter and take possession of the premises, after which Landlord may relet the premises on behalf of Tenant and receive the rent directly by reason of the reletting; or (b) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the premises by self-help, by picking or changing locks if necessary, and may lock out Tenant or any other person who may be occupying the premises, until the default is cured, without being liable for damages.

12. **Default/Waiver/Mitigation.** It is not a waiver of default if the non-defaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by law. Landlord and Tenant have a duty to mitigate damages.

13. **Intentionally Omitted**

14. **Holdover.** If Tenant does not vacate the premises following termination of this lease, Tenant shall be a tenant at will and shall vacate the premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the term.

15. **Alternative Dispute Resolution.** Landlord and Tenant shall submit in good faith to mediation before filing a suit for damages.

16. **Attorney's Fees.** If either party retains an attorney to enforce this lease, the prevailing party is entitled to recover reasonable attorney's fees.

17. **Venue.** Venue is in the county in which the premises are located.

18. **Entire Agreement.** This lease, together with the attached exhibits and riders, is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this lease or to the expressly mentioned exhibits and riders not incorporated in writing in this lease.

19. **Amendment of Lease.** This lease may be amended only by an instrument in writing signed by Landlord and Tenant.

20. **Limitation of Warranties.** **THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE. TENANT HAS INSPECTED THE PREMISES AND ACCEPTS THE PREMISES "AS IS".**

21. **Notices.** Any notice required by this lease shall be deemed to be delivered (whether or not actually received) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to Landlord or Tenant at their addresses.

22. **Abandoned Property.** Landlord may retain, destroy, or dispose of any property left on the premises at the end of the term.

23. **Use of Common Area.** Tenant shall have the non-exclusive right to use the common areas subject to such reasonable rules and regulations governing use as Landlord may prescribe.

24. **Merchants' Association.** N/A

25. **Pay Phones.** Landlord shall have the right to use the exterior of the premises for the installation and operation of pay phones. Tenant shall not interfere or compete with Landlord's pay phone operations.

26. **No Joint Venture.** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto, nor to create any fiduciary duties on the part of either party, it being understood and agreed that nothing contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Landlord and Tenant.

27. **Limitation on Landlord Liability.** There shall be absolutely no personal liability on persons, firms or entities who constitute Landlord or any management company acting under contract with Landlord or any agent, employees, officer, partner, shareholder or joint venturer of Landlord or such management company ("Landlord's Affiliates") with respect to any of the terms, covenants, conditions and provisions of this Lease or of any other events, acts, omissions or occurrences arising from or related to this Lease and Tenant shall look solely to the interest of the Landlord in the building containing the premises for satisfaction of each and every right or remedy of Tenant in the event of default or other liability of Landlord or Landlord's Affiliates. Such

exculpation of personal liability is absolute and without any exception whatsoever.

28. **Entire Agreement; Integration and Merger; Acceptance of Terms:** This Lease is an integrated agreement, containing the entire agreement between the parties as to the matters addressed herein, and incorporating all prior discussions and agreements. There are no agreements between the parties that are not contained herein, and Tenant has not received or relied on any representations from Landlord or Landlord's agents. Its terms are intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. The parties further intend that this agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding, if any, involving this agreement. No subsequent change, modification or addition to this Lease shall be binding unless in writing and signed by the party to be charged. As additional consideration for this Lease, Tenant agrees that the presence of Landlord's right to terminate and any exercise of such right by Landlord is fair and reasonable, and Tenant waives any right to assert that such right or the exercise thereof is inequitable or unconscionable.

29. **Insurance.** Tenant is self-insured and will rely on such self-insurance for risks allocated to it under this Lease. As a political subdivision of the State of Texas, Tenant is subject to the Texas Tort Claims Act, and the obligations of Tenant and the rights of persons claiming against Tenant are subject to that Act.

30. **Appropriations.** All obligations of the City of San Antonio under this instrument are funded through the City of San Antonio General Fund and are subject to the discretion of City Council whether to appropriate funding for any given year of a term. If the City Council fails to appropriate money for this Lease in an annual City of San Antonio Budget, the City may terminate this Lease and have no further liability.

31. **Prohibited Interests in Contracts.**

31.01 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of 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 individual(s) or entities is a party to the contract or sale:

(i) a City officer or employee;

(ii) his parent, child or spouse;

(iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;

(iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

31.02. Landlord warrants and certifies as follows:

(i) Landlord and its officers, employees and agents are neither officers nor employees of the City.

(ii) Landlord has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

31.03. Landlord acknowledges that City's reliance on the above warranties and certifications is reasonable.

32. Environmental.

32.01. "Environmental Laws" means applicable federal, state, and local laws relating to protection of the public health, welfare, and the environment, including without limitation, those laws relating to the storage, handling, and use of chemicals and other hazardous substances, those relating to the generation, processing, treatment, storage, transport, disposal, or other management of waste materials of any kind, and those relating to the protection of environmentally sensitive areas.

32.02. "Hazardous Material" means "hazardous substance," "pollution or contaminant," "petroleum," and "natural gas liquids," as those terms are defined by or used in Environmental Laws, or that are regulated because of their effect or potential effect on human health and the environment.

32.03. "Release" means depositing, spilling, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing.

32.04. Landlord represents that the Premises and the property of which the Premises are a part, if applicable, comply with all applicable Environmental Laws. Landlord must cause its employees, agents, contractors, tenants, and other persons occupying or present on or about the property on which the Premises are located (other than the Premises)

(collectively, "Occupants") to comply with all applicable Environmental Laws.

32.05. Landlord represents and warrants that there has been no Release and there is no threat of Release of any Hazardous Materials on, onto, or from the Premises and that the Premises has not contained and does not contain any asbestos, underground or aboveground storage tanks, or "PCBs" or "PCB items," as defined in 40 CFR § 761.3.

32.06. Tenant must not allow the Release of any Hazardous Material from its use of the Premises on, onto, or from the Property. Tenant further must not to handle, use, or otherwise manage any Hazardous Material on the Premises or the Property in violation of any Environmental Laws or in any but a reasonable and prudent manner.

32.07. Landlord represents and warrants that, (y) with regard to activities and conditions on the Property Landlord has not given, nor was it required to give, and Landlord has not received, any notice that: (i) the Property violates any Environmental Law; (ii) there has been a Release, or threat of Release, of Hazardous Materials from the Property; (iii) the Landlord may be or is liable, in whole or in part, for costs of cleaning up, remediating, removing, or responding to a Hazardous Materials release; or (iv) the Property is subject to a lien under any Environmental Laws; and (z) no conditions currently exist, or are reasonably foreseeable, that would give rise to such a notice. In case of receipt of such notice, Landlord must immediately provide Tenant a copy.

32.08. Before the Commencement Date, Landlord must permit Tenant and its, representatives and contractors to enter upon the Premises at reasonable times and in a reasonable manner to investigate environmental matters. Tenant may perform such tests, including without limitation, subsurface testing, soils, and groundwater testing, and any other tests, as the Tenant, in its sole discretion, determines are necessary to identify environmental concerns. The investigation is at Tenant's sole cost. Tenant must minimize the intrusion upon and inconvenience to Landlord and the ongoing operations at the Premises. If Tenant performs any tests that disturb the Property, Tenant must restore the Property. Tenant is responsible for damages arising from its testing on the Property and for the proper disposal of any wastes generated by its testing.

32.09. Landlord must indemnify Tenant and its officials, employees, and contractors from loss, cost, liability, or expense (including, but not limited to, attorneys' fees and expenses, including all attorney's fees and expenses incurred by Tenant in enforcing this indemnity) arising from or relating to breach of Landlord's environmental representations, warranties, and covenants.

33. **Public Information.** Landlord acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

NOTICE:

THIS IS A LEGAL DOCUMENT. READ IT CAREFULLY. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY PART OF THIS LEASE, SEEK COMPETENT LEGAL ADVICE.

Landlord:

NBY Properties, LLC, a Texas limited liability company

By: _____

Reuben Bar-Yadin, President

Tenant:

City of San Antonio, a Texas municipal corporation

By: _____

Name: _____

Its: _____

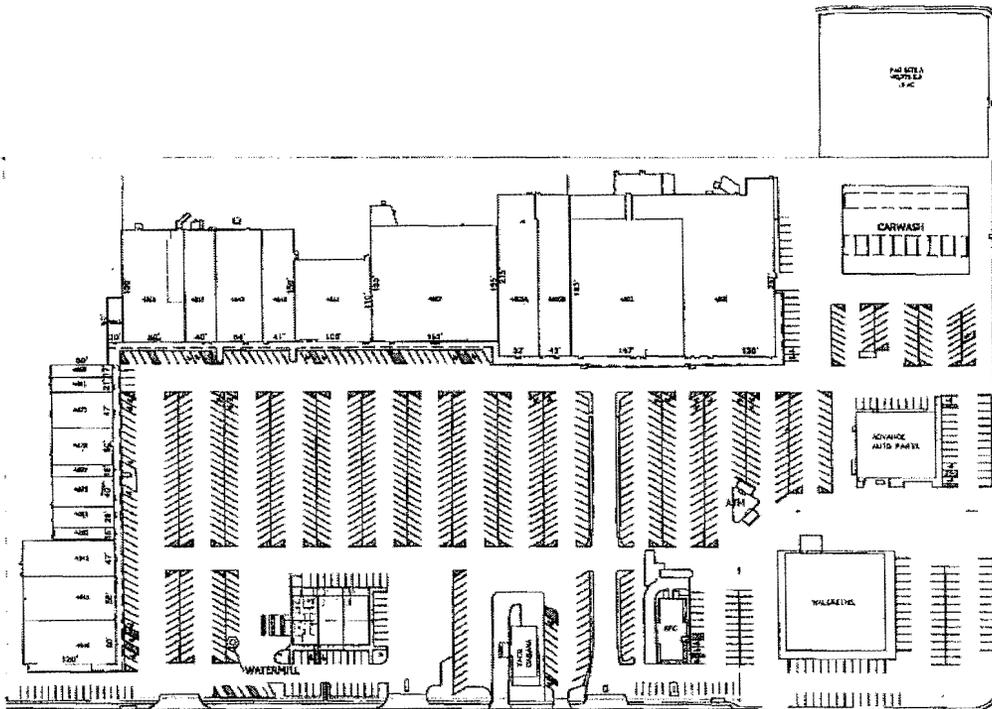
Date _____

Approved as to form:

City Attorney

Exhibit A-Site Plan
Exhibit B-Legal description of Land
Exhibit C – renovation plan

EXHIBIT "A"



LEASED SPACES		
Suite	Size	Tenant Name
4801	78,672	AVAILABLE
4803	27,133	Proposed ROSS
4805	9,045	Cost Amico
4805A	11,014	Plan o...
4807	25,091	Fattus Perce...
4811	19,971	Peter's eq...
4813	6,175	Bank A. Con...
4817	6,820	Small Spac...
4825	6,068	AVAILABLE
4831	15,068	GGSCWinc
4835	1,324	Maria, Mar... Data...
4839	1,325	Prost. Ho...
4843	1,649	AVAILABLE
4847	3,768	AVAILABLE
4851	4,012	Bank of Am...
4855	1,322	Cost. Equi...
4859	3,179	Cafe La Cal...
4863	2,305	Spice Med...
4867	1,318	AVAILABLE
4871	5,682	Pop-A-Coin...
4875	6,161	Everything M...
4879	2,731	Fine Art...
Sub-Total:		189,615 s.f.
		Pad Building
		6,500
		NFC
		2,707
		Taco Cobana
		2,246
		Advance Auto
		8,858
Total Lease:		209,926 s.f.

CROSTOWNE MERCADO - TENANT LAYOUT
4800 W. Commerce Street, San Antonio, Texas 78237

January 6, 2009

NBY Properties, LLC
4516 Macro Drive
San Antonio, Texas 78218-5120
210.652.7140
210.247.0067 fax

EXHIBIT "B"

TRACT I: A 19.27 acre tract, being Lot 4A, Block 12, New City Block 9024, MAVERICK SUBDIVISION, in the City of San Antonio, Bexar County, Texas, according to plat thereof recorded in Volume 6900, Page 220, Deed and Plat Records of Bexar County, Texas, said 19.27 acre tract being the same 19.27 acre tract described by deed recorded in Volume 10416, Page 1650, Bexar County Real Property Records and being more particularly described in Exhibit "A-1", attached hereto and made a part hereof.

TRACT II: A 0.9380 acre tract, being Lot 25, Block 1, New City Block 9024, VILLAS DE SAN ANTONIO SUBDIVISION, in the City of San Antonio, Bexar County, Texas, according to plat thereof recorded in Volume 9545, Pages 96-98, Deed and Plat Records of Bexar County, Texas, said 0.9380 acre tract being the same 0.9380 acre tract described by deed recorded in Volume 10416, Page 1650, Bexar County Real Property Records and being more particularly described in Exhibit "A-2", attached hereto and made a part hereof.

EXHIBIT A 1 B-1

FIELD NOTES FOR TRACT I

A 19.27 acre, or 839,218 square feet more or less, tract of land described in a conveyance to HEB Grocery Company, LP, a Texas limited partnership in a Special Warranty Deed recorded in Volume 10416, Pages 1650-1657 of the Official Public Records of Real Property of Bexar County, Texas, being all of Lot 4A of the Maverick Subdivision recorded in Volume 6900, Page 220 of the Deed and Plat Records of Bexar County Texas, all in New City Block (N.C.B.) 9024 of the City of San Antonio. Said 19.27 acre tract being more fully described as follows:

BEGINNING: At a found $\frac{1}{2}$ " iron rod on the southeast corner of said Lot 4A, the southwest corner of Lot 5 of the aforementioned Maverick Subdivision, said iron rod being on the north right-of-way line of West Commerce Street, a 100-foot right-of-way, from which I found $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson" at the setback of the north right-of-way line of West Commerce Street and the west right-of-way line of General McMullen Drive, a variable width right-of-way, bears S $83^{\circ}55'55''$ E, a distance of 294.88 feet;

THENCE: N $83^{\circ}55'55''$ W, along and with the north right-of-way line of West Commerce Street, a distance of 949.60 feet to a found 1 $\frac{1}{2}$ " iron pipe at the southwest corner of said Lot 4A and the southeast corner of Lot 1, Block 3 of the Gopal 3 Subdivision recorded in Volume 9543, Page 195 of the Deed and Plat Records of Bexar County, Texas;

THENCE: N $06^{\circ}25'35''$ E, departing the north right-of-way line of West Commerce Street, along and with the east line of said Lot 1, the west line of said Lot 4A, passing at 300 feet the northeast corner of said Lot 1, the southeast corner of Lot 2, Block 3 of the Villas De San Antonio Subdivision recorded in Volume 9545, Pages 96-98 of the Deed and Plat Records of Bexar County, Texas, and continuing along and with the east line of said Lot 2, the west line of said Lot 4A, for a total distance of 720.00 feet to a found $\frac{5}{8}$ " iron rod at the northwest corner of this tract, the northeast corner of said Lot 2, said $\frac{5}{8}$ " iron rod is on the south line of Lot 5, Block 1 of the said Villas De San Antonio Subdivision;

THENCE: S $83^{\circ}55'55''$ E, along and with the south line of Block 1 of the Villas De San Antonio Subdivision, the north line of said Lot 4A, a distance of 1274.48 feet to a found iron rod marked "GIB" on the west right-of-way line of the aforementioned General McMullen Drive, the northeast corner of this tract and the southeast corner of a 5-foot right-of-way dedication shown on the plat of said Villas De San Antonio Subdivision;

THENCE: S $06^{\circ}25'35''$ W, along and with the west right-of-way line of General McMullen Drive, the east line of said Lot 4A, a distance of 470.00 feet to a found $\frac{1}{2}$ " iron rod at the northeast corner of said Lot 5, of Maverick Subdivision, an exterior corner of this tract;

THENCE: N $83^{\circ}55'55''$ W, departing the west right-of-way line of General McMullen Drive, along and with the common line of said Lots 5 and 4A, a distance of 249.40 feet to a found $\frac{1}{4}$ " iron rod at an angle point;

THENCE: S $51^{\circ}25'35''$ W, along and with the common line of Lots 5 and 4A, a distance of 106.74 feet to a found $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

THENCE: S $06^{\circ}25'35''$ W, along and with the common line of Lots 5 and 4A, a distance of 175.00 feet to the POINT OF BEGINNING and containing 19.27 acres of land in the City of San Antonio, Bexar County, Texas. Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc.

EXHIBIT A-2 B.2

FIELD NOTES FOR TRACT II

A 0.9380 acre, or 40,859 square feet more or less, tract of land described in a conveyance to HERB Grocery Company, L.P., a Texas limited partnership in a Special Warranty Deed recorded in Volume 10416, Pages 1650-1657 of the Official Public Records of Real Property of Bexar County, Texas, being all of Lot 25, Block 1 of the Villas De San Antonio Subdivision recorded in Volume 9445, Pages 96-98 of the Deed and Plat Records of Bexar County, Texas, all in New City Block (N.C.B.) 9024 of the City of San Antonio. Said 0.9380 acre tract being more fully described as follows:

BEGINNING: At a set $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson" on the west right-of-way line of the General McMullen Drive, right-of-way varies, at the southeast corner of said Lot 25, and the southwest corner of a 5-foot right-of-way dedication shown on the plat of said Villas De San Antonio Subdivision, said iron rod also lying on the north line of Lot 4A of the Maverick Subdivision recorded in Volume 6900, Page 220 of the Deed and Plat Records of Bexar County Texas, from which a found iron rod marked "QIB" at the northeast corner of said Lot 4A, bears $S 83^{\circ}15'55"E$, a distance of 5.00 feet;

THENCE: $N 83^{\circ}55'35"W$, departing the west right-of-way line of the General McMullen Drive, along and with the north line of said Lot 4A, the south line of Lot 25, a distance of 213.97 feet to a found iron rod marked "RPLS" at the southwest corner of Lot 25, the southeast corner of Lot 24 of the said Villas De San Antonio Subdivision;

THENCE: $N 06^{\circ}25'35"E$, along and with the common line of said Lots 24 and 25, a distance of 188.32 feet to a found $\frac{1}{2}$ " iron rod on the south right-of-way line of San Judas, a 50-foot right-of-way, the northwest corner of Lot 25, the northeast corner of Lot 24;

THENCE: Northeasterly, along and with the south right-of-way line of San Judas, along the arc of a curve to the right, said curve having a radial bearing of $S 07^{\circ}27'57" E$, a radius of 121.36 feet, a central angle of $13^{\circ}33'31"$, a chord bearing and distance of $N 85^{\circ}28'49" E$, 29.35 feet, and an arc length of 29.43 feet to a found $\frac{1}{2}$ " iron rod marked "RPLS" as a point of tangency;

THENCE: $S 83^{\circ}34'25"E$, along and with the south right-of-way line of San Judas, a distance of 173.87 feet to a found iron rod marked "GIB" at a point of curvature;

THENCE: Southeasterly, along and with the south right-of-way line of San Judas, along the arc of a curve to the right, said curve having a radius of 15.00 feet, a central angle of $46^{\circ}54'20"$, a chord bearing and distance of $S 60^{\circ}07'15" E$, 11.94 feet, and an arc length of 12.28 feet to a set $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson" on the west line of the aforementioned 5-foot right-of-way dedication shown on the plat of said Villas De San Antonio Subdivision, a point of non-tangency;

THENCE: $S 06^{\circ}25'35"W$, along and with the west line of the aforementioned 5-foot right-of-way dedication, a distance of 185.78 feet to the POINT OF BEGINNING and containing 0.9380 of an acre of land in the City of San Antonio, Bexar County, Texas. Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc.

- THESE MEASUREMENTS ARE APPROXIMATIONS BASED ON BUILDING OWNERS NUMBERS
 - NO SCALE GIVEN FOR DIAGRAM

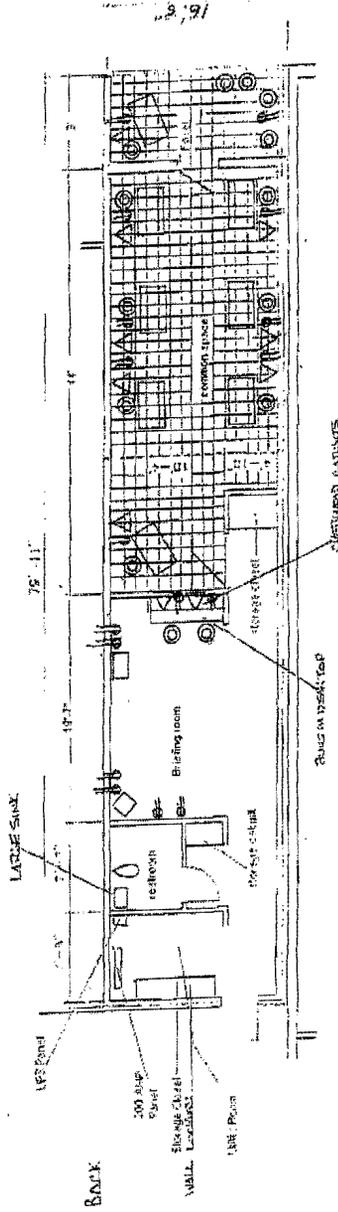


Exhibit C

APPROXIMATELY 1,310 S.F.
 CROSSTOWN PLAZA - 4883 W. COMMERCE

6/12/99

- ▽ Voice/data
- ⚡ Electrical
- DESK
- ⊙ CHAIR

SAPD SAFFE STOREFRONT LEASE

