

ORDINANCE

**APPROVING EXECUTION OF A FIVE-YEAR LEASE AGREEMENT
WITH BROOKS DEVELOPMENT AUTHORITY FOR OFFICE SPACE
AT 3120 SIDNEY BROOKS STREET, FOR THE CITY COUNCIL
DISTRICT 3 CONSTITUENT OFFICE, FOR THE ANNUAL RENTAL
AMOUNT OF \$33,000.00 PLUS \$249,999.00 FOR IMPROVEMENTS TO
THE SPACE.**

* * * * *

WHEREAS, the District 3 Constituent Office has been located on Brooks City Base since 2005;
and

WHEREAS, due to the development plans of Brooks Development Authority, it is now necessary
for the District 3 Council Office to relocate; and

WHEREAS, 3120 Sidney Brooks Street is an ideal location, near the current District 3 Constituent
Office, and will provide sufficient office space to allow Councilwoman Viagran and her staff to
conduct business and meet with constituents; and

WHEREAS, this lease agreement also provides for the temporary relocation of the Constituent
Office while the permanent location is renovated to accommodate the construction plans of Brooks
Development Authority; and

WHEREAS, if approved, this lease agreement will serve to relocate the District 3 Constituent
Office for a term of five-years.

NOW THEREFORE,

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

SECTION 1. The City Council authorizes the City Manager or designee to enter into the lease
agreement as shown in **Attachment I** with Brooks Development Authority for a term of five years
with the monthly rent for the entire term being \$2,750.00 per month, or \$165,000.00 over the five-
year term, and an amount to exceed \$249,999.00 for improvements to the leased premises paid by
the City to Brooks Development Authority.

SECTION 2. Funding in the amount of \$33,000.00 for this ordinance is available in Fund
11001000, Cost Center 116020001 and General Ledger 5206010 as part of the Fiscal Year 2024
Adopted Budget approved by City Council

SECTION 3. Funding in the amount of \$249,999.00 for this ordinance is available in Fund
11001000, Cost Center 103010001 and General Ledger 5406539 as part of the Fiscal Year 2024
Adopted Budget approved by City Council.

SECTION 4. Additional funding is contingent upon City Council approval of the Fiscal Year 2025 and subsequent budgets that fall within the contract terms of this ordinance.

SECTION 5. Payment is authorized to Brooks Development Authority (BDA) and should be encumbered with a purchase order.

SECTION 6. The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer 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 7. This Ordinance becomes effective immediately upon its passage by either (8) votes or more and 10 days after passage upon its approval by less than eight (8) votes.

PASSED AND APPROVED this 25th day of January, 2024.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Debbie Racca-Sittre, City Clerk

Andrew Segovia, City Attorney

Attachment I

Office Lease – District 3 Council Office

Table of Contents

| | |
|--|----|
| 1. Basic Information, Definitions..... | 1 |
| 2. Grant..... | 3 |
| 3. Rent..... | 4 |
| 4. Term, Renewal..... | 4 |
| 5. Tenant's Affirmative Promises..... | 5 |
| 6. Tenant's Negative Promises..... | 6 |
| 7. Landlord's Affirmative Promises..... | 6 |
| 8. Landlord's Negative Promises..... | 9 |
| 9. Repair, Maintenance and Replacement Responsibilities..... | 10 |
| 10. Alterations..... | 10 |
| 11. Insurance..... | 11 |
| 12. Release of Claims/Subrogation..... | 11 |
| 13. Indemnity..... | 11 |
| 14. Casualty/Total or Partial Destruction..... | 11 |
| 15. Condemnation/Substantial or Partial Taking..... | 12 |
| 16. Holdover..... | 12 |
| 17. Default..... | 13 |
| 18. Warranty Disclaimer..... | 14 |
| 19. Environmental..... | 14 |
| 20. Appropriations..... | 15 |
| 21. Dispute Resolution..... | 15 |
| 22. Prohibited Interests in Contracts..... | 16 |
| 23. Miscellaneous..... | 17 |
| 24. Public Information..... | 19 |
| 25. Assignment and Sublet..... | 19 |
| Exhibit A: Description of Premises..... | 21 |
| Exhibit B: Occupancy Commencement Memorandum..... | 23 |
| Exhibit C: Landlord's Improvements..... | 27 |
| Exhibit D: Cleaning Standards and Schedule..... | 37 |

1. Basic Information, Definitions.

Authorizing Ordinance:

Lease Date: _____

Landlord: Brooks Development Authority, a Texas Defense
Base Development Authority

Landlord's Address: 7515 Inner Circle Drive, Suite 101
San Antonio, Texas 78235

Tenant: City of San Antonio

Attachment I

- Tenant's Address:** P.O. Box 839966, San Antonio, Texas 78283-3966
(Attention: Leasing Division, Building Equipment Services Division)
- Premises:** A suite containing a total of 4,460 rentable square feet in Building 570B ("Building") located at 3120 Sidney Brooks of which the Premises is part as shown on **Exhibit A** attached hereto.
- Permitted Use:** Office space and any other office related use the Tenant deems appropriate
- No. of Parking Spaces:** Landlord to provide Tenant up to 15 non-exclusive parking spaces in the parking lot adjacent to the Premises at no additional charge.
- Parking Rent:** No extra charge; the rent specified in Section 3 includes the use of parking spaces.
- Rent Commencement Date:** Date commencing 1st day of the 1st month occurring after Landlord's notice to Tenant that the construction is substantially complete, and the Premises is suitable for occupancy as evidenced by issuance of a Landlord obtained Certificate of Occupancy by the City of San Antonio. Rent Commencement Memorandum to be executed is attached as **Exhibit B**.
- Commencement Date:** The same date as the Rent Commencement Date, as codified in the Rent Commencement Memorandum
- Initial Term:** Five years from the Rent Commencement Date
- Rent:** As specified in Section 3 of this Lease
- Address for Payment of Rent:** 7515 Inner Circle Drive, Suite 101
San Antonio, Texas 78235
- Asbestos Survey Deadline:** 30 days after the Lease Date
- Building Standard Hours:** 7:00 A.M. to 6:00 P.M. Monday through Friday, except holidays
- Common Areas:** Exterior hallways and pathways leading to Premises; landscaped areas and parking areas adjacent to the Building.

Attachment I

Essential Services: Including, but not limited to:

- (i) Water, sanitary, sewer and electricity;
- (ii) Janitorial services in accordance with Exhibit D;
- (iii) Landscaping of common areas;
- (iv) Parking lot maintenance and lighting;
- (v) Maintenance of all life safety systems including fire extinguishers and sprinkler systems on the Premises;
- (vi) Maintenance of the basic structure, including the foundation; all interior and exterior walls, doors and hardware; all interior and exterior glass; roof; all interior and exterior electrical systems; all interior and exterior plumbing systems; and all HVAC systems; and
- (vii) Property insurance on the Premises, including betterments, but excluding Tenant's personal property.

Exhibits: **Exhibit A:** Depiction of Premises
Exhibit B: Rent Commencement Memorandum
Exhibit C: Work Letter
Exhibit D: Cleaning Standards and Schedule

2. Grant.

2.01. Intending to be legally bound and in consideration of the rents to be paid hereunder and other good and valuable consideration, Landlord leases the Premises to Tenant, and Tenant takes the Premises from Landlord on the terms and conditions of this Lease. As a part of the Lease, Landlord must provide for Tenant the number of parking spaces indicated above.

2.02. Tenant's right of occupancy begins for purposes of performing any construction activities allocated to Tenant in the Work Letter on the date 60 days after the Lease Date. Notwithstanding the fact that the Rent Commencement Date has not occurred, Tenant may occupy the Premises as soon as they are move in ready. Move-in ready means that the Premises are finished-out according to the requirements of this Lease, except for minor items such as are routinely corrected with a punch list.

2.03. Until such time as the Rent Commencement Date occurs, and starting on the Lease Date, Landlord will provide approximately 2,300 square feet of temporary space in Building 507C for Tenant to use in accordance with the

Attachment I

Permitted Use ("Temporary Space") as depicted on Exhibit A entitled "Location Plan." Tenant will pay rent in the amount of \$711.89 per month for the Temporary Space and all of the other terms and conditions of this Lease will apply to Tenant's use of the Temporary Space from the Lease Date. Tenant will vacate the Temporary Space within 10 days of the Rent Commencement Date. [REDACTED]

3. Rent.

3.01. Rent for the Initial Term will be \$2,750 per month.

3.02. Tenant must pay Rent in the amounts described in this section in advance on the first day of each month or within 10 days thereafter without penalty. Tenant may not be more than 10 days late twice in a calendar year without penalty. On the third and each later occasion in a calendar year on which Tenant is more than 10 days late, Landlord may deliver to Tenant written notice of delinquency. If Tenant does not pay the full amount due within 15 days from delivery of Landlord's notice, then Tenant owes a late charge of 5% of the delinquent amount as additional rent. The late charge represents a fair and reasonable estimate of costs Landlord will incur because of the late payment. Interest and late charges are in addition to all Landlord's other rights and remedies.

3.03. If Landlord receives prepaid rent from or for the account of Tenant, Landlord must apply the prepaid rent according to Tenant's directions.

3.04. Tenant's covenant to pay Rent and Landlord's covenants are independent. Tenant must not abate or offset Rent.

3.05. In order to receive payment under the terms of this Lease, Landlord has registered the entity that will receive payment with the City of San Antonio as a vendor including providing all reasonable tax information requested by Tenant.

4. Term, Renewal, Termination.

4.01. The term of this Lease is the Initial Term, unless sooner terminated as provided in this Lease.

4.02. Tenant will have the right to renew for an additional 5 years at a rate to be determined.

Attachment I

4.03. Tenant will have the right to terminate this Lease at any time upon 120 days prior written notice to Landlord.

5. Tenant's Affirmative Promises.

Tenant promises that it will:

5.01. Obey (a) all applicable laws relating to the use, condition, and occupancy of the Premises and Building; (b) any requirements imposed by utility companies serving or insurance companies covering the Premises or Building; and (c) any rules and regulations for the Building and Common Areas adopted by Landlord.

5.02. Obtain and pay for all utility services used by Tenant and not provided by Landlord.

5.03. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises, and show the Premises to prospective purchasers or tenants.

5.04. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are obligations of Landlord.

5.05. Vacate the Premises and return all keys to the Premises promptly upon expiration of the Term, subject to any holdover rights. At the time Premises is vacated, Tenant may leave in place, at its option, any network cabling or other wiring installed by Tenant above the ceiling.

5.06. On request, execute an estoppel certificate that states the Rent Commencement Date, the Occupancy Commencement Date, the Rent and duration of the lease, identifies any amendments to the lease, describes any rights to extend the Term or purchase rights, lists defaults by Landlord, and provides any other information reasonably requested. Tenant need not sign any certificate that purports to modify Tenant's obligations in any respect, except for a change in the address for notice or payment of rent.

5.07. Arrange with Landlord in advance for HVAC needs other than during Building Standard Hours and pay for such additional services as billed by Landlord.

5.08. Pay all property taxes (if any) assessed against the property (Landlord's fee estate and/or Tenant's leasehold estate) of which the Premises are part on or before the assessment of interest or penalties for late payment.

Attachment I

6. Tenant's Negative Promises.

Tenant promises that it will not:

- 6.01. Use the Premises for any purpose other than the Permitted Use.
- 6.02. Create a nuisance.
- 6.03. Interfere with any other tenant's normal business operations or Landlord's management of the Building.
- 6.04. Permit waste.
- 6.05. Use the Premises in any way that would increase insurance premiums or void insurance on the Building.
- 6.06. Change Landlord's lock system.
- 6.07. Alter the Premises.
- 6.08. Allow a lien to be placed on the Premises.
- 6.09. Except as provided in Section 25 of this Lease, assign this lease or sublease any portion of the Premises without Landlord's written consent, which must not be unreasonably withheld.

7. Landlord's Affirmative Promises.

Landlord promises that it will:

- 7.01. Lease to Tenant the Premises for the entire Term, beginning on the Commencement Date.
- 7.02. Tenant Improvements. Subject to Tenant's reimbursement, Landlord will provide the funds in an amount not to exceed \$250,000, to cover the costs associated with completing the work outlined on **Attachment B** attached to the Work Letter, which is attached to this Lease as **Exhibit C**, including retaining an architect and/or engineer and any other costs related to the construction, including a 5% management fee paid to Landlord and any reasonable Tenant requests to changes to the attached plan. Prior to commencing any work Landlord will provide a budget outlining the cost to design the improvement, make application for construction and complete the improvements including a 10% contingency for unforeseen expenses related to the construction. Every 30 days during the period of construction,

Attachment I

Landlord will apply for a reimbursement from Tenant for the Tenant Improvement work completed to that point, such application to include sufficient detail confirming the cost of construction, and Tenant will reimburse Landlord within 10 days of such payment application. Within the later of 30 days of (i) the date a certificate of occupancy is issued or (ii) the date Landlord invoices Tenant for the final cost of the Tenant Improvements including sufficient detail confirming the cost of construction, Tenant will reimburse Landlord for the final cost of completing the improvements.

7.02.01. Signage. At Tenant's cost, and subject to approval of the Brooks Architectural Control Committee's approval of the design and location, Landlord will provide common area signage in any building directory identifying the use typical for other users in the building including use of the monument sign that presently exists at the street entrance to the building along with multiple signs mounted on the exterior walls of the building and or window glass identifying the office and directing persons to the front entrance.

7.02.02. Required Lease Terms Pursuant to Chapter 2252 of the Texas Government Code. Landlord's contractor will:

- A. Execute a payment bond that conforms to Subchapter I, Chapter 53 of the Texas Property Code and will execute a performance bond in amount equal to the amount of the contract for the protection of the governmental entity and conditioned on the faithful performance of the contractor's work in accordance with the plans, specifications, and contract documents; and
- B. Provide to Landlord a notice of commencement consistent at least 90 days before the date the construction, alteration, or repair of any improvement to the Premises. Such notice will identify the Premises where the work will be performed, describe the work to be performance, state the total cost of the work to be performed, and include copies of the performance and payment bonds required under Paragraph A directly above. Furthermore, a written acknowledgement signed by the Landlord's contractor stating that copies of the required performance and payment bonds will be provided to all subcontractors not later than the fifth day after the date of a subcontract is executed.
- C. On or before the 10th day after a date the Landlord receives notice of commencement for the construction, alteration, or repair of an improvement to the Premises

Attachment I

required under Paragraph B directly above, Landlord may notify Tenant that the construction, alteration, or repair may not proceed.

7.03 Obey all applicable laws with respect to Landlord's operation of the Building and Common Areas.

7.04. Provide the Essential Services.

7.05. Repair, replace, and maintain the (a) roof, (b) foundation, (c) Common Areas, (d) structural soundness of the exterior walls, doors, corridors, and windows, (e) HVAC, wiring, and plumbing, (f) floors (but not carpeting or similar floor covering, unless damaged by a problem with the floor), (g) other structures or equipment serving the Premises, (h) fire extinguishers and other fire and life safety devices; (i) concealed and exposed electrical systems including lights and tubes; (j) exposed and concealed plumbing systems and (k) furnish and provide for all fire and life safety alarm monitoring and maintenance services including any required elevator monitoring services.

7.06. Mold.

7.06.01. Process of Assessment. If Tenant suspects or identifies the presence of mold within the Premises after taking possession, Landlord will engage a licensed mold assessor ("Assessor") to make an inspection not later than the third business day from the date Tenant notifies Landlord in writing of the issue (Tenant's Mold Notice). Landlord's Assessor will, within 10 business days from the date of the Tenant's Mold Notice, provide Landlord and Tenant a report of the findings of the inspection (Assessor's Report). If the Assessor's Report concludes that mold is present, Landlord will notify Tenant, in writing (Landlord's Mold Notice), not later than the third business day from the date Landlord and Tenant receive the report, of its intention to remediate the mold. The Landlord's Mold Notice must also include a schedule outlining the period of time it will take for a licensed remediation contractor to complete the work. If Landlord elects to remediate the mold, Landlord must retain a licensed abatement contractor to ensure the abatement is conducted in compliance with current state mold assessment and remediation legal requirements including the promulgated Mold Assessment and Remediation Rules, last amended on May 20, 2007. Upon completion of the mold at unsafe levels remediation, licensed remediation contractor must provide both Landlord and Tenant a report from a licensed environmental testing firm confirming that mold at unsafe levels is not present at the Premises.

Attachment I

7.06.02. No Landlord Remediation or Landlord Remediation Taking Longer than 30 days. If Landlord: 1) fails to timely provide Tenant the Landlord's Mold Notice; 2) elects not to remediate; or 3) conveys that the remediation is scheduled to take longer than 30 calendar days to be completed, as evidenced by a remediation schedule provided by a licensed remediation contractor, then Tenant may terminate this Lease effective with 3 business days' written notice to Landlord (Tenant's Election to Terminate Notice). If Tenant exercises this option, Tenant's obligation to pay rent will cease effective 3 business days after Tenant's Election to Terminate Notice and in such circumstance, Tenant will have 30 days from the date of this Notice to fully vacate the Premises.

7.06.03. Rental Abatement. During any mold assessment and remediation period, the rent will be abated for any portion of the Premises deemed by Tenant unusable due to the presence of mold or the remediation activity related to it.

7.07. Provide Tenant with detailed invoices for HVAC charges ordered by Tenant for periods other than Building Standard Hours for which Landlord requests reimbursement.

7.08. Deliver to Tenant an Asbestos Survey of the Premises and the Building not later than Asbestos Survey Deadline, in accordance with the provisions of § 6-293 of the City Code of the City of San Antonio, Texas.

7.09. Timely pay when due all charges for utility services to the Premises, except for services the payment of which are expressly allocated to Tenant.

7.10. Allow Tenant the nonexclusive right to use the Common Areas subject to reasonable rules and regulations that Landlord may prescribe.

8. Landlord's Negative Promises.

Landlord promises that it will not:

8.01. Interfere with Tenant's possession of the Premises as long as Tenant is not in default.

8.02. Unreasonably withhold consent to a proposed assignment or sublease.

Attachment I

9. Repair, Maintenance and Replacement Responsibilities.

9.01. Landlord and Tenant each must repair, maintain, and replace, if necessary, any building component allocated to it in the table below:

| <i>Item</i> | <i>Tenant Responsibility</i> | <i>Landlord Responsibility</i> |
|---|----------------------------------|------------------------------------|
| Janitorial Services to Premises | No | Yes |
| Janitorial Services to Common Areas | No | Yes |
| Utility Services (water, sewer and electricity) | No | Yes |
| Parking Lot Maintenance | No | Yes |
| Landscaping | No | Yes |
| Exposed Electrical Systems | No | Yes |
| Light bulbs and tubes | No | Yes |
| Concealed Electrical Systems | No | Yes |
| Exposed Plumbing Systems | No | Yes |
| Concealed Plumbing Systems including under slab drain lines | No | Yes |
| HVAC Systems | No | Yes |
| Pest Control | Yes | No |

10. Alterations.

At the termination of the Lease, subject to Tenant's election, Tenant may remove any betterments or technology installed by Tenant in the Premises including but not limited to telephone cabling, network systems, alarm systems or other low voltage access systems. In the event Tenant elects to leave in place all or any portion of these betterments or technology, any physical additions or improvements to the Premises made by Tenant will become the property of Landlord.

Attachment I

11. Insurance.

11.01. Tenant will self-insure as it deems advisable against property loss. 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.

11.02. Landlord must maintain Commercial General Liability insurance of not less than \$1,000,000 and property and casualty insurance for physical damage to the Premises in the amount of 100% of replacement cost.

12. Release of Claims/Subrogation.

The insurance requirements of this Lease are a bargained-for allocation of risk of loss. Landlord and Tenant each release the other from claims arising from injury or loss to either of them or to third parties to which they are liable, if the injury or loss is covered by insurance the waiving party is required by this Lease to maintain, whether or not the party actually has the insurance ("Covered Claims"). This release is additional to and does not limit any other release contained in this lease. Landlord and Tenant, to the maximum extent allowable without causing cancellation of a required policy, will request their insurers to waive subrogation against each other for Covered Claims.

13. Indemnity. Intentionally Omitted

14. Casualty/Total or Partial Destruction.

14.01. If the Premises or any portion thereof are damaged by casualty and can be restored within 90 days of the date that Landlord is first aware of the damage, Landlord will, at its expense, restore the roof, foundation, Common Areas, and structural soundness of the exterior walls of the Premises and all leasehold improvements within the Premises, including interior partitions, ceilings, wiring, light fixtures, and plumbing. Unless Tenant caused the damages, restoration must be at no cost to Tenant and in substantially the same condition existing before the casualty. If Landlord fails to complete the portion of the restoration for which Landlord is responsible within 90 days from the loss, Tenant may terminate this lease by written notice delivered to Landlord. Evidence of completion will include a Certificate of Occupancy or other documentation issued from the City of San Antonio department charged with managing the building permit process that all work has been completed as required by law.

14.02. If the Premises cannot be restored within 90 days, Landlord has the option whether or not to restore the Premises and if Landlord chooses not to restore

Attachment I

the Premises, Tenant will vacate the Premises within 30 days. If Landlord chooses not to restore or fails to notify Tenant of its intent to restore the Premises within 30 days of the date that Landlord is first aware of the damage, this lease will terminate as of that date regardless of when Tenant actually vacates the Premises. If Landlord chooses to restore the Premises, Landlord will notify Tenant of the estimated time to restore in writing as required within said 10-day period. Tenant will then have 10 days from the date of notice to terminate the Lease. If Tenant does not terminate this Lease, the Lease will continue, and Landlord will restore the Premises as provided above.

14.03. During the period before Landlord completes restoration, the Rent will be adjusted as may be fair and reasonable based on the portion of the Premises deemed unusable by Tenant due to the damage.

14.04. As with the insurance requirements, the rebuilding obligations of this paragraph are a bargained-for allocation of risk.

15. Condemnation/Substantial or Partial Taking.

15.01. If the Premises or any portion of them are taken by eminent domain, or sale in lieu of eminent domain, by any entity other than Tenant, the Lease automatically terminates as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first.

15.02. If entire Premises are not taken, the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.

15.03. The Award will be divided between Landlord and Tenant as their respective interests appear, with compensation due Landlord for damage to its reversionary interest, if any, and to Tenant for damage to its leasehold, if any. "Award" will mean all compensation, sums or anything of value awarded, paid or received on a total or partial Condemnation of the Premises or the land on which the Premises is situated.

16. Holdover.

16.01. If the Lease has not been earlier terminated according to its terms and Tenant is current on rent, both after the Initial Term and after any renewals provided for in this instrument, Tenant may hold-over for up to six additional months on a month-to-month basis. Tenant need not give advance notice of intent to exercise this hold-over right, and it need not hold over all of the allowable six months. The rent during a hold-over is the same as the rent for the term being held over, and all other

Attachment I

terms of this Lease apply. Council's authorization of this instrument is authority for the City as Tenant to enter into the hold-over period without further council action if the Director of the department presently managing this Lease deems the holdover beneficial.

16.02. If prior notice is required to initiate a renewal under this Lease, the required notice period may include time in the hold-over period. If the required notice of renewal is less than the hold-over period, Tenant may deliver notice in the hold-over period.

16.03. Whenever this Lease refers to its term, events to occur during the term, or rights and obligations of Landlord and Tenant during the term, a hold-over period is considered a part of the term.

17. Default.

17.01. *Default by Landlord/Events.* Defaults by Landlord are (i) failing to comply with any provision of this lease within 30 days after written notice; (ii) failing to provide Essential Services to Tenant within 10 days after written notice and; (iii) failure to timely pay for utility services the payment of which is allocated to Landlord under this Lease; and (iv) failure to pay property taxes before assessment of interest or penalty.

17.02. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and, if Landlord does not provide an Essential Service within 30 days after default, terminate this lease. Further, if a utility service the payment of which is allocated to Landlord is in imminent threat of being terminated, Tenant may, without prior notice to Landlord, pay some or all the charges and demand immediate reimbursement from Landlord.

17.03. *Default by Tenant/Events.* Defaults by Tenant are (a) failing to pay timely Rent, (b) abandoning or vacating a substantial portion of the Premises, and (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.

17.04. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are 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. Tenant to reimburse Landlord for reasonable reletting expenditures; (b) enter the Premises and perform Tenant's obligations; and (c) terminate this lease by written notice and sue for damages.

Attachment I

17.05. *Waiver of Liens.* As required by Article XI, § 9 of the Texas Constitution, Landlord waives all common law and statutory liens in the property of Tenant, including the lien that might otherwise arise under § 54.021 of the Texas Property Code.

18. Warranty Disclaimer.

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.

19. Environmental.

19.01. "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.

19.02. "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.

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

19.04. 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.

19.05. To the best of Landlord's knowledge, 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. Tenant has been provided a copy of the 2009 report on the environmental condition of the Premises.

Attachment I

19.06. 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 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.

19.07. Landlord represents and warrants that, (i) 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: (a) the Property violates any Environmental Law; (b) there has been a Release, or threat of Release, of Hazardous Materials from the Property; (c) 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 (d) the Property is subject to a lien under any Environmental Laws; and (ii) 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.

19.08. Before the Occupancy 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.

20. Appropriations.

All obligations of the City of San Antonio under this instrument are funded subject to the discretion of City Council whether to appropriate funding. If the City Council fails to appropriate money for any obligation under this agreement, the City may terminate this agreement and have no further liability.

21. Dispute Resolution.

21.01. Before bringing any action arising out of this agreement, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

Attachment I

21.02. Filing suit on a claim that should be mediated hereunder waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

21.03. Mediation must be conducted in San Antonio, Bexar County, Texas.

21.04. The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

21.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

21.06. Mediator fees must be borne equally.

21.07. The parties need not mediate before going to court (i) for either party to seek emergency injunctive relief or (ii) for Landlord to seek forcible entry and detainer relief against Tenant.

22. Prohibited Interests in Contracts.

22.01. 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;

Attachment I

(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.

22.02. 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.

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

23. Miscellaneous.

23.01. *Applicable Law.* This Agreement is entered into in San Antonio, Bexar County, State of Texas. **Its Construction And The Rights, Remedies, And Obligations Arising Under It Are Governed by The Laws of The State Of Texas.** But the Texas conflicts of law rules must not be used to apply the laws of a jurisdiction other than Texas. Both parties' obligations under this agreement are performable in San Antonio, Bexar County, Texas, and venue for any action arising under this agreement is only in Bexar County, Texas.

23.02. *Severability.* If any part of this agreement is found invalid or unenforceable, the finding does not affect the remainder.

23.03. *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.

23.04. *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.**

23.05. *Modification.* This Agreement may be changed only by a written agreement, signed by the party against whom enforcement of any modification is sought. Subject to that restriction, any of this Agreement's terms may be modified by the party entitled to their benefit, but no modification, express or implied, affects the right of the modifying party either (i) to apply any other term or condition or (ii) to apply the same term or condition to a later or earlier occasion. Any modification

Attachment I

of this Lease must be authorized by an ordinance adopted by City Council that specifically addresses the modification.

23.06. *Third Party Beneficiaries.* This Agreement benefits the parties and their successors and permitted assigns only. It has no third party beneficiaries.

23.07. *Notices.* Notices must be in writing and by certified mail, return receipt requested, or by independent delivery service addressed to the parties at their respective addresses set forth at the beginning. If sent by certified mail, notice is complete three days after deposit, properly addressed and postage prepaid, with the United States Postal Service. If sent other than by certified mail, notice is complete on the date shown on the receipt. Address for notice may be changed by giving notice.

23.08. *Captions.* Paragraph captions are for ease of reference only and do not affect the interpretation.

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

23.10. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be necessary to effect fully the provisions hereof. But no such additional documents can alter the rights or obligations of the parties stated in this agreement.

23.11. *Administrative Agreements.* The Director of Center City Development and Operations may, without further council action, agree to, sign, and deliver on behalf of the City all consents, certificates, memoranda, estoppels, attornments, and modifications of nonmaterial rights and obligations arising under this Lease and may declare defaults and pursue remedies for such defaults. This paragraph does not authorize lease amendments or renewals without council consent.

23.12. *Conflicts Between Numbers Stated Two Ways.* Whenever there is a conflict between numbers stated more than one way, either by using both words and numerals or by stating a fixed amount and a calculation, the highest number controls.

23.13. *Quiet Enjoyment.* As long as Tenant pays the rent and other charges under this lease and observes the covenants and terms of this lease, Tenant will lawfully and quietly hold, occupy, and enjoy the Premises during the lease term

Attachment I

without being disturbed by Landlord or any person claiming under Landlord, except for any portion of the Premises that is taken under the power of eminent domain.

23.13. *Incorporation of Exhibits.* All exhibits to this Lease are incorporated into it for all purposes as if fully set forth.

24. 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. Nothing in this agreement waives an otherwise applicable exception to disclosure.

25. Assignment and Subleasing.

Notwithstanding the provision in Section 6.09 of this Lease, Tenant may assign this Lease or sublet all or a portion of the Premises without Landlord's permission provided the assignee or sublessee is another local governmental agency of the state of Texas and the use classification is consistent with that provided for in Section 1 of this Lease.

[Signatures on following page]

Attachment I

In Witness Whereof, the parties have caused their representatives to set their hands.

Tenant

Landlord

City of San Antonio, a Texas
municipal corporation

Brooks Development Authority

Signature: _____

Signature: _____

Printed
Name: _____

Printed
Name: Samantha H. Burke

Title: _____

Title: Chief Operating Officer

Date: _____

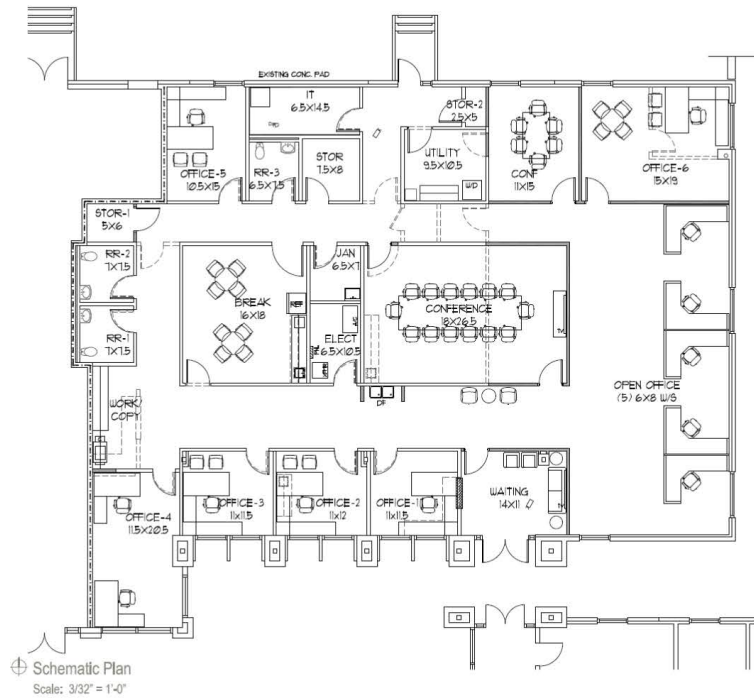
Date: _____

Approved as to Form:

City Attorney

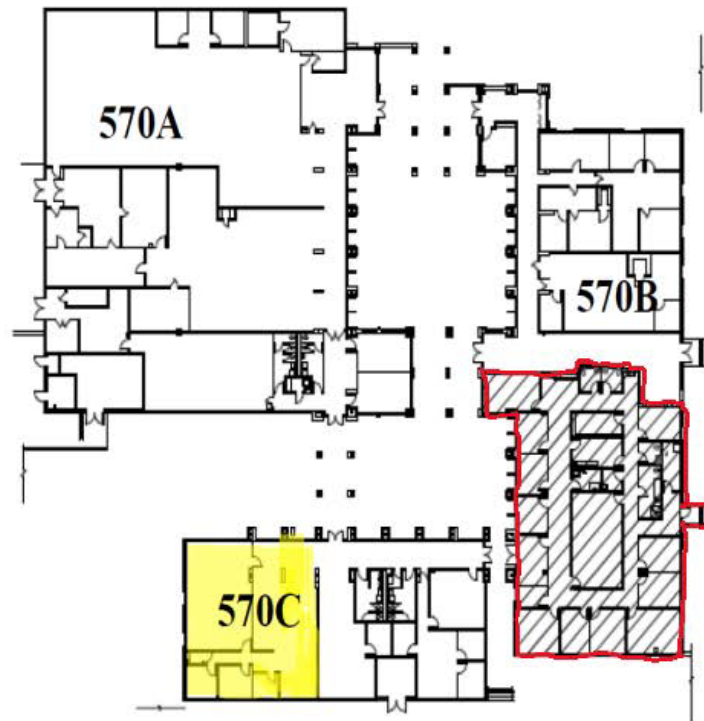
Attachment I

Exhibit A: Depiction of Premises FLOORPLAN in BUILDING 570B



Attachment I

Location Map



Attachment I

Exhibit B: Rent Commencement Memorandum

Lease Date: _____

Landlord: Brooks Development Authority

Tenant: City of San Antonio

Building 570B

Lease: 3120 Sidney Brooks Street
San Antonio, Texas

Authorizing Ordinance: 2023-XX-XX-XXXX _____

Predicate Facts:

Landlord and Tenant are parties to the Lease, which was authorized by the Authorizing Ordinance, _____.

For their mutual benefit, the parties now wish to memorialize the actual commencement date of the Rent and Initial Term.

Rights and Obligations:

Now Therefore, in consideration of the premises, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Defined Terms.

All terms used in this memorandum and not otherwise defined herein but defined in the Lease have the meanings ascribed to them in that instrument.

2. Initial Term Commencement Date.

The Initial Lease Term commenced on _____
(Commencement Date) and will end _____.

3. Conflict of Terms. This instrument controls over anything to the contrary in the Lease.

Attachment I

In Witness Whereof, the parties have caused their representatives to set their hands.

Tenant:

Landlord:

City of San Antonio, a Texas
municipal corporation

Brooks Development Authority LLP.

By: _____

By: _____

Printed
Name: _____

Printed
Name: _____

Title:

Title: _____

Date: _____

Date: _____

Approved as to Form:

City Attorney

Attachment I

Exhibit C: Work Letter

This Work Letter supplements the Lease (the “Lease”) as of the Lease Date, executed concurrently herewith, by and between Brooks Development Authority (“Landlord”) as Landlord and City of San Antonio (“Tenant” or “City”) as Tenant, covering certain Premises described in the Lease. Terms capitalized but not otherwise defined herein will have the same meanings ascribed to them in the Lease.

The parties hereby agree as follows:

1. Basic Work Letter Information. The following terms as used herein will have the meanings provided in this Section.

| | |
|---|--|
| Contracted Services | Under a separate agreement Landlord and City will enter into a contract to pay the Project Management Fee, cover any contingencies unforeseen in the Tenant Improvements scope as of the Lease Date and the fees for architectural services. |
| City’s Construction Representative | Mick Haase Real Estate Division PO Box 839966 San Antonio, TX 78283 (210)207-7723 |
| Landlord’s Construction Representative | Chip Davis Development Project Manager 7515 Inner Circle Drive, Suite 101 San Antonio, Texas 78235 210-678-3366 Office 210-387-4238 Mobile |
| City’s Address for Work Letter Notice | See Section 1 of the Lease |
| Landlord’s Address for Work Letter Notice | See Section 1 of the Lease |
| Attachments to Work Letter | Attachment A: Base Building Improvements Attachment B: Tenant Improvements |

Attachment I

2. Base Building Improvements.

2.1 Base Building Improvements. Landlord is responsible for the base building improvements described on **Attachment A** hereto (the “Base Building Improvements”).

3. Building Improvements to be Completed by Landlord and Considered Tenant Improvements.

The term Tenant Improvements means all improvements identified in **Attachment B** attached hereto including all construction required to complete the project. Landlord will complete certain improvements to the Premises (“Tenant Improvements”) as agreed with Tenant, in an amount not to exceed \$250,000. Tenant will reimburse Landlord for all of the cost of Tenant Improvements in accordance with monthly payment applications as set out in Section 7.02 of the Lease.

4. Project Tasks to be Completed Prior to the Lease Date.

4.1 Selection of Architect.

As of the Lease Date Landlord will complete the selection of a qualified licensed architect (Architect) to complete the Tenant Improvements. The Architect will be selected by Landlord subject to Tenant’s consent, which consent will not be unreasonably withheld, and which consent (or refusal to consent for reasonable reasons) be granted within three business after Landlord has submitted the name of the Architect to Tenant together with detailed proposals outlining design/engineering to complete the Tenant Improvements. This procedure will be repeated until the Architect is/are finally approved by Tenant and written consent has been delivered to and received by Landlord.

4.2 Preparation of Space Plan.

Prior to the Lease Date Landlord will submit to Tenant a space plan and specifications for the Premises showing all Tenant requested demising walls, corridors, entrances, exits, doors, interior partitions, and the locations of all offices, conference rooms, computer rooms, mini-service kitchens, and the reception area, library, room (collectively the “Space Plan”).

4.3 Preliminary Project Budget.

As of the Lease Date Landlord will submit to Tenant a preliminary budget (the “Preliminary Budget”). The Preliminary Budget will

Attachment I

outline all costs, including permit fees, Architectural and Engineering fees, a fee of 5% of the value of the construction contract charged by Landlord to manage the construction.

5. Preparation of Plans and Specifications and Construction Schedule.

- 5.1 Preparation and Approval of Working Drawings. Within ten days of the latter of the (i) Lease Date or (ii) the date the Tenant approves the space plan, Landlord will instruct the Architect to commence preparation of Working Drawings (the “Working Drawings”), which must be compatible with the design, construction and equipment of the Building, comply with all applicable laws, be capable of physical measurement and construction, contain all such information as may be required for the construction of the Tenant Improvements including sufficient detail so that an engineer hired by the contractor can prepare the Engineering Drawings (as defined below), and contain all partition locations, plumbing locations, air conditioning system and duct work, special air conditioning requirements, reflected ceiling plans, office equipment locations, and special security systems. The Working Drawings may be submitted in one or more stages and at one or more times. Landlord will provide Tenant the Working Drawings, or such portion as has from time to time been submitted, for review. Landlord will be solely responsible for insuring that the Working Drawings fully comply with all applicable building codes and are free from errors or omissions on the part of the Architect.
- 5.2 Preparation of Engineering Drawings. Landlord will cause the contractor as part of its scope to provide services for all engineering drawings prepared by the Engineer that will be hired by the selected contractor, commonly referred to as design build, Showing complete mechanical, electrical, plumbing, and HVAC plans (“Engineering Plans”). The Engineering Drawings may be submitted in one or more stages and at one or more times for Tenant’s review.
- 5.3 Integration of Working Drawings and Engineering Drawings into Final Plans. After Tenant has approved the Engineering Drawings, Landlord will cause the Architect to integrate the approved Working Drawings with the approved Engineering Drawings (collectively “Final Plans”) and deliver five sets of the Final Plans to Tenant. The Final Plans will be suitable for a) plan check review and permitting by local agencies having jurisdiction and, b) for the layout, improvement

Attachment I

and finish of the Premises consistent with the design of the Space Plan and construction of the Base Building Improvements, including electrical and mechanical drawings, capacity reports, dimensioned partition plans, floor plans, power, telephone communications safety devices, construction detail sheets including millwork detail plans showing the location of partitions, light fixtures, electrical outlets, telephone sprinklers, doors, (including voltage, amps, phase, and special plugs and connections), wall finishes, floor coverings, millwork and other Tenant Improvements.

- 5.4 Approval of Plans by Tenant. Approval by Tenant will not be deemed to be a representation by Tenant as to the adequacy or correctness of the design of the Tenant Improvements.
- 5.5 Schedule. Within 30 days after the Lease Date, Landlord will submit to Tenant a detailed construction schedule, subject to approval by Tenant, which approval will not be unreasonably withheld, setting forth the dates for specific completion including, but not limited to, completion of Working Drawings, completion of Engineering Drawings, submission of plans to local jurisdiction for review, issuance of building permit, submission of plans to contractors for bidding, award of construction contract, construction commencement, construction completion, Projected Commencement Date and other similar dates. As the construction continues, Landlord will amend the schedule from time to time to reflect any changes to the projected dates.

6. Selection of Contractor.

The Final Plans, as defined in Section 5.3 above, will be submitted to contractors, selected by Landlord and approved by Tenant, sufficient in number so that an attempt to procure a minimum of three bids is initiated. Each approved contractor will be requested to submit a sealed fixed price contract bid price (on such contract form as Landlord will designate) to construct the Tenant Improvements as designated on the Final Plans. Landlord and Tenant will jointly open and review the bids. Landlord and Tenant will select the most qualified bidder offering the lowest price and such contractor ("Contractor") will enter into a construction contract ("Construction Contract") with the Landlord consistent with the terms of the bid to construct the Tenant Improvements.

Attachment I

7. Final Construction Budget and Payment of Tenant Construction Costs.

7.1 Construction Budget. Within ten days of the date the Contractor is selected, Landlord will submit a construction budget outlining all costs to complete the project and in a format similar to the Preliminary Construction Budget referred to herein as the "Final Construction Budget". Tenant will have five days from the date of receipt of the Final Construction Budget to approve or disapprove the Final Construction Budget. In the event the cost detailed in the Final Construction Budget is 10% higher than the cost detailed in the Preliminary Construction Budget, then the Final Construction Budget will be automatically rejected and Landlord at its sole cost and expense will cause the Architect and Engineer to alter the Final Plans in a manner acceptable to Tenant.

7.2 Landlord will review the Space Plan, Working Drawings, Engineering Drawings and Final Plans at its sole cost and expense but subject to payment of a management fee by Tenant as provided in Section 4.3 herein.

7.3 Method of Payment. As provided in Section 7.02 of the Lease

8. Construction of Tenant Improvements.

8.1 Tenant Improvements. Tenant Improvements to be constructed by Landlord are described more particularly on **Attachment B** hereto. If any work required by the Final Plans is not described on Addendum B hereto the work will be performed by Landlord at its own cost and expense and not included in the cost on Tenant Improvements.

8.2 Bids. Unless waived by Tenant in writing, any major contractors, subcontractors and materials providers providing labor and/or materials for the Tenant Improvements will be selected only after at least three bids have been solicited from responsible and qualified persons. Landlord will submit at least three fixed price bids for construction of the Tenant Improvements to Tenant for its review prior to the award of the construction contract. The bids will be jointly opened and reviewed. The bids will include an itemized list of all materials and labor and will include all additional costs, including architects and engineering fees, permits, reasonable contractor's profit and overhead, and project management fees.

Attachment I

- 8.3 Permits. Landlord will secure the approval of governmental authorities, and all permits required by governmental authorities having jurisdiction over such approvals and permits for the Tenant Improvements, promptly after approval of the Final Plans.
- 8.4 Commencement of Construction. Landlord will commence construction of the Tenant Improvements within 15 days after issuance of all such necessary permits. Landlord will commence and, once commenced, will thereafter diligently proceed to construct and complete all Tenant Improvements, subject to any cessation that may be caused by Force Majeure or Tenant Delays.
- 8.5 Construction. Construction of the Tenant Improvements will be subject to the following terms and conditions:
- 8.5.1 Decorating Decisions. All design and programming, space planning and interior decorating services, such as selection of wall paint colors and/all wall coverings, furniture, fixtures, carpeting and any or all other decorator selection efforts required by Tenant, will be provided by Landlord at Landlord's expense, and accrued against Tenant Improvements, in accordance with Tenant's Space Plan. Landlord will consult with the Tenant with respect to all such decorating services and decisions.
- 8.5.2 Clean-Up and Substandard Work. Landlord will be responsible for all clean-up with respect to the Tenant Improvements, whether in the Premises themselves or in other areas utilized by Landlord or its contractors, and agrees to reimburse Tenant for any and all expenses incurred by Tenant by reason of substandard performed by Landlord's contractor or contractors (as reasonably determined by Tenant according to the usual standards of work in the Building) or as result of inadequate clean-up.
- 8.5.3 Compliance with Laws. Construction of the Tenant Improvements will comply with all applicable laws and regulations and will be subject to the general inspection of Tenant. The Premises will comply with all applicable city, county, state, and federal building codes, regulations and ordinances required for beneficial occupancy, including, but not limited to, all provisions of the Labor Code of the State of Texas. Under the provisions of the Labor Code, the State

Attachment I

Department of Industrial Relations will ascertain the prevailing hourly rate in dollars and details pertinent thereto for each craft, classification or type of workman or mechanic needed for the construction of the improvements.

9. Telephone/Computer Room and Equipment. Landlord will complete the telephone equipment room(s) including permanent power and HVAC, in compliance with the Space Plan and specifications provided by Tenant, at least 20 days prior to the Projected Commencement Date. During this 20-day period, the Landlord will be solely responsible for any telephone/data equipment delivered to the site for programming prior to the Projected Commencement Date.

10. Delay.

10.1. Tenant Delays and Force Majeure Delays. Except as set forth herein, no delay in the completion of construction of the Tenant Improvements will be considered in the determination of the Commencement Date of the Lease and, except as set forth herein or in the Lease, under no circumstance will Tenant be charged with any delay whatsoever as a result of delay in the construction of Tenant Improvements. Subject to the provisions of Section 10.2, the Projected Commencement Date set forth in the Lease will be extended one (1) day for each day that: (i) Tenant fails or refuses to give authorizations or approvals within the time periods required herein but only to the extent such delays delay the commencement or completion of construction of the Tenant Improvements (referred to herein as "Tenant Delay(s)"); or (ii) Substantial Completion of the Tenant Improvements is delayed by lightning, fire, storm, tornado, flood, washout, explosion, strike, lockout, labor disturbance, civil disturbance, riot, war, act of a public enemy, sabotage or other similar causes beyond the reasonable control of Landlord (referred to herein as "Force Majeure Delay(s)").

10.2. Limitations.

(a) Notice. No Tenant Delay or Force Majeure Delay will be deemed to have occurred unless Landlord has provided written notice, within 5 days of the event giving rise to such claim, in compliance with the Lease, to Tenant specifying that a delay is claimed to have occurred because of actions, inaction or circumstances specified in the notice in reasonable detail. If such actions, inaction or circumstances qualify as a Tenant Delay or Force Majeure Delay, then a Tenant Delay or Force Majeure Delay, as applicable, will be deemed to have occurred only commencing as of the date Tenant received such notice from Landlord.

(b) Mitigation. Tenant Delays and Force Majeure Delays will delay the Projected Commencement Date only in the event that Substantial Completion of the Tenant Improvements is delayed, despite Landlord's reasonable efforts to adapt and

Attachment I

compensate for such delays, which efforts Landlord will be obligated to make (provided such additional cost incurred by Landlord does not exceed \$1,000 on a cumulative basis, unless Tenant agrees to pay to such excess).

(c) Concurrent Delays. Tenant Delays and Force Majeure Delays will be recognized hereunder only to the extent the same not concurrent with any other Tenant Delay or Force Majeure Delay which is effective hereunder. For example, if there are ten days of Tenant Delays and four days of Force Majeure Delays which occur during the same ten-day period of such Tenant Delays, then the Projected Commencement Date would be extended by only ten days; on the other hand, if such Tenant Delays and Force Majeure Delays did not occur during the same period, the Projected Commencement Date will be extended by 14 days.

(d) Change Orders. Landlord may not claim that a Change Order requested by Tenant was the cause of a delay in the construction of the Tenant Improvements unless the anticipated delay is specified in writing in the Change Order authorization.

11. Tenant Remedies. If Landlord fails to obtain the building permit to construct the Tenant Improvements within a reasonable time, taking all factors into consideration, or if Tenant Improvements have not been completed within 90 days after the Projected Commencement Tenant may, at its option:

11.1. Cancel the Lease upon 30 days written notice to Landlord if Tenant fails or elects not to cure the default as provided in Paragraph 14 of the Lease (Landlord Default); or

11.2. Upon 30 days written notice to Landlord, if Landlord fails or elects not to cure the default as provided in Paragraph 14 of the Lease (Landlord Default), Tenant may assume the responsibility for providing the Tenant Improvements itself. If Tenant elects to provide Tenant Improvements itself, then:

(a). Tenant, its officers, employees, agents, contractors and assignees, will have free access to the Premises and the Building at all reasonable times for the purpose constructing the Tenant Improvements and for any other purposes reasonably related thereto; and

(b). Tenant will reimburse Landlord for all costs of the Tenant Improvements made by Landlord prior to the date of Tenant's notice to Landlord of Tenant's election to provide Tenant Improvements itself.

11.3. Any uncured default by Landlord under the terms of this Work Letter will constitute a default under the Lease and will entitle Tenant to exercise all remedies set forth in the Lease.

Attachment I

12. Representatives.

12.1. Tenant Representative. Tenant has designated City's Construction Representative as its sole representative with respect to the matters set forth in this Work Letter who, until further notice to Landlord, will have the full authority and responsibility to act on behalf of Tenant as required in this Work Letter and whose address, for purposes of any notices to be given regarding matters pertaining to this Work Letter only, is Tenant's Address for Work Letter Notice as set forth in Section 1.

12.2. Landlord Representative. Landlord has designated Work Letter Representative as its sole representative with respect to the matters set forth in this Work Letter who, until further notice to Tenant, will have the full authority and responsibility to act on behalf of Landlord as required in this Work Letter and whose address, for purposes of any notices to be given regarding matters pertaining to this Work Letter only, is Landlord's Address for Work Letter Notice as set forth in Section 1.

13. Early Access. Landlord must permit Tenant to enter the Premises before the Commencement Date to prepare the Premises for Tenant's use and occupancy, including testing and installation of Tenant's equipment. Any such entry into the Premises is under all of the terms of the Lease, except as to Rent.

14. Construction Meetings. During the course of construction, meetings will be held between the Contractor, Landlord and Tenant at least once per week, unless Tenant directs otherwise, at a time and place which is mutually convenient. An initial construction meeting will be held within five days of the date the Contractor is selected.

15. Delivery. Delivery of all plans and drawings referred to in this Work Letter will be by commercial messenger service or personal hand delivery, unless otherwise agreed by Landlord and Tenant.

[Signatures on following page]

Attachment I

In Witness Whereof, the parties have caused their representatives to set their hands.

Landlord

Brooks Development Authority

Signature: _____

Printed
Name: _____

Title: _____

Date: _____

Tenant

City of San Antonio, a Texas municipal
corporation

Signature: _____

Printed
Name: _____

Title: _____

Date: _____

Approved:

City Attorney

Attachment I

Attachment A to Work Letter BASE BUILDING IMPROVEMENTS

Tenant accepts the Base Building in its "AS IS-WHERE IS" condition subject to:

Prior to commencement of any work that will be charged against the Tenant Improvement Allowance, Landlord has either constructed at Landlord's sole cost and expense, or Landlord will enter into a contract for the construction, at its sole cost and expense or the Building already includes the following components or features:

- (a) Parking facilities located adjacent to the Building including a parking area striped and lighted to provide the parking allocated to Tenant in Section 1 of the Lease with sufficient handicap accessible parking as required by applicable building codes located outside of the secured parking area;
- (b) Electric panels in quantity as required by the final plans, connected to the Building electrical distribution system;
- (c) Basic building HVAC system to be provided in working order sufficient in capacity to provide heating and cooling to the Premises based on the occupancy;
- (d) fire alarm panel, if provided, in good working order;
- (e) Telecommunications riser to be provided to the Premises to allow Tenant to hook up its own telephone switch and distribute telecommunications throughout Premises;
- (f) The Premises to be free from friable asbestos containing materials;
- (g) The Premises to be free from toxic levels of mold; and
- (h) Building Common Area and parking areas that serve the Building to be compliant with standards set by the American Disabilities Act.

Attachment I

Attachment B to Work Letter TENANT IMPROVEMENTS

The Tenant Improvements to be constructed by Landlord and reimbursed by Tenant including the following, as well as all items set forth in the Final Construction Budget as approved:

- (a) Tenant ceilings and lighting;
- (b) Floor finish in the Premises;
- (c) Interior finishes of any kind within the Premises;
- (d) Interior partitions, doors and hardware within the Premises;
- (e) Air distribution devices to or within the Premises, suitable for Tenant's secondary distribution;
- (f) Distribution of electrical services, plumbing services, HVAC and sprinklers within the Premises and domestic hot water heater and associated hot water piping
- (g) Any and all signs for Tenant and the power to such sign devices;
- (h) Security, fire and life-safety systems within the Premises, including exit signs, intercoms and extinguishers;
- (i) Additional and/or above standard electrical capacity; and
- (j) Fiber optic access.

Attachment I

Exhibit D: Cleaning Standards and Schedule

I. CLEANING PERFORMANCE STANDARDS

A. Office

1. Trash Removal:
 - a. There will be no trash or foreign matter under desks, tables or chairs.
 - b. All paper waste baskets will be empty and in place, clean and ready for use. Liners will be replaced as needed.
2. Sweeping, Rug Cleaning and Vacuum Cleaning:
 - a. All carpeting will be vacuumed and spot cleaned using commercial grade equipment.
 - b. Baseboards, furniture, and equipment will not be disfigured or damaged during the cleaning operation.
 - c. Rugs and entry mats will be clean and free from dust, dirt and other debris.
 - d. Furniture and equipment moved during sweeping rug cleaning or vacuuming will be replaced.
3. Dusting:
 - a. Desktops will not be dusted.
 - b. Woodwork, after being properly dusted, will appear bright.
 - c. Corners and crevices will be free of any dust.
 - d. There will not be any oily spots or smudges on walls caused by touching them.
 - e. When inspected with a flashlight there should be few traces of dust on any surfaces.
 - f. Windowsills, door ledges, doorframes, door louvers, window frames, blinds, wainscoting, baseboards, columns and partitions will be free of dust.

Attachment I

4. Damp-wiping: Mirrors, showcases, door glass, side glass and all other glass up to standing height will be clean and free of dirt, dust, streaks and spots.
5. Carpet Shampooing
 - a. All carpets will be cleaned and shampooed in accordance with standard commercial practices.
 - b. All carpets will be cleaned and shampooed a minimum of once per year.
6. Drinking Fountains:
 - a. Drinking fountains will be clean and free of stains and hard water residue.
 - b. The wall and floor around the drinking fountain will be free of spots and watermarks.
 - c. All other surfaces of the fountain will be free of spots, stains and streaks.

B. Restroom

1. Replenishment of Supplies:
 - a. All supply dispensers will be clean and filled with the proper supplies (towels, soap, napkins, etc.)
 - b. Trash containers will be emptied and clean liners inserted.
 - c. All deodorizers will be maintained, to include wall mounted units sprayers, toilets & urinals.
2. Cleaning of Sanitary Receptacles:
 - a. All sanitary receptacles will be clean, both inside and outside, and contain a new liner.
 - b. All sanitary receptacles will be free of spots, stains, and fingermarks.
 - c. All sanitary receptacles will be free of odors.
3. Cleaning of Toilet Room Fixtures:
 - a. All porcelain surfaces of wash basins, toilets, and urinals will be free of dust, dirt, water spots and

Attachment I

- stains.
 - b. All stainless fixtures and surfaces will be free of stains and build-up.
 - c. The wall surfaces will be free of spots and smears.
 - d. All toilet seats will be left in raised position after cleaning. They will be free of spots and stains, and the seat hinges will be free of mold.
 - e. The plumbing fixtures will be free of mold and water stains.
4. Cleaning of Supply Dispensers, Deodorizers, Tile Walls, Stall partitions, Urinal partitions, Doors, Shelves, Mirrors and Floors:
- a. All supply dispensers will be clean and free of finger marks and watermarks.
 - b. All shelves and shelf brackets will be free of gum, dust, fingerprints, water stains, smudges and other soil.
 - c. All mirrors should be free of streaks, smudges, water spots, dust, and lipstick smudges. The mirrors appearance should not be cloudy.
 - d. Walls, stall partitions, and doors will be free of hand marks, dust, pencil marks, lipstick smudges, water streaks, mop marks and mold.
 - e. Floors (especially in comers) will be mopped nightly and will be free of dirt and dust, gum, grease, black marks, loose paper, water, mop stains and string. Particular attention should be given to area under urinals.
5. All floor drains shall be flushed weekly and odor free.

C. Waste Disposal

- 1. All blue recycle containers will be taken to the curb on a weekly basis.

II. CLEANING FREQUENCY

A. General Cleaning, Five Days per Week

- 1. Empty and clean all wastebaskets, sand cans, receptacles,

Attachment I

- etc.; damp dust or wet wipe and dry polish as necessary. (Liners will be placed in receptacles and wastebaskets and replaced as needed.)
2. Remove all trash and wastepaper to designated collection points. Bag trash and non-bag trash will be placed in designated area and removed nightly to the designated dumpsters.
 3. Drinking fountains will be cleaned and disinfected, and all exposed metal will be polished and kept free of foreign matter. All walls and vinyl areas around drinking fountains will be kept free of fingerprints and other matter.
 4. All glass doors, windows around front and rear entrances, and glass panels, including bright metal finishes and handrails, will be cleaned and polished on interior and exterior surfaces, as needed.
 5. All tenants' entrance doors, frames, glass and adjacent metal will be cleaned and polished. Partition glass and glass cases will be spot cleaned to remove smudges and fingerprints.
 6. Wash and polish all restroom mirrors, vanity shelves, deodorizers, bright work, dispensers, etc.
 7. Clean and sanitize all restroom fixtures (toilet, wash basins, urinals, shower walls and floors) to be kept free of scale and mildew. Wash and sanitize top and underside of toilet seats and benches.
 8. Refill soap, towel, and tissue containers and holders. No extra supplies or stock of any paper or other products shall be left on floors, counters or other surfaces. All products will only be kept within their appropriate containers.
 9. Wipe down toilet partitions, counters and walls around wash basins.
 10. Mop all restroom floors.
 11. Empty and sanitize all receptacles and sanitary disposal containers.
 12. All counter tops of wet bar areas will be wiped down nightly and sinks will be cleaned if free of dishes.
 13. Empty trash.