

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

CITY CLERK DEPT.
2016 JUL 20 PM 5:32

DEPARTMENT: Economic & International Development Department

AGENDA DATE: CCA Consent July 26, 2016

CONTACT PERSON NAME AND PHONE NUMBER: Jose Carlos Villalva (Real Estate Manager) 915-504-5880

DISTRICT(S) AFFECTED: District 3

STRATEGIC GOAL: Goal 8 – Nurture and Promote a Healthy, Sustainable Community

SUBJECT:

That the City Manager be authorized to sign a Lease Agreement between the City of El Paso (Landlord) and Pro-Action, Inc. (Tenant), for the building located at 6292 Trowbridge Drive, El Paso, Texas, to operate "Immunize El Paso", a clinic which provides free or low-cost health services, for an initial term beginning on the effective date of the Lease for a 10-year period, at a rental rate of \$1.00 for the initial term, and the initial term may be extended for two, 5-year terms by the Tenant.

BACKGROUND / DISCUSSION:

The building located on 6292 Trowbridge has been vacant for over 10 years. City Council directed staff to find an adequate use for the property. The property was once a health clinic, Immunize El Paso will use the property for the same use. The Tenant will assume all the maintenance cost associated with the building. The Tenant will install and be responsible for all the tenant improvements required to establish the business.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one? Yes.

AMOUNT AND SOURCE OF FUNDING:

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

BOARD / COMMISSION ACTION:

Planning Commission has approved a zoning change.

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

DEPARTMENT HEAD:

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

CITY CLERK DEPT.

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

2016 JUL 20 AM 8:50

That the City Manager be authorized to sign a Lease Agreement between the City of El Paso (Landlord) and Pro-Action, Inc. (Tenant), for the building located at 6292 Trowbridge Drive, El Paso, Texas, to operate "Immunize El Paso", a clinic which provides free or low-cost health services, for an initial term beginning on the effective date of the Lease for a 10-year period, at a rental rate of \$1.00 for the initial term, and the initial term may be extended for two, 5-year terms by the Tenant.

ADOPTED THIS _____ DAY OF _____, 2016.


THE CITY OF EL PASO

Oscar Leaser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Marvin Foust
Assistant City Attorney

APPROVED AS TO CONTENT:



Cary Westin, Director
Economic & International
Development Department

CITY CLERK DEPT.

2016 JUL 20 AM 8:50

LEASE

By and between

CITY OF EL PASO

Landlord

and

PRO-ACTION, INC

Tenant

for
the Premises located at
6292 Trowbridge Drive, El Paso, Texas 79905

LEASE AGREEMENT

THIS Lease ("Lease"), made to be effective as of _____, 2016 ("Effective Date") by and between **CITY OF EL PASO**, a Texas municipal corporation hereinafter called the "City" or "Landlord" and **PRO-ACTION INC.**, a Texas non-profit corporation, hereinafter called the "Tenant."

WHEREAS, the City owns the property located at 6292 Trowbridge, El Paso, TX 79905 (the "Property"); and

WHEREAS, the Tenant is a non-profit organization that operates the program "Immunize El Paso", which offers immunization and health care prevention services to low-income persons in the City and the County of El Paso; and

WHEREAS, the Tenant has indicated a desire to lease the Property further described in this Lease as Leased Premises to operate "Immunize El Paso", a clinic which offers free or low-cost health services to the residents of the City of El Paso; and

WHEREAS, Landlord has determined that a significant public purpose will be served by leasing the Leased Premises in accordance with the terms specified herein, together with certain privileges, right, uses and interests therein, because the availability of free or low-cost health services for the residents of El Paso improves the welfare of the community.

NOW THEREFORE, for and in consideration of the foregoing and in further consideration of the mutual benefits, the Parties hereto agree as follows:

1. **Lease of Premises.** In consideration of the obligation of Tenant to pay rent herein provided and in consideration of the other terms, covenants, and conditions of this Lease, City does hereby demise and lease to Tenant and Landlord does hereby lease as follows:

Land and building located at 6292 Trowbridge Drive, El Paso, Texas 79905. The leased area described above is hereinafter referred to as the "Leased Premises" as depicted in the plan set forth and attached as Exhibit "A".

2. **Term of Lease.** The term of this Lease shall commence on the effective date of this Lease and end on August __, 2026 ("Initial Term").
3. **Extension of Term.** In the event that the Tenant is not in default of any terms of this Lease, the Parties may extend this Lease for two (2) additional terms of five (5) years each. The Tenant may exercise the first five-year option ("First Option Period") by notifying the Landlord in writing at least ninety (90) days prior to the expiration of the Initial Term. In the event the Tenant exercises its first option, the Lease shall be extended for five (5) years on the same terms and conditions, and similarly for the second five-year option ("Second Option Period").

4. **Rental Rate.** As monetary consideration for this Lease, Tenant will deliver to the City the sum of ONE AND NO/100 DOLLARS (\$1.00) per year for the Initial Term in advance on the first day of each year of the Initial Term of this lease and ONE AND NO/100 DOLLARS (\$1.00) in each month of any Option Period of this lease.

5. **Place of Payment.** All rent payments provided herein shall be paid to City at the following address, or at such place as may be designed from time to time by City:

City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890
Attn: Financial Services Department

6. **End of Term.** Tenant shall surrender the Premises at the end of this Lease in good order and condition except for ordinary wear and tear.

7. **Hold over.** The City and the Tenant agree and understand that any holding over of the Tenant on the Leased Premises at the expiration of the Initial Term or authorized extension of this Lease, pursuant to Section 3, shall operate and be constructed as a tenancy from month-to-month at the monthly rental rate of \$350.00, and all provisions of this Lease shall remain effective, so long as the Tenant retains possession of the Leased Premises.

8. **Conditions of Granting Lease.** The granting of this Lease and its acceptance by Tenant is conditioned upon the following covenants:

A. Tenant agrees that it will make no functional alteration of the Leased Premises or improvements located thereon or functional change in the uses of such Leased Premises without the prior written consent of City. Tenant shall not use or allow the Leased Premises to be used for any improper, immoral, unlawful or objectionable purpose in accordance with City ordinances and state and federal laws, nor shall Tenant cause, maintain or permit any nuisance in or about the Property.

B. City may make reasonable rules for use of the Property to protect the rights of the public and to provide for the proper, orderly and non-discriminatory use of the facilities thereon which shall be made available to every member of the community.

C. That the right to use the Leased Premises shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Texas; the rules and regulations promulgated by their authority and all reasonable and applicable rules, regulations and ordinances of City now in force or hereafter prescribed or promulgated by charter authority or by law.

9. **Permitted Uses.** The Tenant agrees to use the Leased Premises solely for a health clinic and offices used for the purpose of providing free or low-cost health services. The

Tenant shall not permit on the Leased Premises any entertainment, amusement or other activity which violates any statute or ordinance, and will use Tenant's best efforts to prevent disorder and conduct amounting to a nuisance. The Leased Premises shall not be used for any purpose except as contemplated by this Lease, unless written permission of the City Council is first obtained.

10. **The City's Responsibilities.** The City is responsible for the following:

- A. **Quiet Enjoyment.** City agrees that upon Tenant's occupying the Premises and performing all of the covenants, conditions, and agreements set forth in this Lease, Tenant shall and may peaceably and quietly have, hold, and enjoy the Premises. City has no knowledge, nor any reason to believe, that there is any legal impediment to its full right to enter into this Lease and perform its obligations hereunder.

11. **The Tenant's Responsibilities.** The Tenant is responsible for the following:

- A. **Signs.** The Tenant shall not place any signs at or about the Leased Premises, except after written approval by the City, such approval not to be unreasonably withheld.
- B. **Care of Interior.** The Tenant agrees to take good care of the interior of the Leased Premises and fixtures and suffer no waste. Tenant is not permitted to drive nails into the walls or ceiling or poke holes or damage any of the interior walls. At the end of the term and any extension thereof, the Tenant will leave the Leased Premises in good order and condition, ordinary wear and tear and damage by fire and elements only accepted.
- C. **Medical Waste Removal.** The Tenant will be responsible for the collection and removal of all medical waste as a result of its use and occupancy of the Leased Premises.
- D. **Telephone Services.** The Tenant shall pay the charges for the telephone services used by the Tenant at the Leased Premises.
- E. **Taxes.** Tenant shall pay any and all taxes assessed against the Leased Premises, improvements located on the Leased Premises, Tenant's interest in the Leased Premises and improvements, and all of Tenant's personal property located on the Leased Premises.
- F. **Utilities.** Tenant will pay for the utility charges for the water, gas, and electricity services used by the Tenant in the building at the Leased Premises.
- G. **Trash, Garbage, and Other Refuse.** Tenant shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Property, of all trash, garbage and other refuse caused as a result of its use and occupancy of the Property. City shall provide and use suitable covered commercial type receptacles for all such garbage, trash and other refuse.

- H. **Repairs and Maintenance.** Tenant shall be solely responsible to keep the exterior wall, foundation, roofs, doors, windows, plumbing, cooling and heating systems, and other equipment of, and all interior portions of, the building in good working order and shall maintain the same in compliance with all governmental requirements and regulations. Tenant shall be solely responsible to keep the parking lot, entrances and other features of the exterior of the building in good working order and shall maintain the same in compliance with all governmental requirements and regulations. The City shall not be required to repair damages caused by negligence of the Tenant's employees or agents.
12. **Improvements.** No improvements, alterations, renovations, or additions shall be made in or to the Leased Premises without the prior written consent of the Director of the Economic & International Development Department or his designee, such consent not to be unreasonably withheld. All alterations, additions and improvements installed at the expense of the Tenant shall be done of equal workmanship and materials as in the existing Leased Premises. Such alterations, additions and improvements may be removed by the Tenant, unless to do so would cause permanent damage to the Leased Premises, in which case the alterations, additions or improvements shall become the property of the Landlord, and shall remain upon and be surrendered with the Leased Premises as a part thereof at the termination of this Lease.
13. **Compliance with Laws.** Tenant, at Tenant's expense, agrees that it will operate and to the extent permitted by City, construct improvements on the Leased Premises only in accordance with the terms, conditions and processes contained herein, and in accordance with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the City or Tenant, with respect to the use, occupation or alteration of the Leased Premises and any improvements thereon.
14. **Parking Lot.** The parking lot which is a portion of the Leased Premises shall be used solely for the use of the Tenant's patrons and employees and occasional City use only.
15. **Indemnification.** Tenant agrees to indemnify and hold Landlord harmless against any and all claims, demands, damages, costs, and expenses, including investigation expenses and reasonable attorney's fees for the defense of such claims and demands, arising out of or attributed directly, or indirectly to the operation, conduct or management of Tenant's business on the Premises, its use of the Premises, or from any breach on the part of Tenant of any terms of this Lease, or from any act or negligence of Tenant, its agents, contractors, employees, subtenants, concessionaires, or licensees in or about the Premises, including claims and damages arising in whole, or in part, from the negligence of Landlord. In case of any action or proceeding brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, agrees to defend the action or proceeding by counsel acceptable to Landlord.

16. **Insurance.** The Tenant, at its sole cost and expense shall, throughout the term of this Lease, or any extension hereof, provide and keep in force for the benefit of the Tenant and the City, such insurance coverage as determined from time to time by the Managing Director of the Department of Economic Development or his designee but in no case less than the following:

Comprehensive general liability insurance in an amount not less than One Million Dollars, (\$1,000,000.00) covering the Landlord and its employees, One Million Dollars (\$1,000,000.00) for protection of the general public and the City per occurrence for bodily injury or wrongful death and One Million Dollars (\$1,000,000.00) per occurrence for property damage. All policies of insurance shall be written by insurance companies authorized to do business in Texas. The City, its officers, agents, employees and volunteers shall be carried as co-insureds and a certificate of insurance acknowledging the amounts and persons covered shall be delivered by the Tenant to the City upon execution of this agreement. All insurance policies required by this Lease shall contain a provision that the policy shall not be canceled or reduced in any amount without at least sixty (60) days' notice to the City.

Comprehensive Pollution Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00)

Workers' Compensation and Employers Liability coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act and minimum policy limits for employers liability of One Million and no/100 Dollars (\$1,000,000.00) bodily injury each accident, One Million and no/100 Dollars (\$1,000,000.00) bodily injury by disease policy limit, and One Million and no/100 Dollars (\$1,000,000.00) bodily injury by disease each employee. The following endorsements shall be added to the policy:

1. A Waiver of Subrogation in favor of the CITY; and
2. A thirty (30) day Notice of Cancellation/Material Change in favor of the CITY.

All policies of insurance required herein shall be in a form and with a company or companies reasonably satisfactory to the CITY and shall name the CITY as an additional insured. Each such policy shall provide that such policy may not be materially changed (e.g., coverage limits reduced below the minimum specified in this License Agreement) or otherwise materially altered, or canceled by the insurer during its term without first giving at least thirty (30) days written notice to the CITY. Policies or certificates of valid policies of insurance with required coverages shall be delivered to the City Manager prior to any entry by Tenant or Tenant's representative on the Property and all required coverages must be in full force and effect throughout the term of this Agreement. The provisions of this Section shall survive the term of this Agreement.

17. **Assignment and Subleases.** Tenant shall not assign this agreement or sublet the Leased Premises, or any part thereof, without obtaining the prior written consent of the City.

18. **Damage and Destruction.** In the event of a full or partial destruction of the Property during the Term, as a result of fire, water, weather, soil condition or other casualty (collectively "Casualty"), within thirty (30) days after the Casualty, Landlord may, at Landlord's option, elect to rebuild the Property and restore the improvements to the condition they were in prior to the Casualty or terminate this Lease. Tenant or Landlord may, at its option, terminate this Lease due to any Casualty or damage to the Property or any portion of the Leased Premises upon written notice to the other party.

19. **Notices.** Any notices required or desired shall be sent certified mail, return receipt requested to the following address:

City: City Manager
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

Copy to: Real Estate Manager
Economic Development
801 Texas Ave. 3rd Floor
El Paso, Texas 79901

Director
Department of Public Health
5115 El Paso Drive
El Paso, Texas 79905

Landlord: Pro-Action Inc.
Attn: Felipe J. Luna, Executive Director
P.O. Box 3898
El Paso, Texas 79923

20. **Termination**

A. **Default.** If the Tenant defaults on any of the covenants contained herein, the City may cancel the lease, if, after thirty (30) days written notice, the Tenant has either not cured the default or commenced action to cure the default. Any default which the Tenant begins to cure within ten (10) days after notice there of shall not deemed cured unless the Tenant completely cures default within a reasonable time thereafter. Upon cancellation of this lease under the terms of this provision the City shall have no further obligation under the terms of the Lease.

B. **Termination for Convenience.** This Lease may be terminated for convenience and without penalty by either City or Tenant by giving at least thirty (30) days written notice of such termination to the other party at the address set forth herein.

21. **Condition of Premises.** Tenant accepts the Premises in their present condition and agrees that the Premises are suitable for Tenant's business, activities, and operations proposed to be conducted thereon relying on its own inspection and judgment. City has not made any warranties expressed or implied with regard to the condition of the Premises or improvements or their suitability for a particular use. Tenant accepts the Premises "AS IS WHERE IS, WITH ALL FAULTS," relying on Tenant's own inspection and judgment and not in reliance on any representations of the City or anyone acting on its behalf.
22. **Legal Construction.** If any provision of this lease is found by court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected.
23. **Waiver.** No delay or omission in the exercise of any right or remedy of City on any default by Tenant shall impair such a right or remedy or be construed as a waiver. The receipt and acceptance by City of delinquent rent shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular rent payment involved. No act or conduct of City including, without limitation, the acceptance of the keys to the Leased Premises, shall constitute an acceptance of the surrender of the Leased Premises by Tenant before the expiration of this Lease. Only notice from City to Tenant shall constitute acceptance of the surrender of the Leased Premises and accomplish a termination of this Lease. City's consent to or approval of any act by Tenant requiring City's consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act by Tenant. Any waiver by City of any default must be in writing.
24. **Legal Relationship.** Nothing in this Lease shall be construed or deemed to create any partnership or other relationship between the parties, other than as expressly provided for herein. Subject to the provisions of this Lease, Tenant shall be solely responsible for and shall wholly control the Leased Premises referenced in this Agreement.
25. **Nondiscrimination Covenant.** Tenant, for itself, its representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as follows:
- A. That no person on the grounds of race, creed, color, sex, age, disability, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises, Building or Property pursuant to this Lease.
- B. That in the construction of any improvements in the Premises and the furnishing of services therein, no person on the grounds of race, creed, color, sex, age disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination.

C. That, in the event of breach of any of the above nondiscrimination covenants, City shall have the right to cancel this Lease immediately and re-enter and repossess the Premises and hold the same as if said Lease had never been made or issued.

26. **Venue.** Venue shall be in El Paso, El Paso County, Texas. The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Lease.
27. **Complete Agreement.** The covenants and conditions herein are the full and complete terms of this Lease and no alteration, amendments or modifications of said terms and conditions shall be binding unless first reduced to writing and signed by both parties.

(Signature Begin on the Following Page)

WITNESS THE FOLLOWING SIGNATURES ON THE DATE SHOWN BELOW.

PASSED AND APPROVED this ____ day of _____, 2016.

THE CITY OF EL PASO

Tomás González
City Manager

APPROVED AS TO FORM:



Marvin Foust
Senior Assistant City Attorney

APPROVED AS TO CONTENT:


Cary S. Westin, Director
Economic & International Development
Department

LANDLORD: PRO-ACTION, INC.

By: _____
Name Printed: Felipe J. Luna
Title: Executive Director

CITY CLERK DEPT.
2016 JUL 20 AM 8:51

WITNESS THE FOLLOWING SIGNATURES ON THE DATE SHOWN BELOW.

PASSED AND APPROVED this ____ day of _____, 2016.

THE CITY OF EL PASO

Tomás González
City Manager

APPROVED AS TO FORM:

Marvin Foust
Senior Assistant City Attorney


APPROVED AS TO CONTENT:

Cary S. Westin, Director
Economic & International Development
Department

APPROVED AS TO CONTENT:

Robert Resendes, Director
Department of Public Health

LANDLORD: PRO-ACTION, INC.

By: 
Name Printed: Felipe J. Luna
Title: Executive Director

CITY CLERK DEPT.
2016 JUL 20 AM 8:50

EXHIBIT “A”

DETAILED SITE PLAN

BEING LOTS 18, 19, AND 20,
BLOCK 6, WOMBLE ADDITION,
CITY OF EL PASO, EL PASO COUNTY, TEXAS
CONTAINING: 0.4741 ACRES

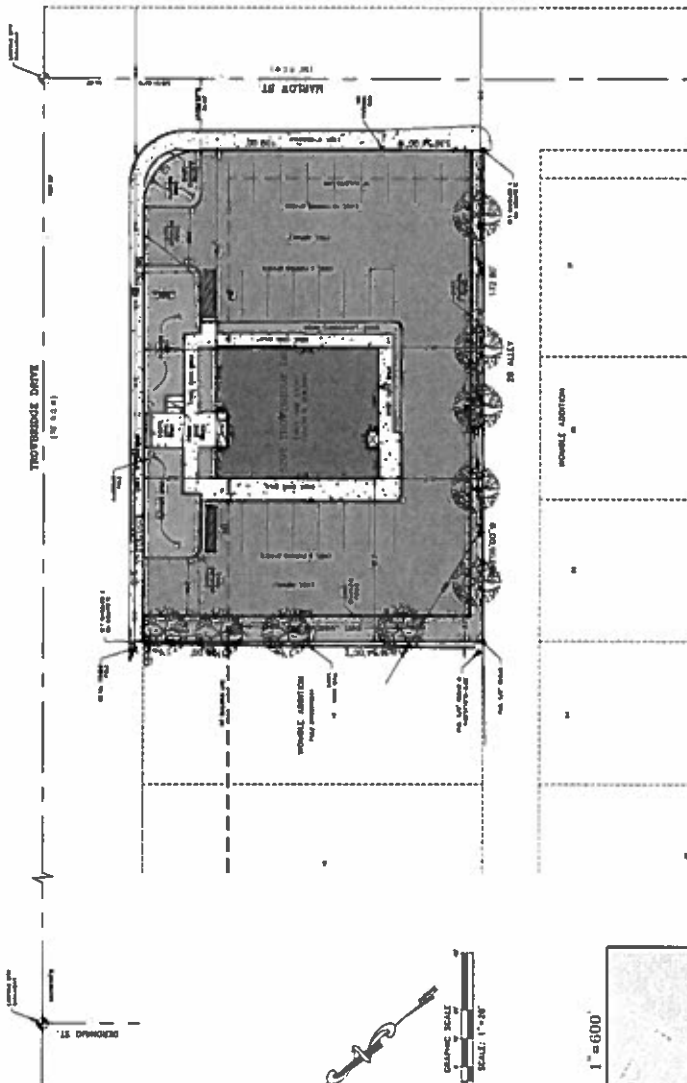
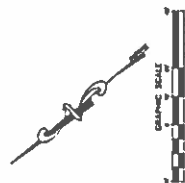


TITEL PAGE					
DATE	TIME	LOCATION	BY	FOR	TO
10/10	10:00	10:00	10:00	10:00	10:00

SYMBOL LEGEND	
●	PLUMB COLUMNS, POLE
○	PLUMB CIRC, SPAN OF
□	WET 1/1" MEAS W/COMP 11/3
□	LAND FILL
□	WAS PATH
□	UNDEVELOPED FOREMAN TIDE
□	ELECTRIC POLE
□	POWER POLE
□	WET AREA
□	CALCULATED RIGHT (WET 11/1)
□	WET 1/1" MEAS W/COMP 11/3
□	WET 1/1" MEAS W/COMP 11/3

PROPOSED ZONING	10	EXISTING ZONING	B-3
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PROPOSED	SD
POINT VALUE	20 PT.
LEAD VALUE	10 PT.
SEE ADJUSTING	



PARKING INFORMATION	
OFFICE	
TOTAL HITS:	202018 SQ. FT. - 0.0000 Ac.
EXISTING BUILDING:	2,379,80 SQ. FT.
TOTAL PARKING REQUESTED BY CITY CODE	15
TOTAL UNDEVELOPED PARKING REQUESTED:	1
TOTAL UNDEVELOPED PARKING REQUESTED:	3
TOTAL UNDEVELOPED PARKING (EXIST.)	20
TOTAL UNDEVELOPED PARKING (EXIST.)	2
TOTAL PARKING (EXIST.)	21

TYPICAL PARKING DIMENSIONS
STAGS: 8 FT. BY 16 FT.
VEHICLE: 10' BY 25'

REQUIRED LANDSCAPING
AL. SOFT (100%): 1,200.00 sq. ft.
AL. SOFT (TWO-TONE): 4,241.00 sq. ft.
DROUGHT OR CANOPY TREES: 2 = 3" CALIPER
31 = 5" DBH (1" DBH)

TO: DIRECTOR, FBI (100-388610) (P)
FROM: SAC, NEW YORK (100-100000) (P)
SUBJECT: JAMES EARL RAY, AKA
RE: NEW YORK TELETYPE TO BUREAU, 1/11/68

SAKUGO
DINASTIA

ESTABLISHED
AND FORTIFIED
DINASTIA



EXISTING BUILDING
PAVEMENT
SIDEWALK &
CONC. WALK
LANDSCAPING

DATE	APPLICANT	RECORDING SECTION CITY PLANNING COMMISSION	NOTES
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