SW/vv
06/09/16
Item #21

AN ORDINANCE 2016-06-09-0445

AUTHORIZING AN AMENDMENT TO THE PASEO DEL RIO ASSOCIATION LICENSE AGREEMENT FOR PUBLIC EVENTS ON THE RIVER WALK TO ALLOW FOR THE SALE OF OFFICIALLY LICENSED RIVER WALK MERCHANDISE, THE EXCESS PROCEEDS OF WHICH WILL BE USED FOR RIVER WALK CAPITAL IMPROVEMENTS.

* * * * *

WHEREAS, on February 13, 1969, the City and the Paseo del Rio Association (PDRA) entered into an agreement to utilize public space on the River Walk for special events designed to promote the River Walk as a tourist and resident destination, including coordination and production of the Holiday River Parade; and

WHEREAS, the agreement has been renewed regularly with the most recent five-year agreement approved by City Council on March 20, 2014 and

WHEREAS, as part of the agreement, the PDRA conducts a minimum of 21 events in the public area of the downtown River Walk; and

WHEREAS, these events include arts and crafts fairs, parades, and festivals that promote the River Walk and the downtown; and

WHEREAS, the following terms and conditions are outlined in the amendment: PDRA is authorized to design, develop, produce and merchandise unique logos, artwork and merchandise reflecting the River Walk and its historic image; and

WHEREAS, PDRA has entered into a licensing agreement with All American Licensing (AAL) to coordinate the manufacture, distribution and sales of River Walk merchandise; and

WHEREAS, after PDRA receives $110,000.00 in royalty payments from AAL, 75% of the royalty payments to PDRA will be deposited into a Merchandise Account, which PDRA will administer and use to fund River Walk improvement projects; **NOW THEREFORE:**

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

SECTION 1. The City Manager or her designee, or the Director of the Center City Development and Operations Department or his designee, is authorized to execute an amendment to the Paseo del Rio Association License Agreement for public events on the River Walk to allow for the sale of officially licensed River Walk merchandise, the excess proceeds of which will be used for River Walk capital improvements. A copy of the amendment, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment I.**

SW/vv
06/09/16
Item #21

SECTION 2. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 3. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 9th day of June, 2016.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Martha G. Sepeda, Acting City Attorney

Agenda Item:	**21 (in consent vote: 5, 6, 7, 8, 9, 10, 11A, 11B, 13, 14, 15, 17, 18, 20, 21, 22, 23)**
Date:	06/09/2016
Time:	09:38:37 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing an amendment to the Paseo del Rio Association license agreement for public events on the River Walk to allow for the sale of officially licensed River Walk merchandise, the excess proceeds of which will be used for River Walk capital improvements. [Lori Houston, Assistant City Manager; John Jacks, Interim Director, Center City Development & Operations]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				x
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x			x	
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8	x					
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

Attachment I

LICENSE AGREEMENT
PASEO DEL RIO ASSOCIATION
SAN ANTONIO RIVER FESTIVALS & SPECIAL EVENTS LICENSE AGREEMENT

AMENDMENT 3

The City of San Antonio (CITY) and Paseo del Rio Association, Inc. (LICENSEE) entered into the San Antonio River Festivals and Special Events License Agreement with an effective date of April 1, 2009, which was approved by City Council on March 5, 2009 via Ordinance 2009-03-05-0167. Amendment 1 to the Agreement expanded the Premises available for use by LICENSEE and changed the timetable for Licensee to present new Class A events, and Amendment 1 was approved by City Council on April 8, 2010 via Ordinance 2010-04-08-0307. Amendment 2 to the Agreement extended the term five years through March 31, 2019 and authorized creation of a Merchandise Account to be used by LICENSEE to fund River Walk improvement projects, and Amendment 2 was approved by City Council on March 20, 2014 via Ordinance 2014-03-20-0180.

The Parties now desire to amend the Agreement again (Amendment 3). Such amendments include changes to provisions within Amendment 2, as well as new provisions as noted below.

1. Section 5.1 is amended to read:
   LICENSEE is authorized to design, develop, produce, and merchandise unique logos, artwork, products, merchandise, clothing, and other products (collectively "Merchandise") reflecting the River Walk and its unique historic image for sale. The River Walk logo to be incorporated or depicted in Merchandise shall be approved by the Director. In consideration of this license by CITY, LICENSEE may keep 100% of royalty payments received from All American Licensing (AAL) or its successor up to $110,000. Once PDRA has received $110,000 in royalty payments, PDRA shall deposit 75% of all subsequent royalty payments, received from AAL or its successor, into a permanently restricted account ("Merchandise Account"):

   Such Merchandise Account shall be used for improvements to the River Walk approved by Director in consultation with LICENSEE and minimum balance shall be no less than $25,000.00. Both CITY and LICENSEE may recommend projects to be funded by the Merchandise Account including, but not limited to, historic interpretation, beautification, water quality, and fauna/flora improvements and education; however, Director's approval shall be required before LICENSEE initiates expenditure from Merchandise Account.

2. Section 6.2 is amended to read:
   LICENSEE shall maintain, in the City of San Antonio, Texas, books and records reflecting its operations approved in this Agreement in accordance with generally accepted accounting principles. LICENSEE shall submit through the Director of Finance or his representative an end of year Income Statement, which shall include an independent auditor's written report stating whether the Royalty Payments paid to LICENSEE by AAL or its successor during the preceding year were made in accordance with the applicable terms of LICENSEE'S agreements with AAL, or its successor. The independent auditor's written report shall further state whether the Royalty Payments deposited in Merchandise Account were accurately stated as provided under Section 5 of the Agreement between City and PDRA. Said report shall be delivered to CITY each year by June 30th.

3. Subject to the terms and conditions of this Agreement, CITY grants to LICENSEE the non-exclusive license to utilize the City's mark "RIVER WALK" to make products for sale as authorized under this Agreement during the term of this Agreement.

4. LICENSEE agrees that the City shall continue to own all right, title and interest in and to all worldwide trademarks, service marks, trade names, domain names and trade dress (collectively referred to as the

"Marks") used as part of the business authorized by this License Agreement, including but not limited to RIVER WALK (registered trademark certificate attached hereto), all good will of the business in connection with the use and symbolized and associated therewith and all registrations therefore including the right to recover for the past, present and future infringement of the Marks by any party or parties with the right to sue solely in the City's own name and collect damages and for the use and enjoyment of the City's successors, assigns, or other legal representatives. All use of the Marks will inure to the sole and exclusive benefit of the City. Upon termination of this Agreement, Licensee agrees to discontinue all use of all Marks.

5. The LICENSEE shall provide to the City, its successors, assigns or other legal representatives, cooperation and assistance at the City's request (including the execution and delivery of any and all affidavits, declarations, oaths, samples, exhibits, specimens and other documentation as may be reasonably required): (1) in the preparation and prosecution of any application for registration or any application for renewal of a registration or assignment covering any of the Marks; (2) in the prosecution or defense of any opposition, infringement or other proceedings that may arise in connection with any of the Marks including, but not limited to, testifying as to any facts relating to the Marks assigned herein and this Assignment; (3) in obtaining any additional trademark protection for the Marks that the City reasonably may deem appropriate that may be secured under the laws now or hereafter in effect in the United States or for all foreign countries; and (4) in the implementation or perfection of this Agreement.

EXECUTED and **AGREED** to this the _____ day of _____, 2016.

CITY OF SAN ANTONIO

_____

Lori Houston, Asst. City Manager

Approved as to Form:

_____

City Attorney

PASEO DEL RIO ASSOCIATION

Maggie Thompson