SW/vv
11/06/14
Item #11

AN ORDINANCE 2014-11-06-0852

AUTHORIZING AMENDMENT NO. 3 TO THE RIVER WALK USE FEE AGREEMENT WITH LOS LEONES, LTD. TO REVISE THE SQUARE FOOTAGE OF THE ELEVATOR PREMISES FROM 171 SQUARE FEET TO 197 SQUARE FEET.

* * * * *

WHEREAS, Ordinance No. 94561, dated September 20, 2001, authorized a River Walk Use Fee Agreement (Agreement) with Los Leones, Ltd. for 1,309 square feet of River Level Commercial Space, 974 square feet of Street Level Commercial Space and 51 square feet of Street Level Support Space; and

WHEREAS, this space is used to support the outdoor dining operations of Café Ole, Lone Star Café, and Michelinos's restaurants; and

WHEREAS, Ordinance No. 2011-11-17-0953, dated November 17, 2011, authorized Amendment No. 1 to the Agreement which added 429.55 square feet of River Walk patio space to the leased premises of Michelino's restaurant; and

WHEREAS, Ordinance No. 2013-05-09-0327, dated May 9, 2013, authorized Amendment No. 2 to the Agreement which added 171 square feet of public space for the construction of a public elevator (Elevator Premises) and also added 143.2 square feet of walkway space and 22 square feet of River Level Support Space to be used for a host stand and menu board; and

WHEREAS, Amendment No. 3 would revise the Elevator Premises square footage set forth in Amendment No. 2 from 171 square feet to 197 square feet; and

WHEREAS, this discrepancy occurred when the lessee's private construction contractor encroached beyond the previously authorized area during construction; **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 Amendment No. 3 to the River Walk Use Fee Agreement with Los Leones, Ltd. to revise the square footage of the Elevator Premises from 171 square feet to 197 square feet. A copy of the amendment in substantially final form is attached hereto and incorporated herein for all purposes as **Attachment I**.

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.

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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 6th day of November, 2014.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

for Robert F. Greenblum, City Attorney

Agenda Item:	**11 (in consent vote: 5, 6, 8, 9, 10A, 10B, 10C, 11, 12, 13, 14, 16, 17, 18, 19)**
Date:	11/06/2014
Time:	10:49:22 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing Amendment No. 3 to the River Walk Use Fee Agreement with Los Leones, Ltd. (d/b/a Lone Star Cafe) to revise the square footage of the Elevator Premises from 171 square feet to 197 square feet. [Carlos Contreras, Assistant City Manager; Lori Houston, Director, Center City Development & Operations Department]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Diego Bernal	District 1		x				
Keith Toney	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4	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				x
Michael Gallagher	District 10		x			x	

Attachment I

RIVERWALK USE FEE AGREEMENT
AMENDMENT NO. 3

This Amendment No. 3 to the River Walk Use Fee Agreement ("Amendment") is hereby made and entered into by and between the CITY OF SAN ANTONIO ("City"), a Texas municipal corporation, acting by and through its City Manager pursuant to Ordinance No. _____ dated _____, and Los Leones Ltd., a Texas _____ ("Contiguous Property Owner").

Recital: City and Contiguous Property Owner entered into the Agreement pursuant to Ordinance No. 94561 dated September 20, 2001, consistent with that certain Encroachment and Access Easement entered into by the parties contemporaneously with the Agreement. The Parties to the Agreement ("Parties") amended the Agreement (Amendment No. 1) to authorize the construction of additional Air Space Improvements on City Owned Property utilized by Contiguous Property Owner for Commercial Space. The Parties amended the Agreement a second time (Amendment No. 2) to allow for the construction of an elevator to provide public access from the River Walk to Contiguous Property Owner's street level business as well as to allow the general public access to Losoya Street from the River Walk. The Parties now desire to amend the Agreement a third time to reflect the correct square footage of the completed Elevator Premises, which were authorized by Amendment No. 2.

1. *Additions to the Leased Premises:* Section 2.1.1 of the Agreement is hereby amended to correct the square footage of the Elevator Premises, which were authorized by Amendment No. 2, from approximately 171 square feet to approximately 197 square feet. The Elevator Premises are more particularly described on the attached Exhibit A.1.A ("Field Notes").

2. All other terms and conditions of the Agreement shall remain in full force and effect.

EXECUTED IN DUPLICATE ORIGINALS, each of which shall have the full force and effect of an original this the 11th day of September, 2014.

CITY OF SAN ANTONIO

By: _____
Name: Carlos J. Contreras, III
Title: Assistant City Manager

Date: _____

LOS LEONES, LTD.

By: Pierre F. Olivier
Name: Pierre F. Olivier
Title: EVP

Date: 9/16/2014

ATTEST: _____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

FIELD NOTES
FOR
ELEVATOR LEASE PREMISES

A 0.005 of an acre, or 197 square feet, more or less, tract of land, located on the east line of the San Antonio River as described in Boundary Agreement recorded in Volume 9392, Pages 2414-2423 of the Official Public Records of Bexar County, Texas, adjacent to the west line of Lot 11, New City Block (N.C.B.) 914 of the River Restaurant Subdivision in the City of San Antonio, Bexar County, Texas, recorded in Volume 9655, Page 106 of the Deed and Plat Records of Bexar County, Texas. Said 0.005 of an acre tract being more fully described as follows, with bearings based on the North American Datum of 1983 (CORS 1996), from the Texas Coordinate System established for the South Central Zone:

COMMENCING: At a found "X" in concrete on the west right-of-way line of Losoya Street, a 60-foot right-of-way, the southeast corner of said Lot 11;

THENCE: N 01°28'44" W, along and with the west right-of-way line of said Losoya Street, the east line of said Lot 11, a distance of 4.79 feet to a point;

THENCE: S 88°31'16" W, departing the west right-of-way line of said Losoya Street, over and across said Lot 11, a distance of 2.64 feet to set MAG Nail on the southwest line of said Lot 11, the east line of said San Antonio River Boundary Agreement and the POINT OF BEGINNING of the herein described tract;

THENCE: Departing the west line of said Lot 11, over and across said San Antonio River the following bearing and distances;

South 88°31'16" West a distance of 3.34 feet to a set MAG Nail;

South 01°38'53" East a distance of 4.53 feet to a set MAG Nail;

South 88°21'07" West a distance of 9.62 feet to a set 1/2" Iron Rod w\cap marked "PAPE DAWSON";

North 01°42'44" West a distance of 20.11 feet to a set 1/2" Iron Rod w\cap marked "PAPE DAWSON";

North 88°21'07" East a distance of 6.73 feet to a point on said Boundary Agreement Line, the west line of said Lot 11;

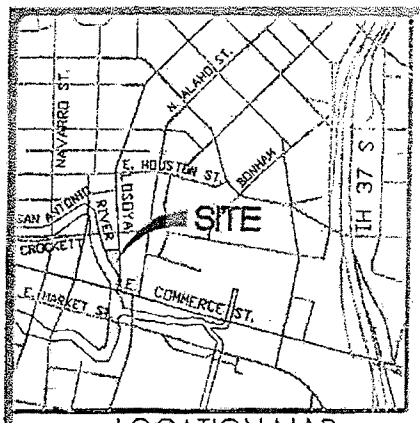
SAN ANTONIO / AUSTIN
HOUSTON / FORT WORTH / DALLAS

2000 NW Loop 410 San Antonio, Texas 78213
P 210.375.9000 F 210.375.9010 www.pape-dawson.com

THENCE: South 23°30'14" East, along and with said Boundary Agreement line, the west line of said Lot 11, a distance of 16.80 feet to the POINT OF BEGINNING, and containing 0.005 of an acre in the City of San Antonio, Bexar County, Texas. Said tract being described in accordance with an exhibit prepared under job number 9162-14 by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: August 29, 2014
Job No.: 9162-14
N:\Survey14\14-9100\9162-14\FIELD NOTES\0.005 AC ELEV LEASE FNs.docx
TBPE Firm Registration #470
TBPLS Firm Registration #100288-00

STATE OF TEXAS
REGISTERED
DAVID A. CASANOVA
4251
PROFESSIONAL
LAND SURVEYOR



LOCATION MAP

MAPSCO MAP GRID: 616F5
NOT-TO-SCALE

LEGEND:

OPR OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS
DPR DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS
FIR FOUND 1/2" IRON ROD

NOTES:

1. THE PROFESSIONAL SERVICES PROVIDED HEREWITH INCLUDE THE PREPARATION OF A FIELD NOTE DESCRIPTION.
2. THE BEARINGS ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (CORS 1996), FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE SOUTH CENTRAL ZONE.

SCALE: 1"=5'

5' 0' 3' 5'

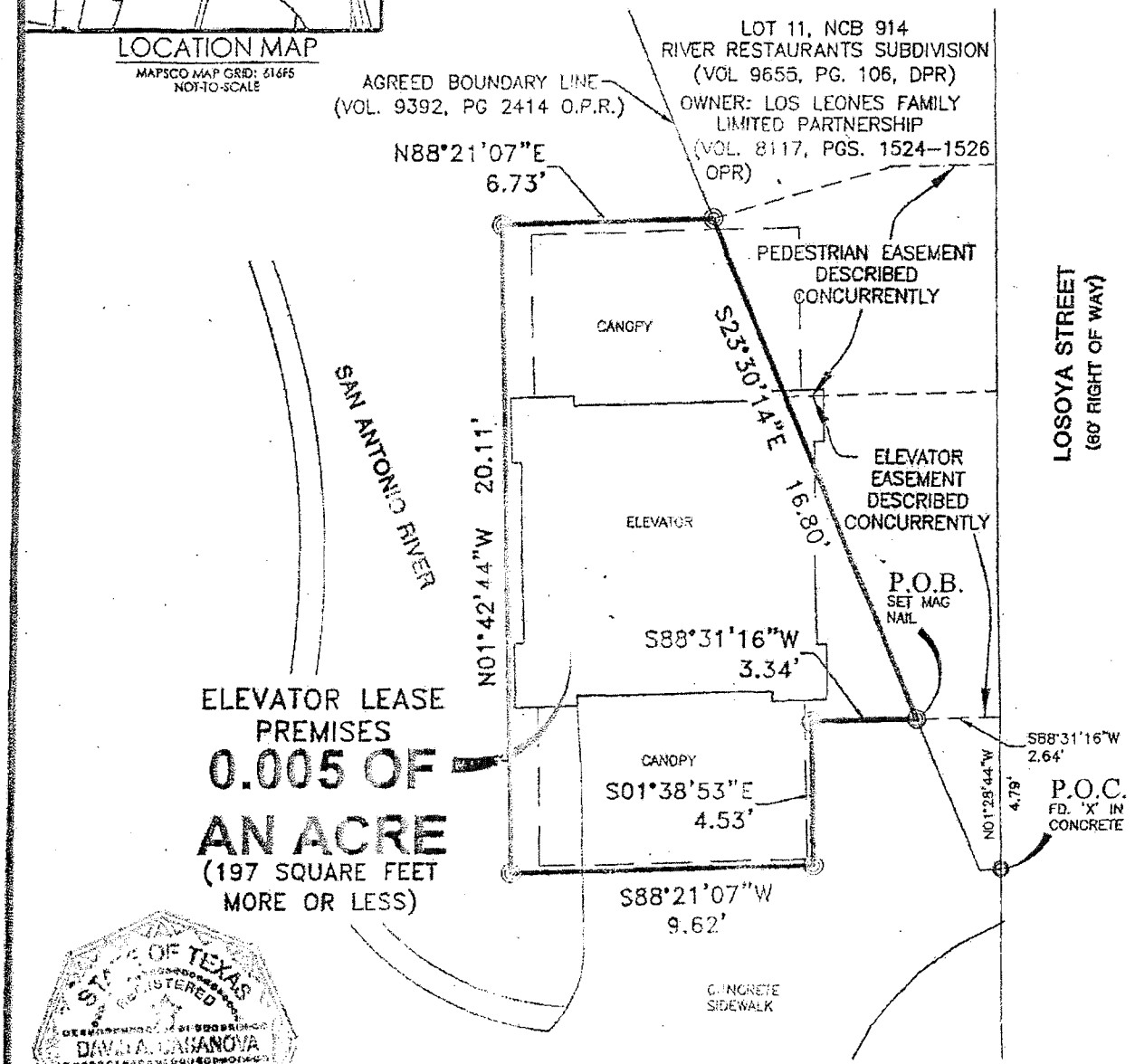


EXHIBIT
OF
ELEVATOR LEASE PREMISES

A 0.005 OF AN ACRE, OR 197 SQUARE FEET MORE OR LESS, TRACT OF LAND, LOCATED ON THE EAST LINE OF THE SAN ANTONIO RIVER CONVEYED TO THE CITY OF SAN ANTONIO IN DEED RECORDED IN VOLUME 9392, PAGES 2414-2423 OF THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS, IN NEW CITY BLOCK (N.C.B.) 914 OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

STATE OF TEXAS REGISTERED DAVID A. CASANOVA 4251 PROFESSIONAL LAND SURVEYOR

PAPE-DAWSON ENGINEERS

2000 NW LOOP 410 | SAN ANTONIO TEXAS 78213 | PHONE: 210.375.9000 FAX: 210.375.9010

TEXAS BOARD OF PROFESSIONAL ENGINEERS FIRM REGISTRATION # 470
TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS FIRM REGISTRATION # 100288-00

SHEET 1 OF 1

AUGUST 29, 2014 JOB No.: 9162-12

Date: Aug 29, 2014, 1:20pm User ID: dcyndacker
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