AZJ
01/28/2016
Item No. 9

AN ORDINANCE 2016-01-28-0021

AUTHORIZING A SUPPLEMENTAL AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION TO ALLOW USE OF THE GATEWAY PLAZA AREA IN MARKET SQUARE FOR THE ANNUAL TEJANO MUSIC FESTIVAL

* * * * *

WHEREAS, In 1993, the City of San Antonio entered a Multiple Use Agreement with the Texas Department of Transportation authorizing installation and operation of public parking lots on property located under IH35 ; and

WHEREAS, In 1995, the Multiple Use Agreement was amended via a Supplemental Agreement that approved use of the Gateway Plaza area for Fiesta events; and

WHEREAS, The annual Tejano Music Festival attracts over 50,000 attendees each spring; and

WHEREAS, To better accommodate attendees and enhance the visitor experience, the City proposed the Texas Department of Transportation enter a new Supplemental Agreement to allow use of the Gateway Plaza area by the annual Tejano Music Festival, **NOW THEREFORE,**

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

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

SECTION 2. There is no fiscal language associated with this ordinance.

SECTION 3. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this **28th** day of **January**, **2016**.

Ivy R. Taylor

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Martha G. Sepeda, Acting City Attorney

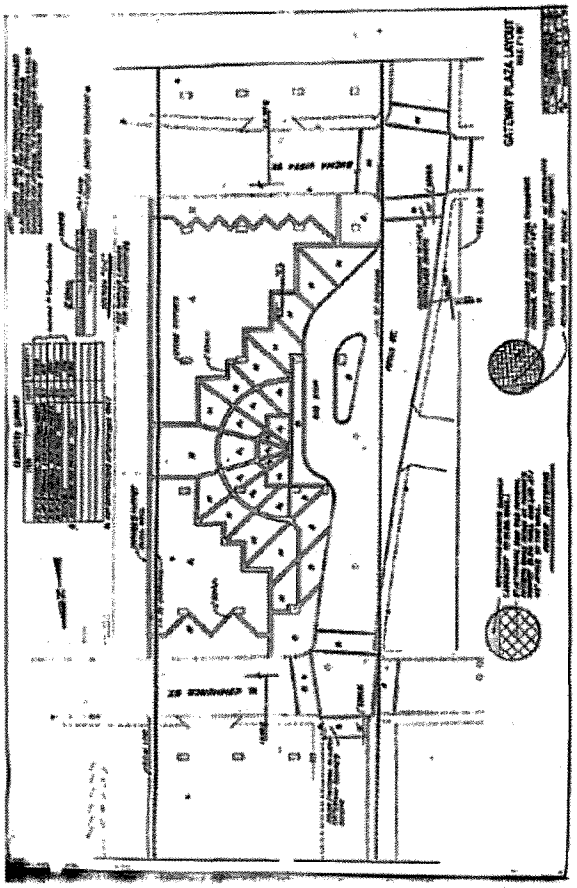
Agenda Item:	**9 (in consent vote: 4, 5, 7A, 7B, 9, 10A, 10B, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30)**
Date:	01/28/2016
Time:	09:20:26 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing a Supplemental Agreement with the Texas Department of Transportation to allow use of the Gateway Plaza area in Market Square for the annual Tejano Music Festival. [Lori Houston, Assistant City Manager; John Jacks, Interim Director, Center City Development & Operations Department]
Result:	Passed

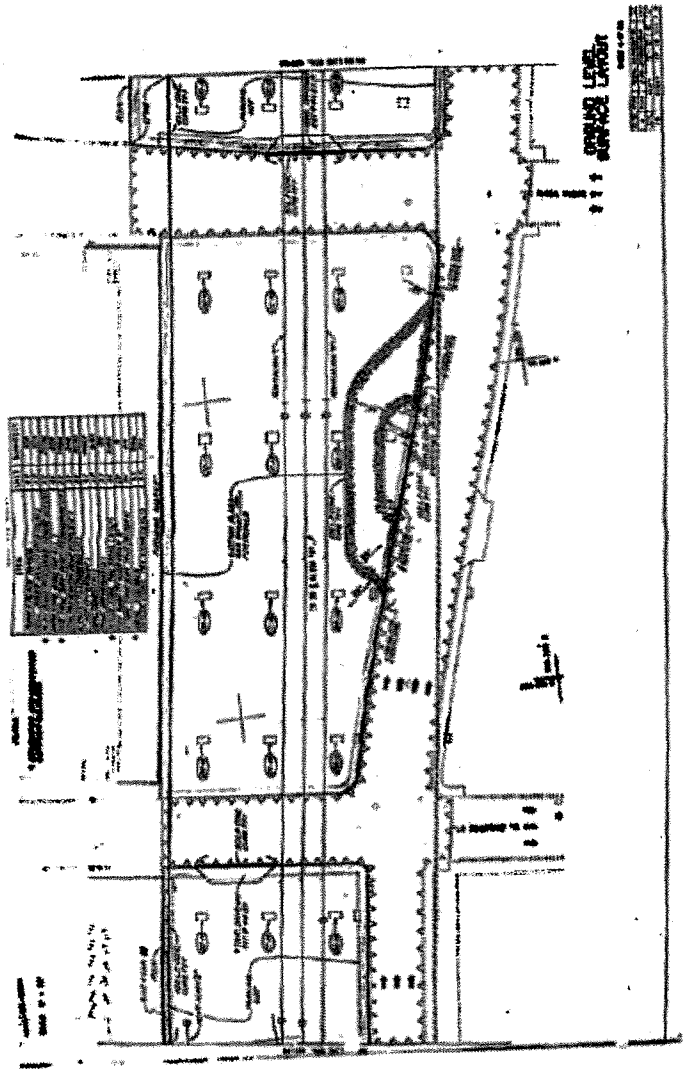
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				x
Alan Warrick	District 2		x			x	
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6	x					
Cris Medina	District 7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

Attachment I – Supplemental Area

This Supplemental Agreement will only apply to the Gateway Plaza area, Section 3, as shown in Exhibit A and as described in the aforementioned Multiple Use Agreement. Section 3 is defined as that area of IH 35 right-of-way in the City of San Antonio bounded on the north by W. Commerce; on the east by the IH 35 R.O.W. line; on the south by Buena Vista Street/Dolorosa Street; and on the west by Pecos Street.

Exhibit A





Attachment II: License

SUPPLEMENTAL AGREEMENT

FOR USE OF THE GATEWAY PLAZA AREA

DURING THE TEJANO MUSIC FESTIVAL

THE STATE OF TEXAS

COUNTY OF BEXAR

WITNESSETH

WHEREAS, subchapter B. "Use of State Highway Right-of-Way", subsection 22.10 through 22.15 of the Texas Administrative Code (TAC) was adopted by the Texas Transportation Commission on December 21, 1994, and such rules became effective on February 22, 1995; and

WHEREAS, the subsections under the aforementioned subchapter prescribe the policies and procedures governing use of state highway right-of-way for certain public purposes which benefit the general public while being consistent with safe operation of the state highway system; and

WHEREAS, the City of San Antonio ("City") and the Texas Department of Transportation ("TxDOT") have previously executed a Multiple Use Agreement (MUA), dated April 9, 1993 to authorize public use of State of Texas property under IH 35 from W. Martin to approx. 500 feet south of Guadalupe for public parking, including the area known as Gateway Plaza adjacent to Market Square; and

WHEREAS, the Gateway Plaza area was surfaced with concrete paver stones to be used as an open air plaza for the benefit of tourists and pedestrians, and it provides safe/easy pedestrian access/egress to the adjacent Market Square; and

WHEREAS, on April 21, 1995, the parties entered a Supplemental Agreement to amend the Multiple Use Agreement to approve use of Gateway Plaza for Fiesta San Antonio events; and

WHEREAS, on May 21, 2004, the parties agreed to modify the MUA to remove from the agreement the property from Dolorosa to approx. 500 feet south of Guadalupe to enable TXDOT and the University of Texas at San Antonio to enter an agreement for use of that area; and

WHEREAS, the City has now requested approval to allow the Texas Talent Musicians Association to use the Gateway Plaza area for the annual Tejano Music Festival events that are free to the public; and shall comply with the same provisions required of the Fiesta San Antonio events.

AGREEMENT

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

This Supplemental Agreement is hereby executed to amend the Multiple Use Agreement between the Texas Department of Transportation and the City of San Antonio, dated April 9, 1993. The City is hereby approved to use the Gateway Plaza area, as defined under "Limits of Area" below, for specific use of the Tejano Music Festival events. The City hereby agrees to all of the following conditions:

1. Effective Period
   This Supplemental Agreement will only be effective during the period beginning 48 hours prior to the first day of the Tejano Music Festival each year, and will remain effective until 48 hours after the last day of the Tejano Music Festival. The official dates of the Tejano Music Festival shall be as authorized by the City of San Antonio.

2. Limits of Area
   This Supplemental Agreement will only apply to the Gateway Plaza area, Section 3, as shown in Exhibit A and as described in the aforementioned Multiple Use Agreement. Section 3 is defined as that area of IH 35 right-of-way in the City of San Antonio bounded on the north by W. Commerce; on the east by the IH 35 R.O.W. line; on the south by Buena Vista Street/Dolorosa Street; and on the west by Pecos Street.

3. Restriction on Closure of Travel Lanes
   Closure of any portion of the IH 35 controlled access highway main lanes and the frontage (access) road travel lanes by City or Texas Talent Musicians Association ("TTMA") is not permitted.

4. Cost Responsibility
   The City and/or TTMA shall bear all costs associated with the Tejano Music Festival event at the Gateway Plaza location.

5. Laws, Regulations and Ordinances
   The City and TTMA shall abide by all applicable federal, state, and local laws, regulations, ordinances, and any conditions or restrictions required by TxDOT to protect the highway facility, vehicular traffic, pedestrians, the natural environment, and the cultural resources on the right-of-way.

6. Amendments to the Multiple Use Agreement

Paragraph 4, "Prohibitions/Signs" is hereby replaced with the following language:

The City shall provide a temporary security fence along the limits of this area. The City shall also provide law enforcement patrol for the safety of the travelling public and pedestrians. All vehicular traffic in the Gateway Plaza area will be limited to ¾ ton pickups or smaller in order to prevent damage to the concrete pavers or underground utilities.

Paragraph 8, "Prohibition of Storage of Flammable Materials" is hereby replaced with the following language:

All structures, equipment and materials shall meet the requirements of all local, state and federal rules, regulations and laws. Hazardous materials including, but not limited to propane, butane, and other flammable materials are not permitted in this area. Any structure, equipment or facility installed in this area shall provide at least six (6) feet of clearance below the bottom surface of the IH 35 bridge structure. Appropriate safety precautions and features necessary to minimize the possibility of injury to users of the facility shall be provided.

Paragraph 13, "Insurance" is hereby amended by adding the following statements:

For purposes of this Supplemental Agreement, the City's construction contractor shall be defined as the Texas Talent Musicians Association (TTMA). Thus, TTMA shall submit to the State a completed insurance form (TxDOT Form No. 1560) at least 30 days prior to the beginning of the effective period of this Supplemental Agreement. The Texas Talent Musicians Association shall also maintain the required coverage during the effective period of this Supplemental Agreement.

All other provisions, conditions, privileges, responsibilities and liabilities contained in the Multiple Use Agreement shall remain in full force and effect, and are not being changed under the Supplemental Agreement.

This Supplemental Agreement will be automatically renewed each year unless terminated by written notice from either party or unless modified by written agreement signed by both parties.

IN WITNESS WHEREOF, the parties have caused their representatives to set their hands:

CITY OF SAN ANTONIO, a Texas municipal corporation

By:_____

Printed Name:_____

Title:_____

Date:_____

TEXAS DEPARTMENT OF TRANSPORTATION,

State of Texas

By:_____

Printed Name:_____

Title:_____

Date:_____

Pursuant to Ordinance No. _____, passed and approved on _____.

Attest:

_____

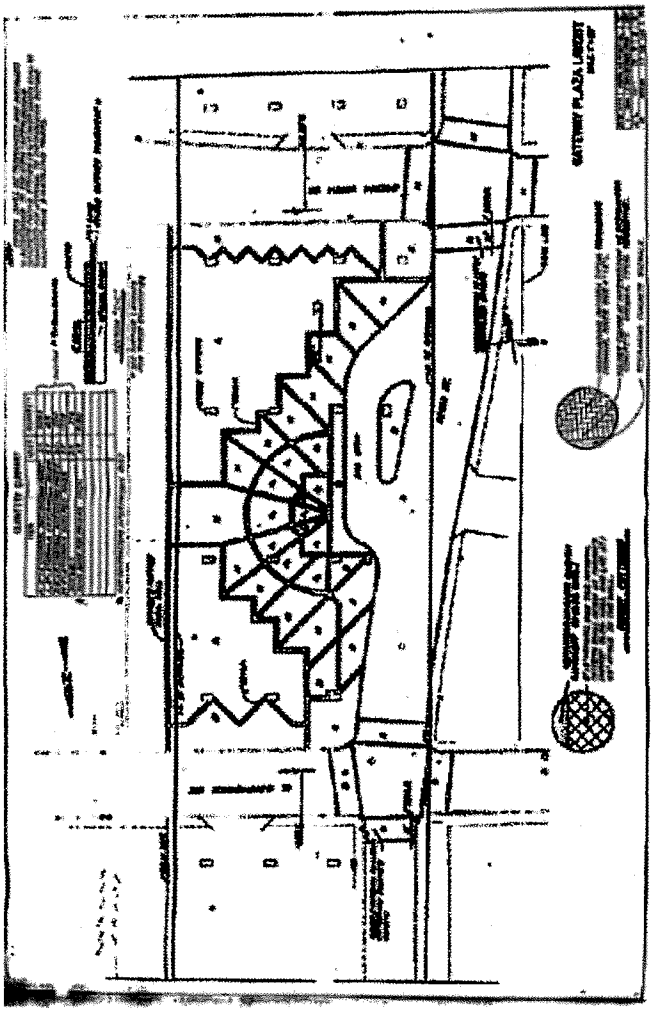
City Clerk

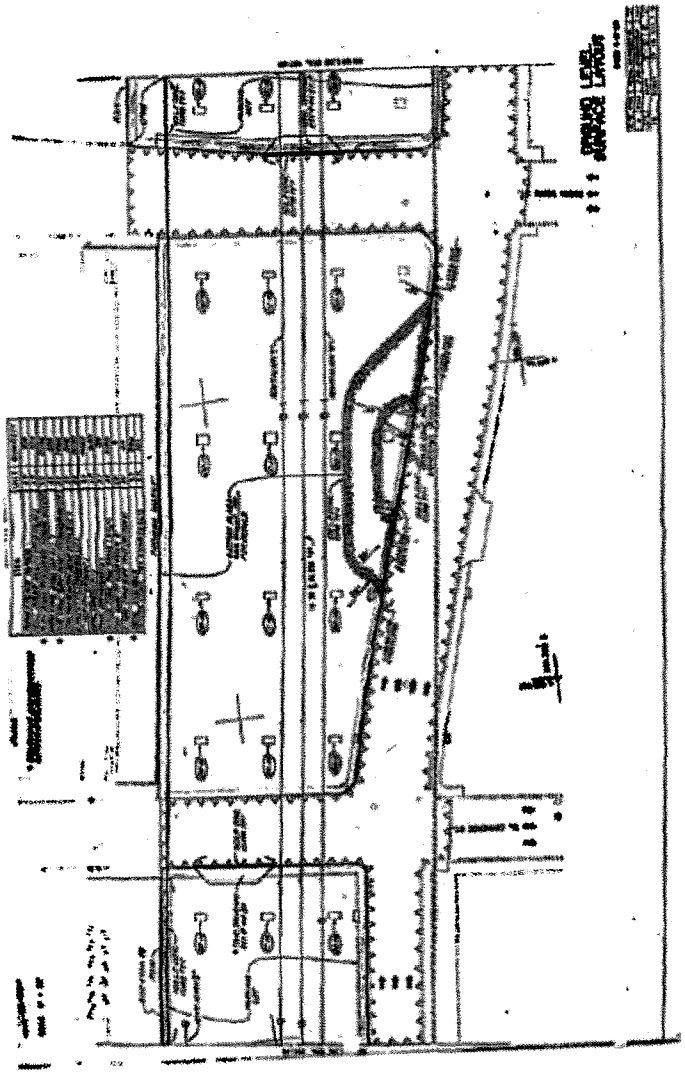
Approved As To Form:

_____

City Attorney

Exhibit A




GROUND LEVEL
SURFACE LAYOUT