

CITY OF SAN ANTONIO

DEPARTMENT OF ASSET MANAGEMENT  
INTERDEPARTMENTAL CORRESPONDENCE SHEET

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**TO:** Mayor and City Council

**FROM:** Rebecca Waldman, Director, Department of Asset Management

**THROUGH:** Terry M. Brechtel, City Manager

**COPIES:** Erik J. Walsh, Assistant to the City Manager; Shawn P. Eddy, Special Projects Manager, Property Disposition

**DATE:** May 6, 2004

**SUBJECT:** S.P. No. 1154-Request for a license agreement to use the subsurface of Public Right of Way to install approximately 69 soldier beams, with approximately 14 tiebacks, to support the construction of a hotel at the southeast corner of Navarro and Market Streets

**PETITIONER:** Riverton Suites, Ltd.  
Attn: John Beauchamp  
315 E. Commerce, Suite 300  
San Antonio, Texas 78205

**SUMMARY AND RECOMMENDATIONS**

This Ordinance will approve a license agreement to use the subsurface of Public Right of Way to install approximately 69 soldier beams, with approximately 14 tiebacks, to support the construction of a hotel, in City Council District 1, at the southeast corner of Navarro and Market Streets, for a term of ten (10) years and with the consideration for the license being the conveyance back to the City of approximately 1,580 sf of subsurface rights conveyed by the City to Riverton Suites, Ltd. by Ord. No. 91935 (6/8/2000).

Staff recommends approval of this item.

**BACKGROUND INFORMATION**

Petitioner is requesting a license agreement to use the subsurface of Public Right of Way to install approximately 69 soldier beams, with approximately 14 tiebacks, to provide a retention system for the construction of a hotel at the southeast corner of Navarro and Market Streets, as shown on attached Exhibits "A" & "B". The City previously conveyed 1,580 sf of subsurface rights to Riverton Suites, Ltd. By Ord. No. 91935, on June 8, 2000 in part to allow for the installation of larger soldier piers. The newly modified tieback retention system provides a more stable and cost-efficient foundation for the construction of the hotel. Consideration for this license shall be the conveyance of this 1,580 sf of subsurface rights back to the City. All

necessary action will be taken to locate all existing utilities and the angle of the tiebacks may be slightly altered to accommodate these findings. At no time will any of the tiebacks protrude past the centerline of the Public Rights of Way. This tieback retention was successfully utilized in the Westin Hotel and the Central Library projects and will remain in place after the term of the license expires.

#### **POLICY ANALYSIS**

This action is consistent with the City Code and Ordinances, which require City Council approval for any private use of property owned or controlled by the City.

#### **FISCAL IMPACT**

As consideration for this license, petitioner will convey back to the City 1,580 sf of subsurface rights conveyed by the City to Riverton Suites, Ltd. by Ord. No. 91935 (6/8/2000), the value of which exceeds or is equal to the license fee.

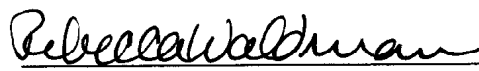
#### **COORDINATION**

In compliance with City procedures, this request has been canvassed through interested City departments, public utilities and applicable agencies. A Canvassing Checklist and an executed Letter of Agreement, by which the petitioner agrees with all conditions imposed through this canvassing, are attached for review.


#### **SUPPLEMENTARY COMMENTS**

The City of San Antonio's Planning Commission recommended approval of this request at its regular meeting of 4/28/2004.

Executed Discretionary Contracts Disclosure Statement from petitioner(s) is attached.

  
Rebecca Waldman, Director  
Department of Asset Management

Approved:

  
Erik J. Walsh  
Assistant to the City Manager

# Canvassing Checklist

SPNo 1154

Request: Petitioner is requesting a license agreement to use the subsurface of Public Right of Way to install approximately 69 soldier beams, with approximately 14 having tiebacks, to provide a retention system for the construction of a hotel at the southeast corner of Navarro and Market Streets, as shown on attached Exhibits "A" & "B". The City previously conveyed 1,580 sf of subsurface rights to Riverton Suites, Ltd. By Ord. No. 91935, on June 8, 2000 in part to allow for the installation of larger soldier piers. The newly modified tieback retention system provides a more stable and cost-efficient foundation for the construction of the hotel. Consideration for this license shall be the conveyance of this 1,580 sf of subsurface rights back to the City. All necessary action will be taken to locate all existing utilities and the angle of the tiebacks may be slightly altered to accommodate these findings. At no time will any of the tiebacks protrude past the centerline of the Public Rights of Way. This tieback retention system was successfully utilized in the Westin Hotel and the Central Library projects and will remain in place after the term of the license expires.

	Included in Canvassing	Out Date	In Date	Uncond. Approval	Conditional Approval	Denial
Planning Department	<input checked="" type="checkbox"/>	2/27/2004	4/1/2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PublicWorks	<input checked="" type="checkbox"/>	2/27/2004	4/19/2004	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Development Services	<input checked="" type="checkbox"/>	2/27/2004	3/11/2004	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police Department	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire Department	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neighborhood Action (NAD)	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
City Public Service	<input checked="" type="checkbox"/>	2/27/2004	3/24/2004	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
S.A. Water System (SAWS)	<input checked="" type="checkbox"/>	2/27/2004	3/9/2004	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TXDOT	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
S.A. River Authority (SARA)	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VIA Metropolitan	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental Services	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other Agency	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neighborhood Association	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Canvassing Comments

Public Utilities and Economic Dev. Dept. "3/8/04--NO COMMENT"

# City of San Antonio

## Discretionary Contracts Disclosure\*

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2  
Attach additional sheets if space provided is not sufficient.  
State "Not Applicable" for questions that do not apply.

\* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.

### Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and the Code of Ethics, an individual or business entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any **individual** who would be a party to the discretionary contract:

NA

(2) the identity of any **business entity**<sup>1</sup> that would be a party to the discretionary contract:

Riverton Suites, Ltd.

and the name of:

(A) any individual or business entity that would be a **subcontractor** on the discretionary contract;

NA

and the name of:

(B) any individual or business entity that is known to be a **partner**, or a **parent** or **subsidiary** business entity, of any individual or business entity who would be a party to the discretionary contract;

Riverton Suites, Ltd. is a limited partnership with one general partner and three limited partners. The general partner is Riverton Suites Management, L.L.C. The limited partners are: (i) HPI Suites Investors, Ltd., (ii) Hixon/Hines Development Co., and (iii) Silver River Suites, L.P.

<sup>1</sup> A business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

- (3) the identity of any lobbyist or public relations firm employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

NA

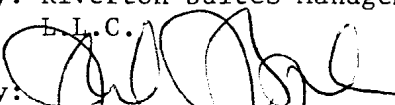
### Political Contributions

Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any current or former member of City Council, any candidate for City Council, or to any political action committee that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

To Whom Made:	Amount:	Date of Contribution:
Riverton Suites, Ltd. has not made any contributions. Some of the officers of Riverton Suites Management L.L.C. (the general partner) have made contributions. These contributions are described on the attached schedules.		

### Disclosures In Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, reasonably understood, raise a question<sup>2</sup> as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

NA		
<b>Signature:</b> Riverton Suites, Ltd. By: Riverton Suites Management L.L.C. 	<b>Title:</b> President  <b>Company:</b> Riverton Suites Management, L.L.C.	<b>Date:</b>  April 26, 2004

<sup>2</sup> For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

# SCHEDULE 1

## Political Contributions made by Jack J. Spector

Enrique Berrera Campaign	\$100	6/5/2002
Roger Flores Campaign 2003	\$100	10/22/2002
Carroll Schubert Campaign	\$100	3/11/2003
Roger Flores Campaign 2003	\$100	11/19/2003

## SCHEDULE 2

### Political Contributions made by William G. Shown

Enrique Berrera Campaign	\$100	6/5/2002
Roger Flores Campaign 2003	\$100	10/22/2002
Carroll Schubert Campaign	\$100	3/11/2003
Roger Flores Campaign 2003	\$100	11/19/2003

## LICENSE AGREEMENT

This License Agreement (referred to herein as "Agreement" or "License") is entered into by and between the CITY OF SAN ANTONIO, a Texas Municipal Corporation, as "**LICENSOR**", hereinafter referred to as **CITY**, acting by and through its City Manager, or the designee, pursuant to Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_, 2004, and RIVERTON SUITES, LTD., a Texas Limited Partnership, whose general partner is RIVERTON SUITES MANAGEMENT, L.L.C., a Texas limited liability company, hereinafter referred to as **LICENSEE** acting by and through its duly authorized representative, as of the Effective Date (hereinafter defined), both of whom are sometimes collectively referred to herein as the "Parties" and individually as a "Party", with this Agreement being as follows:

### **I. PREMISES AND USE**

**1.1 Licensed Premises.** For and in consideration of the observance of the terms and conditions set forth herein, **CITY** grants to **LICENSEE**, a license (the "License") to use subsurface areas only under the Navarro Street, South Presa Street, and West Market Street public rights-of-way in connection with construction of an all-suites hotel ("Hotel") at the southeast corner of Navarro and West Market Streets in San Antonio, Texas, said subsurface areas being adjacent to Lot 5, and the remaining portions of Lots 2, 3A, NCB 157, SOUTHPORT SUBDIVISION, according to a plat filed of record in Volume 9554, Page 186, Deed and Plat Records of Bexar County, Texas (the "Hotel Property"). The subsurface property hereby licensed (the "Licensed Premises" or the "Premises") is comprised of: (i) an approximately five foot wide strip of land that adjoins the Hotel Property on its Navarro Street, Market Street, and Presa Street borders; and (ii) additional strips of land (each being approximately two-feet wide and approximately twenty-five feet long) that extend perpendicularly (more or less) under Navarro Street, Market Street and Presa Street. An approximate layout of the subsurface property is depicted on **EXHIBIT "A"** attached hereto and incorporated herein verbatim for all purposes.

**1.2 Retention of CITY's Rights.** Notwithstanding anything to the contrary contained in any easements, whether recorded or unrecorded but apparently affecting the Premises or property adjacent to the Premises in which **LICENSEE** has an interest, **LICENSEE** shall have the right to use, maintain and operate the improvements hereafter constructed, within the Premises provided the **CITY** shall retain the right to full use of the surface and the air space above the Premises.

**1.3 Purpose and Use.** The Licensed Premises will be used for the purpose of construction and placement of approximately sixty-nine (69) soldier beams and lagging, with approximately fourteen (14) tiebacks, as part of an earth retention system (the "Retention System") to be used during the construction of the Hotel, such soldier beams, tiebacks and lagging to be constructed at the approximate locations shown and more specifically described in **EXHIBIT "A"** attached hereto and incorporated herein verbatim for all purposes. This Agreement does not grant to **LICENSEE** the authority to use any area beyond the Licensed Premises.

**1.4 CITY's Superior Interest.** **LICENSEE** acknowledges that this Agreement is limited in nature to the grant of a privilege to **LICENSEE** to use the Premises, and, therefore, is revocable by **CITY**. Further, **CITY** does not purport to convey any real property interest in any of the property over, under or upon the Premises in which **LICENSEE's** improvements are located. **CITY** reserves the right to enter the Premises at any time for the minimum time necessary to



prevent an accrual of any rights in any person other than such rights established prior to and pursuant to this Agreement and also for the purpose of asserting its superior interest and exercise of the CITY's superior (condemnation) rights and for emergency purposes.

**1.5 Recording.** LICENSEE will file a memorandum of this Agreement in the form attached hereto as **Exhibit "B"**, in the Official Public Records of Bexar County, and LICENSEE shall be responsible for any recording fees assessed.

## **II. CONSIDERATION**

**2.1 Payment as consideration.** In lieu of payment to CITY by LICENSEE of the License Fee for this grant, LICENSEE agrees, at its sole cost and expense, to convey back to CITY by Deed Without Warranty that certain property ("Property") described as approximately 1,580 square feet of subsurface area, having been originally sold by CITY, as Grantor, pursuant to authority set forth in Ordinance No. 91935, dated June 8, 2000, to LICENSEE, as Grantee, evidenced by a Deed Without Warranty (Subsurface Property) filed of record in Volume 8630, Page 1985 of the Official Public Records of Real Property of Bexar County, Texas. LICENSEE has modified its original construction plans and thus requested the License, to which CITY agrees in consideration of the deed back of the Property. CITY and LICENSEE acknowledge and agree that the value of the Property to be deeded back to CITY by LICENSEE will equal or exceed the License Fee which would have been charged for use of the Licensed Premises over the Term of this Agreement.

## **III. TERM AND TERMINATION**

**3.1. Term.** The License hereby granted shall be for a term of ten (10) years ("License Term"), beginning on the Effective Date of this Agreement, unless terminated by CITY or LICENSEE pursuant to the terms hereof. Upon completion of the construction of the Hotel, the Retention System will be abandoned and remain in place, and LICENSEE will have no further obligation or liability with respect to the Retention System.

## **IV. CONSTRUCTION OF IMPROVEMENTS, MAINTENANCE AND OPERATIONS**

**4.1 Costs.** LICENSEE shall be solely responsible for all costs of construction, installation, repairs, maintenance, alterations, additions, improvements, adjustments, relocation, replacement, renovations, remodeling, rehabilitation, restoration, reconstruction, use and operation now and in the future of any property placed in the Premises (hereafter "**LICENSEE's Work**"). Such property is also referred to herein as "facilities" and "improvements and betterments." CITY shall have no financial obligations whatsoever regarding this license.

**4.2 Compliance.** Further, in connection with any construction, installation, repair, use, alteration, relocation, renovation, remodeling, restoration, reconstruction, rehabilitation, additions, maintenance, adjustments or work of any kind whatsoever on any improvements or equipment in, on or about the Premises, LICENSEE and its contractor and subcontractors agree to comply with all applicable federal and state laws and the CITY of San Antonio Charter, ordinances, codes, permits, rules, and regulations applicable thereto, including but not limited to, all applicable local, state and federal equal employment opportunity and affirmative action rules, regulations and laws.

**4.3 Damages.** CITY assumes no liability and no expense by reason of its grant of this License or its exercise by LICENSEE, and CITY shall not be liable for any damages caused to the Premises because of LICENSEE's installation of improvements in the areas covered by this Agreement..

**4.4 Maintenance.** LICENSEE, at its sole cost and expense, agrees to maintain, as necessary, the facilities constructed and installed by LICENSEE, adhering to all applicable safety standards, including those imposed by State laws, Federal laws, CITY ordinances and Bexar County ordinances.

**4.5 Signs.** LICENSEE will require LICENSEE's contractors and subcontractors to install all signs, including location, direction and warning signs, as required by applicable CITY and Bexar County ordinances, as well as, state and federal laws, in the event construction, maintenance or operations of the improvements warrant same. Installation is included in the definition of "LICENSEE's Work."

**4.6 Not Binding.** LICENSEE covenants that LICENSEE shall not bind, nor shall LICENSEE's contractors or subcontractors bind, or attempt to bind, CITY for payment of any money in connection with any construction, installation, repair, use, alteration, relocation, renovation, remodeling, restoration, reconstruction, rehabilitation, additions, maintenance, adjustments or work of any kind whatsoever on any improvements or equipment in, on or about the Premises, whether authorized or unauthorized hereunder. LICENSEE hereby agrees to promptly pay all persons supplying labor, services and materials in the performance of LICENSEE's Work, for work actually performed and or materials and services actually provided. LICENSEE WILL REQUIRE LICENSEE'S CONTRACTORS AND SUBCONTRACTORS TO FULLY INDEMNIFY AND HOLD HARMLESS CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, AGENTS, OFFICERS, AND DIRECTORS, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL CLAIMS, AFFIDAVITS, LIENS, SUITS, OR ACTIONS ASSERTED BY ANY PERSON, FIRM OR CORPORATION ON ACCOUNT OF LABOR, MATERIAL OR SERVICES FURNISHED TO LICENSEE OR TO SAID CONTRACTORS OR SUBCONTRACTORS DURING THE PERFORMANCE OF ANY LICENSEE'S WORK AND AGAINST ANY CLAIM FOR INJURY OR DEATH TO PERSONS OR DAMAGE TO ANY PROPERTY.

**4.7 Reservation to modify.** CITY hereby reserves the right at any time to modify the public right-of-way and to build adjoining the same, provided such modifications do not materially alter LICENSEE's use of the Retention System during construction of the Hotel.

**4.8 SPECIFIC CONDITIONS. Letter of Conditions.** Pursuant to CITY's canvass of interested CITY departments and/or utility agencies, LICENSEE has agreed to the conditions described in the "LETTER OF AGREEMENT" in EXHIBIT "C ", a copy of which is attached hereto and incorporated herein for all purposes.

## **V. INDEMNITY**

**5.1** LICENSEE covenants and agrees to FULLY INDEMNIFY, SAVE and HOLD HARMLESS, CITY and the elected officials, employees, agents, officers, directors, volunteers and representatives of CITY, individually or collectively, from and against all and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including, but not limited to, personal or bodily injury or death and property

damage (collectively "DAMAGES"), made upon CITY, directly or indirectly arising out of, or resulting from, or related to LICENSEE's activities under this Agreement, including any acts or omissions of LICENSEE, any agent, officer, director, representative, employee, contractor, assignee, sublicensee, permittee, concessionaire, consultant, subconsultant, subcontractor, occupant, invitee, or volunteer of LICENSEE, and their respective officers, agents, employees, directors, and representatives while in the exercise or performance of the rights or duties under this AGREEMENT, all without, however, waiving any governmental immunity available to CITY under Texas law and without waiving any of the defenses of the parties under Texas law. The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Each party hereto shall promptly advise the other in writing of any claim or demand against CITY or LICENSEE known to such party related to or arising out of LICENSEE's activities under this Agreement or otherwise covered by this indemnity.

5.2 It is the EXPRESS INTENT of the parties to this Agreement, that the INDEMNITY provided for in this Article V., is an indemnity extended by LICENSEE to INDEMNIFY, PROTECT and HOLD HARMLESS CITY from the consequences of CITY's OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this Article shall apply only when the NEGLIGENT ACT of CITY is a CONTRIBUTORY CAUSE of the resultant DAMAGES, and shall have no application when the negligent act of CITY is the sole cause of the resultant DAMAGES. LICENSEE further AGREES TO DEFEND AND INVESTIGATE, AT ITS OWN EXPENSE, and ON BEHALF OF CITY AND IN THE NAME OF CITY, any claim or litigation brought against CITY and its elected officials, employees, agents, officers, directors, volunteers and representatives, in connection with any such DAMAGES for which this INDEMNITY shall apply, as set forth above. CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving LICENSEE of any of its obligations under this Agreement.

5.3. THE CITY SHALL NOT BE LIABLE FOR ANY DAMAGE EITHER TO THE PERSON OR PROPERTY OF LICENSEE COVERED BY THIS LICENSE OR TO OTHER PERSONS DUE TO THE PREMISES OR ANY PART OR APPURTENANCES THEREOF ARISING FROM BURSTING OR LEAKING OF WATER, GAS, WASTE PIPES, SPRINKLER SYSTEMS, OR DEFECTIVE WIRING OR EXCESSIVE OR DEFICIENT ELECTRICAL CURRENT OR CONDUIT MALFUNCTIONING, OR FROM ANY ACT OR OMISSION OF LICENSEE, OR ANY OTHER PERSONS ON OR ABOUT SAID PREMISES, UNLESS SUCH DAMAGE SHALL HAVE BEEN CAUSED BY THE SOLE ACTIVE NEGLIGENCE OF THE CITY, ITS EMPLOYEES, CONTRACTORS OR REPRESENTATIVES, AND THEN ONLY TO THE EXTENT OF THE CITY's LIMITS OF LIABILITY UNDER THE TEXAS TORT CLAIMS ACT, WITH ANY INDEMNIFICATION TO BE MADE ONLY UPON FINAL ADJUDICATION OR SETTLEMENT, SUCH LIMIT OF LIABILITY TO APPLY TO ALL OTHER REFERENCES AS TO CITY's SOLE ACTIVE NEGLIGENCE IN THIS AGREEMENT.

## **VI. INSURANCE**

6.1 Any and all employees, agents, representatives, sublicensees, contractors, subcontractors, consultants, subconsultants, permittees, concessionaires, occupants, invitees or volunteers of LICENSEE while engaged in the performance of any work required by CITY or any work with CITY related to the Licensed Premises or CITY-owned property shall be considered employees, agents, representatives, sublicensees, contractors, subcontractors, consultants, subconsultants, permittees, concessionaires, occupants, invitees or volunteers of

**LICENSEE** only, and not of **CITY**. Any and all claims that may result from any obligation for which **LICENSEE** may be held liable under any Workers' Compensation, Unemployment Compensation or Disability Benefits law or under any similar such law on behalf of said employees, agents, representatives, sublicensees, contractors, subcontractors, consultants, subconsultants, permittees, concessionaires, occupants, invitees or volunteers shall be the sole obligation and responsibility of **LICENSEE**.

**6.2** Prior to the commencement of any work under this agreement, **LICENSEE** shall furnish an original completed Certificate(s) of Insurance to the **CITY** Clerk and the **CITY** Director of Asset Management, which shall be completed by an agent authorized to bind the named underwriter(s) and its (their) company to the coverage, limit, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. The original Certificate(s) must have the agent's original signature, including the signer's company affiliation, title and phone number, and be hand-delivered or mailed directly from **LICENSEE's** agent or insurance carrier directly to said parties. **CITY** shall have no duty to perform under this agreement until such Certificate shall have been mailed or hand-delivered to all of said parties, and no **CITY** officer or employee, other than the **CITY's** Risk Manager, shall have authority to waive this requirement. **CITY's** Risk Manager may request changes to the Certificate of Insurance in order to make the certificate comply with the terms hereof, and no work shall begin until changes, if any, have been approved by said Risk Manager.

**6.3** **CITY** reserves the right to review insurance requirements under this Article during the effective period of this Agreement and any extension or renewal hereof and to amend or modify insurance coverage and their limits within ten (10) days after a request has been made to **LICENSEE** by **CITY** when such modification is deemed necessary and prudent by **CITY's** Risk Manager, including, but not limited to, additional limits and/or coverages based on amendments made by **LICENSEE** or based upon changes in statutory law, court decisions, the claims history of the indemnity, as well as of **LICENSEE**, and/or circumstances surrounding this agreement, but in no instance will **CITY** allow modification whereupon **CITY** may incur increased risk.

**6.4** **LICENSEE's** financial integrity is of interest to **CITY**, therefore, subject to **LICENSEE's** right to maintain reasonable deductibles in such amounts as are approved by **CITY**, and without limiting **CITY's** right to indemnification, **LICENSEE** agrees to obtain and maintain in full force and effect for the duration of this agreement, and any extension hereof, including during periods of construction and installation of any improvements, at **LICENSEE's** sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to **CITY**, in the following types and amounts:

<u>TYPE</u>	<u>AMOUNT</u>
1. Workers' Compensation	Statutory with a waiver of subrogation in favor of <b>CITY</b>
Employers' Liability	\$500,000/\$500,000/\$500,000 with a waiver of subrogation in favor of <b>CITY</b>
2. Commercial General (Public) Liability Insurance-to include	Combined Single Limit for Bodily Injury and Property Damage:

- |  |   |
|--|---|
| coverage for the following:  | \$2,000,000 per occurrence<br>or its equivalent   |
| a. Premises and Operations   |   |
| b. Independent Contractors   |   |
| c. Broad form Contractual Liability  |   |
| d. Products/Completed Operations   |   |
| e. Broad form property damage, to include<br>fire legal liability  |   |
| f. Personal Injury Liability   |   |
| g. Explosion, Collapse and Underground<br>Property ("ECU") *   |   |
| h. Host Liquor Liability if <b>LICENSEE</b><br>serves alcoholic beverages on the<br>Licensed Premises  |   |
| <br>3. Comprehensive Automobile Liability--<br>To include coverage for:  | <br>Combined Single Limit for Bodily<br>Injury and Property Damage:   |
| a. Owned/leased vehicles   | \$1,000,000.00 per occurrence or<br>its equivalent  |
| b. Non-Owned Automobiles   |   |
| c. Hired Automobiles   |   |
| <br>4. Builder's Risk Insurance*--for physical<br>damage to the property of <b>LICENSEE</b> ,<br>including improvements and betterments<br>* to be obtained by Licensee's Contractor | <br>Coverage for replacement cost<br>of <b>LICENSEE</b> 's improvements<br>and betterments made to the Premises |

**6.5 CITY** shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by **CITY**, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by **CITY**, **LICENSEE** shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

**6.6 LICENSEE** agrees that, with respect to the above required insurance, all insurance policies and certificates of insurance will contain the following provisions:

Name **CITY** and its officers, employees, agents, volunteers, and elected officials as additional insured's as respects operations, including installation and construction of improvements, and activities of, or on behalf of, the named insured performed under this agreement with **CITY**, with the exception of the workers' compensation and professional liability policies;

Provide for an endorsement that the "other insurance" clause shall not apply to **CITY** where **CITY** is an additional insured shown on the policy;

Insurance provided by **LICENSEE** is primary to any insurance or self-insurance maintained by **CITY**.

Workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of **CITY**.

**6.7 LICENSEE** shall notify **CITY** in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, or ten (10) days notice for cancellation due to non-payment of premiums, which notice shall be accompanied by a replacement Certificate of Insurance. All notices, including any Certificate(s) of Insurance, shall be given to **CITY** at the following address:

- (a) Department of Asset Management  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966
- (b) City Clerk, City of San Antonio  
P.O. Box 839966/2nd Floor, City Hall  
San Antonio, Texas 78283-3966  
Attention: Risk Manager

**6.8** If **LICENSEE** fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, **CITY** may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under this agreement, however, procuring of such insurance by **CITY** is an alternative to other remedies **CITY** may have, and is not the exclusive remedy for failure of **LICENSEE** to maintain said insurance or secure such endorsement. In addition to other remedies **CITY** may have upon **LICENSEE's** failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, **CITY** shall have the right to order **LICENSEE** to stop work hereunder, and/or withhold any payment(s) which become due to **LICENSEE** until **LICENSEE** demonstrates compliance with the requirements hereof.

**6.9** Nothing herein contained shall be construed as limiting in any way the extent to which **LICENSEE** may be held responsible for the payment of damages to persons or property resulting from **LICENSEE's** activities or the activities of **LICENSEE's**, employees, agents, representatives, sublicensees, contractors, subcontractors, or invitees under this License.

**6.10** **CITY**, its agents, representatives, or employees, shall not be liable, and **LICENSEE** shall waive all claims for any damage to persons or property sustained by **LICENSEE** or any person claiming through **LICENSEE**, which may occur on the Premises, or for the loss of, or damage to, any property of **LICENSEE** or of others by theft or otherwise, whether caused by other persons on the Premises or by occupants of adjacent property or the public or **LICENSEE's** employees, agents, representatives, sublicensees, invitees, contractors, or subcontractors. **LICENSEE** shall save and hold harmless **CITY** from any claims arising out of damage to **LICENSEE's** property or damage to **LICENSEE's** business, including subrogation claims by **LICENSEE's** insurers.

## **VII. RULES AND REGULATIONS**

**7.1** **LICENSEE** shall observe and comply with all laws and ordinances of **CITY** affecting **LICENSEE's** business, including but not limited to, **CITY's** noise ordinance and the provisions concerning operation of businesses in the River Walk area in the Downtown Central Business District.

**7.2** No advertisements, signs, decorations or displays shall be placed in, on or about the Licensed Premises without the prior written approval of **CITY** through the Director of Parks and Recreation and any and all other necessary departments, boards or commissions of the **CITY OF SAN ANTONIO**, including, but not limited to, the Historic and Design Review Commission. **LICENSEE** agrees to remove all signs from the Licensed Premises when **LICENSEE** vacates the Licensed Premises. Any signs remaining shall be deemed abandoned and **CITY** may sell same at a public or private sale without notice or liability whatsoever.

**7.3** No activity or method of operation shall be allowed in or on the Licensed Premises which exposes patrons thereof to nudity or to partial nudity. For the purposes of this provision, the following definitions apply:

- A. Nudity means total absence of clothing or covering for the human body.
- B. Partial nudity means exposure of the female breast or the exposure of the male or female pubic area or buttocks.

**7.4** The operation of a massage business, tanning salon, gambling casino, or gambling of any nature shall not be allowed in or on, the Licensed Premises.

**7.5** Discrimination on account of race, color, gender, age, handicap or national origin, directly or indirectly, in employment or in the use of or admission to the Licensed Premises is prohibited.

**7.6** **LICENSEE** shall not, except as may otherwise be permitted by applicable laws and regulations, pay less than the minimum wage required by Federal and State statutes to persons employed in its operations hereunder.

**7.7** **LICENSEE** shall not place speakers or amplified music on or near the Licensed Premises or in any other location outside the adjacent building on any side of the Premises which can be seen from the San Antonio River. **LICENSEE** shall comply with **CITY's** laws pertaining to noise. **LICENSEE** agrees to comply with any requests by the **CITY's** park rangers, police officers or noise abatement officers to close the windows and doors of **LICENSEE's** business establishment after the hour of 11:00 p.m., except as necessary for entry to and exit from the establishment. Such requests shall be limited to instances in which the officers have measured a nighttime noise decibel level at the establishment exceeding the requirements of Chapter 21 of the City Code of the City of San Antonio immediately prior to making such request. Failure to comply with this section may, at **CITY's** option, constitute a default under this Agreement.

## **VIII. RESERVATIONS: CITY**

**8.1** **CITY** reserves the right to enter the Licensed Premises at all reasonable times for the purpose of examining, inspecting or making repairs as herein provided and asserting **CITY's** superior rights as detailed above. Said entry shall not be deemed to be an actual or constructive "eviction" of **LICENSEE** from the Licensed Premises. Should construction or other activity by **CITY** prevent **LICENSEE's** use of the Premises for the purposes outlined herein for longer than ten (10) days, then this Agreement shall be automatically extended for the same number of days **LICENSEE's** use of Licensed Premises was denied.

8.2 No provision of this Agreement shall operate in any manner to prevent CITY from permitting displays, tournaments or amusements, or River Walk parades for the benefit of the public on or about the San Antonio River Walk.

8.3 CITY park rangers and other safety personnel shall have the right of entry on and into the Licensed Premises as needed to investigate any circumstances, conditions, or person that may appear to be suspicious. LICENSEE shall cooperate with all reasonable requests by such personnel to facilitate public safety and orderly conduct by persons in the River Walk area. LICENSEE expressly understands and agrees that CITY has not agreed to act and does not act as an insurer of LICENSEE's property and does not guarantee security against theft, vandalism, or injury of whatsoever nature and kind to persons or property.

#### **IX. CONDEMNATION**

9.1 It is understood and agreed that in the event that the Premises are taken, in whole or in part, by any governmental authority other than CITY, this Agreement and all rights or permission to use hereunder shall, at the option of CITY, cease on the date title to such land so taken or transferred vests in the condemning authority. LICENSEE hereby waives all rights to any proceeds of such condemnation. Nothing herein shall preclude CITY from exercising its inherent right of eminent domain.

#### **X. HOLDING OVER/ABANDONMENT OF IMPROVEMENTS IN PLACE**

10.1 It is understood that LICENSEE will not remove the Retention System from the Licensed Premises, and such improvements will be deemed abandoned as of the completion of construction of the Hotel. Because of this, CITY agrees that no 'hold over' fees will be charged to LICENSEE after this Agreement is terminated, whether such termination occurs because of the expiration of the License Term or otherwise.

#### **XI. DEFAULT AND REMEDIES**

11.1 The following events shall be deemed to be events of default by LICENSEE under this Agreement:

11.1.1 **Monetary Default.** LICENSEE shall fail to pay any fees or charges as provided for in this Agreement when due and such failure shall continue for a period of ten (10) days following receipt of written notice of failure to pay any fees or charges when due and owing.

11.1.2 **Non-Monetary Default.** LICENSEE shall fail to comply with any term, provision, condition covenant or agreements of this License, other than the payment of license fees, and shall not cure such failure within thirty (30) days after written notice thereof to LICENSEE.

11.1.3 The taking by a court of competent jurisdiction of LICENSEE and its assets pursuant to proceedings under the provisions of any federal or State reorganization code or act, insofar as the following enumerated remedies for default are provided for or permitted in such code or act.



**11.2** Upon the occurrence of an event of default as heretofore provided, **CITY** may, at its option, (i) treat such default as an anticipatory breach of the Agreement or (ii) declare this Agreement, and all rights and interests created by it, terminated, thus relieving **LICENSEE** of the obligation to pay other fees or charges, if any. Upon **CITY** electing to treat such default as an anticipatory breach, without terminating said Agreement, this Agreement shall cease and come to an end as if that were the day originally fixed herein for the expiration of the then current term hereof.

**11.3** Any termination of this Agreement as herein provided, except under **ARTICLE III, Section 3.2.1**, shall not relieve **LICENSEE** or any assignees, sublicensees, permittees, concessionaires, contractors, or subcontractors of any kind or nature whatsoever or any other party (collectively "other parties") who is a transferee of **LICENSEE** from the payment of any sum or sums that shall be due and payable or become due and payable to **CITY** hereunder, or any claim for damages then or theretofore accruing against **LICENSEE** hereunder, and any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from **LICENSEE** for any default hereunder. All rights, options and remedies of **CITY** contained in this Agreement shall be cumulative of the other, and **CITY** shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Agreement. No waiver by **CITY** of a breach of any of the covenants, conditions or restrictions of this Agreement shall be construed or held to be a waiver of any succeeding or proceeding breach of the same or any other covenant, condition or restriction herein contained. **LICENSEE** hereby covenants and agrees that it will not claim the right to redeem or re-enter the said Premises to restore the operation of this Agreement.

**11.4** Upon any such expiration or termination of this Agreement, **LICENSEE** or an assignee, sublicensee, permittee, concessionaire, contractor, subcontractor or occupant of any kind or nature whatsoever, or other party, as applicable, shall quit and peacefully surrender the Licensed Premises, to **CITY**, within ten (10) days after the effective date of expiration or termination, and **CITY**, upon or at any time after such expiration or termination, may, without further notice, enter upon and re-enter the Licensed Premises and possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess **LICENSEE** and remove **LICENSEE** and any and all other persons and property, including all signs, furniture, trade fixtures, and other personal property which may be disputed as to its status as fixtures, from the Premises, and such action by **CITY** shall not constitute **CITY's** acceptance of abandonment and surrender of the Licensed Premises by **LICENSEE** nor prevent **CITY** from pursuing all legal or equitable remedies available to it. **CITY** may retain or dispose of **LICENSEE's** property, without notice, at a public or private sale and without liability to **LICENSEE** or those claiming under **LICENSEE**.

**11.5** Further, **CITY** may repossess the Premises without termination and such repossession of the Premises shall not be construed as an election to terminate this Agreement nor shall it cause a forfeiture of rents or other charges remaining to be paid during the balance of the term hereof unless a written notice of such intention be given to **LICENSEE** by **CITY**. Notwithstanding any relicensing or leasing without termination by **CITY** because of any default by **LICENSEE**, **CITY** may, at any time after such relicensing, elect to terminate this Agreement for any such default.

## **XII. QUIET ENJOYMENT**

**12.1** **CITY** covenants and agrees, subject to the provisions of this Agreement that **LICENSEE**, on paying any fees and charges in this Agreement provided for and observing and

performing the covenants, agreements and conditions of this Agreement on its part to be observed and performed, shall lawfully and quietly hold, occupy and enjoy the Licensed Premises during the term without hindrance or molestation of any kind whatsoever.

### **XIII. CONFLICT OF INTEREST**

**13.1 LICENSEE** acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a **CITY** officer or employee, as the terms "officer" and "employee" are defined in Part B, Section 10 of **CITY's** Ethics Code, as may be amended from time to time, from having a financial interest in any contract with **CITY** or any **CITY** agency such as **CITY**-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with **CITY** or in the sale to **CITY** of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a **CITY** officer or employee; his or her parent, child or spouse; a business entity in which the officer or employee, or his or her parent, child or spouse owns ten (10%) percent or more of the voting stock or shares of the business entity, or ten (10%) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a **CITY** contract, a partner or a parent or subsidiary business entity. **LICENSEE** warrants and certifies, and this Agreement is made in reliance thereon, that **LICENSEE**, **LICENSEE's** officers, employees and agents are neither officers nor employees of **CITY**. **LICENSEE** further warrants and certifies that, if required to do so, **LICENSEE** has tendered to **CITY** a Discretionary Contracts Disclosure Statement in compliance with **CITY's** Ethics Code.

### **XIV. SEPARABILITY**

**14.1** If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

### **XV. PARTIES BOUND**

**15.1** If there shall be more than one party designated as **LICENSEE** in this Agreement, they shall each be bound jointly and severally hereunder.

**15.2** The covenants and agreements herein contained shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and such assigns as have been approved by **CITY**.

### **XVI. TEXAS LAW TO APPLY**

**16.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS. FURTHER, THE PRIVILEGES GRANTED HEREUNDER SHALL BE CONSTRUED TO BE ONLY THOSE AUTHORIZED BY PERTINENT TEXAS STATUTES AND THE CITY CHARTER OF THE CITY OF SAN ANTONIO, TEXAS AND NOT TO INCLUDE ANYTHING INCONSISTENT WITH THE RIGHTS OF THE PUBLIC IN THE AFOREMENTIONED PUBLIC RIGHT-OF-WAY AREAS.**

## **XVII. LIEN FOR FEES AND CHARGES**

**17.1** In consideration of the mutual benefits arising under this Agreement, **LICENSEE** does hereby mortgage, and grant a security interest under the Texas Business and Commerce Code unto **CITY**, upon all property of **LICENSEE** now or hereafter placed in or upon the Premises (except such part of any property or merchandise as may be exchanged, replaced or sold from time to time in the ordinary course of operations or trade), and such property is hereby subjected to a lien and security interest in favor of **CITY** and shall be and remain subject to such a lien and security interest of **CITY** for payment of all fees, charges, and other sums agreed to be paid by **LICENSEE** herein. At **CITY's** request, **LICENSEE** shall execute and deliver to **CITY** a financing statement appropriate for use under said Code. Such lien and security interest shall be in addition to and cumulative of **CITY's** liens provided by law.

## **XVIII. RELATIONSHIPS OF PARTIES**

**18.1** Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationships between the parties hereto other than that of **LICENSOR** and **LICENSEE**.

## **XIX. GENDER**

**19.1** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

## **XX. CAPTIONS**

**20.1** The captions contained in this Agreement are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Agreement.

## **XXI. ENTIRE AGREEMENT/AMENDMENT**

**21.1** This Agreement together with its attached exhibits and the authorizing ordinance, in writing, constitutes the entire agreement between the parties with respect to the subject matter hereof, any other written or parole agreement with **CITY** being expressly waived by **LICENSEE**.

**21.2** No amendment, modification or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto. Further it is understood that the Charter of the **CITY** requires that all contracts with the **CITY** be in writing and adopted by ordinance. All amendments and other modifications or alterations of the term of this Agreement of any kind or nature whatsoever also need approval evidenced by an ordinance and are not legally binding on the **CITY** unless so evidenced.

## **XXII. ASSIGNMENT/SUBLICENSING**

**22.1** Except as provided below, this Agreement is personal to **LICENSEE** and shall not be assigned or sublicensed or otherwise transferred by **LICENSEE**, other than to its parent or

affiliated entities, without the prior written consent of **CITY**, as evidenced by passage of a subsequent **CITY** of San Antonio ordinance.

**22.2 LICENSEE's** rights, duties and obligations under this Agreement may be assigned and transferred to any future owner of fee simple title to the Project. Site.

**22.3** Additionally, **LICENSEE's** rights, duties, and obligations hereunder may be collaterally assigned to a lender (the "Lender"), provided the collateral assignment or lien instrument requires the Lender to:

(i) give **CITY** written notice in advance of any foreclosure, so that **CITY** may be present at the foreclosure sale;

(ii) grant **CITY**, in writing, at **CITY's** option, the right to cure a default of **LICENSEE**;

and

(iii) further provide that **CITY'S** fee simple interest in the Licensed Premises will not be subordinated in anyway whatsoever by virtue of such collateral or actual assignment to the interest assigned or otherwise transferred to said Lender.

**22.4. LICENSEE Financing.** To elaborate on the reference to collateral assignment by **LICENSEE** in **Section 22.3**, **CITY** agrees that **LICENSEE** shall have the right from time to time to grant and assign a mortgage or other security interest in all of **LICENSEE's** interests hereunder, including its rights to any improvements and, as applicable, personal property located within the Premises to its lender in connection with **LICENSEE's** financing arrangements, and any lien of **CITY** against **LICENSEE's** improvements and personal property (whether by statute or under the terms of this Agreement) shall be subject and subordinate to such security interest. **CITY** shall execute such documents, as first reviewed and approved by the City Attorney, including, but no limited to, an estoppel letter/certificate, as **LICENSEE's** lenders may reasonably request in connection with any such financing, provided such documents accurately reflect the intent of this Agreement and do not otherwise modify or increase any rights, privileges, duties, obligations, cure periods, or terms and conditions of any nature whatsoever binding **LICENSEE** hereunder. The City Manager of the City of San Antonio or a designee, including the Director, Department of Asset Management, is authorized hereunder to execute such documents, without the necessity of approval evidenced by passage of a future City of San Antonio ordinance. However, if such documents do in fact seek to modify any rights, privileges, duties, obligations, cure periods, or terms and conditions of any nature whatsoever binding **LICENSEE** hereunder, then **CITY** must secure the approval for execution of such documents thereof through passage of a future City ordinance.

### **XXIII. NOTICES**

**23.1 To CITY.** Notices to **CITY** required or appropriate under this Agreement shall be deemed sufficient if by personal delivery or if by mail, in writing and mailed, registered or certified mail, postage prepaid, addressed to:

City Clerk  
City of San Antonio  
City Hall/Military Plaza  
P.O. 83996/2nd Floor  
San Antonio, Texas 78283-3966

With a copy to:

Director, Department of Asset Management and  
Director, Department of Parks and Recreation  
at the same address as the City Clerk

or to such other address as may hereafter be designated in writing by **CITY** Manager of the CITY of San Antonio.

**23.2 To LICENSEE.** Notices to **LICENSEE** shall be addressed to:

Riverton Suites, Ltd.  
c/o Hixon Properties  
315 E. Commerce St., Suite 300  
San Antonio, Texas 78205  
ATTN: Bill Shown

With a copy to:

D.E. Harvey Builders  
Attn: Tony Battle, Assistant Project Manager  
3636 Westchase  
P.O. Box 42008  
Houston, Texas 7742-2008 with a co

or to such other address or addressee as may herein be designated in writing by **LICENSEE**. All notices shall be deemed received by the party to whom mailed on a date five (5) days after mailing.

#### **XXIV. MISCELLANEOUS**

**24.1 Nondiscrimination.** **LICENSEE** covenants that **LICENSEE**, its agents, employees or anyone under its control, will not discriminate against any individual or group on account of race, color, gender, age, religion, national origin, or handicap, in employment practices or in the use of the Premises, which said discrimination **LICENSEE** acknowledges is prohibited.

**24.2 Wages.** **LICENSEE** shall pay wages which are not less than the minimum wages required by Federal and State statutes and **CITY** and County ordinances, to persons employed in **LICENSEE's** operation under this Agreement

**24.3 Covenants.** Covenants and obligations of **LICENSEE** contained herein shall be covenants running with the land, binding upon its legal representatives, successors, and assigns.

**24.4 Taxes and Licenses.** LICENSEE shall pay before delinquency all current and future taxes, assessments, license and permit fees, and governmental impositions of whatever kind or nature imposed with respect to the Licensed Premises, including, but not limited to, taxes on LICENSEE's interest, and LICENSEE's improvements and, if in the future, the fee simple interest of CITY is subject to taxation, then such tax will be included in the charges payable by LICENSEE. Further, LICENSEE, upon request, shall reimburse CITY with interest thereon at the maximum rate of interest, under applicable law, if CITY shall have paid any such taxes, assessments, license or permit fee, or governmental imposition in the first instance, provided CITY was legally obligated to pay the same and provided LICENSEE is in default under this provision. LICENSEE further agrees to maintain in current status all Federal, State and local licenses and permits required for the improvements within CITY public right-of-way.

**24.5 Approval by CITY.** Whenever this Agreement calls for approval by CITY, unless otherwise explained herein, such approval shall be evidenced by the written approval of the Director of the Asset Management Department of the City of San Antonio or her designee, unless the City Charter of CITY requires City Council approval.

## **XXV. AUTHORITY**

**25.1** The signer of this License for LICENSEE hereby represents and warrants that he or she has full authority to execute this Lease on behalf of LICENSEE.

IN WITNESS WHEREOF, we have affirmed our signatures this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

LICENSOR:

CITY OF SAN ANTONIO,  
a Texas Municipal Corporation

By: \_\_\_\_\_  
City Manager

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

LICENSEE:

RIVERTON SUITES, LTD., a Texas limited  
partnership,

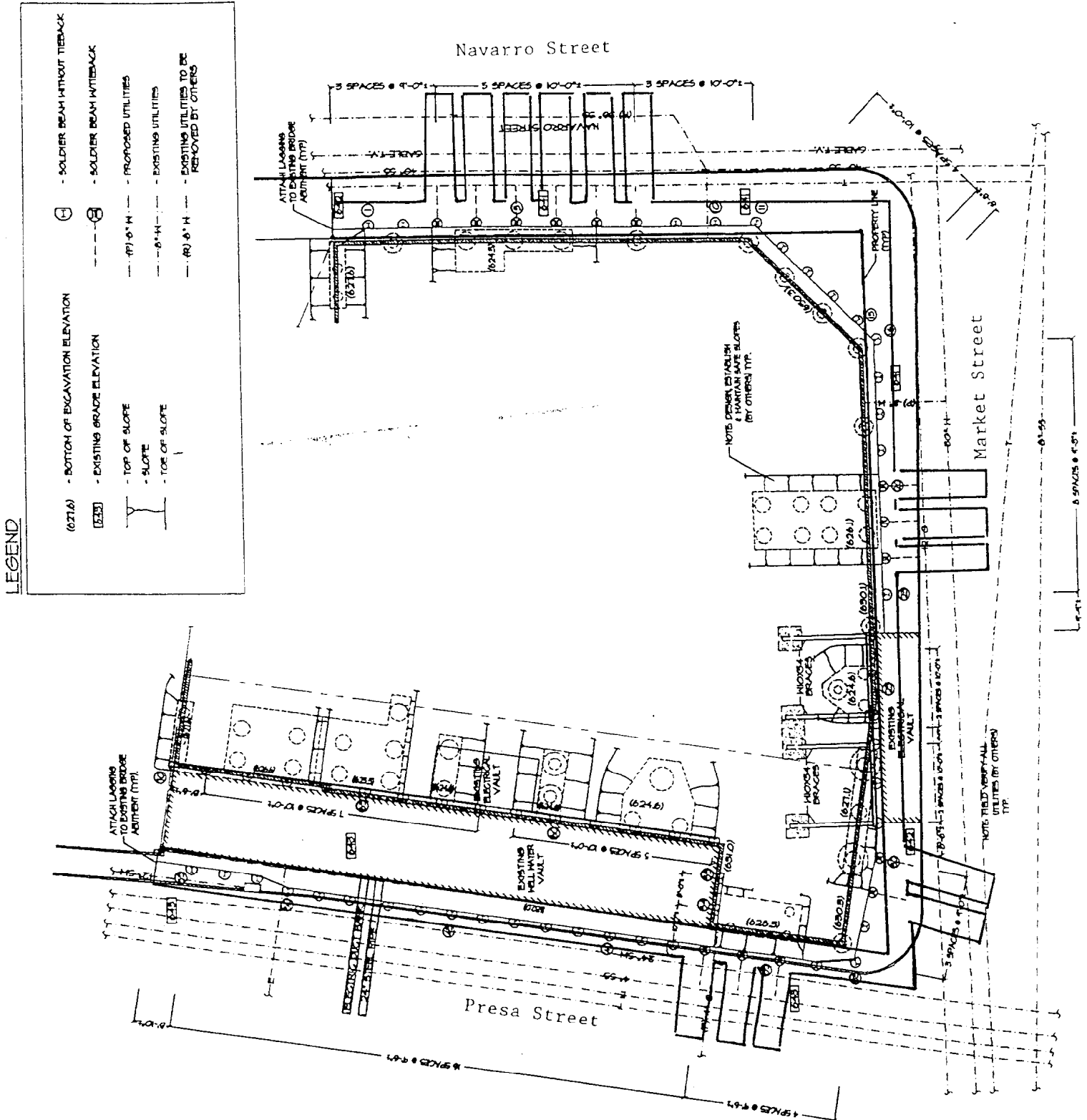
By: Riverton Suites Management, L.L.C.

Its General Partner

By:   
Jack J. Spector, President

**EXHIBIT "A"**  
**LICENSED PREMISES**

Locations and numbers of piers and tiebacks shown on this exhibit are approximations. The final locations and numbers will be determined upon completion of construction of the Retention System.



**EXHIBIT "B"**  
**MEMORANDUM OF LICENSE AGREEMENT**

This is a memorandum of the License Agreement (the "License" or the "Agreement") between the CITY OF SAN ANTONIO, a Texas Municipal Corporation, as "Licensor", acting by and through its City Manager or the designee, pursuant to Ordinance No. \_\_\_\_\_, dated \_\_\_\_\_, 2004, and RIVERTON SUITES, LTD., a Texas Limited Partnership, whose general partner is RIVERTON SUITES MANAGEMENT, L.L.C., a Texas limited liability company, as "Licensee", acting by and through its duly authorized representative, concerning subsurface rights owned by Licensor in San Antonio, Bexar County, Texas as outlined on the drawing attached hereto as Exhibit "A" (the "Licensed Premises"), and surrounding on three sides the property described as:

An area containing a total of 562 square feet; being located on the north side of the San Antonio River Walk and south of the property legally described on Exhibit "A-1" attached (such property is herein referred to as the "Hotel Property").

The License was granted so that Licensee may install improvements to be used for an earth retention system in connection with the construction of a hotel on the Hotel Property. The term of the License is ten (10) years, commencing on \_\_\_\_\_, 2004. Upon completion of construction of the hotel on the Hotel Property, Licensee will abandon and leave in place all improvements it installed in the Licensed Premises, and Licensee will have no obligation or liability related to such improvements.

This memorandum is not a complete summary of the License. Provisions in this memorandum shall not be used in interpreting the provisions of the License. Terms used in this memorandum that are not otherwise defined herein shall have the same meaning given to them in the License. In the event of conflict between this memorandum and the License, the License shall control.

IN WITNESS WHEREOF, Lessee has executed this memorandum to be effective as of \_\_\_\_\_, 2004.

**CITY OF SAN ANTONIO,**  
**A Texas Municipal Corporation**

**RIVERTON SUITES, LTD.,**  
**a Texas Limited Partnership,**  
**acting by and through its general partner**

**RIVERTON SUITES MANAGEMENT, L.L.C.**

NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

BY: \_\_\_\_\_  
Jack J. Spector, President

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk



APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**ACKNOWLEDGEMENT**

STATE OF TEXAS       §  
                              §  
COUNTY OF BEXAR     §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2004 by \_\_\_\_\_ of the CITY OF SAN ANTONIO, a Texas Municipal Corporation, on behalf of said municipal corporation.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

**ACKNOWLEDGEMENT**

STATE OF TEXAS       §  
                              §  
COUNTY OF BEXAR     §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2004 by Jack J. Spector, President (title) of Riverton Suites Management, L.L.C., a Texas limited liability company, general partner of RIVERTON SUITES, LTD., a Texas limited partnership, on behalf of said limited partnership.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

**AFTER RECORDING RETURN TO:**

City of San Antonio  
Department of Asset Management  
P.O. Box 839966/2nd Floor, Municipal Plaza  
San Antonio, Texas 78283-3966  
Attn: Property Disposition Manager



# CITY OF SAN ANTONIO

DEPARTMENT OF ASSET MANAGEMENT

P.O. BOX 839966 SAN ANTONIO, TEXAS 78283-3966

TEL. 210-207-4032 FAX 210-207-7888

April 19, 2004

Riverton Suites, Ltd.  
Attn: John Beauchamp  
315 E. Commerce, Suite 300  
San Antonio, Texas 78205

Re: S. P. No. 1154— Request for a license agreement to use the subsurface of Public Right of Way to install approximately 69 soldier beams, with approximately 14 having tiebacks, to support the construction of a hotel at the southeast corner of Navarro and Market Streets

Dear Mr. Beauchamp:

With reference to the captioned project, please be advised that the City of San Antonio has now completed the canvassing process and will recommend approval of your request subject to the following conditions:

**DEVELOPMENT SERVICES DEPARTMENT:**

The request to modify tiebacks on a retention system on connection with the Riverton Suites Hotel on Navarro and Markets streets is recommended for approval provided the change does not conflict with existing utilities.

**SAN ANTONIO WATER SYSTEM:**

Any existing SAWS utilities be located and avoided for construction of the new tieback method retention system.

**CITY PUBLIC SERVICE:**

Approved provided existing rights of way are retained as electric and gas easements, or petitioner may seek the relocation of the facilities with the express permission and coordination with CPS at the sole expense of the petitioner.

**PUBLIC WORK DEPARTMENT:**

Builder must submit as-builds of the hotel that identify the specific location of the soldier beams and tiebacks after construction.

Consideration for this license shall be the conveyance of 1,580 sf of subsurface rights back to the City conveyed by the City to Riverton Suites, Ltd. by Ord. No. 91935 (6/8/2000). Also, a Certificate of Insurance must be provided and the City of San Antonio must be formally released from any and all liabilities, which may be incurred in connection with this request.

**Exhibit "C"**

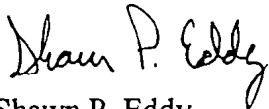
**Page 1 of 2**

Further, a fully completed and signed Discretionary Contracts Disclosure Statement is required and enclosed for your convenience.

If you concur with the above mentioned conditions, including the payment of the fee established for this encroachment, please countersign this letter in the space provided below and return to the undersigned. Upon receipt of this signed Letter of Agreement, Discretionary Contracts Disclosure Statement and the Certificate of Insurance we will continue processing your request.

This Letter of Agreement is being offered by the City of San Antonio only to the above named petitioner and will expire thirty (30) days after the date of issuance unless a specific extension is requested by the petitioner and granted by the City.

Sincerely,



Shawn P. Eddy  
Special Projects Manager

AGREED AS TO TERMS AND CONDITIONS:

*QAT* Petitioner: RIVERTON SUITES, LTD.

RIVERTON SUITES MANAGEMENT, L.L.C.

By

By:

JACK J. SPECTOR

Print Name

President

Title

4-19-04

Date

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR **SOCIAL SECURITY NUMBER** OR YOUR **DRIVER'S LICENSE NUMBER**.

STATE OF TEXAS     }  
                              }  
COUNTY OF BEXAR   }

**DEED WITHOUT WARRANTY**  
(Subsurface Property)

**DATE:** Effective as of the date set forth in the City of San Antonio Ordinance referenced below, regardless of the date of execution by **GRANTOR**.

**GRANTOR:** RIVERTON SUITES, LTD., a Texas Limited Partnership  
BY: Riverton Suites Management, L.L.C., its general partner

**GRANTOR'S** Mailing Address: (including county):  
315 East Commerce Street, Suite 300  
San Antonio, Texas 78205  
Attn: John Beauchamp

**GRANTEE:** CITY OF SAN ANTONIO, a Texas Municipal Corporation, acting by and through its City Manager, or designee, acting pursuant to authority for acceptance to be granted by a City of San Antonio Ordinance anticipated to be passed and approved in May, 2004.

**GRANTEE'S** Mailing Address (including county):

CITY OF SAN ANTONIO  
P.O. Box 839966  
San Antonio, Bexar County, Texas 78283-3966  
Attn: City Clerk

Street Address: City Hall, 2<sup>nd</sup> Floor  
100 Military Plaza  
San Antonio, TX 78205  
ATTN: City Clerk

**CONSIDERATION:** The sum of TEN AND NO /100 (\$10.00) DOLLARS, in hand paid by the **GRANTEE** herein named, the grant of certain subsurface privileges by the CITY OF SAN ANTONIO, as **LICENSOR**, by execution and delivery of a certain License Agreement to RIVERTON SUITES, LTD., as **LICENSEE**, also approved by the ordinance referenced above, and other good and valuable consideration, the receipt of which is hereby acknowledged by **GRANTOR**.

**PROPERTY:**

The subsurface only of (1) a tract of approximately 0.0266 acres (1,160 square feet) situated within the Navarro and W. Market Street rights-of-way coincident with Lot 4, New City Block (N.C.B.) 157, Southport One Subdivision in the City of San Antonio, Bexar County, Texas, and (2) a tract of approximately 0.0096 acres (420 square feet), situated within the South Presa Street right-of-way coincident with the remaining portion of Lot 2 and Lot A-3, New City Block (N.C.B.) 157, San Antonio, Bexar County, Texas, both said tracts being more particularly described in

Field Notes and shown on surveys in EXHIBITS "A" and "B" attached hereto and made a part hereof (the "Property"). [The total is approximately 1,580 square feet of subsurface Property]

**RESERVATIONS, RESTRICTIONS, EXCEPTIONS, AND CONDITIONS TO CONVEYANCE:**

**A. RESERVATIONS:**

**GRANTEE** acknowledges and agrees that those certain rights and easements reserved by the City of San Antonio, as Grantor, under that Deed Without Warranty (Subsurface Property) of the same Property as filed of record in Volume 8630, Pages 1985 et. seq. of the Official Public Records of Real Property of Bexar County, Texas will merge back into the fee by virtue of this Deed Without Warranty.

**B. EXCEPTIONS:**

All valid and effective instruments of record that affect the Property.

**GRANTOR**, for the consideration and subject to the Exceptions, GRANTS, BARGAINS, and CONVEYS to **GRANTEE**, all of **GRANTOR'S** right, title, interest, and estate, both at law and in equity, as of the date hereof, in and to the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, TO HAVE AND TO HOLD unto **GRANTEE**, **GRANTEE'S** successors and assigns forever, **WITHOUT EXPRESS OR IMPLIED WARRANTY OF ANY KIND OR CHARACTER.**

**ANY AND ALL WARRANTIES THAT MIGHT ARISE BY COMMON LAW, STATUTE (INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES IN SECTION 5.023 OF THE TEXAS PROPERTY CODE OR ANY SUCCESSOR STATUTE) OR OTHERWISE ARE HEREBY DISCLAIMED AND EXCLUDED BY GRANTOR, EXCEPT FOR THE IMPLIED WARRANTY SET FORTH IN SECTION 5.023(A)(1) OF SAID TEXAS PROPERTY CODE, AS AMENDED FROM TIME TO TIME. IT IS EXPRESSLY AGREED HEREIN THAT GRANTOR IS SELLING THE PROPERTY, AND GRANTEE IS PURCHASING THE PROPERTY CONVEYED BY THIS DEED WITHOUT WARRANTY, AND GRANTEE EXPRESSLY ACKNOWLEDGES THAT, FOR THE CONSIDERATION STATED HEREIN, GRANTOR IS SO CONVEYING THIS PROPERTY IN ITS "AS IS," "WHERE IS" AND "WITH ALL FAULTS," CONDITION AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, EXCEPT FOR THE IMPLIED WARRANTY SET FORTH ABOVE; IT BEING THE INTENTION OF GRANTOR AND GRANTEE TO EXPRESSLY REVOKE, RELEASE, NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES AS TO (I) THE CONDITION OF THE PROPERTY OR ANY ASPECT THEREOF, INCLUDING, IMPLIED LIMITATION, ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES RELATED TO SUITABILITY FOR HABITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE; (II) THE NATURE OR QUALITY OF CONSTRUCTION, STRUCTURAL DESIGN, OR ENGINEERING OF THE IMPROVEMENTS, IF ANY; (III) THE QUALITY OF THE LABOR OR MATERIALS INCLUDED IN THE IMPROVEMENTS; (IV) THE SOIL CONDITIONS, DRAINAGE, TOPOGRAPHICAL FEATURES, OR OTHER CONDITIONS OF THE PROPERTY OR WHICH AFFECT THE PROPERTY; (V) ANY FEATURES OR CONDITIONS AT OR WHICH AFFECT THE PROPERTY WITH RESPECT TO ANY PARTICULAR PURPOSE, USE, DEVELOPMENTAL POTENTIAL; OR OTHERWISE; (VI) THE AREA, SIZE, SHAPE, CONFIGURATION, LOCATION, CAPACITY, QUANTITY, QUALITY, AUTHENTICITY, OR AMOUNT OF THE PROPERTY; (VII) ALL EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES CREATED BY ANY AFFIRMATION OF FACT OR PROMISE BY ANY DESCRIPTION OF THE PROPERTY; (VIII) ANY ENVIRONMENTAL, GEOLOGICAL, METEOROLOGICAL, STRUCTURAL, OR OTHER CONDITION OR HAZARD OR THE ABSENCE THEREOF HERETOFORE, NOW, OR HEREAFTER AFFECTING IN ANY MANNER ANY OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, CONCERNING WATER IN, ON, UNDER, OR ABOUT THE PROPERTY; (IX) THE ACCURACY OR COMPLETENESS OF**

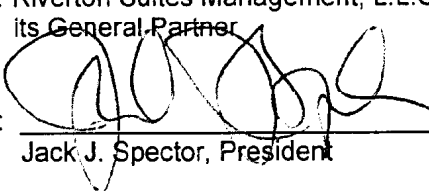
ANY MATTERS PREPARED OR DELIVERED BY ANY TITLE COMPANY OR SURVEYOR;  
AND (X) ALL OTHER EXPRESS OR IMPLIED WARRANTIES AND REPRESENTATIONS BY  
GRANTOR WHATSOEVER, EXCEPT SOLELY THE IMPLIED WARRANTY SET FORTH IN  
SECTION 5.023(A)(1) OF THE TEXAS PROPERTY CODE.

GRANTEE ACKNOWLEDGES THAT GRANTEE IS NOT RELYING UPON ANY  
REPRESENTATION, STATEMENT OR OTHER ASSERTION WITH RESPECT TO THE  
PROPERTY CONDITION, BUT IS RELYING UPON GRANTEE'S EXAMINATION AND  
KNOWLEDGE OF THE PROPERTY. GRANTEE AGREES THAT GRANTOR SHALL NOT BE  
RESPONSIBLE OR LIABLE TO GRANTEE FOR ANY CONSTRUCTION DEFECTS, ERRORS,  
OMISSIONS, OR ON ACCOUNT OF ANY OTHER CONDITIONS AFFECTING THE  
PROPERTY, INCLUDING (WITHOUT IMPLIED LIMITATION) ENVIRONMENTAL CONDITIONS  
OR FAULTS, AS THE PROPERTY IS CONVEYED HEREBY IN ITS AS-IS, WHERE-IS, AND  
WITH ALL FAULTS CONDITION. GRANTEE OR ANYONE CLAIMING BY, THROUGH OR  
UNDER GRANTEE, HEREBY FULLY RELEASES GRANTOR FROM ANY AND ALL CLAIMS  
THAT GRANTEE OR ANYONE CLAIMING BY, THROUGH OR UNDER GRANTEE, MAY NOW  
HAVE OR HEREAFTER ACQUIRE AGAINST GRANTOR FOR ANY COST, LOSS, LIABILITY,  
DAMAGE, EXPENSE, DEMAND, ACTION OR CAUSE OF ACTION ARISING FROM OR  
RELATED TO ANY CONSTRUCTION DEFECTS, ERRORS, OMISSIONS, OR OTHER  
CONDITIONS AFFECTING THE PROPERTY, INCLUDING (WITHOUT IMPLIED LIMITATION)  
ANY ENVIRONMENTAL CONDITIONS OR FAULTS. GRANTEE FURTHER ACKNOWLEDGES  
AND AGREES THAT THIS RELEASE SHALL BE GIVEN FULL FORCE AND EFFECT  
ACCORDING TO EACH OF ITS EXPRESSED TERMS AND PROVISIONS, INCLUDING, BUT  
NOT LIMITED TO, THOSE RELATING TO UNKNOWN AND UNSUSPECTED CLAIMS,  
DAMAGES AND CAUSES OF ACTION.

When the context requires, singular nouns and pronouns include the plural. GRANTEE assumes  
and agrees to pay all ad valorem taxes assessed against the Property for the current and all  
subsequent years.

GRANTOR:  
RIVERTON SUITES, LTD.,  
a Texas Limited Partnership

BY: Riverton Suites Management, L.L.C.,  
its General Partner

BY:   
Jack J. Spector, President

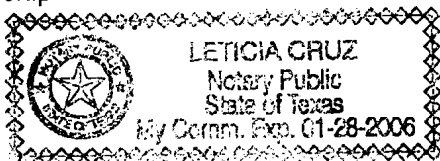
#### ACKNOWLEDGEMENT

THE STATE OF TEXAS}

COUNTY OF BEXAR }

This instrument was acknowledged before me on April 26, 2004 by Jack J. Spector,  
President of Riverton Suites Management, L.L.C., a Texas limited liability company, as General  
Partner of RIVERTON SUITES, LTD., a Texas Limited Partnership, on behalf of said Limited  
Partnership

[SEAL]



  
NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires: 1-28-06

AFTER RECORDING, RETURN TO:  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966  
ATTN: City Clerk, 2nd floor, City Hall



FIELD NOTES  
FOR

A 0.0266 acre (1,160 square feet) tract of land, situated within the Navarro and W. Market Street rights-of-way coincident with Lot 4, New City Block (N.C.B.) 157, Southport One Subdivision in the City of San Antonio, Bexar County, Texas, as recorded in Volume 9504, Page 188, Deed and Plat Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING: At a found  $\frac{1}{4}$ " iron rod at the intersection of the south right-of-way line of W. Market Street (a 70-foot right-of-way) with the east right-of-way line of Navarro Street (a 60-foot right-of-way), said point being the northwest corner of the referenced Lot 4 and a corner of the herein described tract;

THENCE: S  $14^{\circ}16'34''$  W, (bearings are based on the subdivision plat of Westin Riverwalk as recorded in Volume 9538, Page 224, Deed and Plat Records of Bexar County, Texas), a distance of 125.08 feet along the east right-of-way line of Navarro Street, the west line of said Lot 4, to an "X" found in concrete bridge rail, a corner;

THENCE: N  $75^{\circ}43'26''$  W, a distance of 5.00 feet, departing from the said east right-of-way line and entering said right-of-way, to a corner;

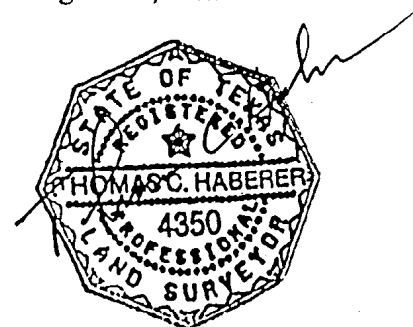
THENCE: N  $14^{\circ}16'34''$  E, 5.00 feet from and parallel with the east right-of-way line of Navarro Street, the west line of said Lot 4, a distance of 129.97 feet to a corner;

THENCE: S  $76^{\circ}56'34''$  E, 5.00 feet from and parallel with the south right-of-way line of W. Market Street, the north line of the referenced Lot 4, a distance of 106.56 feet to a corner;

THENCE: S  $13^{\circ}03'26''$  W, a distance of 5.00 feet to a corner on the south right-of-way line of W. Market Street and the north line of Lot 4;

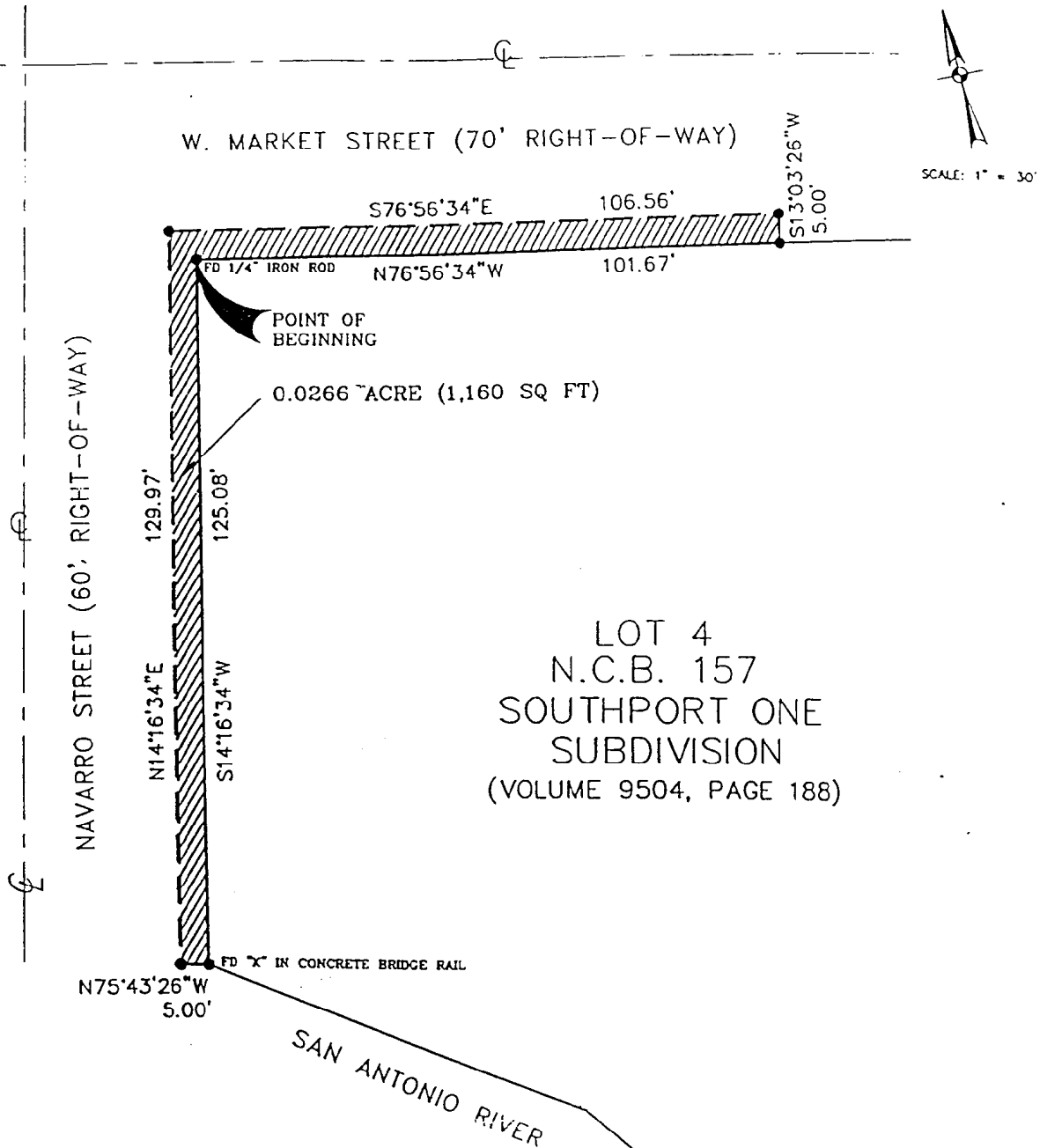
THENCE: N  $76^{\circ}56'34''$  W, a distance of 101.67 feet, along the said south right-of-way line of W. Market Street, the north line of Lot 4, to the POINT OF BEGINNING and containing 0.0266 of an acre in accordance with a survey made on the ground by Pape-Dawson Engineers, Inc..

Prepared by: Pape-Dawson Engineers, Inc.  
Job No: 4661-00  
Date: July 12, 2000  
Doc Id: 466100\WORD\FIELD NOTES\990819A1.DOC



**PAPE-DAWSON ENGINEERS, INC.**

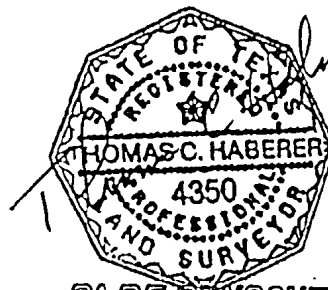




LOT 4  
N.C.B. 157  
SOUTHPORT ONE  
SUBDIVISION  
(VOLUME 9504, PAGE 188)

## A SURVEY OF

A 0.0266 ACRE (1,160 SQUARE FEET) TRACT OF LAND, SITUATED WITHIN THE NAVARRO AND W. MARKET STREET RIGHTS-OF-WAY COINCIDENT WITH LOT 4, NEW CITY BLOCK (N.C.B.) 157, SOUTHPORT ONE SUBDIVISION IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, AS RECORDED IN VOLUME 9504, PAGE 188, DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS.



**PAPE-DAWSON ENGINEERS**  
CIVIL & ENVIRONMENTAL

SAN ANTONIO TEXAS 78216

555 E. RAMSEY

210-375-9000

THE PROFESSIONAL SERVICES PROVIDED HERewith  
INCLUDE PREPARATION OF A FIELD NOTE DESCRIPTION



FIELD NOTES  
FOR

A 0.0096 acre (420 square feet) tract of land, situated within the South Presa Street right-of-way coincident with Lot 2 and Lot A-3, New City Block (N.C.B.) 157, San Antonio, Bexar County, Texas, as recorded in Volume 2324, Page 988 of the Deed Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING: At a found "X" on concrete at the intersection of the south right-of-way line of Market Street (a 70-foot right-of-way) with the west right-of-way line of South Presa Street (a 55-foot right-of-way), said point being the northeast corner of the referenced Lot 2;

THENCE: S 21°59'37"W, a distance of 9.50 feet along the west right-of-way line of South Presa Street, the east line of Lot 2, to the northwest corner and POINT OF BEGINNING of the herein described tract;

THENCE: S 68°00'23" E, a distance of 5.00 feet, departing from the said west right-of-way line and entering said right-of-way, to the northeast corner of the herein described tract;

THENCE: S 21°59'37" W, 5.00 feet from and parallel with the east line of said Lot 2, the west right-of-way line of South Presa Street, a distance of 44.08 feet to a point in the said right-of-way;

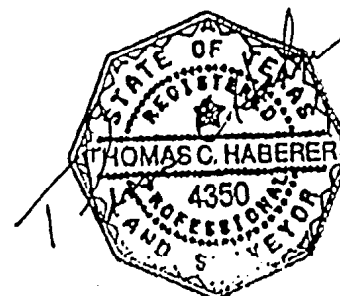
THENCE: N 68°00'23" W, a distance of 2.00 feet to a point in the said right-of-way;

THENCE: S 21°59'37" W, 3.00 feet from and parallel with the east line of said Lot 2 and Lot A-3 as recorded with Lot 2, the west right-of-way line of South Presa Street, a distance of 65.81 feet to the southeast corner of the herein described tract;

THENCE: N 68°00'23" W, a distance of 3.00 feet to the southwest corner of this tract, a point on the west right-of-way line of South Presa Street and the above referenced Lot 3A;

THENCE: N 21°59'37" E, a distance of 109.90 feet, with the west right-of-way line of South Presa Street, the east line of said Lots 2 and A3, to the POINT OF BEGINNING and containing 0.0096 of an acre of land, in accordance with a survey made on the ground by Pape-Dawson Engineers, Inc.

Prepared by: Pape-Dawson Engineers, Inc.  
Job No: 4661-00  
Date: July 12, 2000  
Doc Id: 4661\00\WORD\FIELD NOTES\990820A1.DOC



**PAPE-DAWSON ENGINEERS, INC.**



SCALE: 1" = 20'

W. MARKET STREET (70' RIGHT-OF-WAY)

POINT OF COMMENCING

FD "A" ON CONCRETE

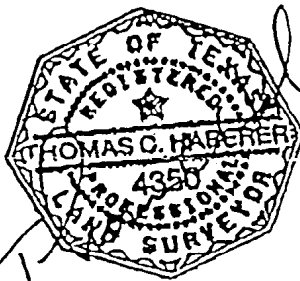
POINT OF BEGINNING

0.0096 ACRE (420 SQ FT)

LOT 4  
N.C.B. 157  
SOUTHPORT ONE  
SUBDIVISION  
(VOLUME 9504, PAGE 188)

LOT 2  
N.C.B. 157  
(VOLUME 2324,  
PAGE 988)

SOUTH PRESA STREET (55' RIGHT-OF-WAY)



LOT A-3  
N.C.B. 157  
(VOLUME 2324,  
PAGE 988)

## A SURVEY OF

A 0.0096 ACRE (420 SQUARE FEET) TRACT OF LAND  
SITUATED WITHIN THE SOUTH PRESA STREET  
RIGHT-OF-WAY COINCIDENT WITH LOT 2 AND LOT A-3,  
NEW CITY BLOCK (N.C.B.) 157, SAN ANTONIO, BEXAR  
COUNTY, TEXAS, AS RECORDED IN VOLUME 2324, PAGE  
988 OF THE DEED RECORDS OF BEXAR COUNTY,  
TEXAS.

THE PROFESSIONAL SERVICES PROVIDED HEREWITH  
INCLUDE PREPARATION OF A FIELD NOTE DESCRIPTION

**PAPE-DAWSON ENGINEERS**  
CIVIL & ENVIRONMENTAL

SAN ANTONIO TEXAS 78216

555 E. RAMSEY

210-375-8000

W:\4661\00\DESIGN\EXHIBIT\K95072\A.DWG