



**CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO:** \_\_\_\_\_  
**AGENDA DATE:** January 26, 2017  
**RCA TYPE:**  
**PAGE 1 of 2**

**SUBJECT:** Hotel Indigo/Holiday Express Project/Great Streets Program Reimbursement

**AMOUNT & SOURCE OF FUNDING:** Great Streets Parking Meter Fund

**FISCAL NOTE:** \$184,453.20

**REQUESTING DEPT:** Planning & Zoning Department/Urban Design Division

**FOR MORE INFORMATION CONTACT:** Humberto Rey 512-974-7288

**PRIOR COUNCIL ACTION:** N/A

**BOARD AND COMMISSION ACTION:** N/A

**PURCHASING LANGUAGE:**

**MBE/WBE:** The Great Streets MBE/WBE requirements have been met.

-----  
**Below the Line**

**Background**

The Great Streets Award Program is a tool to aid emerging projects with the high cost of streetscape improvements that go above and beyond the City's minimum standards to achieve high-quality environments that aid downtown vitality. The Program establishes priorities and sets a maximum award based on criteria such as: location of development; proximity to transit; extends/leverages underground utility improvements or adjacent streetscape improvements associated with a planned corridor, district or master plan; improves accessibility; and other policy priorities. If a development project, as measured by the Award Program, advances the City's policy priorities, financial investments may be available to offset the high cost of development in urban right-of-ways.

**Project Description**

The Hotel Indigo/Holiday Inn Express Project is bounded by 9<sup>th</sup> Street to the North, Red River to the East and Neches Street to the West. It consists of a hotel development that includes a Holiday Inn Express with entrance off Neches and Hotel Indigo with entrance off Red River, and ancillary improvements. Streetscape improvements include construction of 18 ft. sidewalks; installation of 5-inch caliper trees on all street frontages, including irrigation and drainage for all trees and plantings; bike racks; benches, street lighting and traffic signal pole infrastructure; public art and pedestrian amenities.

The project meets the Award Program criteria and earns the "HIGH priority" level for streetscape improvements. This "HIGH" priority status is used to establish an award cap of \$18 per square foot applied

to the enhanced sidewalk area. The Hotel Indigo/Holiday Inn Development will provide 10,544 sq. ft. of improvements, bringing the award maximum to \$184,453.20.

The Urban Design staff has inspected the improvements and all required Great Streets elements have been completed and installed per the approved Great Streets Plan. In addition, the project exceeded the MBE/WBE Great Streets requirements (see attached letter from SMBR).


**Fiscal Impact**

\$184,453.20 in reimbursements for streetscape improvements, from the Great Streets parking meter revenue.



## MEMORANDUM

**TO:** Greg Guernsey, Director, Planning & Zoning Department

**FROM:** Veronica Briseño Lara, Director, Small & Minority Business Resources Department 

**DATE:** June 1, 2016

**SUBJECT:** Downtown Great Streets Development Reimbursement Program  
MBE/WBE Final Participation for Hotel Indigo & Holiday Inn Express Properties Project

The Small & Minority Business Resources Department (SMBR) has reviewed the MBE/WBE documentation submitted by Journeyman Construction, LP (Journeyman), General Contractor for the Hotel Indigo and Holiday Inn Express Properties project. Based on SMBR's review, Journeyman has met the MBE/WBE requirements as outlined in Section 1.04 (d) of the Third Party Agreement with the City of Austin (COA).

Journeyman's Participation and Good Faith Efforts:

MBE/WBE Category	Construction Goals	Actual Participation	Good Faith Efforts
MBE	12.9%	28.76%	Met
WBE	12.6%	19.56%	Met

In summary, Journeyman exceeded the MBE and WBE goals set for the project. As a result, Journeyman did comply with the MBE/WBE Procurement Ordinance by demonstrating good faith effort requirements and provided the M/WBE reports as required in the Third Party Agreement effective October 11, 2011.

cc: Greg Guernsey, Director, Planning & Zoning Department  
Humberto Rey, Program Manager, Planning & Zoning Department  
Debra Dibble, Assistant Director, Small & Minority Business Resources Department  
File

jc: VBL



**GREAT STREETS DEVELOPMENT PROGRAM**  
**Planning & Zoning Department/Urban Design Division**

**DATE:** August 2, 2016

**TO:** Greg Guernsey  
Director, Planning & Zoning Department

**FROM:** Tonya Swartzendruber  
Principal Planner  
Urban Design Division


**RE:**

I conducted a site inspection of the above referenced property at 9<sup>th</sup> and Red River Sts, known as Holiday Inn Express/Hotel Indigo, to verify that all streetscape improvements related to their compliance with Great Streets have been properly installed. This project has met its requirements. Please let me know if you have any questions.



## MEMORANDUM

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**FROM:** Veronica Briseño Lara, Director, Small & Minority Business Resources Department 

**DATE:** June 1, 2016

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cc: Greg Guernsey, Director, Planning & Zoning Department  
Humberto Rey, Program Manager, Planning & Zoning Department  
Debra Dibble, Assistant Director, Small & Minority Business Resources Department  
File

jc: VBL

## COMMUNITY FACILITIES CONTRACT

STATE OF TEXAS           §

COUNTY OF TRAVIS       §

This Community Facilities Contract (the "Contract") is made and entered into between the CITY OF AUSTIN, TEXAS, a home rule municipal corporation (the "City"), and 9<sup>th</sup> Red River, LLC, Inc. ("Limited Liability Company"), a limited liability corporation in the State of Texas.

WHEREAS, Corporation is constructing a Hotel & Parking Garage building and ancillary improvements at (805 Neches Street), Austin Texas 78701 (the "Holiday Inn Express/Indigo Hotel" project); and

WHEREAS, the City has adopted the Great Streets Development Program to encourage the construction of high quality sidewalk projects in the downtown area, and this Community Facilities Contract is entered into pursuant to the criteria, elements and standards of that Program; and

WHEREAS, the City and Corporation desire specifically to construct sidewalks, install street trees and street furniture, and relocate underground utilities as needed generally along Red River, 9<sup>th</sup> Street and Neches Street adjacent to the Holiday Inn Express/Indigo Hotel project (the "Sidewalk Project") to enhance the public right-of-way in the area; and

WHEREAS, Corporation is willing to design, manage and construct the Sidewalk Project in order to provide the Sidewalk Project for the convenience and safety of the citizens of the City, subject to and conditioned upon the participation by the City in the costs of constructing the Sidewalk Project as set forth in Exhibit "A" attached hereto; and

WHEREAS, the City has determined that it will derive a benefit from cost participation in the construction of the proposed Sidewalk Project consistent with the City's Great Streets Development Program recommendations, and in accordance with the terms hereof.

NOW, THEREFORE, for and in consideration of the mutual promises hereinafter expressed and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby covenant and agree as follows:

### SECTION I

#### CORPORATION'S RESPONSIBILITIES AND AGREEMENTS

Section 1.1 Corporation has provided the City with a plan of the proposed Sidewalk Project, attached hereto as Exhibit "B", and a fully executed City License Agreement, attached hereto as Exhibit "C", on or before the date of execution of this Contract. By execution of this Contract, the City hereby acknowledges receipt of the foregoing plans for the Sidewalk Project and hereby accepts and approves the plans for cost-sharing purposes under the terms of this Contract and in accordance with the City's Land Development Code and applicable ordinances, laws, and statutes, as amended unless otherwise modified by this Community Facilities Contract.

Section 1.2 Corporation agrees to perform the following in connection with the Sidewalk Project:

(a) To maintain commercial liability insurance in an amount not less than \$1,000,000.00 (combined single limit) during the construction of the Sidewalk Project. The insurance shall be written by a company or companies licensed to do business in the State of Texas, at the time the policy is issued, and with AM Best Ratings of B+VII or better. The insurance shall specifically provide that the City is an additional insured under Endorsement CG2010.

(b) To include warranties, insurance and payment and performance bonding requirements in all contracts with contractors for the construction of the Sidewalk Project. Corporation must execute a performance bond for the construction of the improvements contemplated by the Sidewalk Project to ensure completion of the Sidewalk Project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code. Corporation shall also require any contractors to obtain, prior to the commencement of construction of the Sidewalk Project, and maintain throughout construction, Commercial General Liability Insurance, Automobile Insurance, and Worker's Compensation Insurance, with coverage as stipulated in the applicable construction contracts with the contractors. All payment and performance bonds issued for the Sidewalk Project to be reimbursed by the City must contain a dual obligee rider naming the City as a co-obligee.

(c) To pay all applicable inspection and permitting fees in connection with the construction and installation of the Sidewalk Project unless previously waived by the City.

(d) To provide complete design, engineering, construction and project management services for the Sidewalk Project as described in Exhibit "B" in accordance with the City's Land Development Code and applicable ordinances, laws, and statutes, as amended, unless otherwise modified by this Community Facilities Contract.

(e) To confirm the location of all underground utilities that may be in conflict with the construction of the Sidewalk Project, including but not limited to street lighting and traffic signal pole foundations and street trees, prior to commencement of construction and to coordinate with underground and overhead utilities for design and relocation, as needed, of utilities in connection with the Sidewalk Project and to comply with the terms and conditions of the City License Agreement for installations in the public right-of-way, attached hereto as Exhibit "C".

(f) To obtain all required permits, consents, easements, inspections, tests, and authorizations necessary for construction of the Sidewalk Project.

(g) To provide the City with a copy of the construction contract (the "Construction Contract") between Corporation and the contractor chosen by Corporation to construct the Sidewalk Project (the "Contractor") and any additional documents pertaining to the Construction Contract (the Construction Contract and the additional documents pertaining to the Construction Contract, including Exhibit "B" attached hereto, are hereinafter collectively referred to as the "Construction Documents") on or about the commencement date of construction, and thereafter provide the City with copies of any documents amending or replacing any of the Construction Documents.

(h) Within eighteen (18) months after the Effective Date of this Contract, to complete, or cause the completion of, the construction of the Sidewalk Project, as illustrated in Exhibit "B", in a good and workmanlike manner, in substantial conformance with the engineering and construction plans for the Sidewalk Project. The date for completion may be extended only with the written approval of the City for good cause shown that is beyond the reasonable control of Corporation. The City agrees not to unreasonably withhold, condition or delay its consent, upon a showing of good cause. No changes may be made in the permitted plans and specifications, unless the Director of the Planning & Development Review Department (PDR) gives prior written approval to such changes. The City shall have the right to inspect the construction of the Sidewalk Project during construction and after its completion, in accordance with the terms and provisions of this Contract. The City agrees to accept the construction of the sidewalk for maintenance, excluding those items maintained by Corporation, pursuant to the City License Agreement attached hereto as Exhibit "C", if the Sidewalk Project meets the requirements set forth in the approved plans and specifications, as described in this contract.

(i) To comply with the terms of any temporary use of right-of-way permit that may be necessary for the Sidewalk Project.

(j) To provide for design and approval of any changes to the Construction Documents by the City, such approval not to be unreasonably withheld, conditioned or delayed and to contact the City's Planning & Development Review Department, Urban Design Division, within 24 hours of any known construction conflict with the Sidewalk Project that may cause the location of any sidewalk element to shift location by more than 3 inches. Corporation agrees to produce, coordinate and evaluate design alternatives for said conflicts at Corporation's sole expense and must receive PDR/UDD staff approval for any variances from the Sidewalk Project prior to construction of affected sidewalk element.

(k) Upon receipt of notification by the Contractor that the work has been completed pursuant to the Construction Documents, the members of the Corporation's Engineering Consultant staff (collectively, the "Engineer") shall conduct an inspection of the Sidewalk Project. As a result of this inspection, Corporation shall prepare or cause to be prepared a list of the items needing correction and direct the Contractor to complete those correction items. After the Contractor has performed the required corrections to Corporation's satisfaction, Corporation shall notify the City, including the Planning &



Development Review Department, Urban Design Division, in writing that the Sidewalk Project has been substantially completed according to the Construction Documents and is ready for final inspection by the City and the Engineer. The Engineer shall accompany the City on the final inspection to assure that the Sidewalk Project has been completed in substantial compliance with the Construction Documents. The Engineer shall review and tabulate all warranties, guarantees, bonds and similar required materials and documents under the Construction Documents to make sure that all such materials and documents are received by Corporation and that they substantially meet the requirements of this Contract and the Construction Documents; after which Corporation shall assign, and transmit copies or originals as appropriate of such warranties, guarantees and bonds to the City or its designated representative(s). After determining that all requirements of this Contract and the Construction Documents have been substantially met, the Engineer shall so certify to Corporation and the City and shall recommend approval of the Contractor's final application for payment by the City. The term "substantial completion", as used in this Contract, shall mean that the Sidewalk Project has been completed in compliance with this Contract, and to the point of being usable for the purposes intended, as determined by the City.

(l) After substantial completion of the Sidewalk Project, and as a condition of final acceptance by the City, Corporation shall complete all changes, repairs or alterations reasonably required by the City to comply with the Construction Documents, the requirements of this Contract, and any applicable laws, within 60 days after notification by the City of deficiencies, or within such other time period as the City and Corporation may agree upon in writing. The City may not declare a default under this Contract during the cure period stipulated in Section 3.2 as a result of any such defect, unless it is clear that Corporation does not intend to cure the defect within 60 days of notification.

(m) As a condition precedent to final acceptance of construction of the Sidewalk Project by the City, to provide the City with one set of reproducible final, record, "as built" plans for the Sidewalk Project, at Corporation's sole cost and expense.

(n) As a condition precedent to final acceptance of construction of the Sidewalk Project by the City, Corporation will assign to the City the Contractor's warranty covering the construction for a period of one year after the date of acceptance. The warranty shall be in a form reasonably acceptable to the City. In addition to any other rights the City has pursuant to the warranty, the City may require reconstruction of any portion of the project under warranty if construction is not in accordance with the design specifications of the Construction Documents.

(o) After executed City License Agreement, final Certificate of Occupancy and final acceptance of the Sidewalk Project by the City, provide verification of the cost of the Sidewalk Project to the Planning & Development Review Department (PDR), Urban Design Division, in the form of a summary invoice of the costs of the Sidewalk Project prepared by Corporation, a copy of the General Contractor's Payment Application and related subcontractor invoices.

(p) To provide digital photo-documentation before, during and after completion of the Sidewalk Project. This documentation shall convey overall context of sidewalk,

including building, sidewalk and street from the viewpoint of a pedestrian, along each street frontage, and detailed installation of pole foundations, tree plantings and sidewalk pavers, and shall be rendered in "JPEG" format to PDR/UDD.

(q) To pay all costs of Sidewalk Project not required to be reimbursed to Corporation by the City in this Contract in order to complete the Sidewalk Project in accordance with Exhibit "B".

(r) To evaluate and award for construction of the sidewalk improvements in accordance with the City's Minority and Women-owned Business Enterprises (MBE/WBE) Ordinance and to utilize minority and women-owned business enterprises (MBE/WBE), as certified by the City, with the aggregate construction goals of 12.9% MBE and 12.6% WBE in dollar value of the contracts for work related to the Sidewalk Project.

## SECTION II

### THE CITY'S RESPONSIBILITIES AND AGREEMENTS

(a) The City agrees to the following in connection with the proposed Sidewalk Project:

(b) The City will review all construction plans required to be submitted to the City under this Contract for compliance with the requirements of this Contract and applicable City procedures and design and construction standards, and will not unreasonably withhold, condition or delay its approval to any plans or amendments thereto.

(c) The City will inspect the Sidewalk Project during construction, and, if completed in accordance with the terms of this Contract, accept the Sidewalk Project and assume responsibility for maintenance of those items not maintained by Corporation, pursuant to the City License Agreement attached as Exhibit C, at the City's sole cost and expense. The City's inspections and certifications will be conducted in accordance with this Contract and standard City policies, procedures and requirements.

(d) The City will provide timely notice (and an opportunity to cure), pursuant to the terms of this Contract, to Corporation whenever an inspection reveals that an improvement or any portion of the Sidewalk Project is not constructed or completed in accordance with the Construction Documents, this Contract and any applicable laws, or is otherwise defective. In lieu of requiring reconstruction or correction of any default by Corporation in the construction and installation of any component of the Project, the City and Corporation may agree to reduce the amount of reimbursement due to Corporation in an amount sufficient to account for the failure of Corporation to construct or install the Project in accordance with the requirements of this Community Facilities Contract.

(e) The City will provide a written final acceptance of the construction of the Sidewalk Project and issue a Certificate of Completion or other document officially approving the construction of the Sidewalk Project, in accordance with the Great Streets Development Program, within 30 days after a determination by the City that all construction deficiencies noted for the Sidewalk Project during the final on-site inspection have been

corrected, and that all requirements set forth in this Contract for acceptance of construction have been met.

(f) After final acceptance of the Sidewalk Project by the City, as set out in this contract, and the submittal of invoices and other documents by Corporation to City, as set out in Section 1.2(o) above, the City will verify the cost of the Sidewalk Project based on the information provided to the PDR/UDD by Corporation under Section 1.2(o) above, within fourteen (14) working days after Corporation's submittal of invoices and other documents to the City under Section 1.2(o). Upon verification of the cost of the Sidewalk Project, the City will pay an amount not to exceed ~~\$104,453.10~~ to Corporation within 30 days of the City's verification of the cost of the Sidewalk Project. Such payments are subject to the appropriation and availability of funds in the City's Great Streets Parking Meter Revenue Fund.

### SECTION III

#### INSPECTION AND CERTIFICATION

Section 3.1 Inspection and Certification. The City will inspect the Sidewalk Project as set forth in this contract and certifications will be conducted in accordance with standard City policies and requirements.

Section 3.2 Notice of Defect. The City will provide timely notice to Corporation whenever an inspection reveals that any portion of the Sidewalk Project is not constructed or completed in accordance with the Construction Documents, this Contract and any applicable law, as described above. Corporation will have sixty (60) days from such notice to cure or substantially cure the defect. The City may not declare a default under this Contract during the 60-day cure period as a result of any such defect unless it is clear that Corporation does not intend to cure the defect within 60 days of notification. Notwithstanding the previous sentences in this Section 3.2, if, in the reasonable opinion of the City, the defect creates an immediate and substantial harm to public health or safety, and the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than ten (10) business days, and the City may declare a default under this Contract, if the defect is not cured during the ten (10) business day cure period. Further, if the defect does not create an immediate and substantial harm to the public health or safety, then in accordance with this paragraph and this contract, the City and Corporation may agree to resolve the defect with a reduction in the amount of reimbursement due to Corporation.

### SECTION IV

#### GENERAL REQUIREMENTS

Section 4.1 All construction required in connection with this Contract shall be performed in a good and workmanlike manner and in accordance with all applicable federal, state and local laws and regulations. Corporation agrees that any contract which it enters into for the construction of the Sidewalk Project shall be consistent with and reflective of the terms and provisions of this Contract.

Section 4.2 **Corporation shall indemnify and defend the City, to the extent allowed by law, with counsel reasonably acceptable to the City, against, and hold harmless from all costs, including attorney's fees, loss and liability arising out of, or in any way connected with, the construction or other activities in and around the Sidewalk Project which occur prior to the final acceptance of the Sidewalk Project by the City, except to the extent such costs, loss or liability are caused by the negligence or willful misconduct of the City or its agents, employees, representatives or contractors.**

Section 4.3 The terms and provisions of this Contract shall be binding upon, and inure to the benefit of, the parties hereto, and their respective successors and assigns.

Section 4.4 Upon the failure of either party to comply with the provisions hereof, the other party shall have the right to enforce the terms and provisions of this Contract by specific performance, or by such other legal or equitable relief to which the non-defaulting party may be entitled. Any provision in this Contract to the contrary notwithstanding, it is agreed that the City shall not be obligated to make any payment under this Contract if Corporation is in default under one or more of its obligations under this Contract at the time the obligation to make the payment arises. Any remedy or relief described in this Contract shall be cumulative of, and in addition to, any other remedies and relief available at law or in equity. The parties hereto agree to mediate any dispute which may arise under the terms of this Contract in good faith, prior to filing suit for damages.

Section 4.5 Addresses for notice for the parties hereto shall be as set forth below. Either party may change its address for notice by providing the other party with written notice of the change sent postage prepaid by certified or registered mail, with return receipt requested. The person designated below for each party shall also be the designated contact person to assist in matters related to this Contract.

Corporation: 9<sup>th</sup> Red River, LLC  
Attn: David Nelson  
7701 N. Lamar Blvd., Suite 100  
Austin, Texas 78752  
Telephone: 512-247-7000  
Telecopy: 512-385-6699

City: City of Austin  
P.O. Box 1088  
Austin, TX 78767  
Attn: Director, Planning & Development Review Department.  
Telephone: (512) 974-2387  
Telecopy: (512) 499-2269

Any notice required or permitted to be given under this Contract will be deemed received three days after it is posted in the U.S. mail, when correctly addressed to the recipient at its address for notice, and sent registered or certified mail, return receipt requested. Notice sent by any other method will be deemed received when and if actually received; except that notice sent by facsimile or telecopy will be deemed received upon the sender's receipt of electronic confirmation of delivery to the facsimile or telecopy number indicated above.

Section 4.6 This Contract constitutes the entire agreement of the parties hereto as to the subject matter hereof, and supersedes any prior or contemporaneous agreements, whether written or oral. This Contract may not be amended, except in writing and signed by the parties hereto.

Section 4.7 Venue for any dispute arising in connection with this Contract lies in Travis County, Texas.

Section 4.8 This Contract is executed in multiple originals and all counterparts, when taken together, shall constitute one and the same instrument.

EXECUTED to be effective as of the 13<sup>th</sup> day of December, 2016.

**Limited Liability Company:**

By: 9<sup>th</sup> Red River, LLC

7701 N. Lamar Blvd., Suite 100  
Austin, Texas 78752

By: 9<sup>th</sup> Red River, LLC

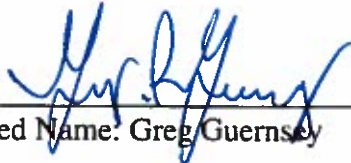
a Texas Limited Liability Company

By: 

Printed Name: Sam Kumar on behalf of Limited Liability Company

Title: Manager

**THE CITY OF AUSTIN**

By: 

Printed Name: Greg Guernsey

Title: Director, Planning & Development Review Department

APPROVED AS TO FORM:



David V. Sorola, Assistant City Attorney

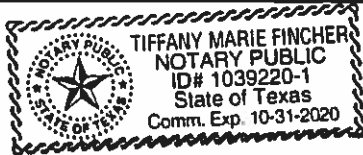
## ACKNOWLEDGEMENTS

STATE OF TEXAS           §

COUNTY OF TRAVIS       §

This instrument was acknowledged before me this 13th day of December, 2016 by Sam Kumar, the Manager of Limited Liability Company, a Texas Limited Liability Company, on behalf of said 9<sup>th</sup> Red River, LLC Limited Liability Company.

(SEAL)



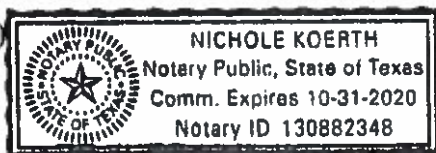
Tiffany Marie Fincher  
Notary Public, State of Texas

STATE OF TEXAS           §

COUNTY OF TRAVIS       §

This instrument was acknowledged before me this 15 day of December, 2016 by Greg Guernsey, Director, Planning & Development Review Department of the City of Austin, a Texas home rule municipal corporation, on behalf of said municipal corporation.

(SEAL)



Nichole Koerth  
Notary Public, State of Texas

### LIST OF EXHIBITS:

- |           |   |
|-----------|---|
| Exhibit A | Total Estimated and Eligible Reimbursable Costs of Sidewalk Project |
| Exhibit B | Sidewalk Project Plans  |
| Exhibit C | Executed City License Agreement                                     |

**EXHIBIT A**

**Total Estimated and Eligible Reimbursable Costs of Sidewalk Project**



Great Streets Development Program  
Great Streets Reimbursement Calculation Worksheet  
For Community Facilities Contract

Great Streets Element	Quantity Provided	City Standard	Cost (includes labor & materials)	Reimbursement Rate	Total:
Standard CBD Sidewalk	9853 SF	Width of concrete sidewalk varies 6" concrete curb/18" gutter	\$97,545.00	30%	\$29,263.50
Paving for Sidewalk Beyond Minimum Required Width	900SF		\$9,805.00	100%	\$9,805.00
Street Trees (including tree grates and irrigation)	17 ea	None Required	\$66,323.00	30%	\$19,896.90
Planting Drainage	563 LF	None Required	\$6,612.00	30%	\$1,983.60
Other Landscaping		None Required		30%	\$0.00
Benches	6 ea	None Required	\$13,206.00	30%	\$3,961.80
Bike Racks	10 ea	None Required	\$2,231.00	30%	\$669.30
Waste bins	2 ea	None Required	\$2,620.00	30%	\$786.00
Street Lighting/Traffic Signal Poles & Tree Lighting (including foundations, conduit, pull boxes)	5 ea	3 Street Lighting poles per block; staggered/Traffic Signal Poles as warrants are met	\$27,400.00	100%	\$27,400.00
Relocation/Oversizing of Utilities - Relocation of storm sewer inlet	1 ea	Standards set by W/WW, PW, WPDR	\$16,000.00	100%	\$16,000.00
Relocation/Oversizing of Utilities - Relocation of gas lines and valves	2 ea	Standards set by W/WW, PW, WPDR	\$127,692.00	100%	\$127,692.00
Other Elements					\$0.00
Asphalt repair	1180 SF		\$3,835.00	100%	\$3,835.00

Sub -Total:					<u>\$241,293.10</u>
Reimbursement CAP Established for this Project:					
TOTAL: (not to exceed CAP)			\$373,269.00		\$184,453.20

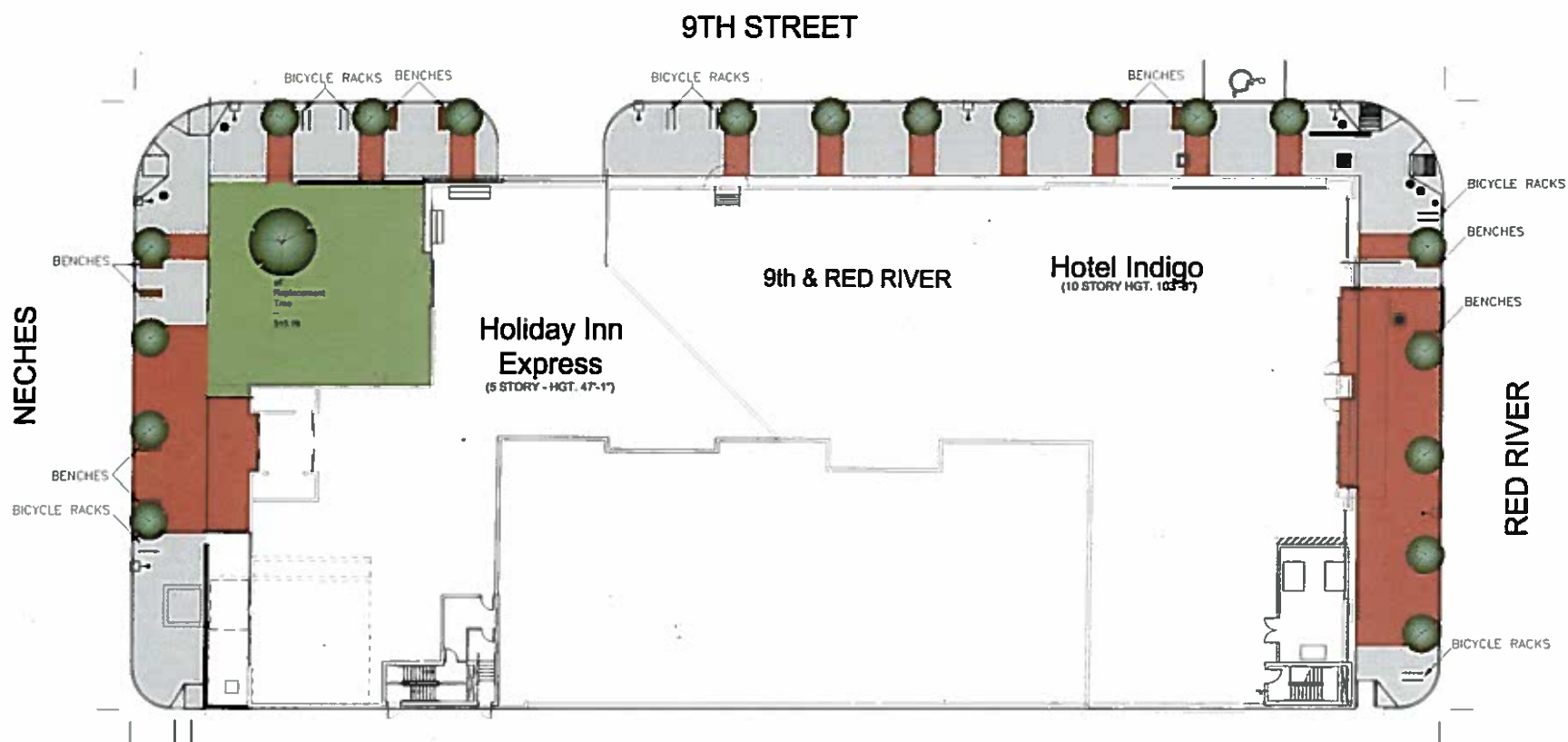
**EXHIBIT B**

**Sidewalk Project Plans**

**9TH & RED RIVER HOTEL**  
HOTEL INDIGO / HOLIDAY INN EXPRESS  
AUSTIN, TEXAS

**DRAWING DATES**  
BUILDING PERMIT ISSUE: 04/2014  
CONSTRUCTION ISSUE: 04/2014

**PROJECT NUMBER**  
1315  
**SHEET NUMBER**









**EXHIBIT C**

**Executed City License Agreement**

**ORIGINAL  
FILED FOR RECORD**

**First Amendment to Right of Way Encroachment License Agreement No. # LA 681-1402**

The City of Austin, a Texas home-rule municipal corporation located in Hays, Travis, and Williamson Counties, State of Texas ("**CITY**") acting through its duly authorized agent the City Manager or designee, who for purposes of this Agreement (as hereinafter defined) is the Officer, Office of Real Estate Services, City of Austin (the "**PROPERTY MANAGER**"), and 9<sup>th</sup> Red River, LLC, a Texas limited liability company ("**LICENSEE**"), enters into this First Amendment to Right of Way Encroachment License Agreement No. # LA 681-1402 (this "**AGREEMENT**"), effective upon final signature under the terms and conditions set forth below.

**Recitals:**

Right of Way Encroachment License Agreement No. LA 681-1402, dated December 10, 2014, by and between the City and Licensee (the "**ORIGINAL LICENSE AGREEMENT**"), originally authorized Licensee to install, repair, maintain and remove benches, bike racks, trees with tree grates, metal and glass canopy, and irrigation system, recorded as Document No. 2014184163, official public records of Travis County, Texas. This Agreement increases the Licensed Property, Adjoining Property, and the purposes for which the Licensed Property can be used.

1. **Licensed Property.** The term "Licensed Property" in the Original License Agreement is hereby amended to include the right to use (i) 2,563 square feet, being a portion of that certain Neches Street, (ii) 2,872 square feet being a portion of that certain Red River Street, and (iii) 5,109 square feet being a portion of that certain 9<sup>th</sup> Street, as shown in Exhibit "A" and Exhibit "B", Exhibit "C" and Exhibit "D", Exhibit "E" and Exhibit "F".
2. **Adjacent Property.** The term "Adjacent Property" is hereby amended to include Lots 5, 6, 7, & 8, Block 93, Original City of Austin, Travis County, Texas, according to the map or plat of the Original City on file in the General Land Office of the State of Texas, conveyed to 9<sup>th</sup> Red River, LLC in Document No. 2013139354, official public records of Travis County, Texas, and with an address of 805 Neches Street, Austin Texas.
3. **Purpose.** The permitted "Improvements" are hereby modified to include **increase the licensed area**, as shown on **Exhibit "B"**, **"D"**, and **"F"**. Licensee is authorized to continue to use the Licensed Property for the originally licensed Improvements. Improvements include all Improvements that are licensed, whether originally or by amendment.
4. **Ratification.** All other terms and conditions of the Original License Agreement that are not changed by this Agreement, remain in full force and effect and apply as if fully set out herein.

Terms and Conditions Accepted on December 7, 2016.

CITY OF AUSTIN

By: Lauraine Rizer  
Lauraine Rizer, Officer  
Office of Real Estate Services A.J.H.

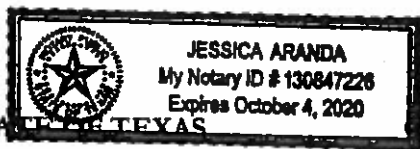
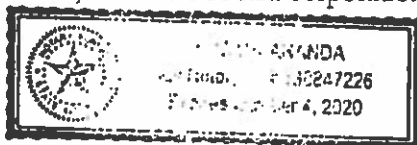
LICENSEE:  
9<sup>th</sup> Red River, LLC

By: Sam Kumar  
Sam Kumar, Manager

THE STATE OF TEXAS  
COUNTY OF TRAVIS

§  
§

This instrument was acknowledged before me on December 7<sup>th</sup>, 2016, by Lauraine Rizer, Officer, Office of Real Estate Services, City of Austin, a Texas municipal corporation, on behalf of said corporation.

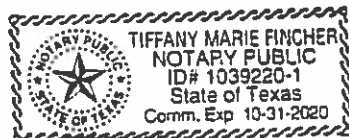


STATE OF TEXAS  
COUNTY OF TRAVIS

[Signature]  
Notary Public, State of Texas

Before me, the undersigned Notary Public of the State of Texas, on this day personally appeared Sam Kumar, Manager, 9<sup>th</sup> Red River, LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 29<sup>th</sup> day of November, A.D. 2016.



[Signature]  
Notary Public, State of Texas



LA 681-1402A

**CRICHTON AND ASSOCIATES**  
**LAND SURVEYORS**  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395

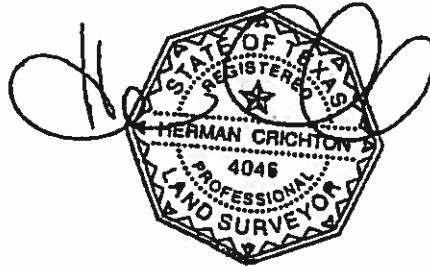
F#  
LICENSE AGREEMENT

**FIELD NOTES**

FIELD NOTES FOR 2,563 SQUARE FEET OF THE R.O.W. OF NECHES STREET ADJACENT TO ALL OF LOTS 5, 6, 7 & 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACTS CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS. BOUNDED ON THE SOUTH BY AN EXTENSION OF THE NORTH LINE OF A 20' ALLEY, BOUNDED ON THE WEST BY A LINE 17.5 FEET FROM AND PARALLEL TO THE WEST LINE OF SAID LOT 8, BOUNDED ON THE NORTH BY A LINE 18.5 FROM AND PARALLEL TO THE SOUTH LINE OF 9<sup>TH</sup> STREET, AND BOUNDED ON THE EAST BY THE WEST LINE OF SAID LOT 8 AND BY A NORTHERN EXTENSION OF THE WEST LINE OF SAID LOT 8, BEING 18.5 FEET.

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal October 6, 2016  
Herman Crichton, R.P.L.S. 4046

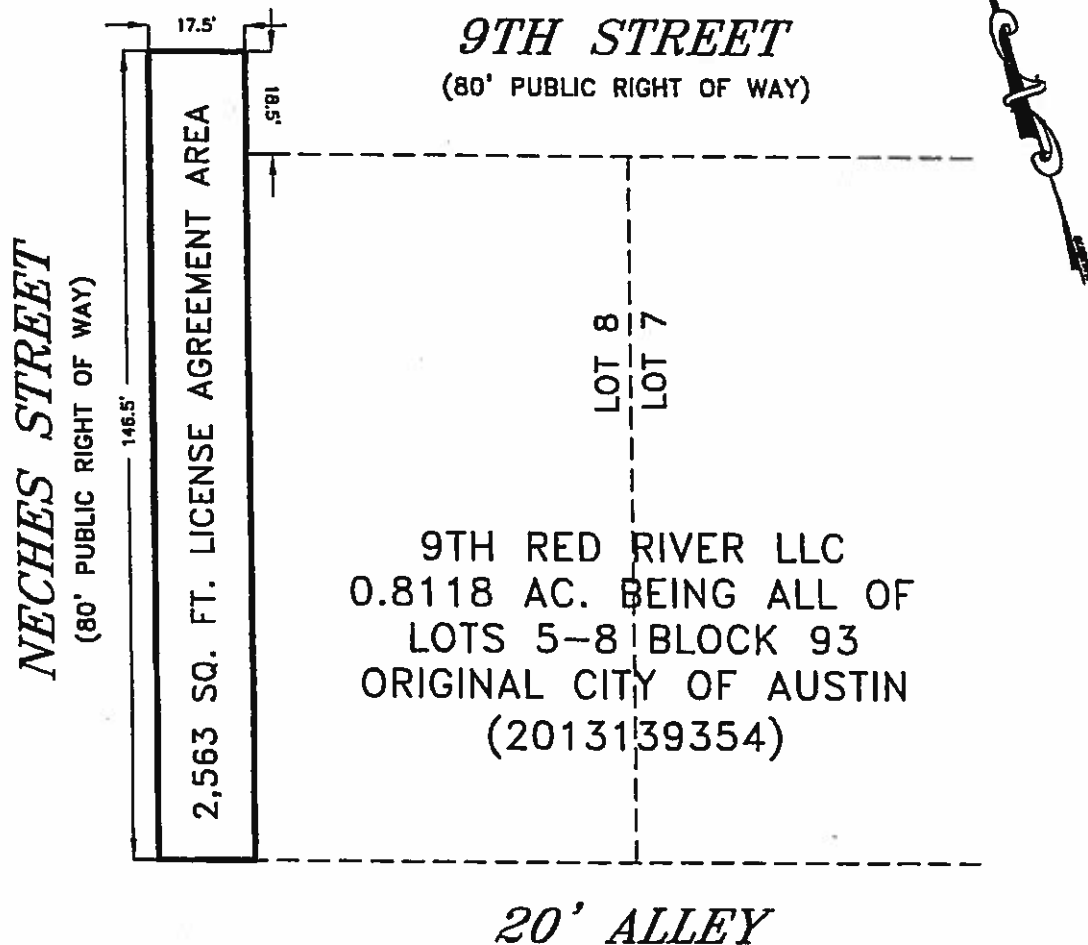


REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323

**FIELD NOTES REVIEWED**

By Clark D. Delid Date 11-10-2016

Engineering Support Section  
Department of Public Works  
and Transportation

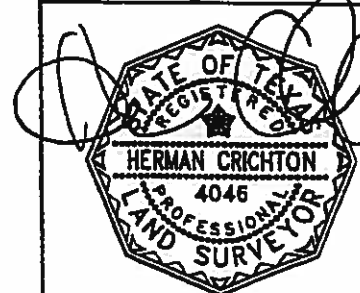


SKETCH TO ACCOMPANY FIELD NOTES FOR 2,563 SQUARE FEET OF THE R.O.W. OF NECHES STREET ADJACENT TO A 0.8118 ACRE TRACT BEING ALL OF LOTS 5-8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACTS CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
Suite B105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 30'  
JOB NUMBER: 13\_323



DATE: OCT. 6, 2016

LA 681-1402A

**CRICHTON AND ASSOCIATES  
LAND SURVEYORS  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395**

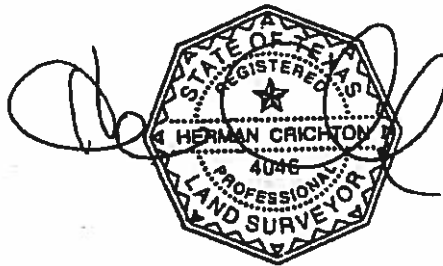
**F#  
LICENSE AGREEMENT**

**FIELD NOTES**

**FIELD NOTES FOR 2,872 SQUARE FEET OF THE R.O.W. OF RED RIVER STREET ADJACENT TO ALL OF LOTS 5, 6, 7 & 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACTS CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, TEXAS, BOUNDED ON THE SOUTH BY AN EXTENSION OF THE NORTH LINE OF A 20' ALLEY, BOUNDED ON THE EAST BY A LINE 19.6 FEET FROM AND PARALLEL TO THE EAST LINE OF SAID LOT 5, BOUNDED ON THE NORTH BY A LINE 18.5 FROM AND PARALLEL TO THE SOUTH LINE OF 9<sup>TH</sup> STREET, AND BOUNDED ON THE WEST BY THE EAST LINE OF SAID LOT 5 AND BY A NORTHERN EXTENSION OF THE EAST LINE OF SAID LOT 5, BEING 18.5 FEET.**

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal October 6, 2016  
Herman Crichton, R.P.L.S. 4046

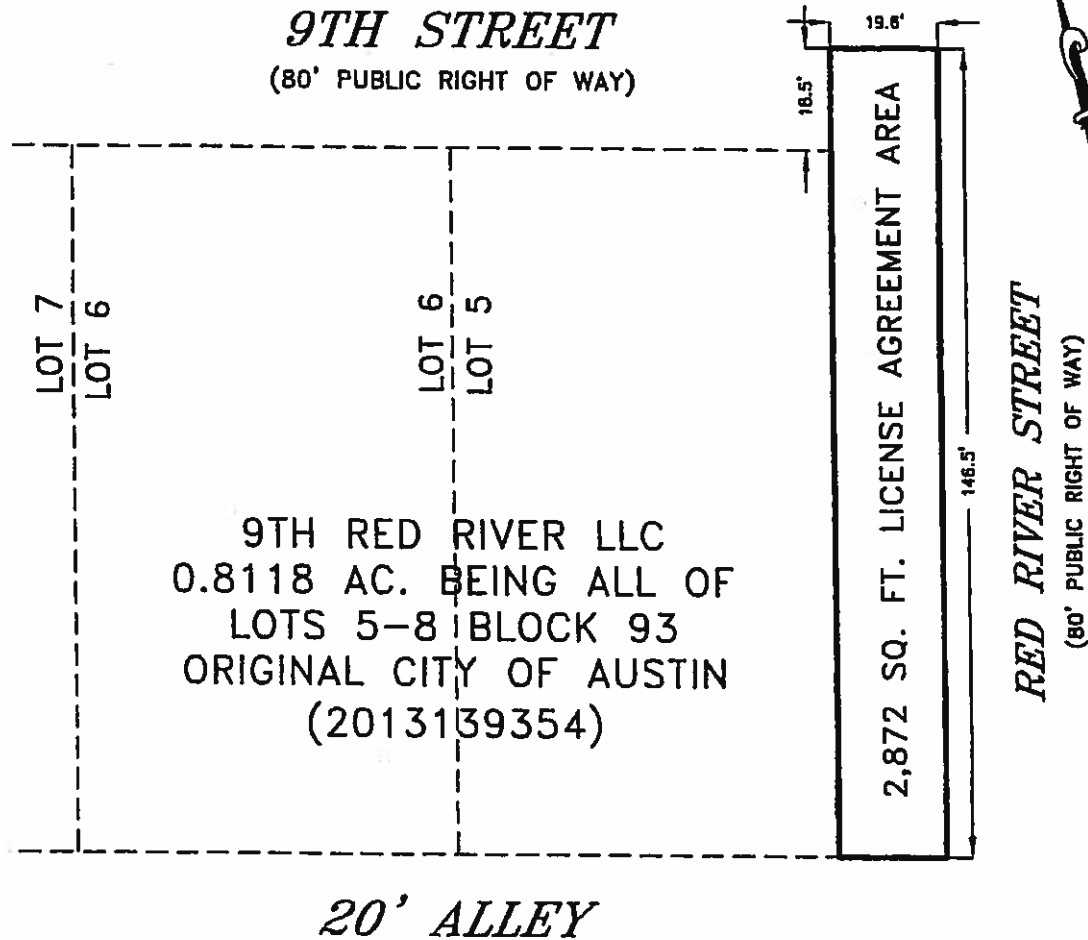


**REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323**

**FIELD NOTES REVIEWED**

By Chak Daniel Date 11.10.2016

**Engineering Support Section  
Department of Public Works  
and Transportation**



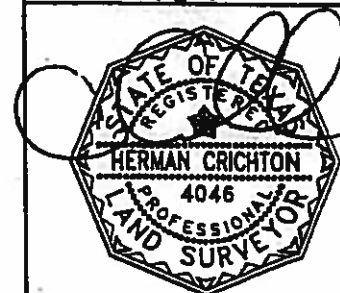
SKETCH TO ACCOMPANY FIELD NOTES FOR 2872 SQUARE FEET OF THE R.O.W. OF RED RIVER STREET ADJACENT TO A 0.8118 ACRE TRACT BEING ALL OF LOTS 5-8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACTS CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
Suite B105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 30'

JOB NUMBER: 13\_823



DATE: OCT. 8, 2016

LA 681-1402 A

**CRICHTON AND ASSOCIATES**  
**LAND SURVEYORS**  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395

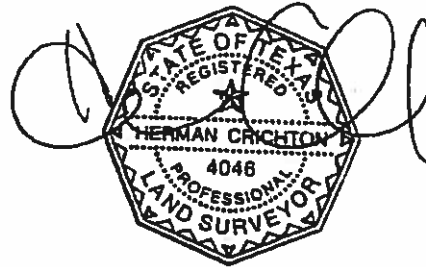
F#  
LICENSE AGREEMENT

**FIELD NOTES**

FIELD NOTES FOR 5,109 SQUARE FEET OF THE R.O.W. OF 9<sup>TH</sup> STREET ADJACENT TO ALL OF LOTS 5, 6, 7 & 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS. BOUNDED ON THE SOUTH BY THE SOUTH RIGHT OF WAY OF 9<sup>TH</sup> STREET, ON THE WEST BY AN EXTENSION OF THE EAST RIGHT OF WAY OF NECHES STREET, ON THE NORTH BY A LINE 18.5 FEET NORTH OF AND PARALLEL TO THE SOUTH RIGHT OF WAY OF 9<sup>TH</sup> STREET AND ON THE EAST BY AN EXTENSION OF THE WEST RIGHT OF WAY OF RED RIVER STREET.

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal October 6, 2016  
Herman Crichton, R.P.L.S. 4046

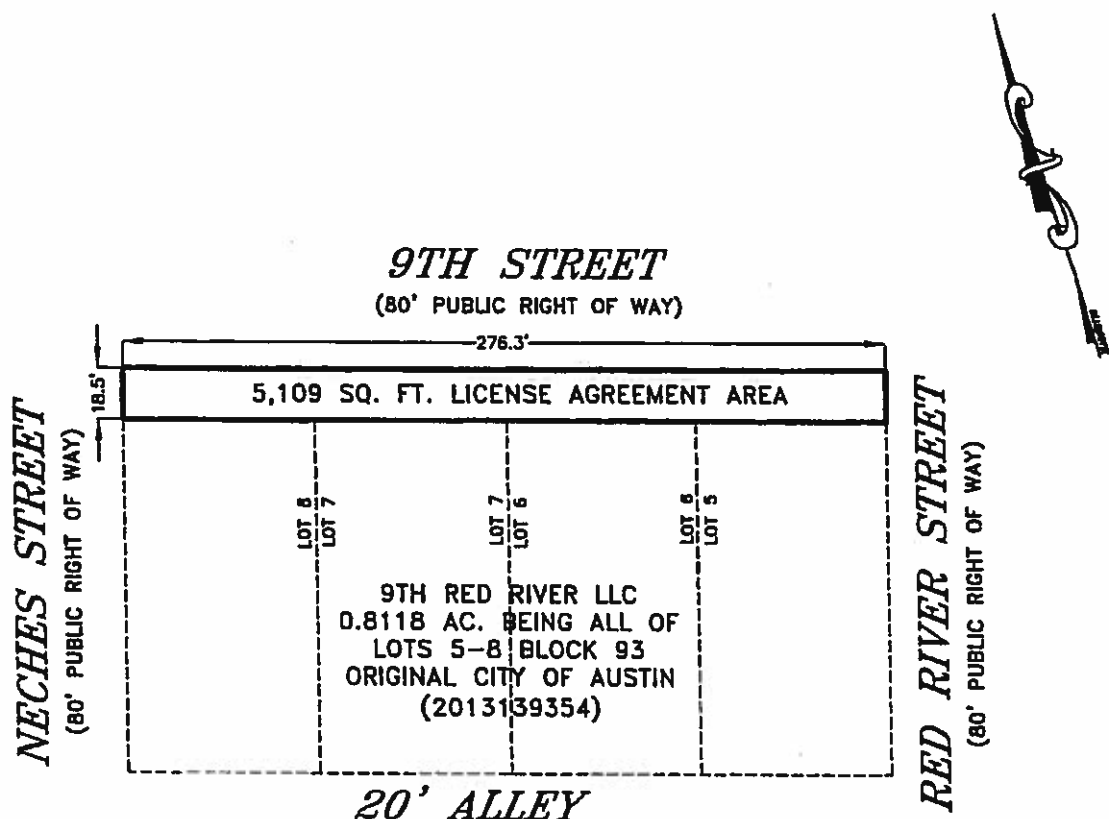


REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323

**FIELD NOTES REVIEWED**

By: Jacki D. Del Date 11-10-2016

Engineering Support Section  
Department of Public Works  
and Transportation



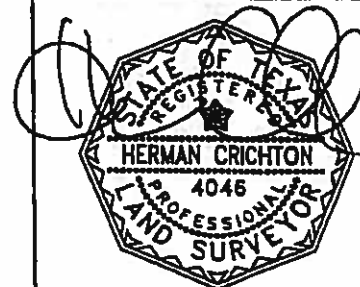
SKETCH TO ACCOMPANY FIELD NOTES FOR 5,109 SQUARE FEET OF THE R.O.W. OF 9TH STREET ADJACENT TO A 0.8118 ACRE TRACT BEING ALL OF LOTS 5-8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACTS CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
Suite B105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 80'

JOB NUMBER: 13\_325



DATE: OCT. 6, 2018

After recording, return to:

City of Austin  
Office of Real Estate Services  
505 Barton Springs Road, Ste. 1350  
Austin, TX. 78704

Attn: Andy Halm

File No. LA 681-1402A

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

Dec 08, 2016 03:10 PM

2016203711

WILLIAMSJ: \$58.00

Dana DeBeauvoir, County Clerk

Travis County TEXAS



**Right of Way Encroachment  
License Agreement No. #LA 681-1402**

The City of Austin, a home-rule municipal corporation located in Hays, Travis and Williamson Counties, State of Texas (the "**CITY**"), acting through its duly authorized agent the City Manager or designee, who for purposes of this Agreement (as hereinafter defined) is the Officer, Office of Real Estate Services, City of Austin (the "**PROPERTY MANAGER**"), and 9<sup>th</sup> Red River, LLC, a Texas limited liability company ("**LICENSEE**"), enter into this License Agreement (this "**AGREEMENT**"), effective upon final signature under the terms and conditions set forth below.

1. **Premises.** The City grants Licensee the right to use (i) 1,241 square feet out of the right-of-way within Neches Street, as shown on the attached and incorporated **Exhibit "A"** and **Exhibit "B"**, (ii) 2,529 square feet out of the right-of-way within Red River Street, as shown on the attached and incorporated **Exhibit "C"** and **Exhibit "D"**, (iii) 2,821 square feet out of the right-of-way within 9<sup>th</sup> Street, Austin, Texas, as shown on the attached **Exhibit "E"** and **Exhibit "F"** (the "**LICENSED PROPERTY**"), adjacent to (i) West 47 feet of Lot 8, Block 93, Original City of Austin, Travis County, Texas, map or plat of the Original City on file in the General Land Office of the State of Texas, and conveyed to 9<sup>th</sup> Red River LLC in Document No. 2013139354, official public records of Travis County, Texas, (ii) all of Lots 5-7 & the East 22 feet of Lot 8, Block 93, Original City of Austin, map or plat of the Original City on file in the General Land Office of the State of Texas, and conveyed to 9<sup>th</sup> Red River LLC in Document No. 2013139354, official public records of Travis County, Texas, (iii) all of Lots 5, 6, 7, & 8, Block 93, Original City of Austin Travis County, Texas, map or plat of the Original City on file in the General Land Office of the State of Texas, conveyed to 9<sup>th</sup> Red River LLC in Document No. 2013139354, official public records of Travis County, Texas, with an address of 805 Neches Street, Austin, Texas (the "**ADJOINING PROPERTY**").

The City makes this grant solely to the extent of its right, title and interest in the Licensed Property, without any express or implied warranties.

2. **Purpose.** The City grants Licensee permission to use the Licensed Property solely to install, repair, maintain and remove **benches, bike racks, trees with tree grates, metal and glass canopy, and irrigation system**, of the size and in the method shown on the attached and incorporated **Exhibit G** (collectively, the "**IMPROVEMENTS**").
3. **Consideration.** In consideration of the mutual promises contained in this Agreement, the receipt and sufficiency of which is acknowledged, Licensee is not required to pay any monetary consideration. However, Licensee covenants to properly and timely maintain the Improvements.
4. **Damages and Destruction.** The parties agree the City is not obligated to restore or repair the Improvements that may be removed, altered, damaged or destroyed as a result of the City's use, maintenance, and repair of the underlying right-of-way or easement.



If the City causes damage to or destruction of Licensee's Improvements, Licensee covenants not to sue the City, or pursue other remedies, legal or equitable, against the City to recover costs of repairing or replacing the Improvements.

If the City's uses of the Licensed Property substantially interfere with or destroy Licensee's use of the Licensed Property, or any Improvements placed thereon or therein by Licensee, then this Agreement automatically terminates and Licensee must immediately remove its Improvements at its sole cost.

5. **Term.** This Agreement begins on the execution date and continues thereafter for so long as the Licensed Property is used solely for the purposes set out in this Agreement, subject to earlier termination as set out in this Agreement.
6. **Limits on License.** The existence of this Agreement is expressly subordinate to the present and future right of the City, its successors, assigns, lessees, and grantees, to construct, install, establish, maintain, use, operate, and renew any public utilities facilities, transportation facilities, franchised public utilities, rights-of-way, roadways, sidewalks, or streets on, beneath, or above the surface of the Licensed Property (the "FACILITIES").

The City may enter the Licensed Property without giving notice and without incurring any obligation to Licensee and remove the Improvements or any alteration thereof. Such removal will occur only if the Property Manager deems it is necessary: (a) to exercise the City's rights or duties with respect to the Licensed Property; (b) to protect persons or property; or (c) for the public health or safety with respect to the Licensed Property.

7. **Conditions.**

- A. **Repair or Relocate Existing Facilities.** Licensee must pay all costs required to repair damage to or relocate existing Facilities, which are damaged or destroyed or need to be relocated as a result of activities under this Agreement by, or on behalf of, Licensee.
- B. **Covenant on Adjoining Property.** This Agreement, until its expiration or revocation, runs as a covenant on the Adjoining Property; therefore, the conditions set forth herein inure to and bind each party's successors and assigns. Licensee, and its assigns, if any, must notify any immediate successors-in-interest to the Licensed Property or Adjoining Property about the existence of this Agreement.
- C. **Remove or Modify Improvements.** Licensee agrees to pay all costs required to remove or modify any Improvements now existing or to be replaced if the Property Manager determines that the Improvements need to be removed or modified. If Licensee voluntarily removes all Improvements, Licensee must provide at least thirty (30) days' written notice to the other owners of the Adjoining Property at the time, if any.
- D. **Maintenance.** Licensee shall maintain the Licensed Property by keeping the area free of debris and litter on an ongoing basis. Further, Licensee must timely and properly maintain all Improvements. After any installation or repair of any Facilities

is complete, Licensee must repair or replace any damaged Improvements such that pedestrian safety and accessibility within the Licensed Property, if applicable, is reestablished within forty-eight (48) hours.

- E. **Security Deposits.** Licensee is not required to post a security deposit.
- F. **Recording.** The City will file both this Agreement and an Affidavit of License in the applicable official public records to inform all future owners of any interest in the Adjoining Property of the existence of this Agreement and the obligations hereunder.

- 8. **Insurance.** Licensee at its expense shall provide a commercial general liability insurance policy with a combined single limit of not less than \$500,000, written by a company acceptable to the Property Manager and licensed to do business in Texas. The coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. The insurance must cover all perils arising from the activities of Licensee, its officers, employees, agents, contractors, and invitees, related to the Improvements authorized to be placed on the Licensed Property by this Agreement. Licensee must pay all deductibles stated in the policy.

The insurance must specifically name the City of Austin as an additional insured and provide a waiver of subrogation in favor of the City. A certificate of insurance evidencing coverage must be provided and delivered to the Property Manager with this executed Agreement.

Licensee must ensure that the Property Manager receives written notice of any cancellation, non-renewal, reduction, restriction or other limitation of the insurance policy. This notice is required to be provided thirty (30) days before any of the above actions are taken on the insurance policy. A substitute certificate of insurance evidencing equivalent substitute insurance must be received by the Property Manager prior to the date shown on the notice. All certificates must affirmatively show that the City of Austin is named as an additional insured.

- 9. **INDEMNIFICATION. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS AND EMPLOYEES, AND REPRESENTATIVES, SUCCESSORS AND ASSIGNS (THE "INDEMNIFIED PARTIES"), FROM ALL LIABILITY, LOSS, CLAIMS, SUITS, ACTIONS, AND PROCEEDINGS WHATSOEVER ("CLAIMS") THAT MAY BE BROUGHT OR INSTITUTED ON ACCOUNT OF OR GROWING OUT OF ANY AND ALL INJURIES OR DAMAGES, INCLUDING DEATH, TO PERSONS OR PROPERTY RELATING TO THE USE OR OCCUPANCY OF THE LICENSED PROPERTY DURING THE TERM INCLUDING CLAIMS THAT ARISE OUT OF OR RESULT FROM THE ACTIVE OR PASSIVE NEGLIGENCE, OR SOLE, JOINT, CONCURRENT, OR COMPARATIVE NEGLIGENCE OF ANY OF THE**

**INDEMNIFIED PARTIES AND REGARDLESS OF WHETHER LIABILITY WITHOUT FAULT OR STRICT LIABILITY IS IMPOSED OR ALLEGED AGAINST SUCH INDEMNIFIED PARTIES, AND ALL LOSSES, LIABILITIES, JUDGMENTS, SETTLEMENTS, COSTS, PENALTIES, DAMAGES, AND EXPENSES RELATING THERETO, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND OTHER ACTUAL OUT OF POCKET COSTS OF DEFENDING AGAINST, INVESTIGATING, AND SETTLING THE CLAIMS.**

Licensee shall assume on behalf of the Indemnified Parties and conduct with due diligence and in good faith the defense of all Claims against any of the Indemnified Parties. The Indemnified Parties shall have the right (but not the obligation) to participate in the defense of any claim or litigation with attorneys of their own selection without relieving Licensee of any obligations in this Agreement. In no event may Licensee admit liability on the part of an Indemnified Party without the written consent of the City Attorney.

Maintenance of the insurance referred to in this Agreement does not affect Licensee's obligations under this Section. Licensee shall be relieved of its obligation of indemnity to the extent of the amount actually recovered from one or more of the insurance carriers of Licensee and either (a) paid to City or (b) paid for City's benefit in reduction of any liability, penalty, damage, expense, or charge actually imposed upon, or incurred by, City in connection with the Claims. Licensee may contest the validity of any Claims, in the name of the City, as the City may in good faith deem appropriate, provided that the expenses thereof are paid by Licensee, or Licensee shall cause the same to be paid by its insurer, and provided further Licensee maintains adequate insurance to cover any loss(es) that might be incurred if such contest is ultimately unsuccessful.

Licensee shall require its general partner, if applicable, and all subcontractors to indemnify City as provided in this Section.

**Licensee accepts the Licensed Property "AS IS," and its duty to indemnify extends to injuries caused by defective conditions present on the Licensed Property, INCLUDING DEFECTS ALLOWED TO EXIST BY THE CITY'S OWN NEGLIGENCE.**

**10. Termination.**

- A. **Termination by Licensee.** Licensee may terminate this Agreement by delivering written notice of termination to the Property Manager not later than 30 days before the effective date of termination. Licensee shall remove all Improvements from the Licensed Property within the 30-day notice period at its sole cost and expense. Failure to do so constitutes a breach of this Agreement and authorizes the Property Manager to notify Licensee of the cost of such removal and disposal and Licensee shall pay such costs within 30 days of such notice. The Property Manager may file a lien against the Adjacent Property and the cost of such removal and disposal if the Licensee fails to timely pay these costs. Additionally, in such an event, the Property Manager may draw down the Security Deposit, if any.
- B. **Termination by City.** Subject to prior written notification to Licensee or its successor-in-interest, this Agreement is revocable by the Property Manager if:
1. The Improvements, or a portion of them, interfere with the City's rights in the right-of-way;
  2. Use of the right-of-way area becomes necessary for a public purpose;
  3. The Improvements, or a portion of them, constitute a danger to the public, which the Property Manager deems not to be remediable by alteration or maintenance of such Improvements;
  4. Despite forty-eight (48) hours' prior notice to Licensee, maintenance or alteration to the Improvements necessary to alleviate a danger to the public has not been made;
  5. Licensee fails to comply with the terms and conditions of this Agreement including, but not limited to timely paying the annual fee (if applicable) or properly and timely maintaining the Improvements.
  6. Despite thirty (30) days' written notice to Licensee, Licensee has not provided certificates of insurance to the Property Manager.
  7. Licensee fails to properly and timely maintain the Improvements as set out herein.
  8. City provides ninety-one (91) days' prior written notice of such termination for any reason.
- C. **Termination by Abandonment.** If Licensee abandons or fails to maintain the Licensed Property, and the Property Manager receives no substantive response within thirty (30) days following written notification to Licensee, then the City may remove and/or replace all Improvements. Licensee covenants to pay the City's actual expenses incurred in connection therewith within 30 days after being billed therefor. All of Licensee's Improvements not removed are deemed property of the City when abandoned by Licensee.
11. **Eminent Domain.** If eminent domain is exerted on the Licensed Property by paramount authority, then the City will, to the extent permitted by law, cooperate with Licensee to effect the removal of Licensee's affected Improvements thereon, at Licensee's sole expense. Licensee may retain all monies paid by the condemning authority for Licensee's Improvements taken, if any.

12. **Venue.** Venue for all lawsuits concerning this Agreement must be in the State District courts of Austin, Travis County, Texas.
13. **Assignment.** Licensee shall not assign, sublet or transfer its interest in this Agreement without the prior written consent of the Property Manager. Such consent shall not be unreasonably withheld, subject to the assignee's compliance with the insurance requirements set forth herein, if any and the assignee's promise to comply with all covenants and obligations herein. Licensee shall provide the Property Manager a copy of any such proposed assignment or transfer of any of Licensee's rights in this Agreement, which must include the name, address, and contact person of the assignee, along with the proposed date of assignment or transfer.
14. **Notice.** Notice may be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand delivered or on the third day after deposit if sent certified mail. Notice must be sent as follows:

**If to City:**

**Office of Real Estate Services  
505 Barton Springs Rd., Suite 1350  
Austin, TX 78704  
Phone: 512-974-7090  
Fax: 512-974-7088**

**If to Licensee:**

**9<sup>th</sup> Red River, LLC  
7701 North Lamar Boulevard, #100  
Austin, TX 78752  
Phone: 512-247-7000  
Fax: 512-374-2999**

15. **Default.** If Licensee fails to pay the annual rent (if applicable), provide certificates of insurance, maintain the Licensed Property, comply with the insurance requirements of this Agreement, or otherwise comply with the terms or conditions herein, then the Property Manager shall give Licensee written notice as set forth herein. Licensee will have thirty (30) days from the date of such notice to take action to remedy the failure complained of, or such lesser period if such is required, and, if Licensee does not satisfactorily remedy the same within that thirty (30) day period, the City may remedy the default or contract to remedy the default. However, if the default is a monetary default, Licensee must cure that within ten (10) business days' of notice. Licensee covenants to pay within ten (10) days of written demand by the Property Manager, all reasonable costs expenses incurred by the City in remedying the default.

Either party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent or other default.

16. **Compliance with Laws.** Licensee covenants that all construction, installation, repair, maintenance, and removal of the Improvements permitted by this Agreement must be done

in compliance with all applicable City, County, State and/or Federal laws, ordinances, regulations and policies now existing or later adopted.

17. **Interpretation.** Although drafted by the City, this Agreement must, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.
18. **Application of Law.** This Agreement must be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts must be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

Terms and Conditions Accepted on December 10th, 2014.

CITY OF AUSTIN, a Texas home rule municipal corporation

Approved as to Form:

Nich A. Goad  
Assistant City Attorney

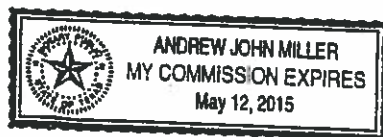
By: Lauraine Rizer A.I.H.  
Lauraine Rizer, Officer  
Office of Real Estate Services

LICENSEE:  
9th Red River, LLC

By: Sam Kumar  
Sam Kumar, Manager

THE STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on December 10th, 2014, by Lauraine Rizer, Officer, Office of Real Estate Services, City of Austin, a Texas municipal corporation, on behalf of said corporation.



[Signature]  
Notary Public, State of Texas

STATE OF TEXAS  
COUNTY OF TRAVIS

§  
§

Before me, the undersigned Notary Public of the State of Texas, on this day personally appeared Sam Kumar, Manager, 9th Red River, LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 5<sup>th</sup> day of December, A.D. 2014.



Tiffany Marie Fincher  
Notary Public, State of Texas

F#LA 681-1402

Exhibit A Pg. 1 of 1

**CRICHTON AND ASSOCIATES  
LAND SURVEYORS  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395**

**F#LA687-1402  
LICENSE AGREEMENT**

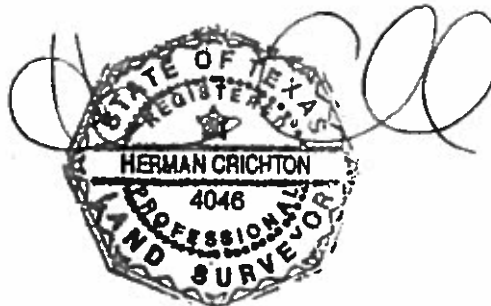
**FIELD NOTES**

**FIELD NOTES FOR 1,241 SQUARE FEET OF THE R.O.W. OF  
NECHES STREET ADJACENT TO A 0.1386 ACRE TRACT  
BEING THE WEST 47 FEET OF LOT 8, BLOCK 93, ORIGINAL  
CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING  
TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE  
IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS,  
AND BEING THE SAME TRACT CONVEYED TO 9TH RED  
RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL  
PUBLIC RECORDS, TRAVIS COUNTY, TEXAS. BOUNDED  
ON THE SOUTH BY AN EXTENSION OF THE NORTH LINE  
OF A 20' ALLEY, BOUNDED ON THE WEST BY A LINE 9.7  
FEET FROM AND PARALLEL TO THE WEST LINE OF SAID  
LOT 8, BOUNDED ON THE NORTH BY AN EXTENSION OF  
THE SOUTH R.O.W. LINE OF 9<sup>TH</sup> STREET, AND BOUNDED  
ON THE EAST BY THE WEST LINE OF SAID LOT 8**

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal November 20<sup>th</sup>, 2013  
Herman Crichton, R.P.L.S. 4046

REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323



**FIELD NOTES REVIEWED:**

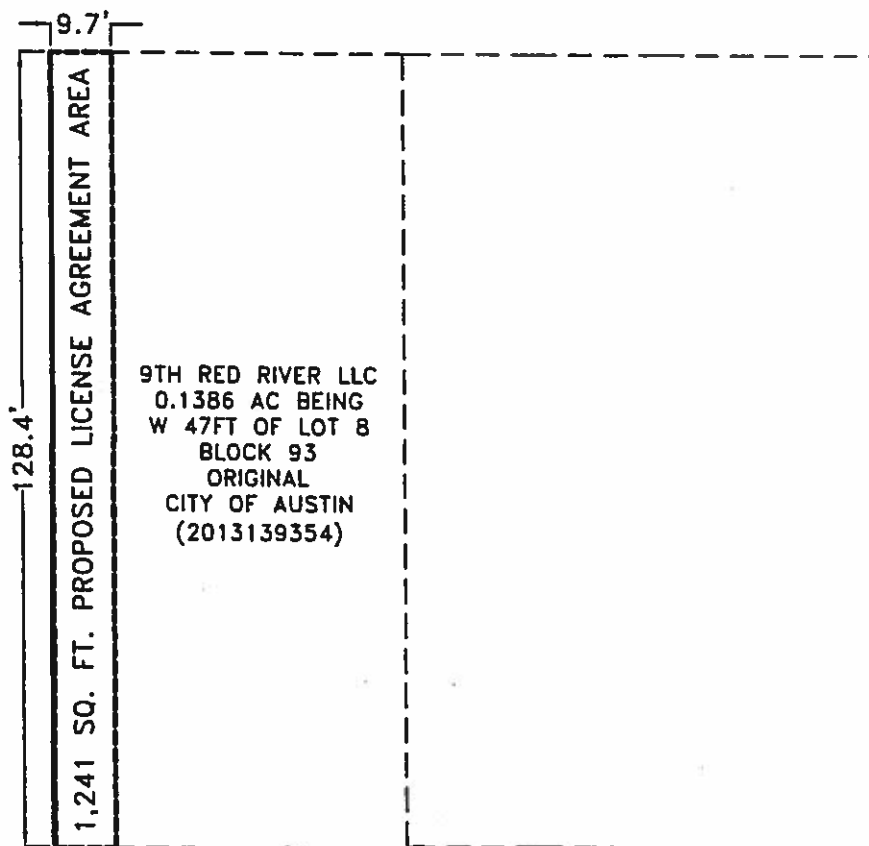
By: Chuck D. Juel Date: 03-05-2014

Engineering Support Section  
Department of Public Works  
and Transportation



9TH STREET

NECHES STREET



20' ALLEY

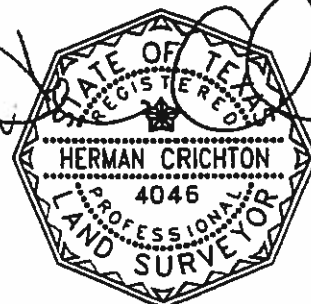
SKETCH TO ACCOMPANY FIELD NOTES FOR 1,241 SQUARE FEET OF THE R.O.W. OF NECHES STREET ADJACENT TO A 0.1386 ACRE TRACT BEING THE WEST 47 FEET OF LOT 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
Suite B105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 30'

JOB NUMBER: 13\_323



DATE: Nov. 20, 2013

F#LA 681-1402

Exhibit C Pg. 1 of 1

**CRICHTON AND ASSOCIATES  
LAND SURVEYORS**  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395

**F#LA 681-1402  
LICENSE AGREEMENT**

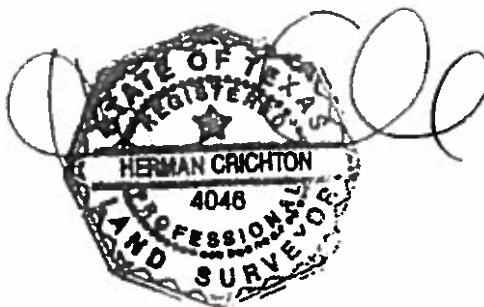
**FIELD NOTES**

FIELD NOTES FOR 2,529 SQUARE FEET OF THE R.O.W. OF RED RIVER STREET ADJACENT TO 0.6729 ACRE TRACT BEING ALL OF LOTS 5-7 & THE EAST 22 FEET OF LOT 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, BOUNDED ON THE SOUTH BY AN EXTENSION OF THE NORTH LINE OF A 20' ALLEY, BOUNDED ON THE EAST BY A LINE 19.8 FEET FROM AND PARALLEL TO THE EAST LINE OF SAID LOT 5, BOUNDED ON THE NORTH BY AN EXTENSION OF THE SOUTH R.O.W. LINE OF 9<sup>TH</sup> STREET, AND BOUNDED ON THE WEST BY THE EAST LINE OF SAID LOT 5

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal November 20<sup>th</sup>, 2013  
Herman Crichton, R.P.L.S. 4046

REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323

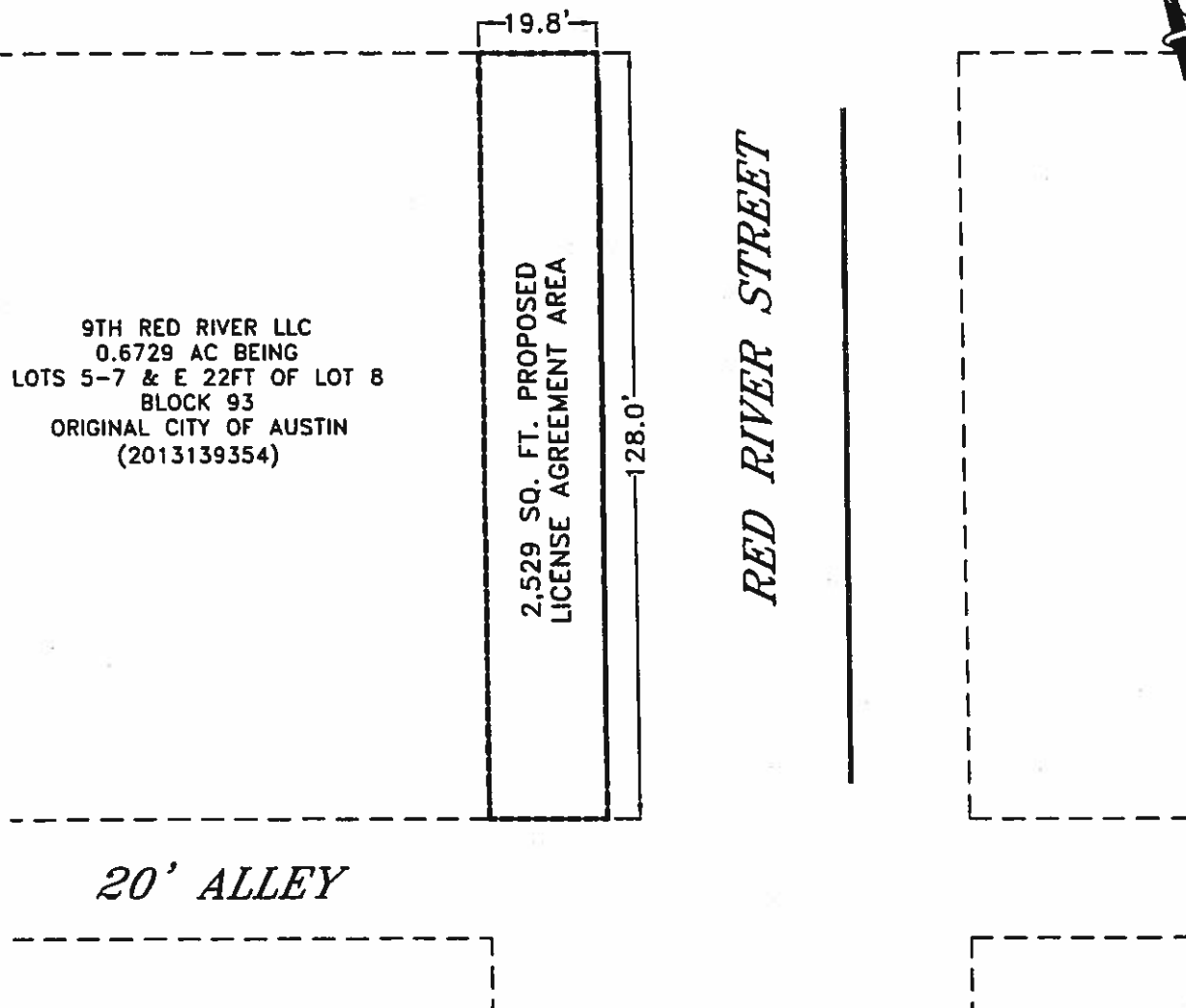


**FIELD NOTES REVIEWED**

By Jack Dyer Date 03.05.2014

Engineering Support Section  
Department of Public Works  
and Transportation

*9TH STREET*



SKETCH TO ACCOMPANY FIELD NOTES FOR 2,529 SQUARE FEET OF THE R.O.W. OF RED RIVER STREET ADJACENT TO 0.6729 ACRE TRACT BEING ALL OF LOTS 5-7 & THE EAST 22 FEET OF LOT 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
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LAND SURVEYORS

6448 East Highway 290  
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Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 30'

JOB NUMBER: 13\_323



DATE: Nov. 20, 2013

.F#LA 681-1402

Exhibit E Pg. 1 of 1

**CRICHTON AND ASSOCIATES  
LAND SURVEYORS**  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395

**LICENSE AGREEMENT**

**FIELD NOTES**

FIELD NOTES FOR 2,821 SQUARE FEET OF THE R.O.W. OF 9<sup>th</sup> ADJACENT TO ALL OF LOTS 5, 6, 7 & 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS. BOUNDED ON THE SOUTH BY THE SOUTH RIGHT OF WAY OF 9<sup>th</sup> STREET, ON THE WEST BY AN EXTENSION OF THE EAST RIGHT OF WAY OF NECHES STREET, ON THE NORTH BY A LINE 10.22 FEET NORTH OF AND PARALLEL TO THE SOUTH RIGHT OF WAY OF 9<sup>th</sup> STREET AND ON THE EAST BY AN EXTENSION OF THE WEST RIGHT OF WAY OF RED RIVER STREET.

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal December 27, 2013  
Herman Crichton, R.P.L.S. 4046

REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323



**FIELD NOTES REVIEWED**

By Clark Daniel Date 03.28.2014

Engineering Support Section  
Department of Public Works  
and Transportation



**Right of Way Encroachment  
License Agreement No. #LA 681-1402**

The City of Austin, a home-rule municipal corporation located in Hays, Travis and Williamson Counties, State of Texas (the "CITY"), acting through its duly authorized agent the City Manager or designee, who for purposes of this Agreement (as hereinafter defined) is the Officer, Office of Real Estate Services, City of Austin (the "PROPERTY MANAGER"), and 9<sup>th</sup> Red River, LLC, a Texas limited liability company ("LICENSEE"), enter into this License Agreement (this "AGREEMENT"), effective upon final signature under the terms and conditions set forth below.

1. **Premises.** The City grants Licensee the right to use (i) 1,241 square feet out of the right-of-way within Neches Street, as shown on the attached and incorporated Exhibit "A" and Exhibit "B", (ii) 2,529 square feet out of the right-of-way within Red River Street, as shown on the attached and incorporated Exhibit "C" and Exhibit "D", (iii) 2,821 square feet out of the right-of-way within 9<sup>th</sup> Street, Austin, Texas, as shown on the attached Exhibit "E" and Exhibit "F" (the "LICENSED PROPERTY"), adjacent to (i) West 47 feet of Lot 8, Block 93, Original City of Austin, Travis County, Texas, map or plat of the Original City on file in the General Land Office of the State of Texas, and conveyed to 9<sup>th</sup> Red River LLC in Document No. 2013139354, official public records of Travis County, Texas, (ii) all of Lots 5-7 & the East 22 feet of Lot 8, Block 93, Original City of Austin, map or plat of the Original City on file in the General Land Office of the State of Texas, and conveyed to 9<sup>th</sup> Red River LLC in Document No. 2013139354, official public records of Travis County, Texas, (iii) all of Lots 5, 6, 7, & 8, Block 93, Original City of Austin Travis County, Texas, map or plat of the Original City on file in the General Land Office of the State of Texas, conveyed to 9<sup>th</sup> Red River LLC in Document No. 2013139354, official public records of Travis County, Texas, with an address of 805 Neches Street, Austin, Texas (the "ADJOINING PROPERTY").

The City makes this grant solely to the extent of its right, title and interest in the Licensed Property, without any express or implied warranties.

2. **Purpose.** The City grants Licensee permission to use the Licensed Property solely to install, repair, maintain and remove **benches, bike racks, trees with tree grates, metal and glass canopy, and irrigation system**, of the size and in the method shown on the attached and incorporated Exhibit G (collectively, the "IMPROVEMENTS").
3. **Consideration.** In consideration of the mutual promises contained in this Agreement, the receipt and sufficiency of which is acknowledged, Licensee is not required to pay any monetary consideration. However, Licensee covenants to properly and timely maintain the Improvements.
4. **Damages and Destruction.** The parties agree the City is not obligated to restore or repair the Improvements that may be removed, altered, damaged or destroyed as a result of the City's use, maintenance, and repair of the underlying right-of-way or easement.

If the City causes damage to or destruction of Licensee's Improvements, Licensee covenants not to sue the City, or pursue other remedies, legal or equitable, against the City to recover costs of repairing or replacing the Improvements.

If the City's uses of the Licensed Property substantially interfere with or destroy Licensee's use of the Licensed Property, or any Improvements placed thereon or therein by Licensee, then this Agreement automatically terminates and Licensee must immediately remove its Improvements at its sole cost.

5. **Term.** This Agreement begins on the execution date and continues thereafter for so long as the Licensed Property is used solely for the purposes set out in this Agreement, subject to earlier termination as set out in this Agreement.
6. **Limits on License.** The existence of this Agreement is expressly subordinate to the present and future right of the City, its successors, assigns, lessees, and grantees, to construct, install, establish, maintain, use, operate, and renew any public utilities facilities, transportation facilities, franchised public utilities, rights-of-way, roadways, sidewalks, or streets on, beneath, or above the surface of the Licensed Property (the "FACILITIES").

The City may enter the Licensed Property without giving notice and without incurring any obligation to Licensee and remove the Improvements or any alteration thereof. Such removal will occur only if the Property Manager deems it is necessary: (a) to exercise the City's rights or duties with respect to the Licensed Property; (b) to protect persons or property; or (c) for the public health or safety with respect to the Licensed Property.

7. **Conditions.**

- A. **Repair or Relocate Existing Facilities.** Licensee must pay all costs required to repair damage to or relocate existing Facilities, which are damaged or destroyed or need to be relocated as a result of activities under this Agreement by, or on behalf of, Licensee.
- B. **Covenant on Adjoining Property.** This Agreement, until its expiration or revocation, runs as a covenant on the Adjoining Property; therefore, the conditions set forth herein inure to and bind each party's successors and assigns. Licensee, and its assigns, if any, must notify any immediate successors-in-interest to the Licensed Property or Adjoining Property about the existence of this Agreement.
- C. **Remove or Modify Improvements.** Licensee agrees to pay all costs required to remove or modify any Improvements now existing or to be replaced if the Property Manager determines that the Improvements need to be removed or modified. If Licensee voluntarily removes all Improvements, Licensee must provide at least thirty (30) days' written notice to the other owners of the Adjoining Property at the time, if any.
- D. **Maintenance.** Licensee shall maintain the Licensed Property by keeping the area free of debris and litter on an ongoing basis. Further, Licensee must timely and properly maintain all Improvements. After any installation or repair of any Facilities

is complete, Licensee must repair or replace any damaged Improvements such that pedestrian safety and accessibility within the Licensed Property, if applicable, is reestablished within forty-eight (48) hours.

- E. **Security Deposits.** Licensee is not required to post a security deposit.
  - F. **Recording.** The City will file both this Agreement and an Affidavit of License in the applicable official public records to inform all future owners of any interest in the Adjoining Property of the existence of this Agreement and the obligations hereunder.
8. **Insurance.** Licensee at its expense shall provide a commercial general liability insurance policy with a combined single limit of not less than \$500,000, written by a company acceptable to the Property Manager and licensed to do business in Texas. The coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. The insurance must cover all perils arising from the activities of Licensee, its officers, employees, agents, contractors, and invitees, related to the Improvements authorized to be placed on the Licensed Property by this Agreement. Licensee must pay all deductibles stated in the policy.

The insurance must specifically name the City of Austin as an additional insured and provide a waiver of subrogation in favor of the City. A certificate of insurance evidencing coverage must be provided and delivered to the Property Manager with this executed Agreement.

Licensee must ensure that the Property Manager receives written notice of any cancellation, non-renewal, reduction, restriction or other limitation of the insurance policy. This notice is required to be provided thirty (30) days before any of the above actions are taken on the insurance policy. A substitute certificate of insurance evidencing equivalent substitute insurance must be received by the Property Manager prior to the date shown on the notice. All certificates must affirmatively show that the City of Austin is named as an additional insured.

9. **INDEMNIFICATION. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS AND EMPLOYEES, AND REPRESENTATIVES, SUCCESSORS AND ASSIGNS (THE "INDEMNIFIED PARTIES"), FROM ALL LIABILITY, LOSS, CLAIMS, SUITS, ACTIONS, AND PROCEEDINGS WHATSOEVER ("CLAIMS") THAT MAY BE BROUGHT OR INSTITUTED ON ACCOUNT OF OR GROWING OUT OF ANY AND ALL INJURIES OR DAMAGES, INCLUDING DEATH, TO PERSONS OR PROPERTY RELATING TO THE USE OR OCCUPANCY OF THE LICENSED PROPERTY DURING THE TERM INCLUDING CLAIMS THAT ARISE OUT OF OR RESULT FROM THE ACTIVE OR PASSIVE NEGLIGENCE, OR SOLE, JOINT, CONCURRENT, OR COMPARATIVE NEGLIGENCE OF ANY OF THE**

**INDEMNIFIED PARTIES AND REGARDLESS OF WHETHER LIABILITY WITHOUT FAULT OR STRICT LIABILITY IS IMPOSED OR ALLEGED AGAINST SUCH INDEMNIFIED PARTIES, AND ALL LOSSES, LIABILITIES, JUDGMENTS, SETTLEMENTS, COSTS, PENALTIES, DAMAGES, AND EXPENSES RELATING THERETO, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND OTHER ACTUAL OUT OF POCKET COSTS OF DEFENDING AGAINST, INVESTIGATING, AND SETTLING THE CLAIMS.**

Licensee shall assume on behalf of the Indemnified Parties and conduct with due diligence and in good faith the defense of all Claims against any of the Indemnified Parties. The Indemnified Parties shall have the right (but not the obligation) to participate in the defense of any claim or litigation with attorneys of their own selection without relieving Licensee of any obligations in this Agreement. In no event may Licensee admit liability on the part of an Indemnified Party without the written consent of the City Attorney.

Maintenance of the insurance referred to in this Agreement does not affect Licensee's obligations under this Section. Licensee shall be relieved of its obligation of indemnity to the extent of the amount actually recovered from one or more of the insurance carriers of Licensee and either (a) paid to City or (b) paid for City's benefit in reduction of any liability, penalty, damage, expense, or charge actually imposed upon, or incurred by, City in connection with the Claims. Licensee may contest the validity of any Claims, in the name of the City, as the City may in good faith deem appropriate, provided that the expenses thereof are paid by Licensee, or Licensee shall cause the same to be paid by its insurer, and provided further Licensee maintains adequate insurance to cover any loss(es) that might be incurred if such contest is ultimately unsuccessful.

Licensee shall require its general partner, if applicable, and all subcontractors to indemnify City as provided in this Section.

**Licensee accepts the Licensed Property "AS IS," and its duty to indemnify extends to injuries caused by defective conditions present on the Licensed Property, INCLUDING DEFECTS ALLOWED TO EXIST BY THE CITY'S OWN NEGLIGENCE.**

**10. Termination.**



**A. Termination by Licensee.** Licensee may terminate this Agreement by delivering written notice of termination to the Property Manager not later than 30 days before the effective date of termination. Licensee shall remove all Improvements from the Licensed Property within the 30-day notice period at its sole cost and expense. Failure to do so constitutes a breach of this Agreement and authorizes the Property Manager to notify Licensee of the cost of such removal and disposal and Licensee shall pay such costs within 30 days of such notice. The Property Manager may file a lien against the Adjacent Property and the cost of such removal and disposal if the Licensee fails to timely pay these costs. Additionally, in such an event, the Property Manager may draw down the Security Deposit, if any.

**B. Termination by City.** Subject to prior written notification to Licensee or its successor-in-interest, this Agreement is revocable by the Property Manager if:

1. The Improvements, or a portion of them, interfere with the City's rights in the right-of-way;
2. Use of the right-of-way area becomes necessary for a public purpose;
3. The Improvements, or a portion of them, constitute a danger to the public, which the Property Manager deems not to be remediable by alteration or maintenance of such Improvements;
4. Despite forty-eight (48) hours' prior notice to Licensee, maintenance or alteration to the Improvements necessary to alleviate a danger to the public has not been made;
5. Licensee fails to comply with the terms and conditions of this Agreement including, but not limited to timely paying the annual fee (if applicable) or properly and timely maintaining the Improvements.
6. Despite thirty (30) days' written notice to Licensee, Licensee has not provided certificates of insurance to the Property Manager.
7. Licensee fails to properly and timely maintain the Improvements as set out herein.
8. City provides ninety-one (91) days' prior written notice of such termination for any reason.

**C. Termination by Abandonment.** If Licensee abandons or fails to maintain the Licensed Property, and the Property Manager receives no substantive response within thirty (30) days following written notification to Licensee, then the City may remove and/or replace all Improvements. Licensee covenants to pay the City's actual expenses incurred in connection therewith within 30 days after being billed therefor. All of Licensee's Improvements not removed are deemed property of the City when abandoned by Licensee.

**11. Eminent Domain.** If eminent domain is exerted on the Licensed Property by paramount authority, then the City will, to the extent permitted by law, cooperate with Licensee to effect the removal of Licensee's affected Improvements thereon, at Licensee's sole expense. Licensee may retain all monies paid by the condemning authority for Licensee's Improvements taken, if any.

12. **Venue.** Venue for all lawsuits concerning this Agreement must be in the State District courts of Austin, Travis County, Texas.
13. **Assignment.** Licensee shall not assign, sublet or transfer its interest in this Agreement without the prior written consent of the Property Manager. Such consent shall not be unreasonably withheld, subject to the assignee's compliance with the insurance requirements set forth herein, if any and the assignee's promise to comply with all covenants and obligations herein. Licensee shall provide the Property Manager a copy of any such proposed assignment or transfer of any of Licensee's rights in this Agreement, which must include the name, address, and contact person of the assignee, along with the proposed date of assignment or transfer.
14. **Notice.** Notice may be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand delivered or on the third day after deposit if sent certified mail. Notice must be sent as follows:

**If to City:**

**Office of Real Estate Services  
505 Barton Springs Rd., Suite 1350  
Austin, TX 78704  
Phone: 512-974-7090  
Fax: 512-974-7088**

**If to Licensee:**

**9<sup>th</sup> Red River, LLC  
7701 North Lamar Boulevard, #100  
Austin, TX 78752  
Phone: 512-247-7000  
Fax: 512-374-2999**

15. **Default.** If Licensee fails to pay the annual rent (if applicable), provide certificates of insurance, maintain the Licensed Property, comply with the insurance requirements of this Agreement, or otherwise comply with the terms or conditions herein, then the Property Manager shall give Licensee written notice as set forth herein. Licensee will have thirty (30) days from the date of such notice to take action to remedy the failure complained of, or such lesser period if such is required, and, if Licensee does not satisfactorily remedy the same within that thirty (30) day period, the City may remedy the default or contract to remedy the default. However, if the default is a monetary default, Licensee must cure that within ten (10) business days' of notice. Licensee covenants to pay within ten (10) days of written demand by the Property Manager, all reasonable costs expenses incurred by the City in remedying the default.

Either party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent or other default.

16. **Compliance with Laws.** Licensee covenants that all construction, installation, repair, maintenance, and removal of the Improvements permitted by this Agreement must be done

in compliance with all applicable City, County, State and/or Federal laws, ordinances, regulations and policies now existing or later adopted.

17. **Interpretation.** Although drafted by the City, this Agreement must, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.
18. **Application of Law.** This Agreement must be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts must be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

Terms and Conditions Accepted on December 10<sup>th</sup>, 2014.

CITY OF AUSTIN, a Texas home rule municipal corporation

Approved as to Form:

Nick A. Gady  
Assistant City Attorney

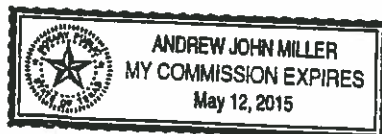
By: Lauraine Rizer  
Lauraine Rizer, Officer  
Office of Real Estate Services  
A.I.H.

**LICENSEE:**  
9th Red River, LLC

By: Sam Kumar  
Sam Kumar, Manager

THE STATE OF TEXAS      §  
COUNTY OF TRAVIS      §

This instrument was acknowledged before me on December 10<sup>th</sup>, 2014, by Lauraine Rizer, Officer, Office of Real Estate Services, City of Austin, a Texas municipal corporation, on behalf of said corporation.



[Signature]  
Notary Public, State of Texas

STATE OF TEXAS  
COUNTY OF TRAVIS

§  
§

Before me, the undersigned Notary Public of the State of Texas, on this day personally appeared Sam Kumar, Manager, 9th Red River, LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 5<sup>th</sup> day of December, A.D. 2014.



Tiffany Marie Fincher  
Notary Public, State of Texas

F# LA 681-1402

Exhibit A Pg. 1 of 1

**CRICHTON AND ASSOCIATES  
LAND SURVEYORS**  
6448 HIGHWAY 290 EAST SUITE B-105  
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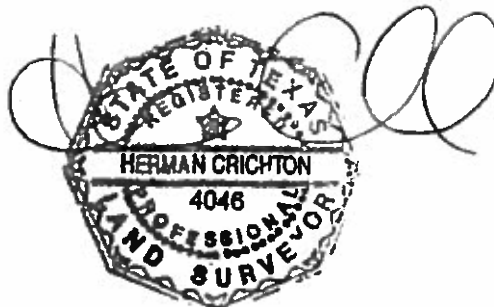
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I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal November 20<sup>th</sup>, 2013  
Herman Crichton, R.P.L.S. 4046

REFERENCES  
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AUSTIN GRID J-22  
JOB# 13-323



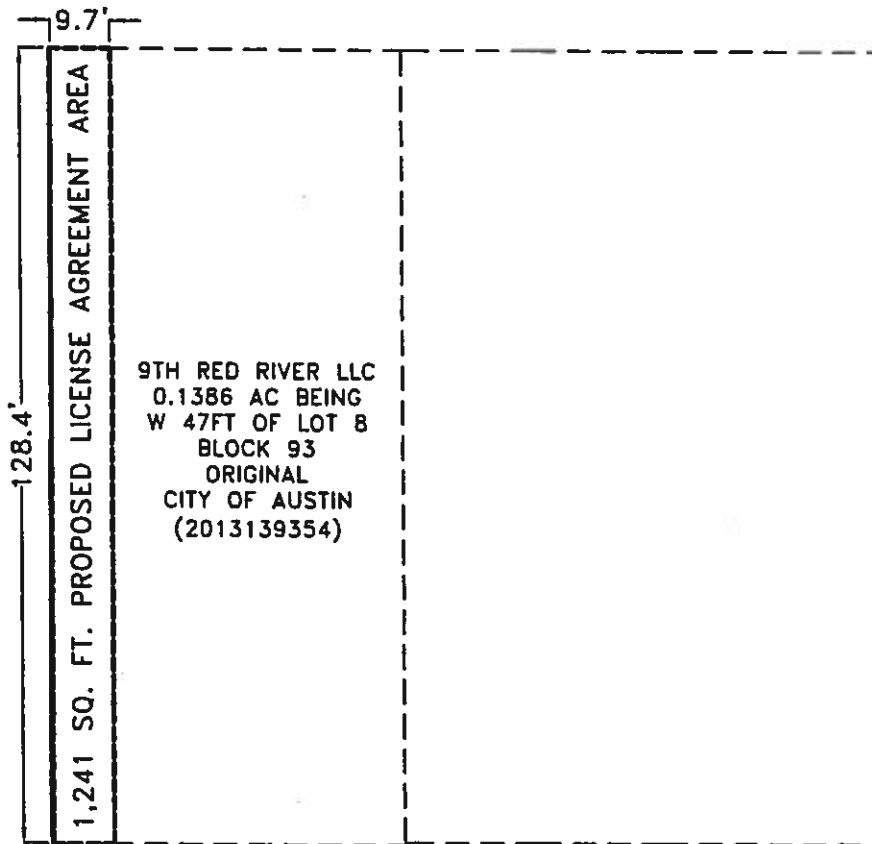
FIELD NOTES REVIEWED:

By: Chuck Dabiel Date: 03-05-2014

Engineering Support Section  
Department of Public Works  
and Transportation

9TH STREET

NECHES STREET



20' ALLEY

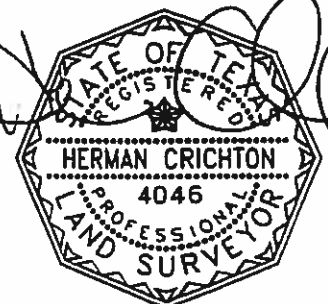
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**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
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FAX: (512) 244-9508

SCALE: 1" = 30'

JOB NUMBER: 13\_323



DATE: Nov 20, 2013

F#LA 681-1402

Exhibit C Pg. 1 of 1

**CRICHTON AND ASSOCIATES  
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**F#LA 681-1402  
LICENSE AGREEMENT**

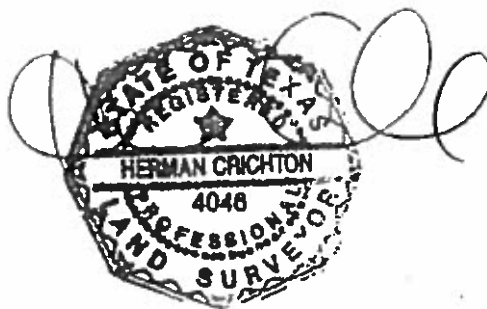
**FIELD NOTES**

FIELD NOTES FOR 2,529 SQUARE FEET OF THE R.O.W. OF RED RIVER STREET ADJACENT TO 0.6729 ACRE TRACT BEING ALL OF LOTS 5-7 & THE EAST 22 FEET OF LOT 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, BOUNDED ON THE SOUTH BY AN EXTENSION OF THE NORTH LINE OF A 20' ALLEY, BOUNDED ON THE EAST BY A LINE 19.8 FEET FROM AND PARALLEL TO THE EAST LINE OF SAID LOT 5, BOUNDED ON THE NORTH BY AN EXTENSION OF THE SOUTH R.O.W. LINE OF 9<sup>TH</sup> STREET, AND BOUNDED ON THE WEST BY THE EAST LINE OF SAID LOT 5

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal November 20<sup>th</sup>, 2013  
Herman Crichton, R.P.L.S. 4046

REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323

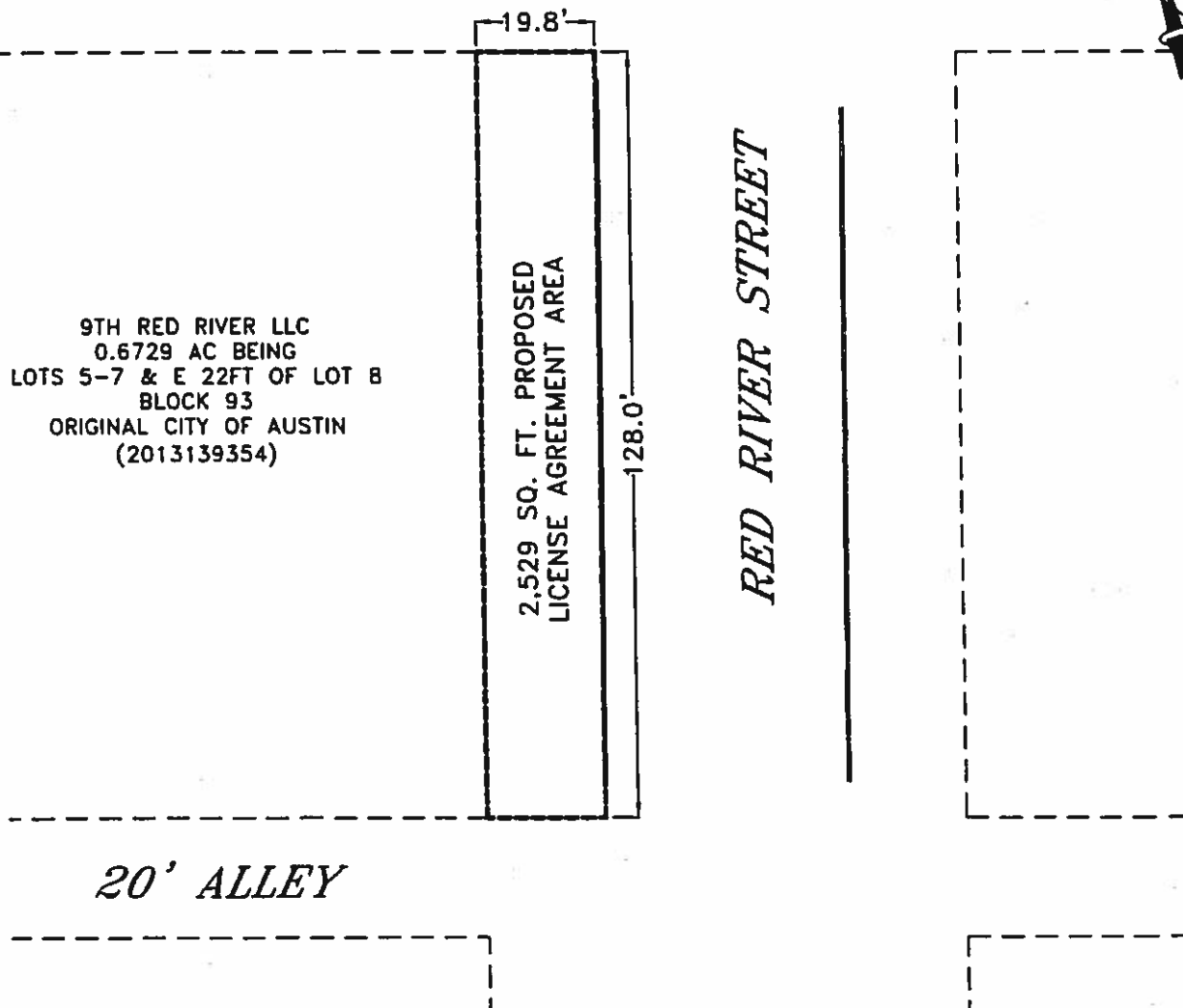


**FIELD NOTES REVIEWED**

By Jack Daniel Date 03.05.2014

Engineering Support Section  
Department of Public Works  
and Transportation

*9TH STREET*



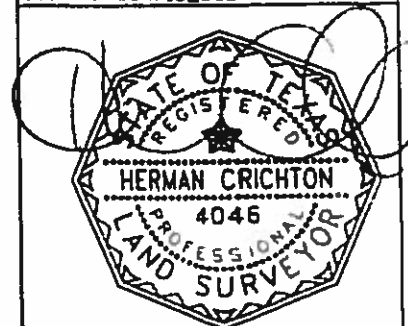
SKETCH TO ACCOMPANY FIELD NOTES FOR 2,529 SQUARE FEET OF THE R.O.W. OF RED RIVER STREET ADJACENT TO 0.6729 ACRE TRACT BEING ALL OF LOTS 5-7 & THE EAST 22 FEET OF LOT 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

8448 East Highway 290  
Suite B105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 30'

JOB NUMBER: 13\_323



DATE: Nov. 20, 2013



.F#LA 681-1402

Exhibit E Pg. 1 of 1

**CRICHTON AND ASSOCIATES  
LAND SURVEYORS**  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395

**LICENSE AGREEMENT**

**FIELD NOTES**

FIELD NOTES FOR 2,821 SQUARE FEET OF THE R.O.W. OF 9<sup>th</sup> ADJACENT TO ALL OF LOTS 5, 6, 7 & 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS. BOUNDED ON THE SOUTH BY THE SOUTH RIGHT OF WAY OF 9<sup>TH</sup> STREET, ON THE WEST BY AN EXTENSION OF THE EAST RIGHT OF WAY OF NECHES STREET, ON THE NORTH BY A LINE 10.22 FEET NORTH OF AND PARALLEL TO THE SOUTH RIGHT OF WAY OF 9<sup>TH</sup> STREET AND ON THE EAST BY AN EXTENSION OF THE WEST RIGHT OF WAY OF RED RIVER STREET.

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal December 27, 2013  
Herman Crichton, R.P.L.S. 4046

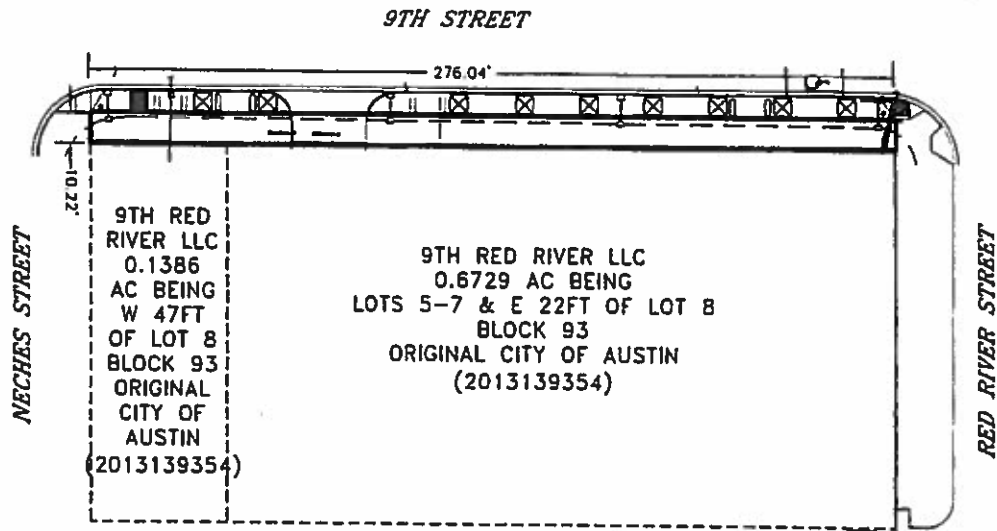
REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323



**FIELD NOTES REVIEWED**

By Clark Daniel Date 03.28.2014

Engineering Support Section  
Department of Public Works  
and Transportation



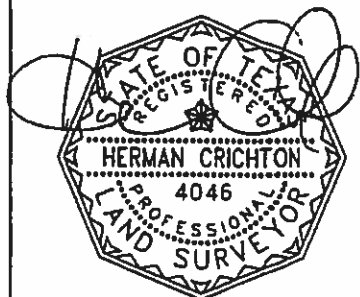
SKETCH TO ACCOMPANY FIELD NOTES FOR 2,821 SQUARE FEET OF THE R.O.W. OF 9TH STREET ADJACENT TO 0.6729 ACRE TRACT AND A 0.1386 ACRE TRACT BEING ALL OF LOTS 5, 6, 7 & 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
Suite B105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 100'

JOB NUMBER: 13\_323



DATE: DEC. 27, 2013



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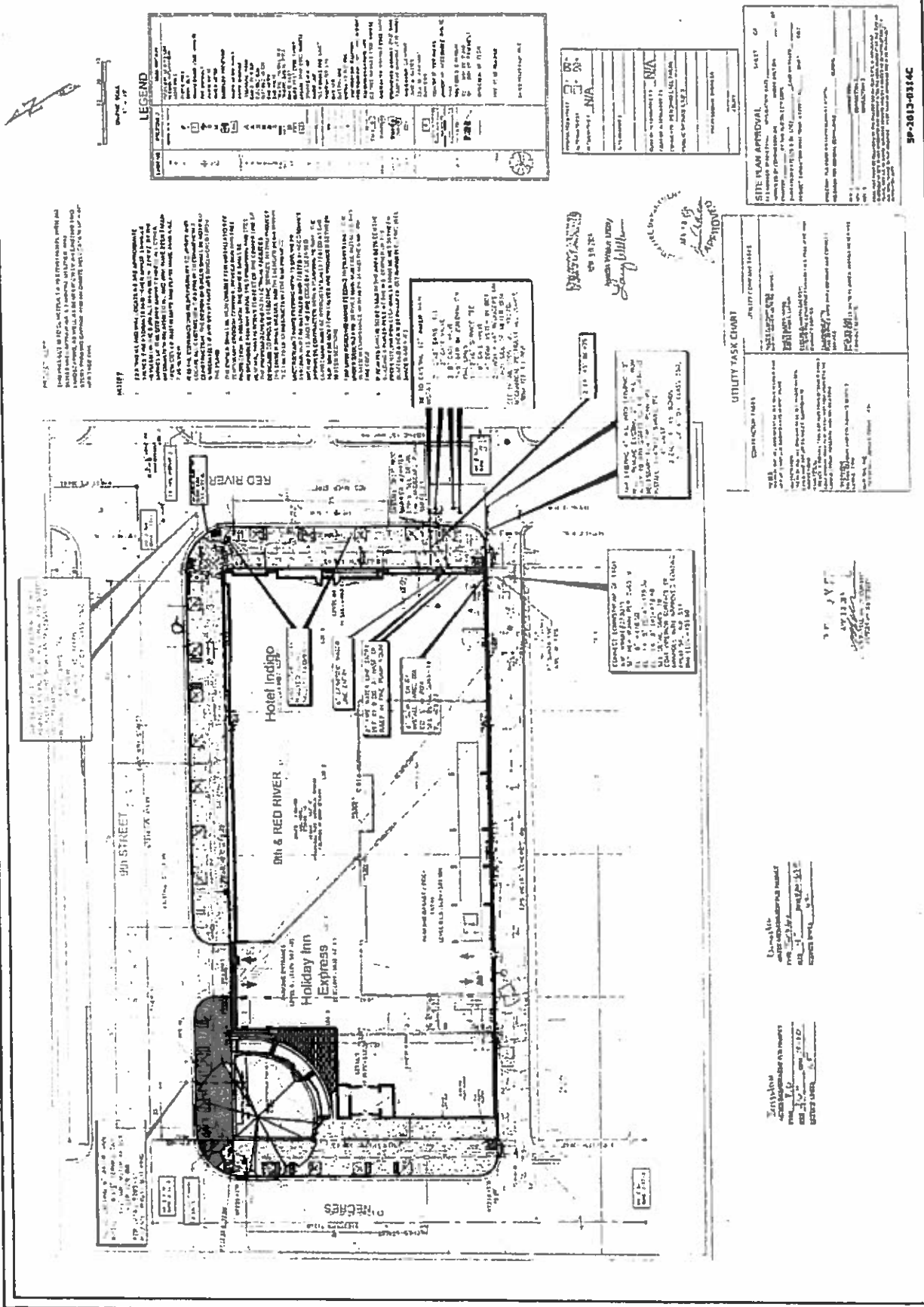


UTILITY PLAN  
W & WW

9TH RED RIVER  
805 NECHES STREET  
AUSTIN, TEXAS 78701



DATE: 10/15/2013  
PROJECT: 805 NECHES STREET  
DRAWING: 805 NECHES STREET



NOTES:  
1. ALL UTILITIES SHOWN ARE BASED ON RECORD DRAWINGS AND FIELD SURVEY.  
2. THE LOCATION AND DEPTH OF UTILITIES ARE SUBJECT TO CHANGE.  
3. THE OWNER IS RESPONSIBLE FOR THE ACCURACY OF THE UTILITIES SHOWN.  
4. THE ENGINEER IS NOT RESPONSIBLE FOR THE ACCURACY OF THE UTILITIES SHOWN.

LEGEND

SYMBOL	DESCRIPTION
[Symbol]	Water Main
[Symbol]	Sewer Main
[Symbol]	Gas Main
[Symbol]	Electric Main
[Symbol]	Water Service
[Symbol]	Sewer Service
[Symbol]	Gas Service
[Symbol]	Electric Service

PROJECT NO.	805 NECHES STREET
DATE	10/15/2013
PROJECT NO.	805 NECHES STREET
DATE	10/15/2013

**SITE PLAN APPROVAL**

DATE: 10/15/2013  
PROJECT: 805 NECHES STREET  
DRAWING: 805 NECHES STREET

**UTILITY TASK CHART**

DATE: 10/15/2013  
PROJECT: 805 NECHES STREET  
DRAWING: 805 NECHES STREET

DATE: 10/15/2013  
PROJECT: 805 NECHES STREET  
DRAWING: 805 NECHES STREET

DATE: 10/15/2013  
PROJECT: 805 NECHES STREET  
DRAWING: 805 NECHES STREET

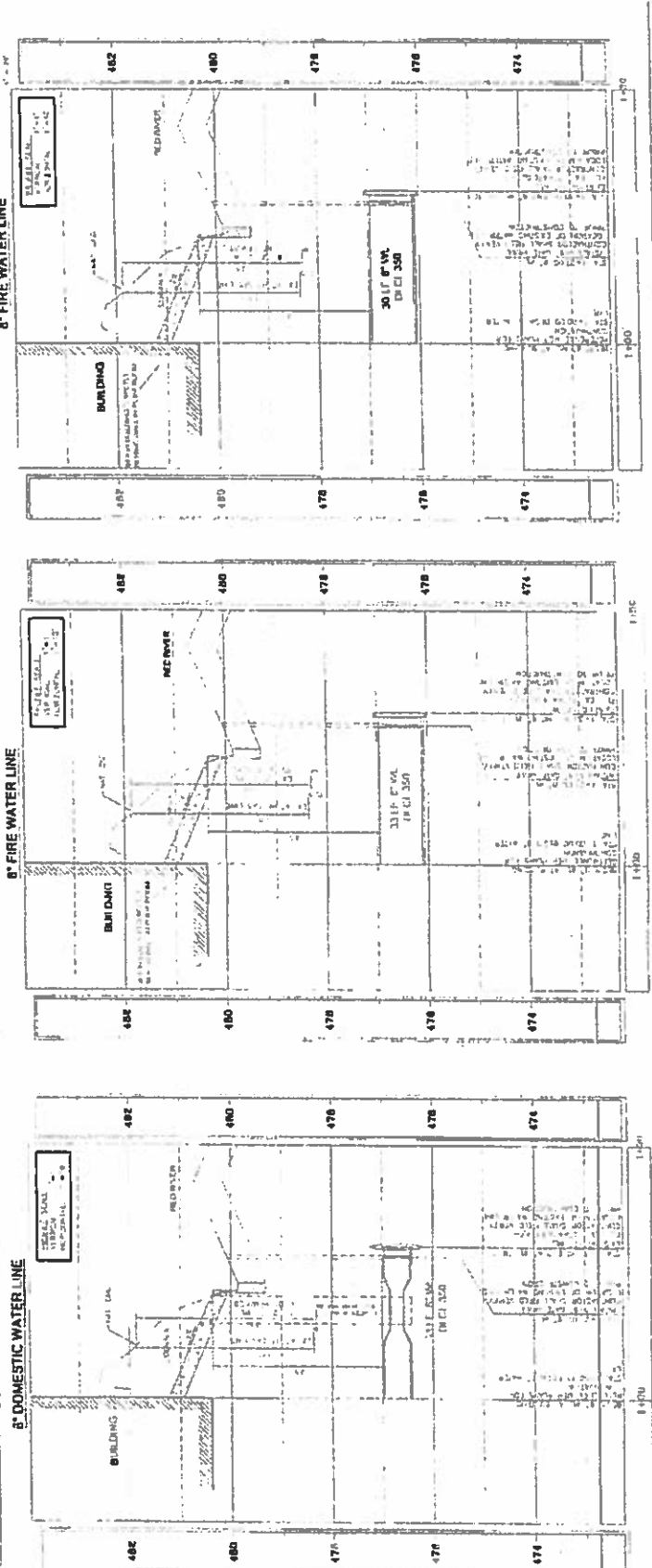
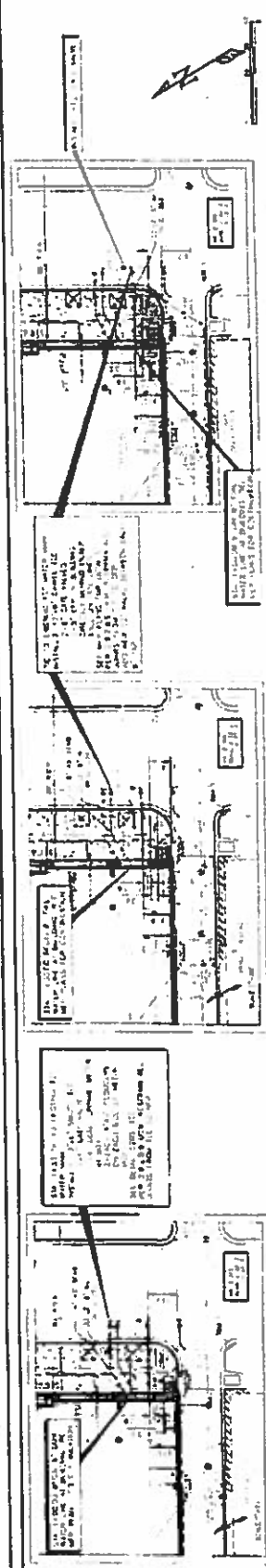
DATE: 10/15/2013  
PROJECT: 805 NECHES STREET  
DRAWING: 805 NECHES STREET

SP-2013-0314C



NO.	DESCRIPTION	DATE
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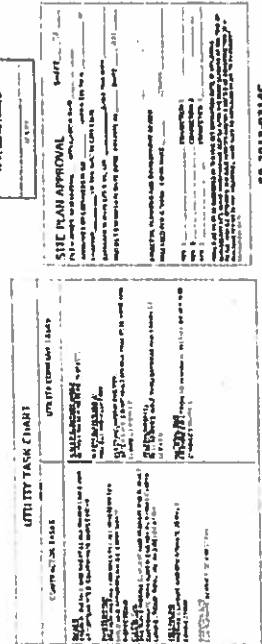
Scale: 1" = 100'
North Arrow
Project: 871-14681
Sheet: 23



**SITE PLAN APPROVAL**

THE CITY OF AUSTIN, TEXAS, HAS REVIEWED THE SITE PLAN FOR THE PROPOSED INSTALLATION OF A NEW 8\"/>

APPROVED: [Signature]  
DATE: 11-11-11

[illegible][illegible]

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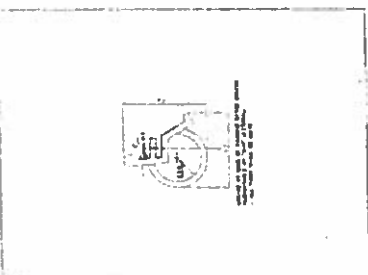




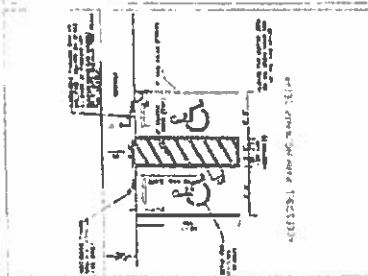
## SP-3013-0314C

### SITE PLAN APPROVAL

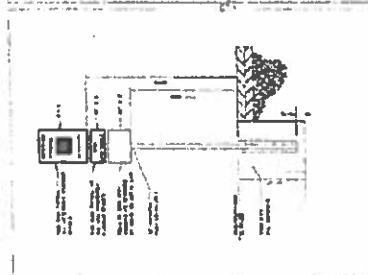
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**STUDY 1**



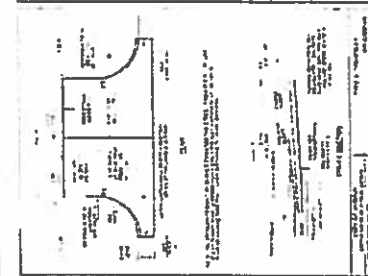
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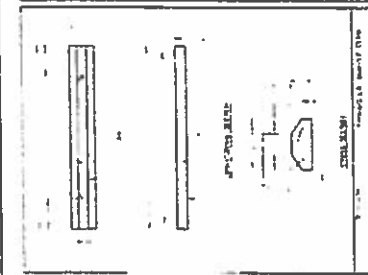
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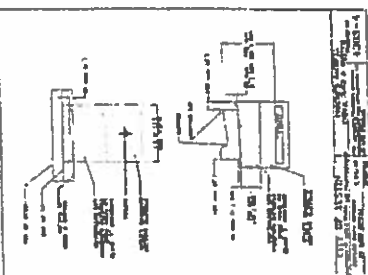
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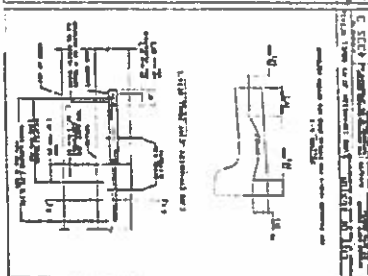
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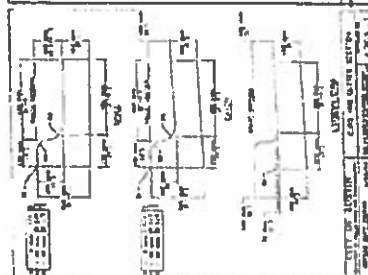
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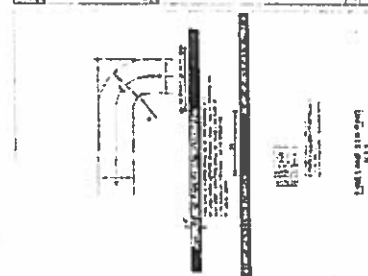
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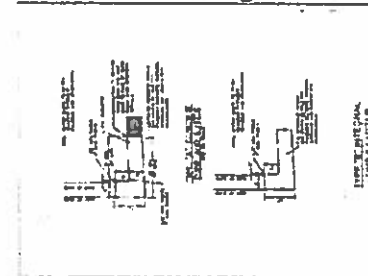
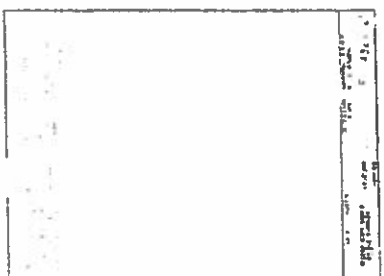
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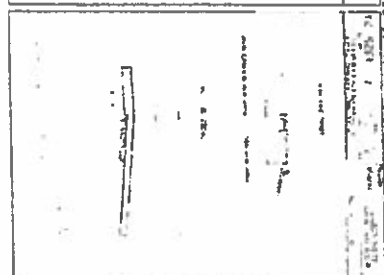
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1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.


$$\frac{f}{n}$$


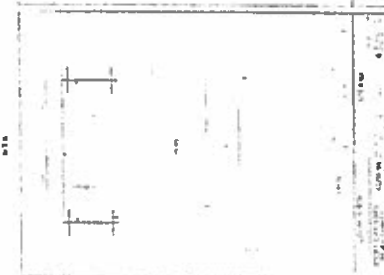
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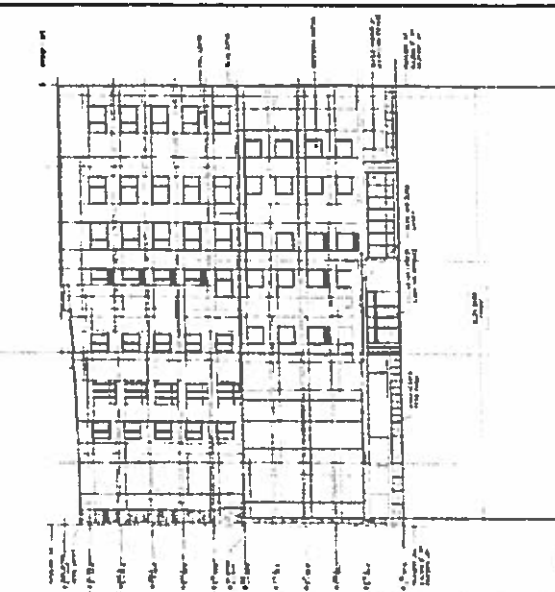
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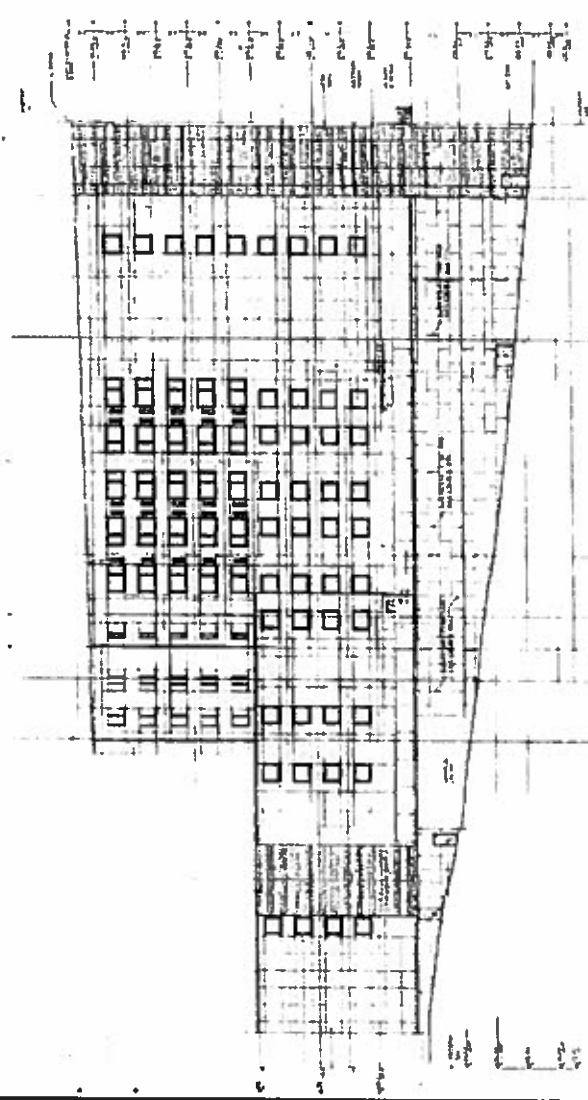








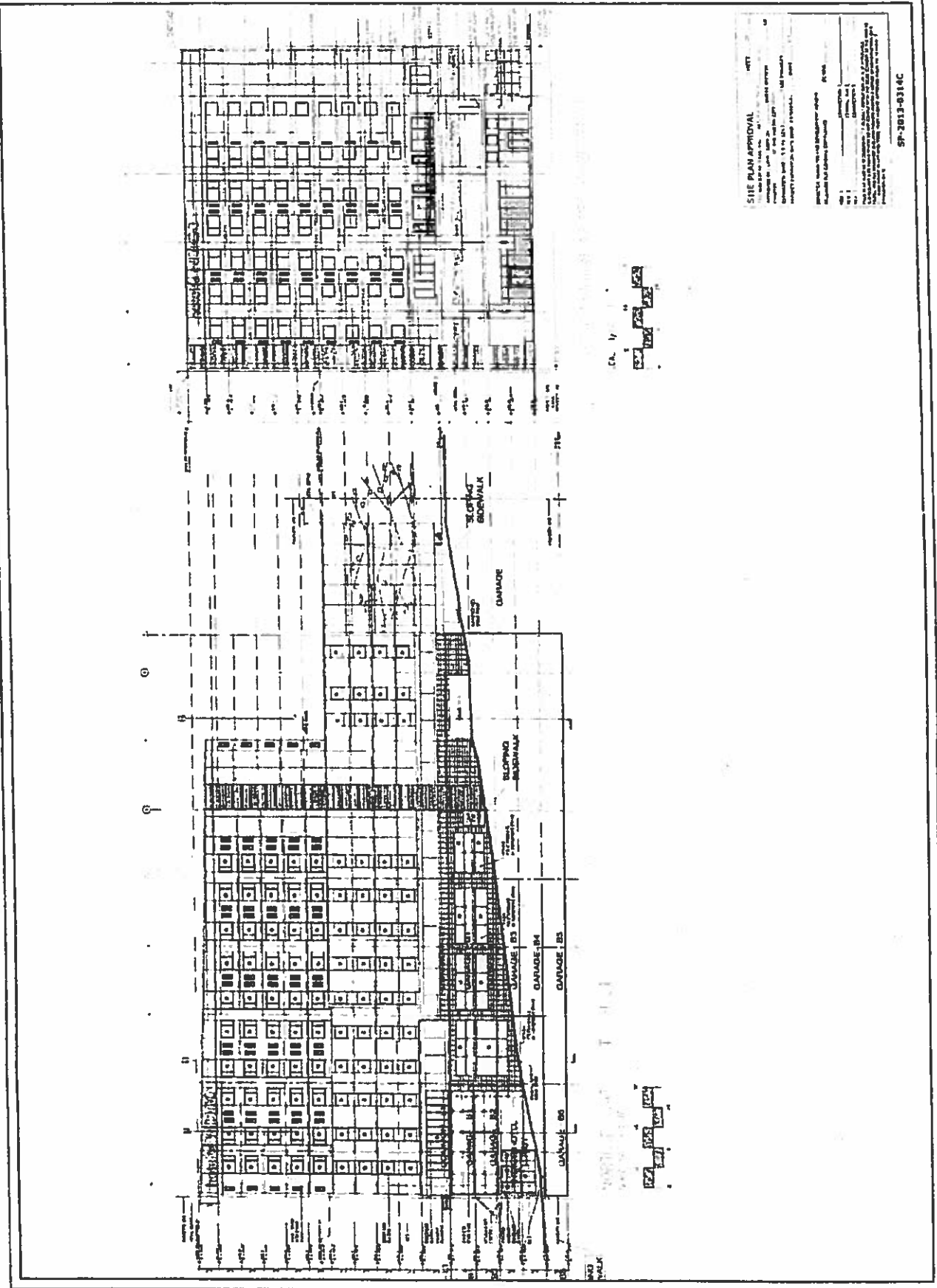
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P-2019-0314C



**SITE PLAN APPROVAL**

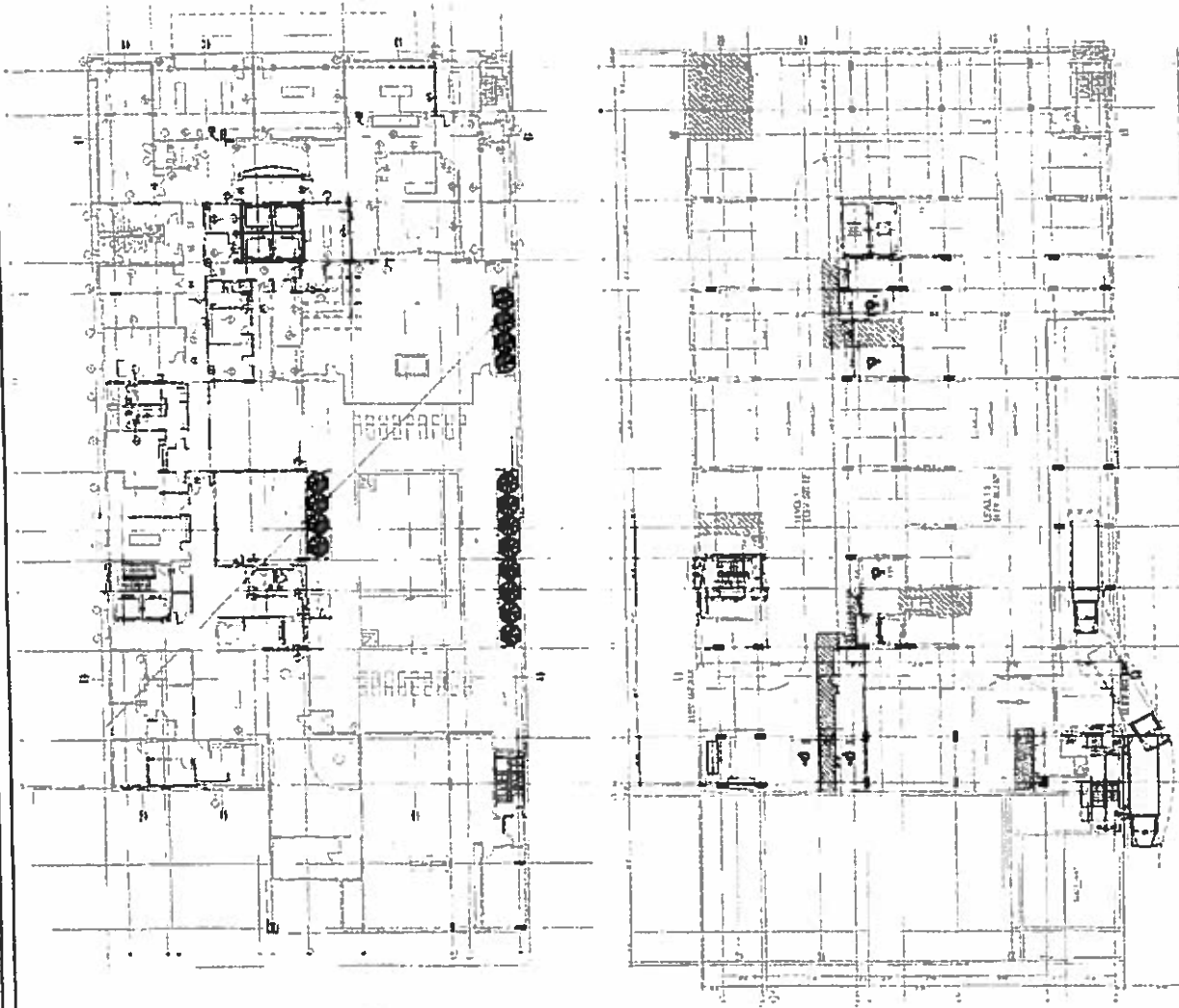
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BY: [Signature]  
PROJECT: 000

0073-0001

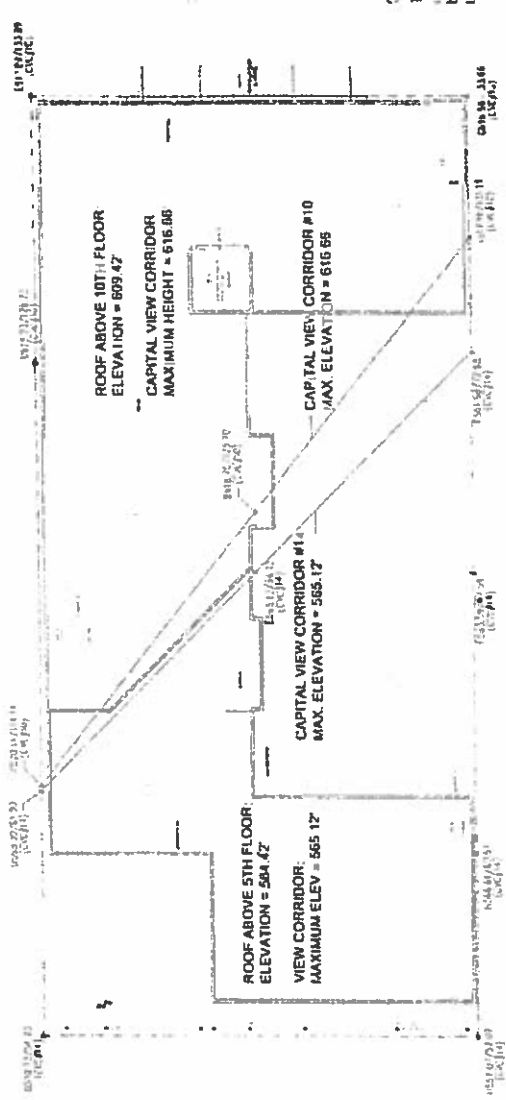
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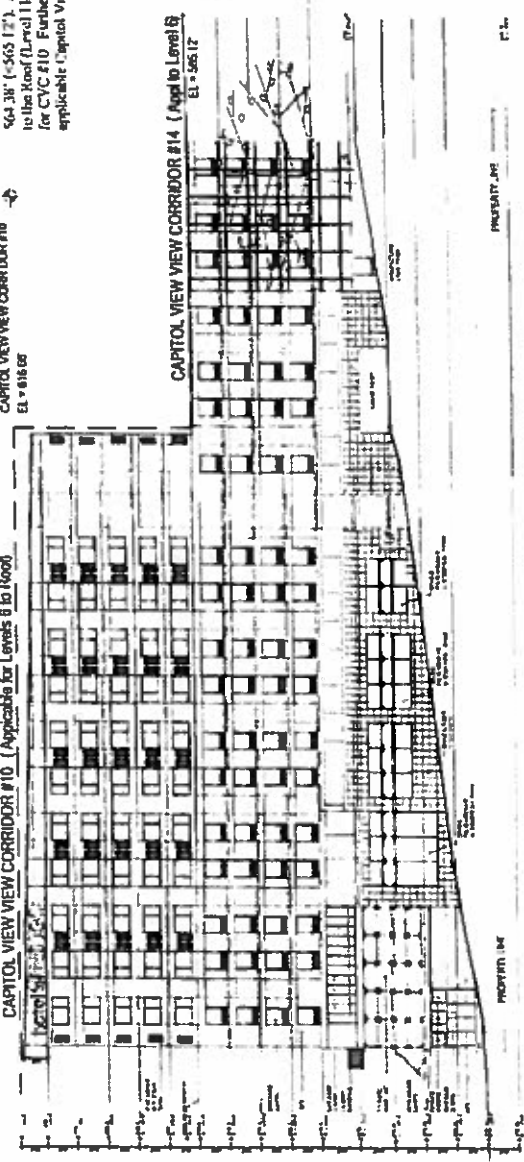




ROOF PLAN

CAPITOL VIEW CORRIDOR #10  
EL = 616.06

CAPITOL VIEW CORRIDOR #10 (Applicable for Levels 8 to Roof)



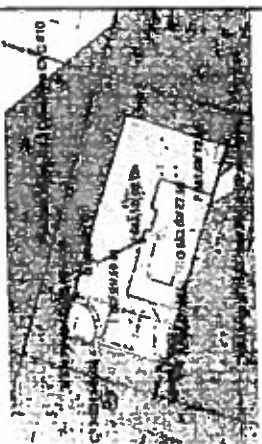
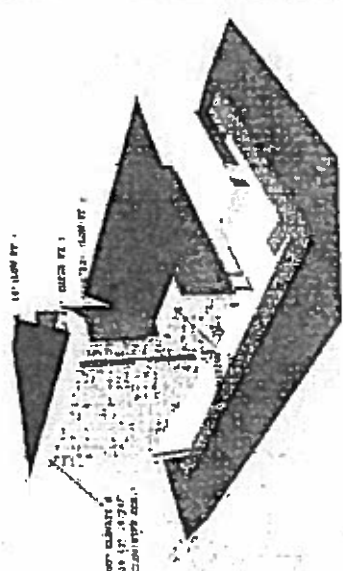
NORTH ELEVATION AT 9TH STREET  
SCALE: 1/8" = 1'-0"

CAPITOL VIEW CORRIDOR

The project shall be constructed in compliance with the Capitol View Corridor requirements. The City of Austin CAPITOL VIEW CORRIDOR DETERMINATION indicates the site is located within the Capitol View Corridor. As indicated in this Determination the maximum building height for the Project is:

- (1) between 561.68' and 570.73' above sea level for "CVC #14 and
- (2) between 616.66' and 620.14' above sea level for "CVC #10

In response to these Capitol View Corridor requirements the building footprint at the Level 8 Roof is restricted by CVC #14, intersecting our structure at 565.17' and the roof at that point is 564.38' (565.17'). Above that level the building footprint is reduced and extends from Level 16 to the Roof (Level 11) to a height of 616.42', less than the minimum allowable height of 616.66' for CVC #10. Further explanation of how our proposed structure is in compliance with the applicable Capitol View Corridor for this site is depicted in the adjacent figures.

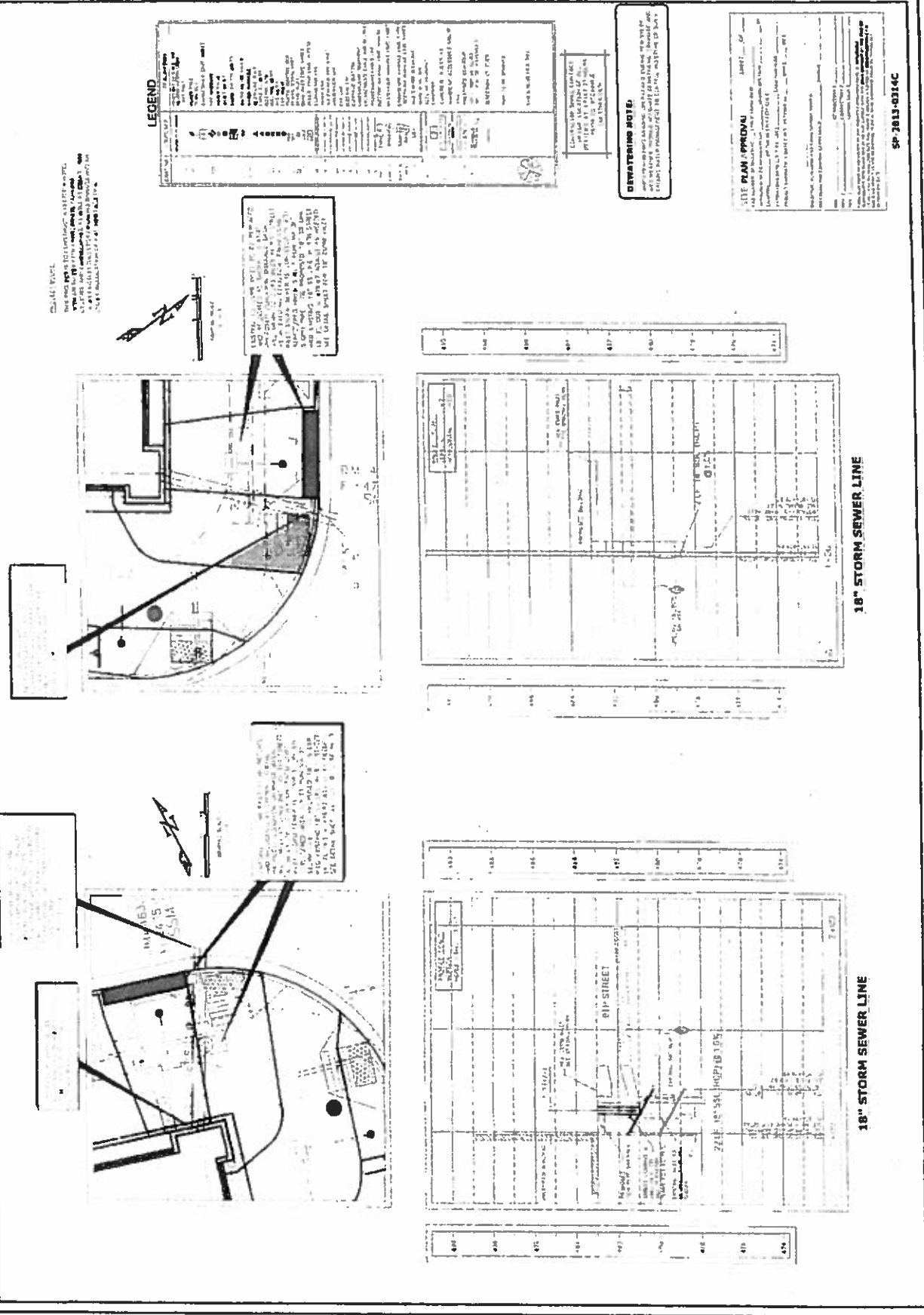


**SITE PLAN APPROVAL**

DATE: 01/11/2013  
BY: J. H. HARRIS  
PROJECT: 01-001

APPROVED: [Signature]  
DATE: 01/11/2013  
BY: [Signature]

SP-2013-0314C



**After recording, return to:**

City of Austin  
Office of Real Estate Services  
505 Barton Springs Road, Ste. 1350  
Austin, TX. 78704

Attn: Andy Halm/Joan Caldwell  
F#LA 681-1402

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

Dec 11, 2014 11:42 AM

2014184163

RODRIGUEZA: \$146.00

Dana DeBeauvoir, County Clerk

Travis County TEXAS

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.



TRV

2014184165

8 PGS

**Affidavit Declaring License Agreement  
F# LA 681-1402**

State of Texas       §  
County of Travis   §

The City of Austin, a Texas home-rule municipal corporation, acting through its duly authorized City Manager, or designee, ("City Manager"), who for purposes of this document is Lauraine Rizer, Officer of the Office of Real Estate Services ("Affiant") gives the following Affidavit. Affiant is over the age of 18, has not been convicted of a felony, and has personal knowledge of the facts recited herein by virtue of her employment in the Office of Real Estate Services of the City of Austin for 24 years 8 months. Affiant hereby acknowledges the existence and location of a **License Agreement** over and across certain property owned by the City of Austin, described (i) 1,241 square feet out of the right-of-way within Neches Street, (ii) 2,529 square feet out of the right-of-way within Red River Street, (iii) 2,821 square feet out of the right-of-way within 9<sup>th</sup> Street, Austin, Texas. The exact location of the **Property** subject to the License Agreement is described on the attached and incorporated **Exhibit A, B, C, D, E, and F**.

The License Agreement allows the adjacent landowner 9<sup>th</sup> Red River, LLC ("Landowner") to install improvements on the Property to benefit its adjacent property and constitutes an encroachment on City-owned property, which must be affirmatively assumed by any successor-in-interest to the Landowner, specifically including payment of any past due License Agreement fees, if applicable, or the improvements must be removed at the successor-in-interest's sole cost and expense.

The purpose of this Affidavit is to provide additional notice to any successor-in-interest of Landowner to the property located at 805 Neches Street, Austin, Texas and described as (i) West 47 feet of Lot 8, Block 93, Original City of Austin, Travis County, Texas, map or plat of the Original City on file in the General Land Office of the State of Texas, and conveyed to 9<sup>th</sup> Red River LLC in Document No. 2013139354, official public records of Travis County, Texas, (ii) all of Lots 5-7 & the East 22 feet of Lot 8, Block 93, Original City of Austin, map or plat of the Original City on file in the General Land Office of the State of Texas, and conveyed to 9<sup>th</sup> Red River LLC in Document No. 2013139354, official public records of Travis County, Texas, (iii) all of Lots 5, 6, 7, & 8, Block 93, Original City of Austin Travis County, Texas, map or plat of the Original City on file in the General Land Office of the State of Texas, conveyed to 9<sup>th</sup> Red River LLC in Document No. 2013139354, official public records of Travis County, Texas.

EXECUTED on December 10<sup>th</sup>, 2014.

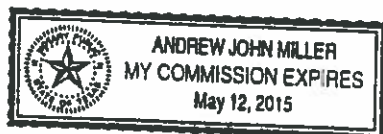
THE CITY OF AUSTIN, a municipal corporation

By: Lauraine Rizer  
Lauraine Rizer, Officer A.J.H.  
Office of Real Estate Services

STATE OF TEXAS       §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on December 10<sup>th</sup>, 2014 by Lauraine Rizer, Officer of the Office of Real Estate Services, City of Austin, a Texas municipal corporation, on behalf of the corporation.

[SEAL]



[Signature]  
Notary Public, State of Texas

F#LA 681-1402

Exhibit A Pg. 1 of 1

**CRICHTON AND ASSOCIATES  
LAND SURVEYORS**  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395

F#LA687-1402  
LICENSE AGREEMENT

**FIELD NOTES**

FIELD NOTES FOR 1,241 SQUARE FEET OF THE R.O.W. OF NECHES STREET ADJACENT TO A 0.1386 ACRE TRACT BEING THE WEST 47 FEET OF LOT 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS. BOUNDED ON THE SOUTH BY AN EXTENSION OF THE NORTH LINE OF A 20' ALLEY, BOUNDED ON THE WEST BY A LINE 9.7 FEET FROM AND PARALLEL TO THE WEST LINE OF SAID LOT 8, BOUNDED ON THE NORTH BY AN EXTENSION OF THE SOUTH R.O.W. LINE OF 9<sup>TH</sup> STREET, AND BOUNDED ON THE EAST BY THE WEST LINE OF SAID LOT 8

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal November 20<sup>th</sup>, 2013  
Herman Crichton, R.P.L.S. 4046

REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323



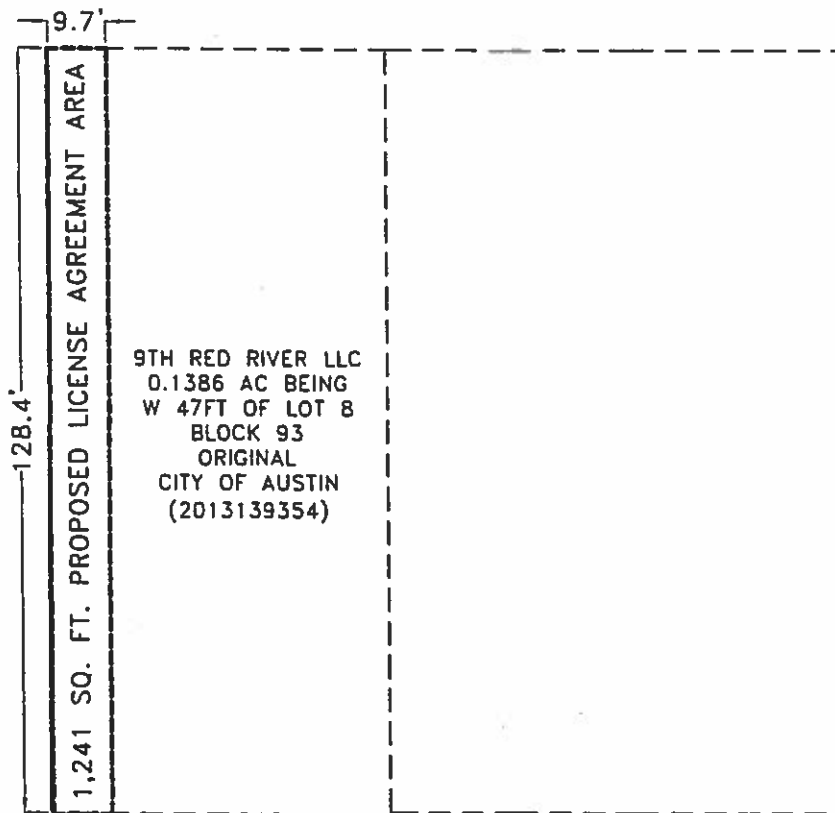
FIELD NOTES REVIEWED

By: Cook D. Hull Date: 03-05-2014

Engineering Support Section  
Department of Public Works  
and Transportation

9TH STREET

NECHES STREET



20' ALLEY

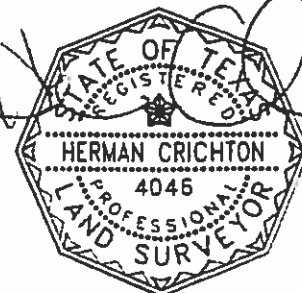
SKETCH TO ACCOMPANY FIELD NOTES FOR 1,241 SQUARE FEET OF THE R.O.W. OF NECHES STREET ADJACENT TO A 0.1386 ACRE TRACT BEING THE WEST 47 FEET OF LOT 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
Suite B105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 30'

JOB NUMBER: 13\_323



DATE: Nov 20, 2013

F#LA 681-1402

Exhibit C Pg. 1 of 1

**CRICHTON AND ASSOCIATES  
LAND SURVEYORS**  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395

**F#LA 681-1402  
LICENSE AGREEMENT**

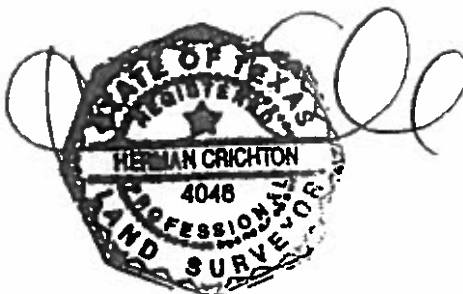
**FIELD NOTES**

FIELD NOTES FOR 2,529 SQUARE FEET OF THE R.O.W. OF RED RIVER STREET ADJACENT TO 0.6729 ACRE TRACT BEING ALL OF LOTS 5-7 & THE EAST 22 FEET OF LOT 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, BOUNDED ON THE SOUTH BY AN EXTENSION OF THE NORTH LINE OF A 20' ALLEY, BOUNDED ON THE EAST BY A LINE 19.8 FEET FROM AND PARALLEL TO THE EAST LINE OF SAID LOT 5, BOUNDED ON THE NORTH BY AN EXTENSION OF THE SOUTH R.O.W. LINE OF 9<sup>TH</sup> STREET, AND BOUNDED ON THE WEST BY THE EAST LINE OF SAID LOT 5

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal November 20<sup>th</sup>, 2013  
Herman Crichton, R.P.L.S. 4046

REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323

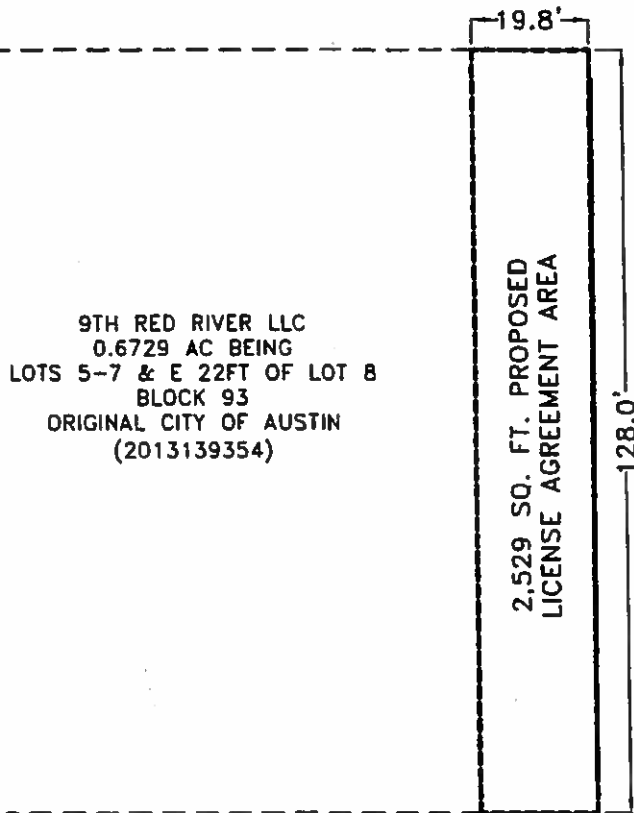


**FIELD NOTES REVIEWED**

By Charles Daniel Date 03-05-2014

Engineering Support Section  
Department of Public Works  
and Transportation

*9TH STREET*



*RED RIVER STREET*

*20' ALLEY*

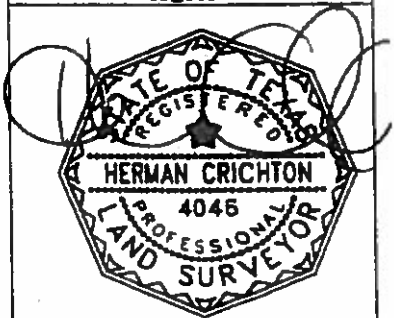
SKETCH TO ACCOMPANY FIELD NOTES FOR 2,529 SQUARE FEET OF THE R.O.W. OF RED RIVER STREET ADJACENT TO 0.6729 ACRE TRACT BEING ALL OF LOTS 5-7 & THE EAST 22 FEET OF LOT 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
Suite B105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 30'

JOB NUMBER: 13\_323



DATE: Nov. 20, 2013



F# LA 681-1402

Exhibit E Pg. 1 of 1

**CRICHTON AND ASSOCIATES  
LAND SURVEYORS**  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395

**LICENSE AGREEMENT**

**FIELD NOTES**

FIELD NOTES FOR 2,821 SQUARE FEET OF THE R.O.W. OF 9<sup>th</sup> ADJACENT TO ALL OF LOTS 5, 6, 7 & 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS. BOUNDED ON THE SOUTH BY THE SOUTH RIGHT OF WAY OF 9<sup>TH</sup> STREET, ON THE WEST BY AN EXTENSION OF THE EAST RIGHT OF WAY OF NECHES STREET, ON THE NORTH BY A LINE 10.22 FEET NORTH OF AND PARALLEL TO THE SOUTH RIGHT OF WAY OF 9<sup>TH</sup> STREET AND ON THE EAST BY AN EXTENSION OF THE WEST RIGHT OF WAY OF RED RIVER STREET.

I hereby certify that the foregoing field notes were prepared from a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal December 27, 2013  
Herman Crichton, R.P.L.S. 4046

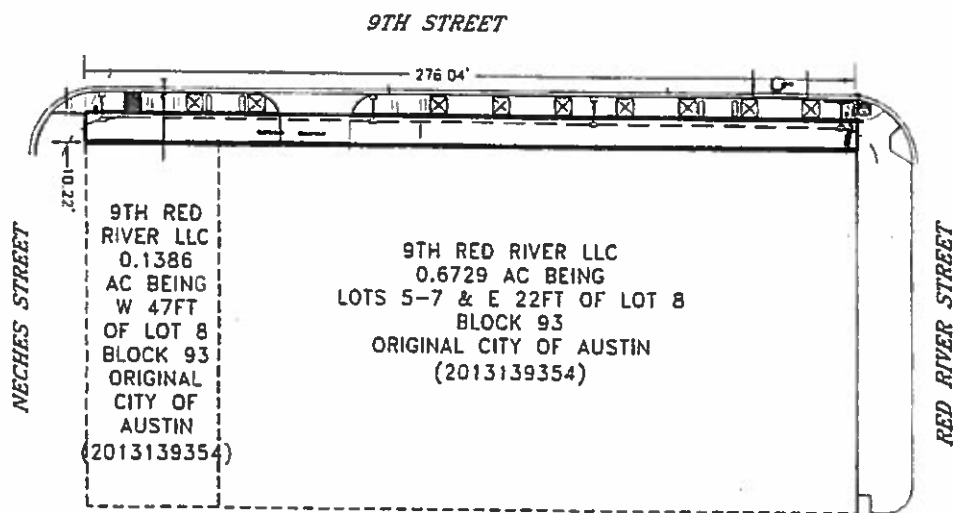
REFERENCES  
TCAD MAP 2-0604  
AUSTIN GRID J-22  
JOB# 13-323



**FIELD NOTES REVIEWED**

By Clark Daniel Date 03.28.2014

Engineering Support Section  
Department of Public Works  
and Transportation



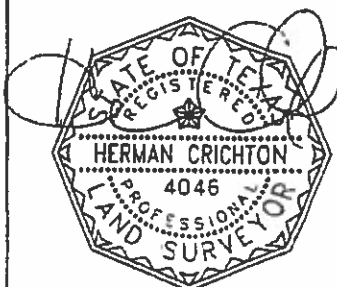
SKETCH TO ACCOMPANY FIELD NOTES FOR 2,821 SQUARE FEET OF THE R.O.W. OF 9TH STREET ADJACENT TO 0.6729 ACRE TRACT AND A 0.1386 ACRE TRACT BEING ALL OF LOTS 5, 6, 7 & 8, BLOCK 93, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF THE ORIGINAL CITY ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING THE SAME TRACT CONVEYED TO 9TH RED RIVER LLC IN DOCUMENT NO. 2013139354, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
Suite 8105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

SCALE: 1" = 100'

JOB NUMBER: 13\_323



DATE: DEC 27, 2013

After recording, return to:

City of Austin  
Office of Real Estate Services  
505 Barton Springs Road, Ste. 1350  
Austin, TX. 78704

Attn: Andy Halm/Joan Caldwell  
F#LA 681-1402

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

Dec 11, 2014 11:44 AM

2014184165

RODRIGUEZA: \$54.00

Dana DeBeauvoir, County Clerk

Travis County TEXAS

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.