

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY CITY COUNCIL.**

AN ORDINANCE

**AUTHORIZING THE GRANTING AN AERIAL EASEMENT OVER
APPROXIMATELY 0.30 OF AN ACRE OF CITY PROPERTY
LOCATED IN NCB 789 ON SAN PEDRO AVENUE IN COUNCIL
DISTRICT 1 TO AMERICAN PAYROLL INSTITUTE PROPERTIES
INC.**

* * * * *

WHEREAS, The 2012 - 2017 General Obligation Bond provides \$40 million for the Downtown Streets Reconstruction Project; and

WHEREAS, The full reconstruction of the intersection at the junction of San Pedro, North Main, Navarro, Buffalo Run, Camden and Soledad, is one of the five areas included in Downtown Streets Reconstruction project; and

WHEREAS, In order to accomplish this design, the City needs to acquire property from three parcels along the west side of San Pedro; and

WHEREAS, Staff is currently negotiating with the property owners for the necessary right of way and is recommending granting an aerial easement for an area which is not needed by the City; and

WHEREAS, The transfer of this property will allow the owners to maintain lots large enough for development and is expected to decrease project land acquisition costs; **NOW THEREFORE**,

SECTION 1. The City Manager and her designee, severally, are authorized to grant an aerial easement to American Payroll Institute Properties Inc. consisting of approximately 3,235 square feet over the property described as a 0.30 acre tract out of NCB 789, called Parcel II, as described and in substantially the form attached as **Exhibit A**, if needed in order to complete the Downtown Streets Reconstruction Project. The City Manager and her designee, severally, are further authorized and directed to execute and deliver all other documents and instruments necessary or convenient to effectuate the transactions contemplated by this ordinance and otherwise to do all things necessary or convenient to effectuate the transaction.

SECTION 2. The aerial easement of the property described as 0.30 acre tract out of NCB 789, called Parcel II, which may be conveyed to American Payroll Institute Properties Inc., must be coordinated through the city's Finance Department to assure the removal of this asset from the City's financial records and to record the proper accounting transactions.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the

City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 4. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under City Code of San Antonio § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this _____ day of _____, 2016.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Martha G. Sepeda, Acting City Attorney

EXHIBIT A

Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All the Following Information from Any Instrument That Transfers an Interest in Real Property Before it Is Filed for Record in the Public Records: Your Social Security Number or Your Driver's License Number.

State of Texas }
 }
County of Bexar }

Aerial Easement

Authorizing Ordinance:

Grantor: City of San Antonio, a Texas municipal corporation

Grantor's Mailing Address: City Of San Antonio, P.O. Box 839966, San Antonio, Texas 78283-3966 (Attn: City Clerk)

Grantor's Street Address: City Hall, 100 Military Plaza, San Antonio, Texas 78205 (Bexar County)

Grantee: American Payroll Institute Properties, Inc.

Grantee's Mailing Address: 660 N. Main Ave
San Antonio, TX 78205

Consideration: \$10 in hand paid and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged.

Aerial Easement Area: All of the following real property situated within the corporate limits of the City of San Antonio, Bexar County, Texas, being described as follows:

more particularly described by metes and bounds and shown by survey on **Exhibit "1"** attached hereto and incorporated herein verbatim for all purposes.

GRANT OF EASEMENT

Grantor, for itself, its successors and assigns, does hereby grant to American Payroll Institute Properties, Inc. ("Grantee"), a permanent aerial easement ("Aerial Easement") for the purpose of installing, repairing, replacing and maintaining a portion of Grantee's building, said Aerial Easement Area to begin at elevation 665.3 and continue above in front of Grantee's

property located on San Pedro Avenue in NCB 789. It is a condition of the granting of this Aerial Easement that any use under the easement shall in no way interfere or conflict with Federal Aviation Regulations, 14 CFR Part 77 (The Safe, Efficient Use, and Preservation of the Navigable Air Space) or any successor statute. Grantor may revoke this grant of easement for breach of this condition by filing an instrument in the Deed and Plat Records but must first notify Grantee in writing prior to filing any such instrument.

Said Aerial Easement Area is shown and described in Exhibit 1, which is incorporated into this document for all purposes as if fully set forth.

No rights are granted to the Grantee to use the area below the Aerial Easement Area. Grantee shall not place structures, fences, posts, wires, pipes, signs, conduits, or the like below the Aerial Easement Area. Grantee shall perform or cause to be performed all maintenance necessary to maintain the Aerial Easement Area in good order, repair, and condition.

Grantee understands and agrees that the right of way underneath and above the Aerial Easement Area remains fully accessible for Grantor and public use.

Grantee agrees to release and hold harmless the Grantor from and against any and all claims, losses, actions, damages, liabilities, and expenses that may be incurred or occasioned in, on, under or about the Aerial Easement Area.

To have and to hold the Aerial Easement hereby granted unto the Grantee, its heirs and assigns, as appurtenant to the said land of the Grantee. Said Aerial Easement shall run with the land, but may be extinguished by written consent of both Grantor and Grantee.

In Witness Whereof, Grantor has caused its representative to set its hand:

Grantor:
City of San Antonio,
a Texas municipal corporation

By: _____

Printed
Name: _____

Title: _____

Date: _____

Attest:

By: _____
City Clerk

Grantee:

By: _____

Printed
Name: _____

Title: _____

Date: _____

Approved As To Form:

By: _____
City Attorney

The State of Texas }

County of Bexar }

Before me, the undersigned authority, this instrument was this day acknowledged by _____, of and for the City of San Antonio, a Texas municipal corporation, on behalf of that entity in the capacity stated.

Date: _____

Notary Public, State of Texas

My Commission Expires: _____

After Recording, Return To:

DRAFT

EXHIBIT 1

The vertical elevation of the aerial easement shall begin at elevation 665.3 and continue above provided that any use under the easement shall in no way interfere or conflict with Federal Aviation Regulations, 14 CFR Part 77 (The Safe, Efficient Use, and Preservation of the Navigable Air Space) or any successor statute.

The horizontal area for the easement shall be as indicted below:

VICKREY & ASSOCIATES, Inc.
CONSULTING ENGINEERS

Sheet 1 of 3

METES AND BOUNDS DESCRIPTION
0.0033-ACRE AERIAL EASEMENT OUT OF LOT 3, NEW CITY BLOCK 789
CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS

Being a 0.0033-acre (143 square feet) aerial easement out of Lot 3, New City Block 789, as shown on the E.G. Trueheart Engineer's Office Block Map, Book "X", Page 49, dated May of 1901, said 0.0033-acre easement being out of that tract of land conveyed from Compass Bank to American Payroll Institute Properties, Inc. by Special Warranty Deed recorded in Volume 8259, Page 1530, Official Public Records of Real Property (O.P.R.) of Bexar County, Texas (all records cited herein are recorded in Bexar County, Texas), and out of a proposed right-of-way taking for San Pedro Ave., said 0.0033-acre easement being more particularly described as follows, with all bearings being referenced to North American Datum of 1983, Texas Coordinate System, South Central Zone (4204):

COMMENCING at a found chiseled "X" on concrete on the existing southwest right-of-way (R.O.W.) line of San Pedro Ave. (variable width R.O.W.), same point also being the most northerly corner of said Lot 3;

THENCE S56°08'29"W, along the northwest line of said Lot 3, at a distance of 2.36 feet passing the most easterly corner of Lot 12, Block 1, New City Block 789, Jackson Subdivision, recorded in Volume 9592, Page 136, Deed and Plat Records, continuing along the common line of said Lot 3 and Lot 12, a total distance of 34.45 feet to a non-tangent point of curvature to the left on the proposed south R.O.W. line of said San Pedro Ave.;

THENCE departing said common line, into and across said Lot 3 and along the proposed south R.O.W. line of San Pedro Ave., along said curve to the left, an arc length of 6.64 feet, with a radius of 81.00 feet, a central angle of 4°41'41", and a chord bearing and distance of S57°48'52"E, 6.63 feet to a non-tangent point of curvature to the right, for the **POINT OF BEGINNING** and most westerly corner of the herein described easement;


THENCE continuing into and across said Lot 3, departing said proposed south R.O.W. line, into and across said proposed San Pedro R.O.W., along said curve to the right, an arc length of 43.41 feet, with a radius of 44.06 feet, a central angle of 56°27'14", and a chord bearing and distance of S62°11'37"E, 41.67 feet to a tangent point, for a corner of the herein described easement;

THENCE S34°11'22"E, continuing into and across said Lot 3 and proposed San Pedro R.O.W., a distance of 2.33 feet to a non-tangent point of curvature to the left, returning to the proposed south R.O.W. line of San Pedro Ave., for the southeast corner of the herein described easement;

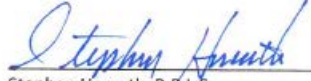
THENCE continuing into and across said Lot 3, along said proposed south R.O.W. line of San Pedro Ave., along said curve to the left, an arc length of 35.80 feet, with a radius of 184.00 feet, a central angle of 11°08'46", and a chord bearing and distance of N60°15'34"W, 35.74 feet to a point of reverse curvature, for a corner of the herein described easement;

THENCE continuing into and across said Lot 3 and along said proposed south R.O.W. line of San Pedro Ave., along said reverse curve, an arc length of 8.02 feet, with a radius of 81.00 feet, a central angle of 5°40'14", and a chord bearing and distance of N62°59'50"W, 8.01 feet returning to the **POINT OF BEGINNING** and containing 0.0033 of an acre (143 square feet) of easement.

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Certified on this 15th day of January, 2016

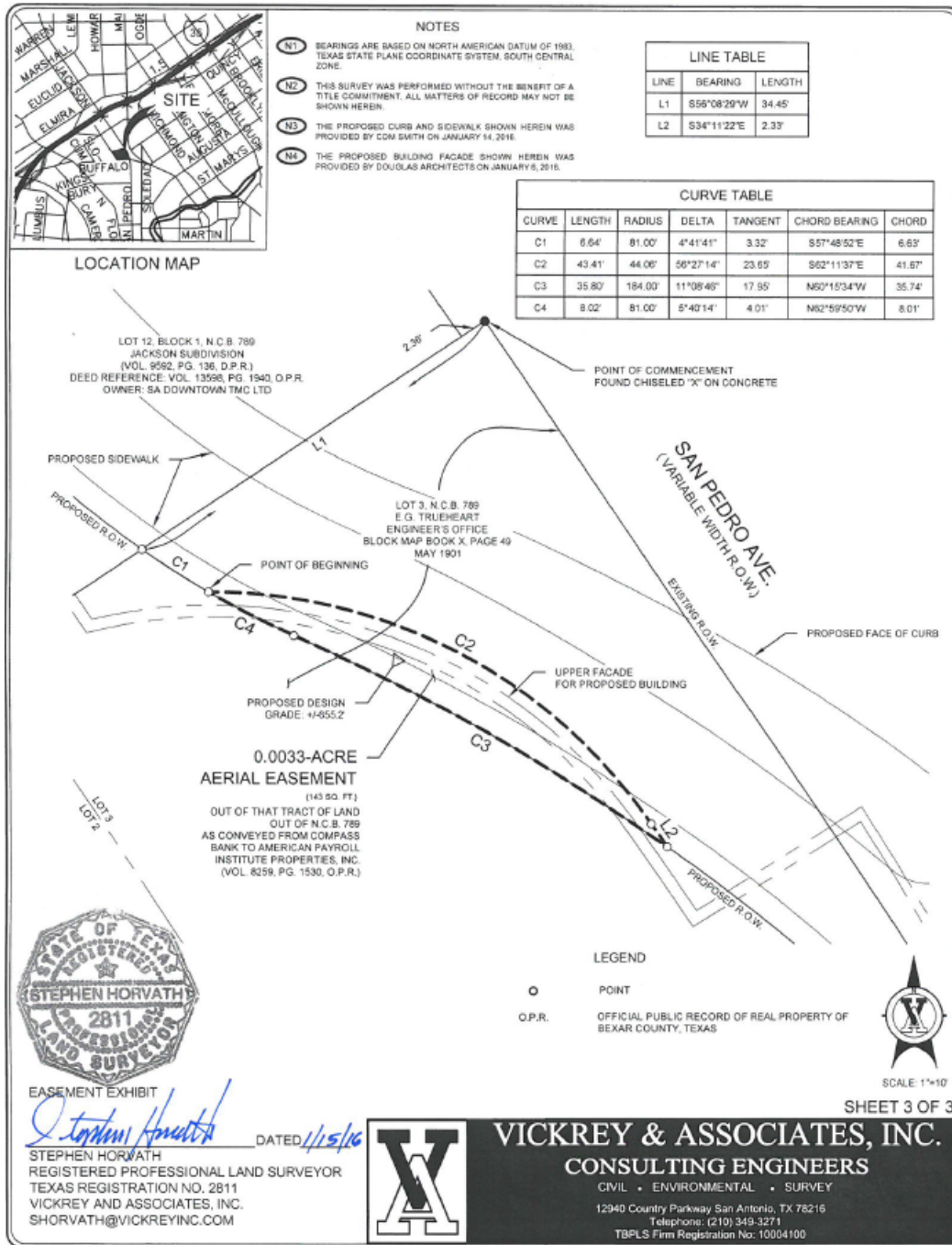


Stephen Horvath, R.P.L.S.
Registered Professional Land Surveyor
Texas Certified Registration #2811
Vickrey & Associates, Inc.



Job No. 2520-001-105
January 15, 2016





DRAWN BY: R.M.A.

APPROVED BY: S.H.

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METES AND BOUNDS DESCRIPTION
0.0096-ACRE AERIAL EASEMENT OUT OF LOT 3, NEW CITY BLOCK 789
CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS

Being a 0.0096-acre (418 square feet) aerial easement out of Lot 3, New City Block 789, as shown on the E.G. Trueheart Engineer's Office Block Map, Book "X", Page 49, dated May of 1901, said 0.0096-acre easement being out of that tract of land conveyed from Compass Bank to American Payroll Institute Properties, Inc. by Special Warranty Deed recorded in Volume 8259, Page 1530, Official Public Records of Real Property (O.P.R.) of Bexar County, Texas (all records cited herein are recorded in Bexar County, Texas), and out of a proposed right-of-way taking for San Pedro Ave., said 0.0096-acre easement being more particularly described as follows, with all bearings being referenced to North American Datum of 1983, Texas Coordinate System, South Central Zone (4204):

COMMENCING at a found chiseled "X" on concrete on the existing southwest right-of-way (R.O.W.) line of San Pedro Ave. (variable width R.O.W.), same point also being the most northerly corner of said Lot 3;

THENCE S56°08'29"W, along the northwest line of said Lot 3, at a distance of 2.36 feet passing the most easterly corner of Lot 12, Block 1, New City Block 789, Jackson Subdivision, recorded in Volume 9592, Page 136, Deed and Plat Records, continuing along the common line of said Lot 3 and Lot 12, a total distance of 34.45 feet to a non-tangent point of curvature to the left on the proposed south R.O.W. line of said San Pedro Ave.;

THENCE departing said common line, into and across said Lot 3 and along the proposed south R.O.W. line of San Pedro Ave., the following two (2) calls:

along said curve to the left, an arc length of 14.65 feet, with a radius of 81.00 feet, a central angle of 10°21'55", and a chord bearing and distance of S60°38'59"E, 14.63 feet to a point of reverse curvature, and

along said reverse curve, an arc length of 40.95 feet, with a radius of 184.00 feet, a central angle of 12°45'09", and a chord bearing and distance of S59°27'22"E, 40.87 feet to the **POINT OF BEGINNING** and most westerly corner of the herein described easement;

THENCE N57°54'58"E, continuing into and across said Lot 3, departing said proposed south R.O.W. line, into and across said proposed San Pedro R.O.W., at a distance of 10.42 feet passing the existing southwest R.O.W. line of San Pedro Ave., continuing into and across said existing San Pedro Ave. R.O.W., a total distance of 14.68 feet to a point, for the north corner of the herein described easement;

THENCE continuing into and across said existing San Pedro Ave. R.O.W., the following two (2) calls:

S32°00'06"E, 60.93 feet to a point, for a corner of the herein described easement, and

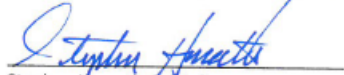
S03°00'56"E, a distance of 4.90 feet to a non-tangent point of curvature to the left on the proposed southwest R.O.W. line of San Pedro Ave, for the most southerly corner of the herein described easement;



THENCE continuing along said proposed southwest R.O.W. line of San Pedro Ave, along said curve to the left, at an arc length of 1.94 feet passing the existing southwest R.O.W. line of San Pedro Ave, continuing into and across said Lot 3, a total length of 66.71 feet, with a radius of 184.00 feet, a central angle of 20°46'25", and a chord bearing and distance of N42°41'35"W, 66.35 feet returning to the **POINT OF BEGINNING** and containing 0.0096 of an acre (418 square feet) of easement.

Job No. 2520-001-105
January 15, 2016

Certified on this 15th day of January, 2016



Stephen Horvath, R.P.L.S.
Registered Professional Land Surveyor
Texas Certified Registration #2811
Vickrey & Associates, Inc.



