

CITY OF SAN ANTONIO

DEPARTMENT OF ASSET MANAGEMENT  
CITY COUNCIL AGENDA MEMORANDUM

**TO:** Mayor and City Council

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

**DATE:** Thursday, August 11, 2005

**SUBJECT:** S. P. No. 1200—Request for a license to use Public Rights of Way over and under East Houston and Broadway Streets, and Peacock Alley adjacent to the Neisner Building at 409 East Houston Street

**PETITIONER:** BP Neisner, Ltd.; c/o Post Oak Development of TX, Inc.  
Attn: Kurt Salisbury, VP/Development  
603 Navarro St., Suite M-2  
San Antonio, TX 78205

**SUMMARY AND RECOMMENDATIONS**

This Ordinance will grant a license to use Public Rights of Way over and under East Houston and Broadway Streets, and Peacock Alley for seven (7) new balconies, a new handrail, an existing sidewalk, a new cornice, an existing canopy and an existing basement at the adjacent Neisner Building at 409 East Houston Street in NCB 417 in Council District No.1, for a 10-year term and the consideration of \$32,216.00 which has been waived in accordance with the 100% reduction provided under the City's Incentive Scorecard Program passed and approved by City Council on May 29, 2003.

Staff recommends approval of this Ordinance.

**BACKGROUND INFORMATION**

Petitioner is requesting a license to use Public Rights of Way over and under East Houston and Broadway Streets, and Peacock Alley for new balconies and cornice, an existing sidewalk, canopy, and basement at the Neisner Building at 409 E. Houston St. adjacent to NCB 417 as shown on attached Exhibit "A." Petitioner plans to restore and rehabilitate this historic building by developing the ground floor as retail space and floors two through eight as residential. Currently, the building contains four stories; however, development will include four more floors, along with the addition of the cornice and seven balconies over Peacock Alley, one per each floor, two through eight. All balconies will be 10' 6 1/2 " wide, extend 6' 5 1/2" from the building and the second floor balcony will be elevated 16' 5 1/2" from the ground. The existing canopy encroaches over and the existing basement under East Houston and Broadway Streets; and the existing sidewalk is on Peacock Alley.

**POLICY ANALYSIS**

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

**FISCAL IMPACT**

The fee established for this license is \$32,216.00 which has been waived in accordance with the 100% reduction provided under the City's Incentive Scorecard Program passed and approved by City Council on May 29, 2003.

**COORDINATION**

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

**SUPPLEMENTARY COMMENTS**

The City of San Antonio's Planning Commission recommended approval of this request at its regular meeting of 7/13/2005.

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

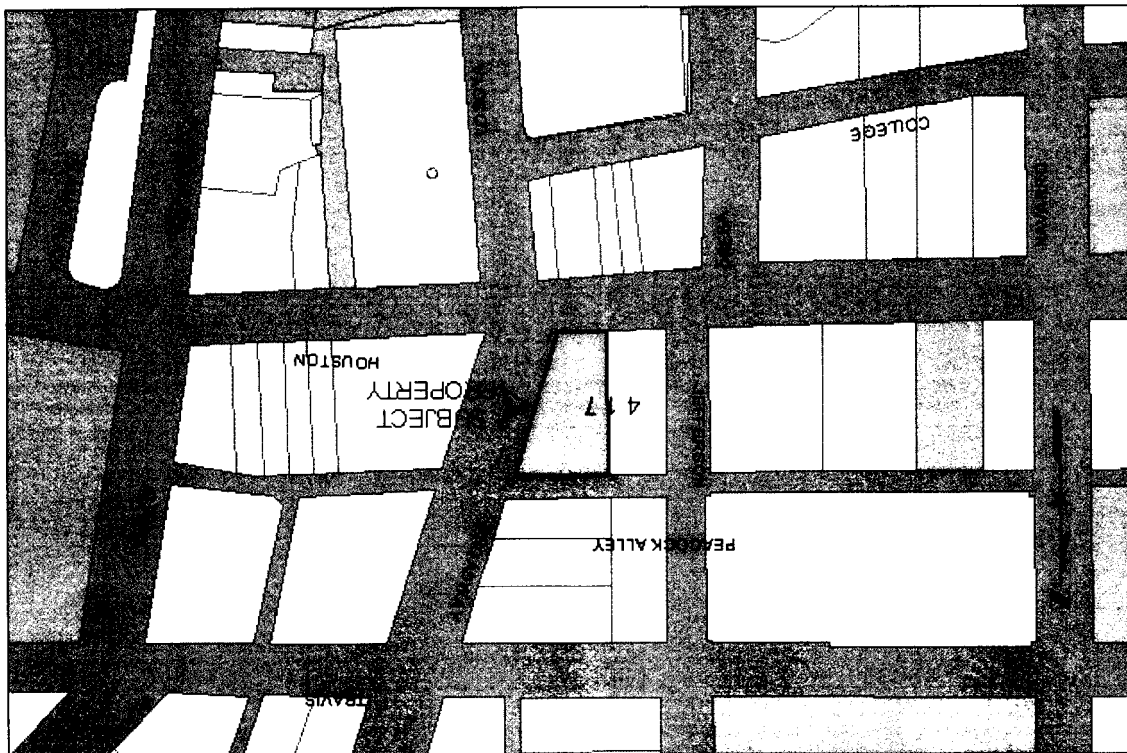
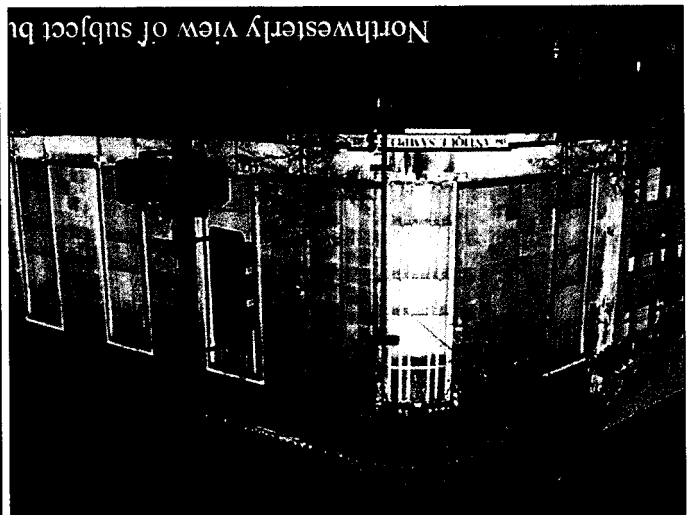


Rebecca Waldman, Director  
Department of Asset Management



Erik J. Walsh  
Assistant to the City Manager

# Exhibit "A"



# Canvassing Checklist

SPNo **1200**

**Request:** Petitioner is requesting a license to use Public Rights of Way over and under East Houston and Broadway Streets, and Peacock Alley for new balconies and cornice, an existing sidewalk, canopy, and basement at the Neisner Building at 409 E. Houston St. adjacent to NCB 417 as shown on attached Exhibit "A." Petitioner plans to restore and rehabilitate this historic building by developing the ground floor as retail space and floors two through eight as residential. Currently, the building contains four stories; however, development will include four more floors, along with the addition of the cornice and seven balconies over Peacock Alley, one per each floor, two through eight. All balconies will be 10' 6 1/2 " wide, extend 6' 5 1/2" from the building and the second floor balcony will be elevated 16' 5 1/2" from the ground. The existing canopy encroaches over and the existing basement under East Houston and Broadway Streets; and the existing sidewalk is on Peacock Alley.

	Included in Canvassing	Out Date	In Date	Uncond. Approval	Conditional Approval	Denial
Planning Department	<input checked="" type="checkbox"/>	3/4/2005	5/11/2005	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PublicWorks	<input checked="" type="checkbox"/>	3/4/2005	4/27/2005	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Development Services	<input checked="" type="checkbox"/>	3/4/2005	3/8/2005	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police Department	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire Department	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parks and Recreation	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neighborhood Action (NAD)	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
City Public Service	<input checked="" type="checkbox"/>	3/4/2005	4/7/2005	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
S.A. Water System (SAWS)	<input checked="" type="checkbox"/>	3/4/2005	3/11/2005	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TXDOT	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
S.A. River Authority (SARA)	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VIA Metropolitan	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental Services	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other Agency	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neighborhood Association	<input checked="" type="checkbox"/>	3/4/2005		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Canvassing Comments

DOWNTOWN RESIDENTS ASSN.; ATTN: TOM REEDY; 105 S. ST. MARY'S, SUITE 1214; 78205 - NO RESPONSE RECEIVED.



# CITY OF SAN ANTONIO

June 10, 2005

DEPARTMENT OF ASSET MANAGEMENT  
P.O. BOX 839966 SAN ANTONIO, TEXAS 78283-3966  
TEL. 210-207-4032 FAX 210-207-7888

BP Neisner Building, Ltd.  
c/o Post Oak Development of Texas, Inc.  
Attn: Kurt Salisbury, VP/Development  
603 Navarro St., Suite M-2  
San Antonio, Texas 78205

Re: S. P. No. 1200—Request for a License to use Public Rights of Way over and under East Houston and Broadway Streets, and Peacock Alley for the construction of several balconies, a cornice and a hand rail; and existing basement, sidewalk and canopy adjacent to NCB 417

Dear Mr. Salisbury:

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

## PLANNING DEPARTMENT

Approved provided proposed improvements do not interfere, but should enhance pedestrian streetscape, i.e. American Disabilities Act compliant sidewalks, shade, benches, etc.

## PUBLIC WORKS DEPARTMENT

Approved provided proposed improvements underneath the canopy allow for pedestrian protected zone as per American Disabilities Act (ADA) standards; and all proposed improvements should meet City of San Antonio accessibility requirements and ADA standards. Also, parking meters cannot be impacted by construction.

## DEVELOPMENT SERVICES DEPARTMENT

Approved provided construction plans are submitted for review and proper permits are obtained; and site is platted in accordance with the Unified Development Code.

## SAN ANTONIO WATER SYSTEM

Approved provided perpetual easements are reserved for all existing water and/or sewer facilities and petitioners must allow access to any such utilities for inspection, operational and maintenance purposes.

*The fee established for this license agreement is \$32,216.00 for a 10-year term; which has been waived in accordance with the 100% reduction provided under the Incentive Scorecard Program. However, a Certificate of Insurance must be provided and the City of San Antonio must be formally released from any and all liabilities, which may be incurred in connection with this request.*

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

If you concur with the above mentioned conditions, please countersign this letter in the space provided below and return to the undersigned. *Upon receipt of this signed Letter of Agreement, the License Agreement, the Certificate of Insurance and the Discretionary Contracts Disclosure form, we will continue processing your request.*

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

Sincerely,



Shawn P. Eddy  
Special Projects Manager  
Property Disposition Division

SPE/ma

AGREED AS TO TERMS AND CONDITIONS:

**PETITIONER**

Print Name

Title

Date

President

6-16-05

**City of San Antonio**  
**Discretionary Contracts Disclosure**

*For use of this form, see Section 2-59 through 2-61 of the City Code (Ethics Code)  
Attach additional sheets if space provided is not sufficient.*

(1) Identify any individual or business entity<sup>1</sup> that is a **party** to the discretionary contract:

BP NEISNER BUILDING, LTD.

(2) Identify any individual or business entity which is a **partner, parent** or **subsidiary** business entity, of any individual or business entity identified above in Box (1):

☐ No partner, parent or subsidiary; or

List partner, parent or subsidiary of each party to the contract and identify the corresponding party:

\* BARUCH PROPERTIES

\* POST OAK DEVELOPMENT OF TEXAS, INC.

(3) Identify any individual or business entity that would be a **subcontractor** on the discretionary contract.

☒ No subcontractor(s); or

List subcontractors:

(4) Identify any **lobbyist** or **public relations firm** employed by any party to the discretionary contract for purposes related to seeking the discretionary contract.

☒ No lobbyist or public relations firm employed; or

List lobbyists or public relations firms:

<sup>1</sup> A business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law. A sole proprietor should list the name of the individual and the d/b/a, if any.

**(5) Political Contributions**

List all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made to any *current* or *former member* of City Council, any *candidate* for City Council, or to any *political action committee* that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under Box (1), (2), (3) or (4) above, or by the officers, owners of any business entity listed in Box (1), (2) or (3):

☐ No contributions made; If contributions made, list below:

By Whom Made:	To Whom Made:	Amount:	Date of Contribution:
POST OAK DEV. OF TEXAS, INC.	JULIAN CASTRO - CASTRO FOR MAYOR	\$1,000.00	MARCH, 2005
POST OAK DEV. OF TEXAS, INC.	JULIAN CASTRO - CASTRO FOR MAYOR	\$1,000.00	MAY, 2005

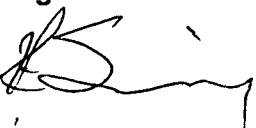
**(6) Disclosures in Proposals**

Any individual or business entity seeking a discretionary contract with the city must disclose any known facts which, reasonably understood, raise a question<sup>2</sup> as to whether any city official or employee would violate Section 2-43 of the City Code (Ethics Code), ("conflicts of interest") by participating in official action relating to the discretionary contract.

☒ Party not aware of facts which would raise a "conflicts-of-interest" issue under Section 2-43 of the City Code; or

Party aware of the following facts:

This form is required to be supplemented in the event there is any change in the information before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed, whichever occurs first.

<b>Signature:</b> 	<b>Title:</b> VPT DEVELOPMENT <b>Company or D/B/A:</b> POST OAK DEVELOPMENT OF TEXAS, INC.	<b>Date:</b> JUNE, 17, 2005
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<sup>2</sup> For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.