

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, February 9, 2006

SUBJECT: S. P. No. 489—Petitioner requests renewal of a license agreement to continue use of Public Rights of Way over and under East Houston and Navarro Streets and Peacock Alley adjacent to the South Texas Building in NCB 407

PETITIONER: BP South Texas Building, Ltd.
c/o Post Oak Development of Texas, Inc.
Attn: Lynn Juarez, Vice President
603 Navarro St., #M-2
San Antonio, Texas 78205

SUMMARY AND RECOMMENDATIONS

This Ordinance will grant a license to use Public Rights of Way over and under portions of East Houston and Navarro Streets and Peacock Alley for an existing tunnel, basement and other encroachments at the adjacent South Texas Building at 603 Navarro Street in NCB 407 in Council District No.1, for a 10-year term and the consideration of \$38,727.00 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 agreement for the continued use of Public Rights of Way over and under East Houston and Navarro Streets and Peacock Alley for existing encroachments consisting of a tunnel that extends to the City-owned Houston Street Garage, a basement under Houston Street, roof cornices over Houston and Navarro Streets and Peacock Alley, three (3) ornamental balconies over Houston Street, eight (8) oversized concrete planters on Houston and Navarro Streets, two (2) light sconces over Houston Street, and a fire escape and sidewalk over Peacock Alley adjacent to the South Texas Building in NCB 407 as shown on attached Exhibit "A." The new owner of the South Texas Building is planning to renovate and construct residential condo units and new commercial and retail space. Petitioner has applied for City's Incentive Scorecard Program and received a total project score of 100% based on a \$15 million investment to rehabilitate an historic building and develop market rate housing (60 units) within the Central Business District (CBD). The South Texas Building has a separate lease agreement to use parking spaces at the Houston Street Garage, which was approved by Ordinance No. 79090, passed and approved on November 10, 1993.

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

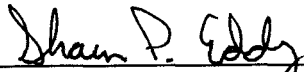
The fee established for this license is \$38,727.00 which has been waived in accordance with the 100% reduction provided under the City's Incentive Scorecard Program passed and approved by City Council on May 29, 2003.

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

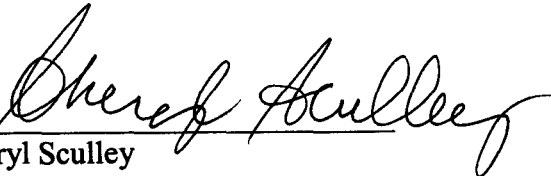
Executed Discretionary Contracts Disclosure Statement from petitioner(s) is attached.



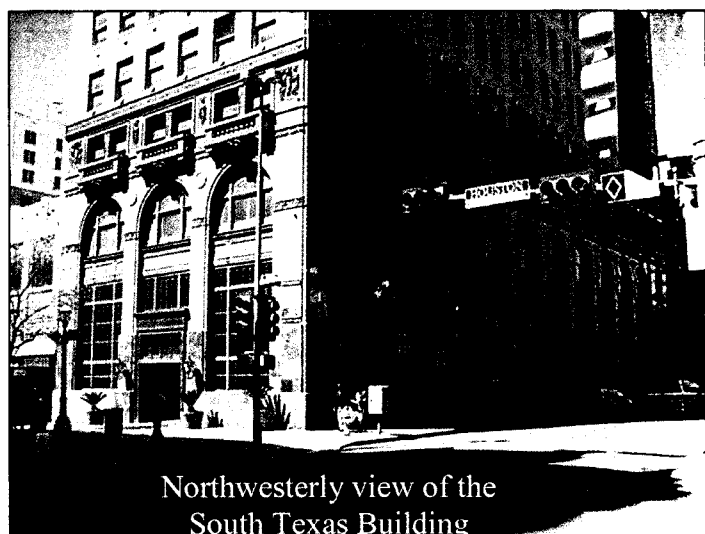
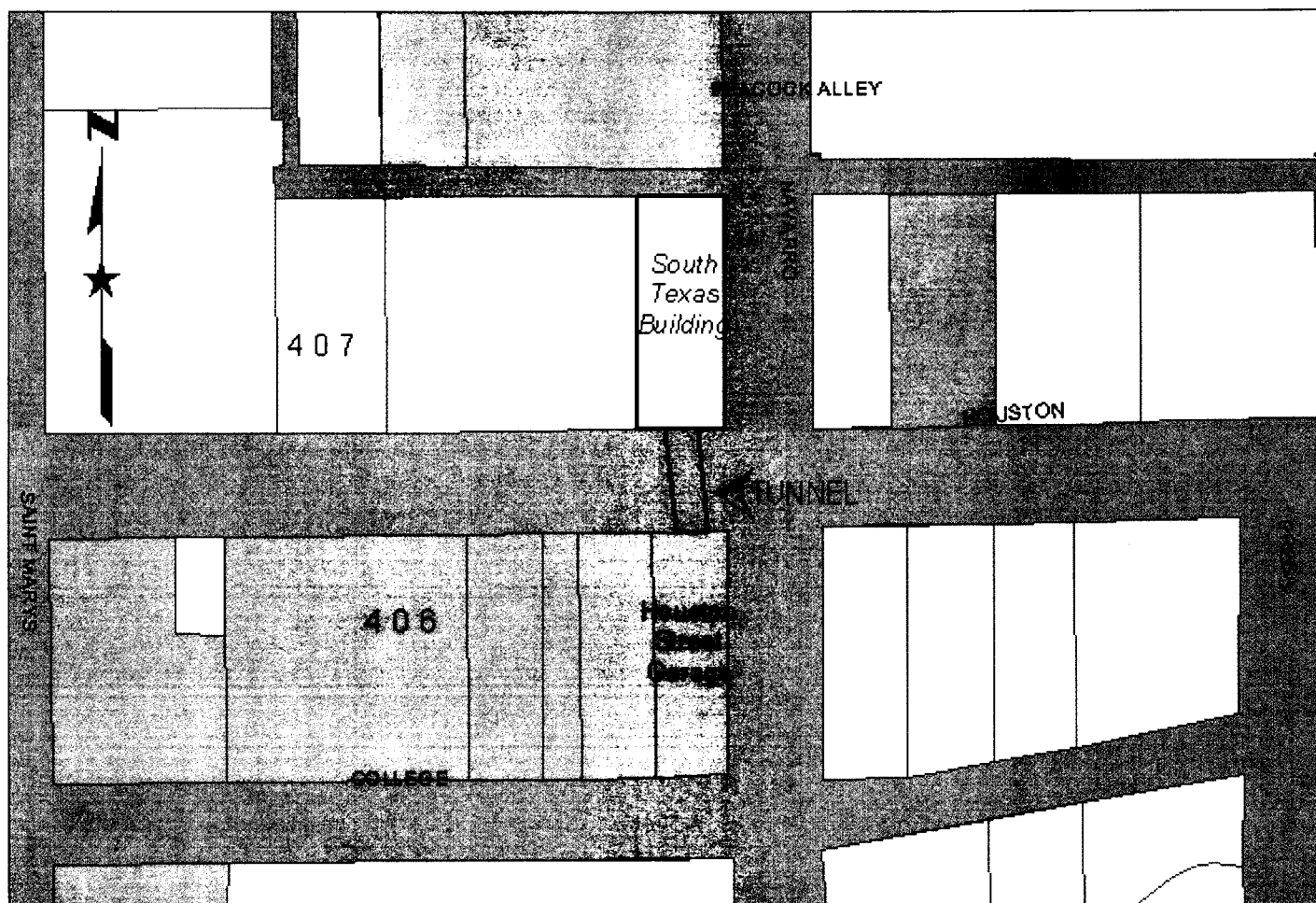
Shawn P. Eddy, Interim Director
Department of Asset Management



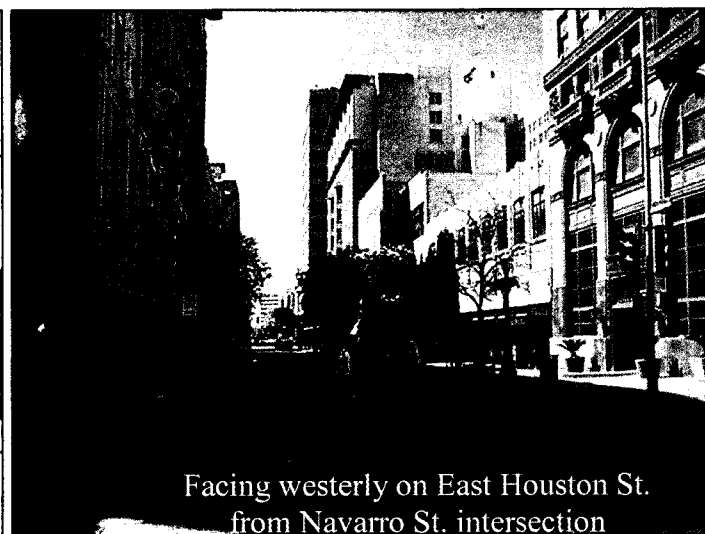
Erik J. Walsh
Assistant to the City Manager



Sheryl Sculley
City Manager



Northwesterly view of the
South Texas Building



Facing westerly on East Houston St.
from Navarro St. intersection

Exhibit "A"

S. P. No. 489

Petitioner: BP South Texas Building, Ltd.

Canvassing Checklist

SPNo **489**

Request: Petitioner is requesting a license agreement for the continued use of Public Rights of Way over and under East Houston and Navarro Streets and Peacock Alley for existing encroachments consisting of a tunnel that extends to the City-owned Houston Street Garage, a basement under Houston Street, roof cornices over Houston and Navarro Streets and Peacock Alley, three (3) ornamental balconies over Houston Street, eight (8) oversized concrete planters on Houston and Navarro Streets, two (2) light sconces over Houston Street, and a fire escape and sidewalk over Peacock Alley adjacent to the South Texas Building in NCB 407 as shown on attached Exhibit "A." The new owner of the South Texas Building is planning to renovate and construct residential condo units and new commercial and retail space. Petitioner has applied for City's Incentive Scorecard Program and received a total project score of 100% based on a \$15 million investment to rehabilitate an historic building and develop market rate housing (60 units) within the Central Business District (CBD). The South Texas Building has a separate lease agreement to use parking spaces at the Houston Street Garage, which was approved by Ordinance No. 79090, passed and approved on November 10, 1993.

	Included in Canvassing	Out Date	In Date	Uncond. Approval	Conditional Approval	Denial
Planning Department	<input checked="" type="checkbox"/>	4/18/2005	6/7/2005	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PublicWorks	<input checked="" type="checkbox"/>	4/18/2005	7/13/2005	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Development Services	<input checked="" type="checkbox"/>	4/18/2005	7/22/2005	<input checked="" type="checkbox"/>	<input 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"/>	4/18/2005	5/25/2005	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
S.A. Water System (SAWS)	<input checked="" type="checkbox"/>	4/18/2005	4/26/2005	<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"/>	4/18/2005		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Canvassing Comments

DOWNTOWN RESIDENTS ASSOCIATION, TOM REEDY, 105 ST. MARY'S, SUITE 1214, 78205 - NO RESPONSE WAS RECEIVED.



CITY OF SAN ANTONIO

November 8, 2005

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

BP South Texas Building, Ltd.
c/o Kaufman & Associates, Inc.
Attn: Rob Killen
100 W. Houston St., Suite 1250
San Antonio, Texas 78205

Re: S. P. No. 489—Request for a License to use Public Rights of Way over and under East Houston and Navarro Streets, and Peacock Alley for an existing tunnel, basement, roof cornices, three (3) ornamental balconies, ~~three~~ ^{EIGHT} (7) oversized concrete planters, two (2) light sconces, a fire escape and a sidewalk adjacent to NCB 407

Dear Mr. Killen:

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:

CITY PUBLIC SERVICE

Approved provided that there are no excavations into Houston and Navarro Streets as well as Peacock Alley. Also, petitioner must agree to reserve a perpetual easement for all existing electrical and/or gas facilities and agree to allow perpetual access to any such utilities for inspection, operational and maintenance purposes.

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.

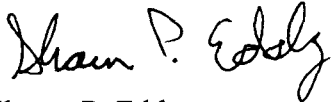
The fee established for this license agreement is \$38,727.00 for a 10-year term, which has been waived in accordance with the 100% reduction provided under the Incentive Scorecard Program. However, a Certificate of Insurance must be provided and the City of San Antonio must be formally released from 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 BP SOUTHTEXAS BUILDING, LTD
By: BP SOUTHTEXAS BUILDING GP, LLC

By 

SHAUL C. BARUCH
Print Name

MANAGER

Title

12-8-05

Date

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 entity¹ that is a **party** to the discretionary contract:

BP South Texas 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:

See attach list of partners

(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:

¹ 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:
Craig Glendenning, President of Post Oak Development of Texas, Inc.	Julian Castro for Mayor	\$2,000	3-4-05
	Phil Handwerker for Mayor	\$1,000	6-30-05
	Chip Naas	\$500	11-28-05
	Richard Perez	\$500	12-5-05
	Roger Flores	\$500	12-5-05
	Commissioner Robert Tejeda	\$1,000	2-26-04
	Kevin Wolff Campaign	\$500	12-3-04

(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 question² 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.

Signature:



Title: *Manager of BP South Texas Building GP, LLC,*
general Partner
Company or D/B/A:
BP South Texas Building Ltd.

Date: *12/19/05*

² 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.

List of Partners:
BP South Texas Building, Ltd.
a Texas limited partnership

Names

General Partner:

BP South Texas Building GP, LLC. (Owned 100% by Shaul Baruch)

Limited Partners:

ICG South Texas Building I, Ltd.

Gedalia Partnership, L.P.

Avnon Properties, Inc.

Jack Oved

Alanis Texas REI, Ltd.

Gary C. Morchower

Leonard Behr

Shlomo Barak

Craig Curry

Menashe Zipori

DRS No. 1 Family Limited Partnership

Shaul C. Baruch, Trustee (On behalf of Ron Mizrahi)

Thomas Tanner, Jr.

Aristo Plus, LLC

Baruch Properties

Post Oak Development of Texas, Inc.