

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

AN ORDINANCE

**APPROVING THE ASSIGNMENT OF A PARKING METER REMOVAL AND
RIGHT-OF-WAY ENCROACHMENT AGREEMENT FROM SAT NEISNER
TO HOTEL 409 EAST HOUSTON OPCP, LP, IN CITY COUNCIL DISTRICT 1.**

* * * * *

WHEREAS, on November 20, 2008, City Council approved Ordinance 2008-11-20-1034, which authorized a license and parking meter removal agreement with SAT Neisner, the owner of the Towneplace Suites Hotel at 409 E. Houston; and

WHEREAS, the agreement allowed for the removal of five parking meters from the west side of Broadway and further authorized a 1,876 square foot basement encroachment below portions of Broadway and E. Houston Street as well as two mechanical unit shelf areas that encroached above portions of the alley; and

WHEREAS, on January 27, 2017, the City received written notice from SAT Neisner, stating Towneplace Suites Hotel had been sold to 409 East Houston OPCP, L.P. and requesting the agreement be assigned to the hotel's new owner; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager and her designee, severally, are authorized and directed to execute and deliver on behalf of the City a consent agreement substantially in the form of **Attachment I**, which is incorporated by reference for all purposes as if fully set forth. The City Manager and her designee, severally, should take all other actions reasonably necessary or convenient to effectuate the transaction, including agreeing to non-material changes to the approved form and executing and delivering all ancillary instruments and agreements conducive to effectuating the transaction.

SECTION 2. Per the originating department and city system there is no fiscal language associated with this ordinance.

SECTION 3. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this **th** day of _____, **2017**.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney

DRAFT

Attachment I

CITY OF SAN ANTONIO CONSENT ASSIGNMENT OF PARKING AGREEMENT

WHEREAS, the City of San Antonio, a Texas Municipal Corporation (“**CITY**”), acting by and through its City Manager pursuant to Ordinance No. 2008-11-20-1034 (the “**Ordinance**”), passed and approved by the City Council on November 20, 2011, entered into that certain Parking Meter Removal Agreement (“**AGREEMENT**”) with **SAT Neisner LLC**, a Texas Limited Liability Corporation (“**ASSIGNOR**”), for the City to remove on-street parking meters, which is attached as **Exhibit A** and incorporated herein for all purposes; and

WHEREAS, **SAT Neisner LLC**, is current on payments under the **AGREEMENT**; and

WHEREAS, **SAT Neisner LLC**, desires, as **ASSIGNOR**, to convey and assign its interest under the **AGREEMENT** to **Hotel 409 East Houston OPCO, L.P.**, as **ASSIGNEE**; and

WHEREAS, said assignment requires the prior approval of **CITY**; and

WHEREAS, **ASSIGNEE** desires to assume from **ASSIGNOR** all of **ASSIGNOR’S** rights, title, interest, benefits, and obligations in and to the **AGREEMENT**, including payment of fees; and

WHEREAS, **CITY** desires to give its consent to **ASSIGNOR’S** assignment of **ASSIGNOR’S** interest in the **AGREEMENT** to **ASSIGNEE** and to **ASSIGNEE’S** assumption of **ASSIGNOR’S** obligations thereunder; **NOW THEREFORE**,

In consideration of the mutual covenants and agreements set forth below and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **CONVEYANCE AND ASSIGNMENT.** **ASSIGNOR** does hereby grant, bargain, sell, convey, assign, transfer, set over, and deliver to **ASSIGNEE** all of **ASSIGNOR’S** rights, title, and interest in and to the **AGREEMENT (the “ASSIGNMENT”)**, including and also without limitation, all of the rights, duties, obligations, and liabilities of **ASSIGNOR** in, to, and under the **AGREEMENT** to pay rent and to observe and perform all other covenants and duties of **ASSIGNOR** there under.
2. **ASSUMPTION.** By its execution hereof, **ASSIGNEE** acknowledges and accepts the **ASSIGNMENT** and delegation and expressly assumes, confirms and agrees to pay and perform, comply with and observe all of the covenants, agreements, terms, conditions, obligations, duties and liabilities of **ASSIGNOR** under the **AGREEMENT**, regardless of when such covenants, agreements, terms, conditions, obligations, duties and liabilities accrued, arose, or were incurred, together with all outstanding and future obligations of any kind whatsoever related thereto as and when due to be paid and performed.
3. **CONSENT.** **CITY** hereby consents to the assignment by **SAT Neisner LLC**, as **ASSIGNOR**, and the assumption by **Hotel 409 East Houston OPCO, L.P.**, as **ASSIGNEE**, of said **AGREEMENT**, originally approved by City Council pursuant to the Ordinance.

4. APPLICABLE LAW. This **ASSIGNMENT** and any actions arising out of or relating to this assignment shall be governed by and construed and interpreted in accordance with the laws of the state of Texas without regard to the conflict of law provisions thereof.
5. ACKNOWLEDGEMENT OF READING. The parties hereto acknowledge that they have thoroughly read this **ASSIGNMENT**, including any exhibits or attachments hereto, and have sought and received whatsoever competent advice and counsel which was necessary for them to form a full and complete understanding of their rights and obligations herein, each being represented by separate agents and/or attorneys, and having done so, do hereby execute this document.
6. REPRESENTATIONS AND WARRANTIES. **ASSIGNOR** and **ASSIGNEE** hereby represent and warrant that each has the full power, authority and right to execute, deliver and perform its obligations hereunder. The execution, delivery and performance by **ASSIGNEE** and **ASSIGNOR** of the **AGREEMENT** and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action.
7. AMENDMENTS. This agreement may be amended or modified only by an instrument in writing signed by **CITY**, **ASSIGNOR** and **ASSIGNEE**.
8. AMBIGUITIES NOT TO BE CONSTRUED AGAINST PARTY WHO DRAFTED CONTRACT. The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this assignment.
9. SUCCESSORS AND ASSIGNMENT. This consent and **ASSIGNMENT** shall be binding upon and inure to the benefit of the respective successors and permitted assigns of each of **CITY**, **ASSIGNOR** and **ASSIGNEE**; provided, however, that neither **ASSIGNOR** nor **ASSIGNEE** may assign or otherwise transfer its rights hereunder, without **CITY**'s prior written consent.
10. COUNTERPARTS. This **ASSIGNMENT** and consent may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument and any of the parties may execute this **ASSIGNMENT** by signing any such counterpart; provided, this **ASSIGNMENT** shall not become effective prior to **CITY** having received counterpart(s) signed by all of the intended parties.
11. SEVERABILITY. If any provision of this **ASSIGNMENT** shall be declared by any regulator or court of competent jurisdiction illegal, void or unenforceable (in whole or in part) for any reason, the remaining provisions of this **ASSIGNMENT** shall not be affected, but shall remain in full force and effect.
12. HEADINGS. Headings appearing herein are used solely for convenience and are not intended to affect the interpretation of any provision of this **ASSIGNMENT**.
13. PUBLIC INFORMATION. The parties acknowledge that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be

disclosed to the public. Nothing in this ASSIGNMENT waives an otherwise applicable exception to disclosure.

EXECUTED this the ____ day of _____, 2017.

ASSIGNOR:
SAT Neisner LLC,



Signature

ATUL PATEL

Printed Name

VP

Title

ASSIGNEE:
Hotel 409 East Houston OPCO, L.P.



Signature

Raymond Schwitz

Printed Name

Manager

Title

CITY OF SAN ANTONIO, a Texas Municipal Corporation

John Jacks, Interim Director,
Center City Development & Operations Dept.

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

License and Parking Meter Removal Agreement
(SAT Nohar, LLC)

This License Agreement ("License") is entered into between Licensee and the City of San Antonio ("Licensor") under the authority of the Authorizing Ordinance.

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I. Identifying Information.

Authorizing Ordinance: *2008-11-20-1034*

Project No. 1374

Licensee: SAT Neisner, LLC
Licensee's Address: 7300 Blanco Road, Ste. 701, San Antonio, Texas 78216
Term: 10 years
Fee: The licensing fee is waived in accordance with an incentive agreement between the parties. In exchange for Licensor's removal of parking meters associated with the parking spaces identified in Exhibit C, Licensee will reimburse Licensor for lost parking-meter revenue at a rate of \$11,061.30 per year for the term of this license.
Premises: A portion of the public rights of way of Houston Street, Broadway, and Peacock Alley, San Antonio, Bexar County, Texas encroached upon by Licensee within the Scope of the License. Field Notes and drawings depicting the Premises are attached as Exhibits A, B, and C.
Scope of License: Operation, use, maintenance, repair and replacement of an existing basement (Exhibit A), a mechanical unit shelter (Exhibit D), and five parking spaces (Exhibit C) encroaching on the Premises, solely for the purposes described below.
Effective Date: The effective date of the Authorizing Ordinance
Licensor's Address: City Clerk, City of San Antonio, P.O. Box 839966/2nd Floor, City Hall, San Antonio, Texas 78283-3966

2. Grant of License.

Licensor grants Licensee a license (License) to use, maintain, and operate the Premises within the Scope of the License. This License is limited to the stated Term and is conditioned on Licensee's payment of the Fee. This license does not relieve Licensee of any other approvals, permits, or licenses that may otherwise be required including but not limited to right-of-way management permits. This license is subject to all pre-existing rights of the San Antonio Water System, CPS Energy, telecommunications and cable companies, and others who have rights in the Premises. Licensor expressly disclaims a covenant of quiet enjoyment as to this License.

3. Restrictions on Use/Recording.

3.01. This License does not grant Licensee authority to use any public rights-of-way beyond the Premises.

3.02. This License grants only a privilege, not a real property interest. Licensor may enter the Premises at any time to assert its real property interest or for other purposes not interfering unreasonably with the Scope of License.

3.03. A Memorandum of License Agreement in form satisfactory to Licensor will be recorded by Licensor in the Official Public Records of Real Property of Bexar County, Texas. Licensee must pay the recording fees.

4. License Fee.

The License Fee has been waived as the result of an incentive agreement between the parties. In exchange for Licensor's removal of parking meters associated with the parking spaces identified in Exhibit C, Licensee will reimburse Licensor for lost parking-meter revenue at a rate of \$11,061.30 per year for the term of this license. The Fee must be delivered to: Downtown Operations Department/Parking Division, 243 N. Center Street, (c/o Kenneth Appedole, Parking and Enforcement Manager) San Antonio, Texas 78202 on or before the anniversary of the Effective Date each year.

5. Construction, Maintenance, and Operations.

5.01. **Costs.** Licensee is solely responsible for all costs of construction, installation, repairs, maintenance, operation, and the like of any property placed on the Premises.

5.02. **No Liability.** Licensor assumes neither liability nor expense under this License. Licensor is not liable to Licensee or otherwise for damage to the Premises arising from or related to activities of Licensor in the vicinity.

5.03. **Relocation.** If Licensor's needs require relocation, maintenance, or adjustment in the Premises or improvements by Licensee thereto, the relocation, maintenance, or adjustments will be at Licensee's sole cost and expense.

5.04. **Maintenance.** Licensee, at its sole cost and expense, must maintain all improvements it constructs or installs on the Premises. In so doing, Licensee must adhere to all applicable safety standards and must adhere to all applicable federal, state, or local laws, rules, or regulations.

5.05. **No Power to Bind.** Licensee cannot bind or permit another to bind Licensor for payment of money or for any other obligation.



5.06. **Contractors and Subcontractors.** Licensee must promptly pay anyone performing work on behalf of Licensee who could file a mechanics' or materialmen's lien on the Premises. If any such lien is filed, Licensor may treat it as an event of default and terminate this Licensee by delivering 45 days prior written notice to Licensee. But if the lien is removed or released of record within the notice period, this Licensee remains in effect. Licensee remains obligated to clear the lien without cost to Licensor even after termination.

6. Indemnity.

6.01. These definitions apply to the indemnity provisions of this Contract:

6.01.01. "Indemnified Claims" mean, all loss, cost, liability, or expense, directly or indirectly arising out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract, whether or not the person is a party to this agreement. Indemnified Claims include attorneys' fees and court costs and include claims arising from property damage and from personal or bodily injury, including death.

6.01.02. "Indemnitees" means the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

6.01.03. "Indemnitor" means Licensee.

6.02. Indemnitor must indemnify Indemnitees, individually and collectively, from all Indemnified Claims.

6.03. If Indemnitor and one or more Indemnitees are finally adjudged to be jointly liable for Indemnified Claim, Indemnitor need not further indemnify the so-adjudged Indemnitees from liability arising from the Indemnitees' adjudicated share of liability. But despite allegations of Indemnitee negligence, Indemnitor must nevertheless defend all Indemnitees until final adjudication. Indemnitor may not recover sums previously spent defending or otherwise indemnifying the Indemnitee who has been adjudged to be negligent and must continue to indemnify other Indemnitees.

6.04. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees.

6.05. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. Whether or not the City of San Antonio is an Indemnitee as to a particular Indemnified Claim, the City of San Antonio may require Indemnitor to replace the counsel Indemnitor has hired to defend Indemnitees. The City may also

require Indemnitor to hire specific-named counsel for so long as the named counsel's hourly rates do not exceed the usual and customary charges for counsel handling sophisticated and complex litigation in the locale where the suit is pending. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.

6.06. In addition to the indemnity required under this Contract, each Indemnitee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.

6.07. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnitee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any Indemnitee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the City of San Antonio is not an Indemnitee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind an Indemnitee must first be approved by City Council.

6.08. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.

6.09. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees and 95% by the Indemnitor. Indemnitor need look only to the City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.

7. Insurance.

701. Without limiting Licensor's rights to indemnity, Licensee must provide and maintain insurance, at its own expense, with companies admitted to do business in the State of Texas and with a rating of A- or better by A. M. Best and Company or provide evidence of self-insurance, in the following types and amounts:

Type	Amount
1. Worker's Compensation during the performance of improvements to the Premises or an approved alternate plan at other periods during the Term.	Statutory, with a waiver of subrogation in favor of Licensor
2. Employers' Liability during improvements to the	\$500,000 per category, with a

- | | |
|---|--|
| Premises or an approved alternate plan at other periods during the Term. | waiver of subrogation in favor of Licensor |
| 3. Commercial General (Public) Liability - to include coverage for the following where the exposure exists:
(a) Premises/Operations
(b) Independent Contractors
(c) Products/Completed
(d) Personal Injury Liability
(e) Contractual Liability
(f) Explosion, Collapse and Underground Property
(g) Broad Form Property Damage | For Bodily Injury and Property Damage: \$1,000,000 per Occurrence, \$2,000,000 general aggregate or its equivalent in Umbrella or Excess Liability coverage. |
| 4. Property Insurance -- for physical damage to the property of Licensor including improvements and betterments to the Premises. | Coverage for a minimum of 80% of the actual cash value of the improvements. |

Any substitute for Workers' Compensation and Employer's Liability must be approved in advance by Licensor's Risk Manager.

7.02. Licensor's Risk Manager may reasonably modify the above requirements if he determines the modification is in the Licensor's best interest. If Licensor believes the requested change is unreasonable, Licensor has 60 days to give notice of termination. The termination provisions then apply.

7.03. With respect to the above required insurance, each insurance policy required by this License must contain the following clauses:

"No insurance or self-insurance provided by Licensee can be canceled, limited in scope or coverage, or non-renewed until after 30 days' prior written notice has been given to:

Department of Capital Improvement Management Services
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966
Attention: Property Disposition Manager"

"Any insurance or self-insurance provided by Licensee is primary to any insurance or self-insurance maintained by the City of San Antonio."

"Any insurance or self-insurance maintained by the City of San Antonio applies in excess of, not in contribution with, insurance provided by this policy."

7.04. Each insurance policy required by this License, excepting policies for Workers' Compensation, Employer's Liability and Professional Liability, must contain the following clause:

"The City of San Antonio, its elected officials, employees, agents, and representatives are added as additional insureds."

7.05. Licensee must deliver to Licensor, within 30 days after the Effective Date, endorsements to the above-required policies adding the applicable clauses referenced above. Such endorsements must be signed by an authorized representative of the insurance company and show the signatory's company affiliation and title. Licensee must deliver to Licensor documentation acceptable to Licensor confirming the authority of those signing the endorsements.

7.06. The Notices and Certificates of Insurance must be provided to the same address as for notices of cancellation.

7.07. This License does not limit Licensee's liability arising out of or related to the Premises or Licensee's activities thereon.

7.08. Licensee waives all claims against Licensor for injury to persons or property on or about the Premises, whether or not caused by Licensor's negligence.

8. Termination.

8.01. Licensor may terminate this License at any time before expiration by giving Licensee 30 days' written notice.

8.02. Upon expiration or termination, all rights and privileges immediately cease, and Licensee must immediately cease use of the Premises. Licensor may direct Licensee to either (a) abandon the encroaching improvements and appurtenances, including lines and equipment; or (b) remove all or any part of them and restore the Premises, at Licensee's sole cost, to original condition. Improvements or appurtenances not removed within 90 days after termination, whether by expiration or otherwise, become the property of Licensor. Licensor may, without liability to Licensee, dispose of such property at a public or private sale, without notice to Licensee. Licensee is liable for Licensor's costs incurred in connection with Licensee's property.

9. Assignment/Sublicensing.

This License cannot be assigned or sublicensed, other than to Licensee's parent or subsidiaries. Licensee must give Licensor 30 days' written notice before such an assignment or sublicense. Licensee cannot lease or sublease the Premises.

10. Condemnation.

If the Premises are taken, in whole or in part, by eminent domain, Licenser may terminate this License as of the date title to the taken land vests in the condemning authority. Licensee waives any claim to condemnation proceeds paid to Licenser. Licensee may seek a separate condemnation award.

11. Attorney's Fees and Court Costs.

In any action in which Licensee is found to have materially defaulted hereunder, Licenser can recover from Licensee its reasonable attorney's fees.

12. Taxes and Licenses.

Licensee must pay, on or before the due date all federal, state, and local taxes, license fees, permit fees, and similar charges now or hereafter levied on Licensee or its property or on the Premises and arising from Licensee's use thereof.

13. Prohibited Interest in Contracts.

B.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (a) a City officer or employee;
- (b) his parent, child or spouse;
- (c) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (d) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

13.02. Licensee warrants and certifies as follows:

- (a) Licensee and its officers, employees and agents are neither officers nor employees of the City.
- (b) Licensee has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

13.03. Licensee acknowledges that City's reliance on the above warranties and certifications is reasonable.

14. Licensee Financing.

Licensee may encumber Licensee's personal property on the Premises, and any lien of Licensor (whether by statute or under this License) is subordinate to the financing lien. Licensor will acknowledge this subordination in writing, if the proffered documents do not modify the rights and obligations of this License. The City Manager or a designee may execute such documents, without a further ordinance. But if the documents modify the License, then a specific ordinance is required.

15. Lien for License Fee, Taxes, Fees and Other Charges.

Licensee grants Licensor a security interest in Licensee's property on the Premises. The security interest secures payment of the Fee and all taxes, fees, and other charges owing because of Licensee's use under this License. Licensee may dispose of the property free of the security interest in the ordinary course of business. At Licensor's request, Licensee must execute a financing statement.

16. Consent/Approval of Licensor.

When Licensor's consent and approval is called for under this License, the consent and approval may be granted or withheld by the Director of Capital Improvement Management Services, unless the City Charter requires Council action.

17. Appropriations.

All obligations of the City of San Antonio under this instrument are funded through the City of San Antonio General Fund and are subject to the discretion of City Council whether to appropriate funding for any given year of a term. The City need not pay any sum not appropriated by City Council.

18. Miscellaneous Provisions

18.01. Relationship Limited. This instrument creates only the relationship of Licensor and Licensee. The parties are not principal and agent, partners, joint venturers, or participants in any other enterprise between them.

18.02. Nondiscrimination. Licensee must not discriminate against any individual or group on account of race, color, gender, age, religion, national origin, or handicap, in employment practices or in the use of the Premises.

18.03. Release From Liability. If Licensor transfers the Premises, Licensor will have no liability relating to the period after transfer. Licensor's transferee will succeed to all Licensor's rights hereunder.

18.04. Yielding Up. Licensee must, at termination, whether by expiration or otherwise, yield the Premises up peacefully.

18.05. Authority to Execute. The party or parties executing this License on behalf of Licensee personally warrant that each of them has full authority to do so.

18.06. Acknowledgment of Reading. The parties acknowledge reading this License, including exhibits or attachments, and have received the advice and counsel necessary to form a complete understanding of their rights and obligations. Having so done, they execute this License freely and voluntarily.

18.07. Applicable Law. The Construction Of This License And The Rights, Remedies, And Obligations Arising Thereunder Are Governed By The Laws Of The State Of Texas. But the Texas conflicts of law rules must not cause the application of the laws of a jurisdiction other than Texas. The obligations of both parties are performable in San Antonio, Bexar County, Texas.

18.08. Severability. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

18.09. Successors. This License inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

18.10. Integration. This Written License Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.

18.11. Modification. This License may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either (i) any other term or (ii) the same term or condition as it applies on a subsequent or previous occasion.

18.12. Third Party Beneficiaries. This License is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries.

18.13. **Notices.** Notices must be in writing and by certified mail, return receipt requested. Notice is complete three days after deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice. Unless changed, notice to Licensee goes to Licensee's address specified at the beginning, and notice to Licensor goes to:

City Clerk		Director, Capital Improvement
City of San Antonio		Management Services
F.O. Box 839966	With a copy	City of San Antonio
San Antonio, Texas 78283-3966	to	F.O. Box 839966
		San Antonio, Texas 78283-3966

18.14. **Pronouns.** In construing this License, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire License, not to any particular provision of it.

18.15. **Captions.** Paragraph captions in this License are for ease of reference only and do not affect the interpretation hereof.

18.16. **Counterparts.** This License may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this License, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

18.17. **Further Assurances.** The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. But no such additional document(s) may alter the rights or obligations of the parties under this License.

18.18. **Ambiguities Not to Be Construed Against Drafter.** Ambiguities in this License must be resolved without constructing against the drafter.

19. Public Information.

Licensee acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

In Witness Whereof, the parties have caused their representatives to set their hands:

Licensors:	Licensee:
City of San Antonio, a Texas municipal corporation	SAT Neisner, L.L.C., a Texas limited liability company.
By: <u>[Signature]</u>	By: <u>[Signature]</u>
Printed Name: <u>Penry Astor Ferguson</u>	Printed Name: <u>KAUSHIK NAIK</u>
Title: <u>Assistant City Manager</u>	Title: <u>President</u>
Date: <u>12/19/08</u>	Date: <u>12/15/08</u>

Attest:
[Signature]
City Clerk



Approved As To Form:
[Signature]
City Attorney

MARTINEZ
SURVEYING AND MAPPING Co.
8546 Broadway, Suite 325
San Antonio, Texas 78217
(210) 825-4244

STATE OF TEXAS	EASEMENT EASEMENT
COUNTY OF BEXAR	0.643 ACRE TRACT
	1,879 SQ. FT.

All that certain tract or parcel of land containing 0.643 acres (1,879 sq. ft.) in the City of San Antonio, Bexar County, Texas, being the basement area lying within the existing right-of-way of Broadway and E. Houston St.

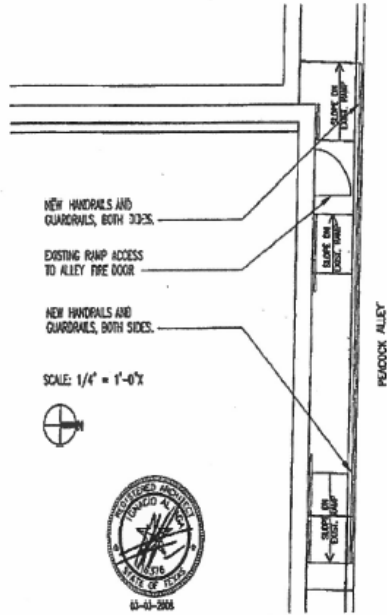
Said 0.643 acre tract, being more particularly described by metes and bounds as follows:

- BEGINNING:** at a "X" found at the intersection of the North line of E. Houston Street with the Northwest line of Broadway at the Southwest corner of Lot A2, Block 19, N.C.B. 417, for a corner of this herein described tract;
- THENCE:** West, a distance of 55.51 feet along with the North line of Houston St. to a point, for a corner of this herein described tract;
- THENCE:** South 00 deg. 02 min. 38 sec. East, a distance of 11.22 feet into the existing right-of-way of E. Houston St. to a corner of said basement, for the Southwest corner of this herein described tract;
- THENCE:** North 89 deg. 57 min. 07 sec. East, a distance of 24.80 feet to point at the P.C. of the curved portion of said existing basement, for a corner of this herein described tract;
- THENCE:** along with a non-curved curve lying along the edge of said existing basement having a radius of 28.05 feet, an arc length of 33.48 feet, a delta angle of 68 deg. 23 min. 34 sec., and a chord bearing and distance of North 21 deg. 33 min. 22 sec. East, 21.52 feet to a point at the P.T. of the curve portion of said existing basement, for a corner of this herein described tract;
- THENCE:** North 18 deg. 41 min. 34 sec. East, a distance of 143.58 feet to a corner of said basement, for the Northeast corner of this herein described tract;
- THENCE:** North 88 deg. 36 min. 48 sec. West, a distance of 10.45 feet to a point located on the common line between said Lot A2 and Broadway, for a corner of this herein described tract;
- THENCE:** South 19 deg. 45 min. 07 sec. West, a distance of 155.23 feet to the POINT OF BEGINNING.

Bearing Data - West - as scaled from Bexar County Appraisal District map.

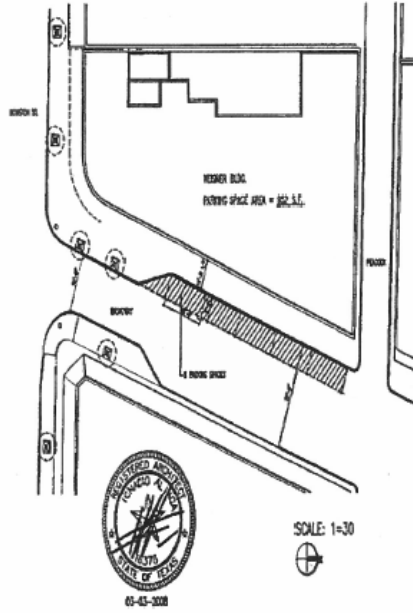


Reynaldo Martinez
REYNALDO MARTINEZ, R.
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 5482
W. O. # 88-A-228
EXPIRES 08-29-2018
(SEE ATTACHED SURVEY PLAT)



REVISIONS	DATE	DESCRIPTION	BY	CHECKED
AS-3	03-09-06	MECHANICAL/NET SHELF AREA HARRIOTT TOWNEPLACE SUITES THE HERRNER BUILDING 408 E. HOUSTON STREET SAN ANTONIO, TEXAS	3D/A	

Exhibit C



PROJECT NO.	DATE	DESCRIPTION	SCALE	REVISIONS
	03-03-09	PARKING AREA KARNIGOTT TOWNSHIP BUITES THE HEIGNER BUILDING 499 E. HOUSTON STREET SAN ANTONIO, TEXAS	3D/I	