

CITY OF SAN ANTONIO
DEPARTMENT OF ASSET MANAGEMENT
INTERDEPARTMENTAL CORRESPONDENCE SHEET

CONSENT AGENDA
ITEM NO. 19

TO: Mayor and City Council

FROM: Rebecca Waldman, Director, Department of Asset Management

THROUGH: Terry M. Brechtel, City Manager

COPIES: Erik J. Walsh, Assistant to the City Manager; Shawn P. Eddy, Special Projects Manager, Property Disposition

DATE: Thursday, November 13, 2003

SUBJECT: S.P. No. 888 - Request for a License Agreement to use Public Right of Way for four (4) existing flagpoles, six (6) existing landscape planters and an existing subsurface sidewalk elevator located at 111 Soledad Street

PETITIONER: Mack-Cali Texas Properties
Attn: Buck Benson
111 Soledad, Suite 1111
San Antonio, Texas 78205

SUMMARY AND RECOMMENDATIONS

This Ordinance will grant a license agreement to Mack-Cali Texas Property, L.P., for the use of surface and subsurface portions of Soledad Street Public Right Of Way to maintain and operate six (6) existing landscape planters, four (4) existing flag poles and an existing sidewalk elevator in the subsurface of Soledad Street located at the Riverview Towers, 111 Soledad Street, adjacent to N.C.B. 909, for a term of ten (10) years and a fee of \$5,000.00, and provides for the assignment of the license agreement to a buyer of the adjacent property with thirty (30) days notice to City within one (1) calendar year of the effective date of the license agreement.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

Petitioner is requesting a license agreement for the operation and maintenance of four (4) existing flagpoles, six (6) existing landscape planters and one (1) existing subsurface sidewalk elevator within Soledad Street Public Right of Way located at the Riverview Towers, 111 Soledad Street, as shown on attached Exhibit "A". A license agreement for the placement of the existing flagpoles and planters was authorized by Ordinance No. 83247, passed and approved on July 12, 1995. A new license is required as the ownership of the property has changed. The property is also currently under contract to be sold and the license provides for the assignment of the license to the buyer with thirty (30) days notice to City within one (1) calendar year of the effective date of the license agreement.

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 City will collect \$5,000.00 for this license to use Public Right of Way.

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

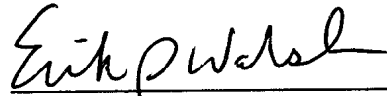
The City of San Antonio's Planning Commission recommended approval of this request at its regular meeting of 11/12/2003.

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

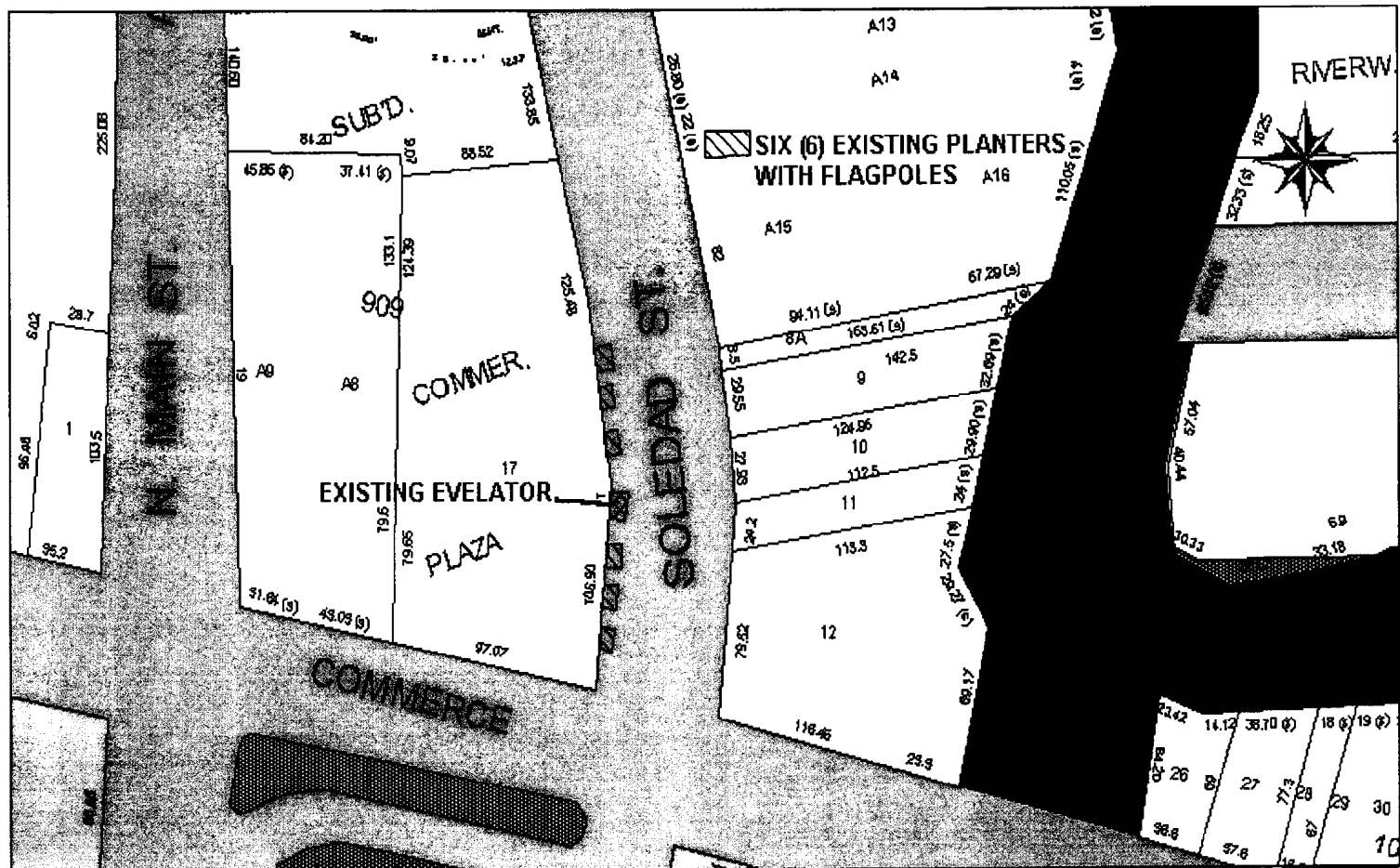


Rebecca Waldman, Director
Department of Asset Management

Approved:



Erik J. Walsh
Assistant to the City Manager



SOUTHERLY VIEW OF EXISTING PLANTERS AND FLAGPOLES ON SOLEDAD STREET
(TWO PLANTERS AND TWO FLAGPOLES NOT IN SIGHT)

EXHIBIT "A"

Canvassing Checklist

SPNo **888**

Request: Request for a License Agreement between the City of San Antonio and Mack-Cali Texas Property, L.P., for the operation and maintenance of four (4) existing flagpoles, six (6) existing landscape planters and one (1) existing subsurface sidewalk elevator within Soledad Street Public Right of Way located at the Riverview Towers, 111 Soledad Street, as shown on attached Exhibit "A".

| | Included in Canvassing | Out Date | In Date | Uncond. Approval | Conditional Approval | Denial |
|-----------------------------|-------------------------------------|-----------|------------|-------------------------------------|-------------------------------------|--------------------------|
| Planning Department | <input checked="" type="checkbox"/> | 8/20/2002 | 10/17/2002 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| PublicWorks | <input checked="" type="checkbox"/> | 8/20/2002 | 9/25/2002 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Development Services | <input checked="" type="checkbox"/> | 8/20/2002 | 9/6/2002 | <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 checked="" type="checkbox"/> | 8/20/2002 | 8/22/2002 | <input checked="" 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"/> | 8/20/2002 | 10/10/2002 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| S.A. Water System (SAWS) | <input checked="" type="checkbox"/> | 8/20/2002 | 10/29/2002 | <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 type="checkbox"/> | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Canvassing Comments



CITY OF SAN ANTONIO

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

October 2, 2003

Mack-Cali Texas Property, L.P.
Attn: Buck Benson
111 Soledad, Suite 1140
San Antonio, Texas 78205

Re: S. P. No. 888—Request for a License Agreement to use Public Right of Way for four (4) existing flagpoles, six (6) existing landscape planters and an existing subsurface sidewalk elevator located at 111 Soledad Street

Dear Mr. Benson:

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:

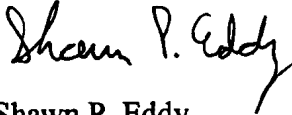
SAN ANTONIO WATER SYSTEM: "So long as there is no impact to the location, operation repairs, relocation and/or construction of any existing or future water, sewer or recycle water facilities or appurtenances of SAWS."

Additionally, the fee established for this license agreement is \$5,000.00 for a 10-year term payable to the City of San Antonio prior to City Council consideration. If for some reason the license is not approved by City Council the license fee will be returned to petitioner. Also, 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.

If you concur with the above-mentioned conditions, including the payment of the fee established for these encroachments, please countersign this letter in the space provided below and return to the undersigned. Upon receipt of this signed Letter of Agreement and the Certificate of Insurance 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,



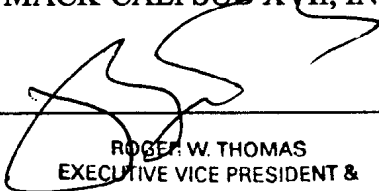
Shawn P. Eddy
Special Projects Manager

AGREED AS TO TERMS AND CONDITIONS:

Petitioner: MACK-CALI TEXAS PROPERTY, L.P.,
a Texas Limited Partnership

By: MACK-CALI SUB XVII, INC., a Texas Corporation, General Partner

By



ROGER W. THOMAS
EXECUTIVE VICE PRESIDENT &
GENERAL COUNSEL

Title

Print Name

Date

10/15/03

City of San Antonio

Discretionary Contracts Disclosure*

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2
Attach additional sheets if space provided is not sufficient.
State "Not Applicable" for questions that do not apply.

* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, 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.

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and the Code of Ethics, an individual or business entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any **individual** who would be a party to the discretionary contract:

NA

(2) the identity of any **business entity**¹ that would be a party to the discretionary contract:

NA

(A) any individual or business entity that would be a **subcontractor** on the discretionary contract;

NA

and the name of:

(B) any individual or business entity that is known to be a **partner**, or a **parent** or **subsidiary** business entity, of any individual or business entity who would be a party to the discretionary contract;

NA

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.

- (3) the identity of any *lobbyist* or *public relations firm* employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

Earl and Brown, PC

Political Contributions

Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly 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 (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

| To Whom Made: | Amount: | Date of Contribution: |
|-------------------|---------|-----------------------|
| See Attached List | | |

Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, reasonably understood, raise a question² as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

We are not aware of facts which are applicable to this section.

Signature:

Mack-Cali Texas Property, L.P.
A Texas Limited Partnership
By: Mack-Cali Sub XVII, Inc., a Texas Corporation
General Partner

By:

Name:

Title:

ROGER W THOMAS
EXECUTIVE VICE PRESIDENT &
GENERAL COUNSEL

Title:

Company:

Date:

10/15/03

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.

| DATE | CANDIDATE | CONTRIBUTOR | AMOUNT |
|-------------|------------------|--------------------|---------------|
| 20-Oct-01 | Garza | David Earl | \$5,000.00 |
| 21-Oct-01 | Garcia | Earl & Brown, PC | \$5,432.79 |
| 09-Jan-02 | Sanders | Earl & Brown | \$1,000.00 |
| 12-Feb-02 | Garza | David Earl | \$1,000.00 |
| 20-Feb-02 | Perez | Earl & Brown | \$1,000.00 |
| 01-Mar-02 | Martin | David Earl | \$5,000.00 |
| 12-Mar-02 | Moorehouse | David Earl | \$3,000.00 |
| 10-Apr-02 | Sanders | David Earl | \$1,000.00 |
| 16-May-02 | Garza | Earl & Brown, P.C. | \$1,000.00 |
| 20-May-02 | Moorehouse | David Earl | \$5,000.00 |
| 18-Jun-02 | Garcia | Ken Brown | \$2,000.00 |
| 17-Jul-02 | Barrera | Earl & Brown, PC | \$2,000.00 |
| 13-Sep-02 | Aguillon | Earl & Brown, PC | \$1,000.00 |
| 19-Feb-03 | Garza | Earl & Brown, PC | \$500.00 |
| 12-Mar-03 | Castro | Earl & Brown, PC | \$500.00 |