

**CITY OF SAN ANTONIO
DEPARTMENT OF ASSET MANAGEMENT
INTERDEPARTMENTAL CORRESPONDENCE SHEET**

CONSENT AGENDA
ITEM NO. 9

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, August 19, 2004

SUBJECT: S.P. No. 1149 - Request for a license to use approximately 0.0798 of an acre (3,477 square feet) out of a portion of an abutting 70 foot-wide Drainage Public Right of Way for parking purposes and a retaining wall adjacent to New City Blocks 12811 and 11619

PETITIONER: HHC Babcock NC, LP, a Texas Domestic Limited Partnership
Attn: Akin Gump Strauss Hauer & Feld L.L.P.
300 West 6th Street, Suite 2100
Austin, Texas 78701-2916

SUMMARY AND RECOMMENDATIONS

This Ordinance will grant a 10-year license to use approximately 0.0798 of an acre (3,477 square feet) out of a portion of an abutting 70 foot-wide Drainage Public Right of Way for parking purposes and a retaining wall adjacent to New City Blocks 12811 and 11619, located in Council District 8, as requested by HHC Babcock NC, LP, a Texas Domestic Limited Partnership, for the total consideration of \$11,587.00.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

Petitioner is requesting a license to use approximately 0.0798 of an acre (3,477 square feet) out of a portion of an abutting 70 foot-wide Drainage Public Right of Way for existing parking spaces and a retaining wall adjacent to New City Blocks 12811 and 11619, as shown on Exhibit "A". The existing parking spaces and retaining wall extend approximately 11' x 315' onto the 70 foot-wide Drainage Public Right of Way. The petitioner recently purchased the property and it was discovered during the survey process that a portion of the 70 foot-wide Drainage Public Right of Way is fenced in with the petitioner's property with approximately 20 parking spaces and a retaining wall. This request will continue to accommodate the petitioner's patients, visitors and employees with ample parking for its 218-licensed bed nursing home facility known as the Trisun Care Center Babcock at 1975 Babcock Road.

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 \$11,587.00 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

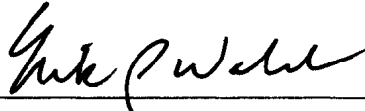
The City of San Antonio's Planning Commission recommended approval of this request at its regular meeting of 8/11/2004.

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

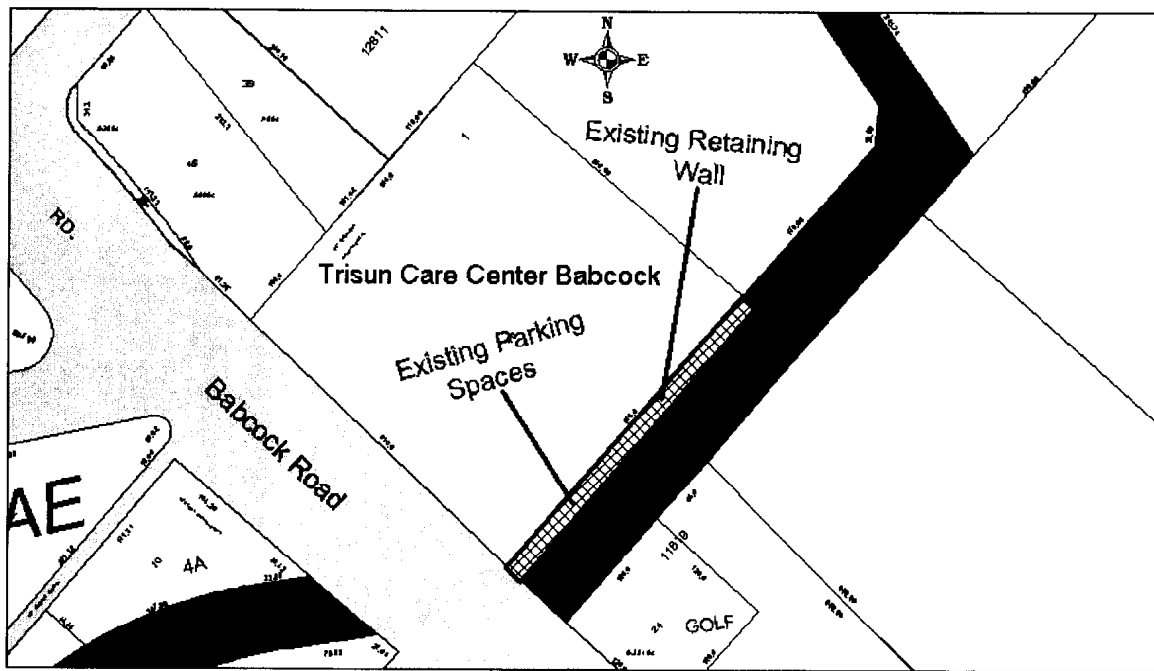


Rebecca Waldman, Director
Department of Asset Management

Approved:



Erik J. Walsh
Assistant to the City Manager



Map of Subject Property



Northeasterly View of Subject Property

Exhibit "A"

Page 1 of 3



Southeasterly View of Subject Property



Aerial View of Subject Property

Exhibit "A"

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Canvassing Checklist

SPNo 1149

Request: Petitioner is requesting a license to use approximately 0.0798 of an acre (3,477 square feet) out of a portion of an abutting 70 foot-wide Drainage Public Right of Way for existing parking spaces and a retaining wall adjacent to New City Blocks 12811 and 11619, as shown on Exhibit "A". The existing parking spaces and retaining wall extend approximately 11' x 315' onto the 70 foot-wide Drainage Public Right of Way. The petitioner recently purchased the property and it was discovered during the survey process that a portion of the 70 foot-wide Drainage Public Right of Way is fenced in with the petitioner's property with approximately 20 parking spaces and a retaining wall. This request will continue to accommodate the petitioner's patients, visitors and employees with ample parking for its 218-licensed bed nursing home facility known as the Trisun Care Center Babcock at 1975 Babcock Road.

	Included in Canvassing	Out Date	In Date	Uncond. Approval	Conditional Approval	Denial
Planning Department	<input checked="" type="checkbox"/>	2/23/2004	4/20/2004	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PublicWorks	<input checked="" type="checkbox"/>	2/23/2004	5/21/2004	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Development Services	<input checked="" type="checkbox"/>	2/23/2004	3/12/2004	<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"/>	2/23/2004	3/4/2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
S.A. Water System (SAWS)	<input checked="" type="checkbox"/>	2/23/2004	3/4/2004	<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

There is no neighborhood association within the vicinity of this project.



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

July 13, 2004

HHC Babcock NC, LP
Attn: Akin Gump Strauss Hauer & Feld L.L.P
300 West 6th Street, Suite 2100
Austin, Texas 78701-2916

Re: S. P. No.1149 — Request for a license to use approximately 0.0798 of an acre (3,477 square feet) out of an abutting 70 foot-wide Drainage Public Right of Way for parking purposes and a retaining wall adjacent to New City Blocks 12811 and 11619

Dear Ms. Jones:

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 client's request subject to the following conditions:

PUBLIC WORKS DEPARTMENT: The Storm Water Engineering Division must approve the request. The license is acceptable as long as the licensee (owner) understands and agrees that it is responsible for the maintenance of the parking lot in the drainage easement. If the parking lot needs to be repaired, the owner will need to permit the repairs through the Development Services Department. The Storm Water Engineering Division will review the plans as a part of the permit process. The owner also must understand and agree that if the City has to remove the parking lot for any reason (for example, channel maintenance, and/or flooding emergency), the owner is responsible for replacing the parking lot at the owner's expense. The construction plans for the replacement of the parking lot must be submitted for approval to the Storm Water Engineering Division of the Storm Water Utility and the Public Works Department. Any replacement plans for the parking lot showing construction beyond the line and grade of the existing parking lot in the drainage easement must be accompanied by an engineered drainage study demonstrating the effect of the new parking lot on the drainage easement. The study is subject to review and approval of the Storm Water Engineering Division. The chain link fence the owner has constructed in the City drainage easement blocks the City's maintenance access to the channel. The owner must construct a chain link gate (minimum width of 12 feet or as suitable to the Storm Water Operations Manager) to allow City maintenance vehicles into the drainage easement. The lock for the gate will be under control of Storm Water Operations Division but the owner can retain a key to the lock.

PLANNING DEPARTMENT: The petitioner must maintain the drainage easement clear of debris along the fence line.

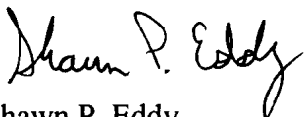
SAN ANTONIO WATER SYSTEM: Petitioner must agree to reserve a perpetual easement for all existing water and/or water facilities and agrees to allow perpetual access to any such utilities for inspection, operational and maintenance purposes or may seek the relocation of the facilities with the express permission and coordination with the San Antonio Water System and at the sole expense of the petitioner.

Petitioner agrees to pay the total license fee of \$11,587.00 for a 10-year term, which will be due and 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 the petitioner.

If you concur with the above-mentioned conditions, including the payment of the fee established for this encroachment, please countersign this letter in the space provided below and return to the undersigned. Upon receipt of this signed Letter of Agreement, the Certificate of Insurance and the completed Discretionary Contracts Disclosure Statement we will continue processing your request.

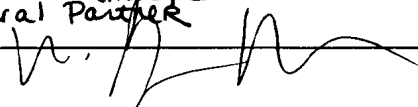
This Letter of Agreement is being offered by the City of San Antonio only to the below named petitioner and will expire thirty (30) days after the date of issuance unless a specific extension is requested by the petitioner and granted by the City.

Sincerely,



Shawn P. Eddy
Special Projects Manager

AGREED AS TO TERMS AND CONDITIONS:

By: **HHC Babcock NC, LP**
CapWest-Texas, LLC
ITS: **General Partner**
By 
Brian DeRoek
Print Name

Manager
Title
7/20/04
Date

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:

none

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

HHC Babcock NC, LP, a Texas limited partnership

and the name of: none

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

none

and the name of: none

(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;

CapWest-Texas, LLC, a Texas Limited Liability Company

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.

none


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:
None	None	None

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.

Signature: 	Title: Manager of CapWest-Texas, LLC the general partner of Company: HHC Babcock NC, LP	Date: 7/20/04

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.