

CONSENT AGENDA

CITY OF SAN ANTONIO ITEM NO. 26
INTERDEPARTMENTAL CORRESPONDENCE
Finance Department

TO: Mayor and City Council
FROM: Ben Gorzell Jr. CPA, Public Utilities Supervisor/Assistant Director of Finance
THROUGH: Terry M. Brechtel, City Manager
COPIES TO: Melissa Byrne Vossmer, Assistant City Manager; Milo D. Nitschke, Director of Finance; Thomas G. Wendorf, Director of Public Works; Andrew Martin, City Attorney; File
SUBJECT: Extension of Interim License Agreement with Grey Forest Utilities
DATE: January 30, 2003

SUMMARY AND RECOMMENDATION:

This ordinance authorizes a (4) four month extension from February 1, 2003 through May 31, 2003 of the Interim License Agreement with Grey Forest Utilities (GFU), a gas utility owned by the City of Grey Forest, to allow GFU to use the City rights-of-way to operate a gas distribution system within the interim licensed area and provides that consideration of 3% of gross revenues derived from GFU's system within the interim license area be paid to the City of San Antonio.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION:

In 1967, the City of Grey Forest established a natural gas utility system to serve the City of Grey Forest and surrounding areas. Grey Forest Utilities (GFU), an agency formed by the City of Grey Forest, operates and manages the natural gas distribution system.

The GFU gas distribution system was originally established outside of the City of San Antonio's corporate City limits, however, as the corporate limits have expanded to the north through annexations, GFU's distribution system was incorporated into the City limits and occupies the City's public rights-of-way. Pursuant to State law and the City Charter, the City has the right to consent to the use of its public rights-of-way and receive compensation for that use. Also, based on State law, GFU is not required to obtain the City's consent to utilize the City's public rights-of-way to construct, operate, and maintain its utility system in an annexed area for a period of ten years from the date of annexation.

As a result of negotiations, an Interim License Agreement was agreed to and approved on May 16, 2002 with the passage of Ordinance No. 95761 by City Council. Following is a summary of the key terms of the agreement:

- Term of the Agreement. The initial term of the interim license agreement was January 1, 2002 through September 30, 2002.
- Compensation. The City receives 3% of gross revenues derived within the Interim Licensed Area (ILA). Exclusions to gross revenues include sales to public schools, line extension charges, sales tax and bad debt write off.
- Interim License Area (ILA). Map of ILA included as Exhibit I. License area is subject to change for the final license agreement.
- Construction, Restoration, and Maintenance of Streets. GFU is required to abide by all provisions of the City's Rights-Of-Way Management Ordinance, including the payment of all the required fees and insurance requirements.
- Relocations of Facilities. GFU is required to relocate all its facilities at no cost to the City when reasonable and necessary to accommodate street construction and, widening or any other public improvement projects of the City.

- Audits. At the City's option, an audit for compliance with any or all of the terms of the Interim License Agreement will be performed by a Certified Public Accountant agreed to by both the City and GFU. The cost of the audit shall be borne solely by GFU and the scope and timing of the audit shall be determined by the City subject to the scope being limited to an audit for compliance with the terms of the Interim License Agreement.
- Confidential and Proprietary Information. The City agreed that it would deal with all information marked by GFU as confidential and proprietary in accordance with the Texas Public Information Act and City Policy.

On September 26, 2002, City Council passed and approved Ordinance No. 96466, which authorized a (4) four month extension through January 31, 2003 of the Interim License Agreement with GFU. During this time, City Staff and representatives of GFU continued to negotiate towards a final license agreement. City staff believes that additional progress has been made, and as such, is recommending that the Interim License Agreement be extended under the same terms and conditions through May 31, 2003, an extension of (4) four months.

POLICY ANALYSIS:

Pursuant to State Law and the City Charter, the City is entitled to receive compensation for the use of its public rights-of-way. With the (4) four month extension of the Interim license Agreement, the City will continue to be compensated on GFU revenues derived in the interim license area while the final license agreement is being negotiated. During this extension, staff will continue to work on resolving all outstanding issues and negotiating the terms of the final license agreement.

FINANCIAL IMPACT:

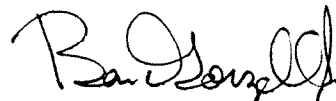
For the first nine months of calendar year 2002, GFU paid the City \$40,204 under the terms of the Interim License Agreement. The estimated compensation to be received during the (4) four month extension period is \$17,900.

COORDINATION:

This item has been coordinated with the Public Works Department and the City Attorney's Office.

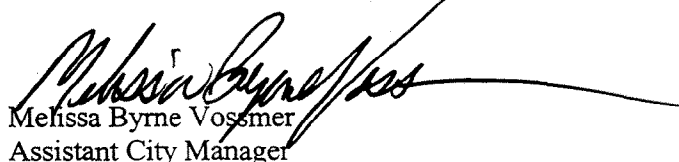
SUPPLEMENTARY COMMENTS:

The required ethics disclosure form has been attached as Exhibit II.

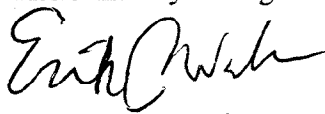


Ben Gorzell Jr., CPA
Public Utilities Supervisor/
Assistant Director of Finance

Approved:



Melissa Byrne Vossmer
Assistant City Manager



Terry M. Brechtel
City Manager

Exhibit I

MAP OF DESIGNATED AREA SUBJECT TO LICENSE AGREEMENT BETWEEN
CITY OF SAN ANTONIO & CITY OF GREY FOREST & GREY FOREST UTILITIES



City of San Antonio
Discretionary Contracts Disclosure*

Exhibit II

*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:

James Tipton

(2) the identity of any business entity¹ that would be a party to the discretionary contract:

Grey Forest Utilities

and the name of:

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

N/A

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:

N/A

(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:

N/A

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.

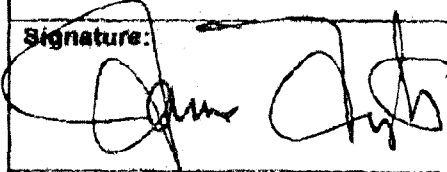
Political Contributions

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: |
|---------------|---------|-----------------------|
| N/A | | |

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.

| | | |
|--|---|------------------|
| N/A | | |
| Signature:  | Title: G.E.O. Company: Grey Forest Utilities | Date: 01-23-2003 |

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.

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 this form, the City of San Antonio Ethics Code, Part D, Sections 1&2, defines a "discretionary contract" as a contract for the purchase or sale of goods or services, or for the performance of a service, that is entered into by the City of San Antonio and is subject to the discretion of the City Council or a committee of the City Council.

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

None.

(2) the identity of any business entity that would be a party to the discretionary contract
Miller, Canfield, Paddock & Stone, PLC, a Michigan Professional Limited Liability Company.

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

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

See attached list of principals of the firm.


(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.

[illegible]

| To Whom Made: | Amount: | Date of Contribution: |
|---------------|---------|-----------------------|
| | | |

Disclosures In Progress
Any individual or business entity seeking a distribution contract with the City shall disclose any known facts which reasonably understood raise a question as to whether any City official or employee could violate Section 1 of Part 9, Municipal Government Code, by participating in official action relating to the distribution contract.

| | | |
|--|--|-----------------------------|
| None. | | |
| Signature:  John O. Renken | Title: Resident Director Company: Miller, Canfield, Paddock & Stone, PLC | Date: 1/23/03 |

¹ 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.

Acomb, Frederick A.
Alaimo, Michael A.
Altobelli, Dean M.
Anderson, Timothy L.
Andrews, Frank L.
Angeli, Elisa
Appleman, Thomas G.
Arbuckle, Brad B.
Asher, Leroy L., Jr.
Atkins, Michael R.
Babicki, Wojciech
Barringer, Leland D.
Basile, Marjory G.
Baylor, Ronald E.
Bennett III, Vernon
Birgbauer, Bruce D.
Boonstra, Mark T.
Brown Jr, Eric V.
Brustad, Orin D
Bulger, Harold W., Jr.
Burns, Beverly H.
Campbell, Jac
Campbell, Michael G.
Charette, Gerard P.
Coakley, Michael P.
Colis, Thomas D.
Cook, John R.
Cooke, James H.
Crawford, Terrence M.
Crim, Douglas W.
Curtner, Gregory L.
Darhof, William J.
DeJong, Robert L.
Dembowski, Christopher J.
DiCenso, Gregory V
Donati, Donna J.
Duben, Michael E.
Dudek, Lawrence M.
Duerr Jr., Charles A.
Elkins, Bettye S.
Faison, W. Mack
Faycurry, Joanne

Hazio, Joseph M.
Foresman, James
French, David A.
Gaffin, Richard A.
Galvin, Joseph F.
Gilbert, Robert E.
Givens, Leonard D.
Goldberg, Jerry L.
Green, Jonathan S.
Haddad, Robert J
Hamby, Sally A.
Hartmann, Michael W.
Hathaway, Irene Bruce
Hintzen, Erich H.
Hodess, Ronald E.
Hodge, Michael J.
Hustoles, Thomas P.
Indenbaum, Michael A.
Joswick, David D.
Kantor, Allyn D.
Keim, Donald W.
Kilbourne, Douglas M.
Konop, Kenneth E.
Leschied, Donald W.
Linn, Thomas W.
Lipford, Rocque E.
Manildi, Marta A.
Marxer, John A.
McGee, Michael P.
McGow, Patrick F.
McHugh, Jeffrey M.
McKim III, Samuel J.
McLeod, David K.
Mishkind, Charles S.
Moody, Kevin J.
Morga, Gino
Neiman, Dennis R.
Norris, Megan P.
Ossian, Kathryn L.
Ott, Stephen J.
Palms, Stephen G.
Parachini, Thomas G.

Parsigian, David N.
Phillips, Thomas C.
Piell, Joel L.
Pozza Jr., Clarence L.
Purkey, Lori L.
Putney, Mark E.
Reck, J. David
Renken, John O.
Rhoades, Robert F.
Riback, Ronald H.
Ritter, Charles E.
Roach, Steven A.
Rupley, Jerry T.
Saylor, Larry J.
Schluter, Dawn M.
Schmidt, Don M.
Serr, Erik H.
Seryak, Richard J.
Shafer, Kent E.
Shulgan, Myron W.
Slopen, Jeffery M.
Sochocki, Timothy D.
Spurr, James E.
Stankewicz, Steven M.
Stek, Stanley J.
Taylor, W. Earl
Thompson, Deborah W.
Thurber, John A.
Traison, Michael H.
Trimmer, J. Kevin
Van Dis, Thomas H.
Van Dusen, Amanda
Van Slambrouck, John G.
Vantine Jr., James G.
von Ende, Carl H.
Walawender, Richard A.
Waldmeir, Peter W.
Watson, Jerome R.
Williams, James W.

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