

CONSENT AGENDA
ITEM NO. 22

CITY OF SAN ANTONIO
INTERDEPARTMENTAL CORRESPONDENCE

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney and 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, Finance Director; Keith Martin, Assistant City Attorney; Celia Murphy, Legal Administrator, City Attorney's Office

SUBJECT: Professional Services Contract with Miller, Canfield, Paddock & Stone, P.L.C.

DATE: March 25, 2004

SUMMARY AND RECOMMENDATION

This ordinance authorizes future services and ratifies services performed, under a Professional Services Contract with Miller, Canfield, Paddock & Stone, P.L.C. to provide legal services related to the development of any telecommunications, cable, broadband or internet related matters or policies. Services include renewal discussions with the incumbent cable franchise holder and reopener negotiations with the new entrant. This ordinance will authorize an amendment to the Professional Services Agreement with this firm and authorize payment in an amount not to exceed \$45,000 for such services.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

Since 1998, the City has utilized the legal services of Miller, Canfield, Paddock & Stone, P.L.C. to assist the City in matters related to the development of the City's cable and telecommunications policies and agreements. Mr. Tillman Lay has served as the lead attorney on providing these services and has extensive expertise in the area of federal cable and telecommunications law. He has advised numerous local governments throughout the nation and frequently makes presentations to local government managers, officials and policy makers. Most recently, Mr. Lay has provided legal services related to the City's franchise agreements with Time Warner Cable, Western Integrated Networks (WIN), and Grande Communications. Since 1998, the City has paid Miller, Canfield, Paddock & Stone \$113,000 for services to include assistance with the negotiations of cable contracts, the WIN bankruptcy matter and other related issues.

Currently, in accordance with the Federal Cable Act, the City is in the renewal process with the incumbent cable provider, Time Warner Cable (TWC). In September of 2003, the City extended TWC's franchise agreement under the same terms and conditions through June 30, 2004 to allow both parties to continue negotiations under the informal process as defined under the Federal Cable Act. Since that time, the City, with the assistance of Mr. Lay, have continued to negotiate the terms of a renewal franchise agreement with TWC. Additionally, the City will reopen negotiations with the new entrant into the San Antonio market, Grande Communications to coincide with TWC's renewal. Approval of this amendment with Miller, Canfield, Paddock & Stone, P.L.C., with Mr. Lay as lead, will ratify \$13,700 and provide continuity of legal services on these issues.

POLICY ANALYSIS

This Ordinance is consistent with the City's policy to retain outside legal counsel if necessary to provide legal expertise in a specialized area such as telecommunications and cable law. Miller, Canfield, Paddock & Stone is a law firm with offices in Washington, D. C., Michigan, New York and Poland. Mr. Tillman Lay works in the Washington, D. C. office and has been designated as the lead attorney for this engagement. Mr. Lay has handled legal matters and contract negotiations related to cable and telecommunications issues for local governments throughout the country. Mr. Lay's services will complement the legal services provided by the City Attorney's Office. As is customary with the retention of all outside legal counsel, the firm entered a professional services contract with the City which requires compliance with the City Attorney's Office Guidelines.

FINANCIAL IMPACT

A sum not to exceed \$45,000.00 for this professional services amendment from the General Fund from one-time resources allotted in the Fiscal Year 2004 Adopted Budget. In the event additional funds are necessary for additional legal assistance by this firm, further City Council approval will be required.

COORDINATION

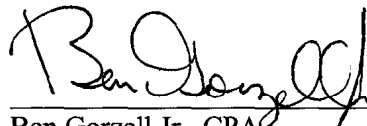
This item has been coordinated through the Public Utilities Division and the City Attorney's Office.

SUPPLEMENTARY COMMENTS

The required ethics disclosure form is attached.

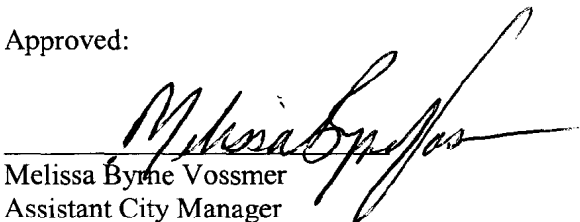


Andrew Martin
City Attorney



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

Approved:



Melissa Byrne Vossmer
Assistant City Manager



Terry M. Brechtel
City Manager

Founded in 1852
by Sidney Davy Miller



MICHIGAN: Ann Arbor
Detroit • Grand Rapids
Howell • Kalamazoo
Lansing • Monroe • Troy
New York, NY
Pensacola, FL
Washington, DC

CANADA: Windsor, ON
POLAND: Gdynia
Katowice • Warsaw

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Washington, D.C. 20006
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March 8, 2004

Ms. Veronica Carillo
Senior Management Analyst
City of San Antonio
City Hall Annex - Finance Department
506 Dolorosa
San Antonio, Texas 78204

Dear Veronica:

As you requested, I enclose the Discretionary Contract Disclosure form, completed for the firm and executed by John Renken, resident director of our D.C. office. Please let me know if there is any other information you need, and thank you for moving the process along with the Council.

Kindest regards,

Very truly yours,

Tillman L. Lay

TLL:db
Enclosure

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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 Partners, Owners, and Closely Related Persons

For the purpose of disclosing the City's interest in the City, the City Ethics Code, Part D, Sections 1&2, and the City Ethics Code, Part D, Sections 1&2, an individual or business entity and 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 that would be a party to the discretionary contract;

Miller, Canfield, Paddock & Stone, PLC, a Michigan Professional Limited Liability Company, and the name of

(A) any individual or business entity that would be a subcontractor 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 individual or public relations firm employed for purposes relating to the discretionary contract 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 proposed discretionary contract all financial contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any council member or 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 as indirect contributions by all means 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, directors, or registered lobbyists of the entity.

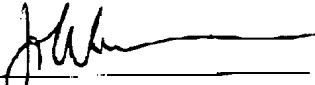
None.

To Whom Made:	Amount:	Date of Contribution:

Disclosure to Prospects

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which reasonably understood raise a question 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.

None.

Signature:  John O. Renken	Title: Resident Director Company: Miller, Canfield, Paddock & Stone, PLC	Date: 3/08/04
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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.

Galvin, Joseph F.
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.
Maiuri, Anna M.
Manildi, Marta 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.
Peterman, Michael B.
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.
Sherwood, Kurt N.
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.
Westenberg, Brian S.
Williams, James W.
Yelton III, B. Jay

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