

**CITY OF SAN ANTONIO
PUBLIC UTILITIES OFFICE
CITY COUNCIL AGENDA MEMORANDUM**

CONSENT AGENDA
ITEM NO. 21

TO: Mayor and City Council
FROM: Ben Gorzell Jr., Director, Public Utilities Office
SUBJECT: An Ordinance Amending the Reopener Term of the Grande Communications Franchise Agreement to December 31, 2005
DATE: March 24, 2005

SUMMARY AND RECOMMENDATION

This Ordinance amends the Grande Communications Cable Franchise Agreement, which was approved by Ordinance No. 91616 and became effective on July 18, 2000, in order to extend the reopener term of the Franchise to December 31, 2005.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

Grande Communications Inc. (Grande) operates its cable system pursuant to a fifteen (15) year Cable Television Franchise Agreement (Franchise) that was approved by Ordinance No. 91616 in accordance with the franchise provisions of the City Charter. In anticipation of the cable franchise renewal process with Time Warner Cable (TWC), Section 4. b. (i) of the Franchise was developed to grant the City the right to reopen and renegotiate certain provisions of Grande's Franchise in order to be consistent with TWC's renewed agreement. The reopener period was amended to March 31, 2005 pursuant to Ordinance No. 99420, which was passed on June 24, 2004.

Additional time is necessary to complete the TWC franchise renewal negotiations. Negotiations of a renewal franchise agreement have been complicated by new technology and services which have impacted the competitive environment as well as potential federal and state legislative communications reform. Grande has agreed to extend the reopener period to December 31, 2005 and TWC has agreed to extend its renewal period to the same date. No other terms or conditions of either franchise agreement will be modified. This extension modification is not considered to be a franchise renewal under the provisions of the Federal Cable Act. Additionally, neither the City nor Grande waive any rights that either party may have had prior to the approval of the extension of the term. Further, so long as Grande pays any applicable penalties in accordance with Section 27a.i) of the Franchise Agreement, it is not the City's intent to retain all or part of the remaining prepayment balance specified in Section 17a-1 of the Franchise Agreement as liquidated damages for Grantee's failure to comply with any provision of Section 8(b) or 8(c) of the Franchise Agreement beyond the penalties set forth in Sec. 27a.i).

POLICY ANALYSIS

The City uses the outside legal firm of Miller, Canfield, Paddock, & Stone to assist the City in negotiating Grande's reopener provisions. Miller, Canfield, Paddock, & Stone has specialized expertise in the area of telecommunications and cable law and their services complement the legal services provided by the City Attorney's Office.

The extension of the reopener period to December 31, 2005 will allow both parties to continue negotiations. Additional time is necessary in order for the City accomplish its cable related goals. Concurrently, it is proposed that the TWC franchise agreement also be amended to extend its term to December 31, 2005. TWC's extension modification is also being presented for City Council consideration on March 24, 2005. The proposed timeline will also facilitate the City's ability to bring both franchise agreements to City Council for consideration simultaneously.

FISCAL IMPACT

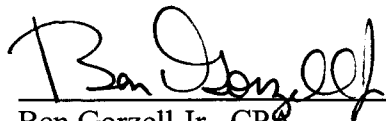
This Ordinance will not have a financial impact.

COORDINATION:

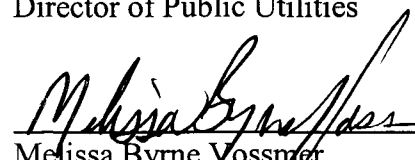
This Ordinance has been coordinated with the City Attorney's Office. The City also uses the legal firm of Miller, Canfield, Paddock, & Stone to assist in franchise renewal negotiations.

SUPPLEMENTARY COMMENTS:

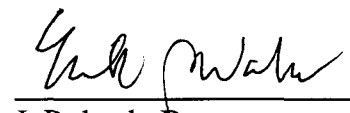
The ethics disclosure form is attached.



Ben Gorzell Jr., CPA
Director of Public Utilities



Melissa Byrne Yossner
Assistant City Manager



J. Rolando Bono
Interim City Manager

City of San Antonio
Discretionary Contracts Disclosure

For use of this form, see Section 2-59 through 2-61 of the City Code (Ethics Code)
Attach additional sheets if space provided is not sufficient.
State "Not Applicable" for questions that do not apply.

ATTACHMENT ITEM
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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.

N/A

and /or

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

Grande Communications, Inc.

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, or any individual or business entity who would be a party to the discretionary contract.

Grande Communications Holdings, Inc.

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.

N/A

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 individual or an entity include, but are not limited to, contributions made by the officers, owners, attorneys, or registered lobbyists of the individual or the entity.

By Whom Made:	To Whom Made:	Amount:	Date of Contribution:
Grande PAC	Eddie Garza	\$1,000	11/13/2003
Grande PAC	Julian Castro	\$500	12/03/2003

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 2-40 of the City Code (Ethics Code) by participating in official action relating to the discretionary contract.

N/A

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, whichever occurs first.

Signature:

Andy Sarwal

Title: Vice President

Company:

Grande Communications

Date:

March 16, 2005

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.