

**CITY OF SAN ANTONIO
DEPARTMENT OF ASSET MANAGEMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Rebecca Waldman, Director, Department of Asset Management

SUBJECT: S.P. No. 1202--Proposed construction of Nitrogen Pipeline within Public Rights of Way

DATE: May 5, 2005

SUMMARY AND RECOMMENDATIONS

This Ordinance will authorize a 10-year License Agreement from the City of San Antonio to Matheson Tri-Gas Company, for a total consideration of \$123,575, to use Pubic Rights of Way within, under and across approximately 8,976 linear feet (1.7 miles) of street and drainage channel rights of way for Applicant's proposed installation of a 6-inch inside diameter nitrogen pipeline.

Staff recommends approval of this Ordinance.

BACKGROUND

Matheson Tri-Gas Company proposes to supply Maxim Integrated Products, a computer chip company, with nitrogen, which is necessary for its production needs. This proposal will require a License to Use Public Right of Way. Matheson Tri-Gas Company is proposing to install a 6-inch inside diameter nitrogen pipeline, a portion of which is to be located within drainage channel/street rights of way in the specific location as shown on attached Exhibits "A" and "B". The pipeline will originate at its existing plant on 7999 MG Road, just north of Potranco Road and will proceed in a general northwesterly direction to its destination point at the Maxim Integrated Products plant located at 9651 Westover Hills Blvd., just northerly of the intersection of Westover Hills Blvd. and Wiseman Road.

Exhibit "A" is an overview of the entire pipeline as proposed. The portion reflecting public streets and drainage channel rights of way is shown in green. The remaining portion of pipeline, which is to be placed within private properties, is shown in blue. The overall length of the pipeline is approximately 3.1 miles and the length of pipeline within public streets and drainage channel is approximately 1.7 miles. Trenching is proposed within the earthen channel and horizontal directional drilling (boring) will be performed under the public streets. The public streets affected (either through crossing or longitudinal placement of pipeline) are Westover Hills Blvd., Raba Drive, Village Parkway, Star Creek Drive and Reed Road, with the majority of the pipeline placement to be done within the drainage channel. The longitudinal placement of pipeline within Raba Road will be within the grassy area and will not affect the pavement.

For informational purposes, nitrogen is an inert gas. In the unlikely event of a leak, escaping nitrogen will recombine with oxygen in the open air and be at normal breathing concentrations within seconds. Should a leak occur, the pipeline is designed to set off an alarm, which will result in instant depressurization of the pipeline. The proposed pipeline, which is to be buried at an approximate depth of 48 inches, can withstand 1100 psi, will be certified to operate at 250 psi, but will have a normal operating pressure of 180 psi.

POLICY ANALYSIS

This project is in accordance with existing policies and procedures concerning private use of public rights of way.

FISCAL IMPACT

The City of San Antonio will receive \$123,575 for a ten-year license.

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 fees and conditions imposed through this canvassing is attached for review.

SUPPLEMENTARY COMMENTS

- A fully executed Ethics Ordinance Disclosure Statement form is attached.
- The Planning Commission will consider this project at its regular meeting on April 27, 2005 and its findings will be disclosed to City Council on May 5, 2005.



Rebecca Waldman, Director
Department of Asset Management



Erik J. Walsh
Assistant to the 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.*

(1) Identify any individual or business entity¹ that is a party to the discretionary contract:

Matheson Tri-Gas, Inc.

(2) Identify any individual or business entity which is a *partner, parent* or *subsidiary* business entity, of any individual or business entity identified above in Box (1):

☒ **No partner, parent or subsidiary; or**

List partner, parent or subsidiary of each party to the contract and identify the corresponding party:

(3) Identify any individual or business entity that would be a *subcontractor* on the discretionary contract.

☐ **No subcontractor(s); or**

List subcontractors: Lockwood, Andrews and Newnam, Inc.
Law Offices of Baucum Steed Barker
A & L Underground
Stouffer & Associates

(4) Identify any *lobbyist* or *public relations firm* employed by any party to the discretionary contract for purposes related to seeking the discretionary contract.

☒ **No lobbyist or public relations firm employed; or**

List lobbyists or public relations firms:

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. A sole proprietor should list the name of the individual and the d/b/a, if any.

(5) Political Contributions

List all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made 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 Box (1), (2), (3) or (4) above, or by the officers, owners of any business entity listed in Box (1), (2) or (3):

☐ No contributions made; If contributions made, list below:

By Whom Made:	To Whom Made:	Amount:	Date of Contribution:
No contributions except: See Attached Disclosure	for Lockwood, Andrews and Newnam, Inc.		


(6) Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city must disclose any known facts which, reasonably understood, raise a question² as to whether any city official or employee would violate Section 2-43 of the City Code (Ethics Code), ("conflicts of interest") by participating in official action relating to the discretionary contract.

☒ Party not aware of facts which would raise a "conflicts-of-interest" issue under Section 2-43 of the City Code; or

Party aware of the following facts:

This form is required to be supplemented in the event there is any change in the information 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:  David W. Balthrop	Title: Director Engineering & Construction Company or D/B/A: Matheson Tri-Gas, Inc.	Date: 4/19/05
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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 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 contract:

None

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

Lockwood, Andrews and Newnam, Inc.

and the name of:

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

None

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 contract;

Leo A. Daly

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

None

Any individual or business entity disclosed above seeking a contract with the System shall disclose any known facts which, reasonably understood, raise a question* as to whether the System official would violate Section 1of Part B of the City of San Antonio Ethics Code by participating in official action relating to the contract.

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.

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.


Political Contributions

In addition, any individual or business entity seeking a contract from the System must disclose in connection with a proposal for a contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any member of 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 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:
Ed Garza Campaign	\$500.00	February 27, 2003
Friends of Enrique Barrera	\$100.00	April 8, 2003
Julian Castro Campaign	\$100.00	April 8, 2003
Carroll Schubert Campaign	\$250.00	April 8, 2003
Joel Williams Campaign	\$250.00	May 12, 2003
Art Hall Campaign	\$250.00	May 15, 2003
Roger Flores Campaign	\$250.00	May 16, 2003
Richard Perez Campaign	\$250.00	June 5, 2003
Councilman Ron Segovia	\$250.00	July 1, 2003
Councilman Joel Williams	\$100.00	October 22, 2003
Councilman Julian Castro	\$100.00	November 5, 2003
Councilman Roger Flores	\$50.00	December 2, 2003
Councilman Chip Haass	\$100.00	May 27, 2004
Kevin Wolff Campaign	\$100.00	July 28, 2004
Carroll Schubert for Mayor	\$500.00	August 1, 2004
Councilman Richard Perez	\$100.00	August 5, 2004
Gerald Lee Campaign	\$250.00	August 16, 2004
Kevin Wolff Campaign	\$400.00	September 14, 2004
Councilman Chip Haass	\$100.00	December 2, 2004
Councilman Art Hall	\$300.00	December 2, 2004
Gerald Lee Campaign	\$250.00	December 2, 2004

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: 	Company: Lockwood, Andrews & Newnam, Inc.	Date: 04/19/05
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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.

Canvassing Checklist

SPNo 1202

Request: Matheson Tri-Gas Company proposes to supply Maxim Integrated Products, a computer chip company, with nitrogen, which is necessary for its production needs. This proposal will require a License to Use Public Right of Way.

	Included in Canvassing	Out Date	In Date	Uncond. Approval	Conditional Approval	Denial
Planning Department	<input checked="" type="checkbox"/>	3/7/2005	3/23/2005	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PublicWorks	<input checked="" type="checkbox"/>	3/7/2005	4/5/2005	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Development Services	<input checked="" type="checkbox"/>	3/7/2005	3/22/2005	<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 type="checkbox"/>	3/7/2005	3/23/2005	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
S.A. Water System (SAWS)	<input type="checkbox"/>			<input type="checkbox"/>	<input 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

April 6, 2005

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

Matheson Tri-Gas Company
Attn: Ms. Kay A. Elsasser
Baucum Steed Barker
Attorneys and Counselors
1100 N.W. Loop 410, Suite 260
San Antonio, Texas 78213-2253

Re: S.P. No. 1202—Proposed construction of nitrogen pipeline within public rights of way

Dear Ms. Elsasser:

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:

- 1.) Storm Water Utility Division: Provide Scour and Buoyancy analysis
- 2.) Street Maintenance Division:
 - Adhere to good piping and construction practices.
 - Bury the pipeline to provide a cover of 4.0 feet minimum.
 - Place tracing wire over the pipeline.
 - Apply a layer of flowable fill above the pipe to warn excavators.
 - Maintain clearly marked signage of high pressure gas along the route
- 3.) Right of Way Management Division:
 - No potholing allowed on City street with pavement condition index of >86
 - No open excavation allowed on street crossings (bore only)
 - Obtain all drainage engineering permits as necessary
- 4.) Storm Water Operations Division:
 - Responsible Party (contractor) shall ensure that all aspects of the Storm Water Pollution Prevention Plan (SW3P) are adhered to all times, to include the placement of all Best Management Practices (BMP's) outlined within the SW3P to ensure sediment discharge during construction activities does not enter the Municipal Separate Storm Sewer System (MS4) downstream of the project.
 - If sediment discharges from the work site into areas out of the project limits, the contractor or responsible party must remove it immediately from the MS4. Contractor is responsible for any damages to the MS4 that result from excessive sediment and or debris from construction activities.

- No construction materials shall be stored within the storm drain system (bank to bank) that will not be utilized during the work period (day). All spoils from construction activities must be removed from the storm drain system or MS4 (bank to bank) and may not be stored in a manner that may cause or contribute to flooding as a result of blockages and or debris related to the installation of the pipeline.
- All concrete infrastructure within the MS4 must be directionally bored a minimum of 48" below the invert of the concrete. In the case a structure cannot be bored, prior approval from the Storm Water Operations Division must be obtained by the contractor.
- All petroleum products should be stored as outlined within the SW3P to ensure water quality in the City of San Antonio's MS4.
- 70% vegetative coverage must be established in all areas disturbed during the pipeline installation, this includes but is not limited to pipeline location, access roads and paths, material storage sites, etc.
- All trenches related to the pipeline installation must be properly compacted to a minimum of 90% compaction, owner or contractor is responsible for repair of all trench subsidence related to the installation of the pipeline.
- Pipeline must be clearly marked within the drainage channel. Marker placed must be placed in a location to not interfere with normal maintenance activities such as mowing, channel re-grading and restoration activities.
- Portable toilets must not be placed within the MS4
- Water imported for installation purposes, shall not be discharged into the MS4.
- Pipeline elevation should be installed no less than a minimum of 48" below grade of the original design of the MS4.
- Woody Materials such a trees and other debris cleared for construction purposed must be removed from the MS4 immediately and must not be stored in such a manner that may cause flooding due to blockages that may occur during a storm event. (This issue will be considered on a case by case basis).

PLANNING DEPARTMENT:

- The project is located adjacent to single family residential structures in and around registered neighborhood Associations for most of its length along public right of way. Notification must be made to the Timber Ridge neighborhood Association and Crown Meadows and Woodglen Homeowners' Associations, noting all potential hazards.
- Conformance to all federal and/or state regulatory standards regarding distances from habitable structures and pubic schools must be adhered to.

- Those portions of the project area identified adjacent to the Frank Persyn tract and the VIA Metropolitan Transit tract within public right of way must be monitored by a professional archaeologist during trench construction.

DEPARTMENT OF ASSET MANAGEMENT:

- 1.) Petitioner must agree to all the terms and conditions of the City of San Antonio's Standard License Agreement
- 2.) Petitioner must respect and coordinate with all other utilities which may have facilities within the public rights of way to be affected.
- 3.) The fee established for this proposal is \$123,575 for a ten-year License, which includes \$50.00 for recording fees. This fee is broken down as follows:
 - Raba Drive: 1277 linear feet @ \$1.25 per linear foot = \$1,596.25 per year X 10 years = \$15,962.50
 - Reed Road: 304 linear feet @ \$1.25 per linear foot = \$380 per year X 10 years = \$3,800
 - Total pipe within Drainage Easements: 7,101 linear feet @ \$1.25 per linear foot = \$8,876.25 X 10 years = \$88,762.50
 - Three (3) street crossings @ \$5,000 each for ten years = \$15,000
 - Recording fees: \$50.00

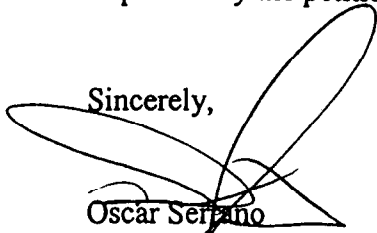
The City of San Antonio is agreeable to accepting payment in two installments. The first installment in the amount of \$61,812.50 (which includes the \$50.00 recording fee) will be due and payable to the City of San Antonio prior to City Council consideration. This amount will be for years 1 thru 5. The remaining amount of \$61,762.50 will be due and payable at least ten (10) days prior to the beginning of the 6th year of the License. If for some reason this project is not approved by City Council, the fee will be returned to the petitioner.

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

Further, a fully completed and signed Discretionary Contracts Disclosure Statement is required and enclosed for your convenience.

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.

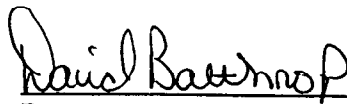
Sincerely,




Oscar Serrano
Real Estate Manager
Department of Asset Management

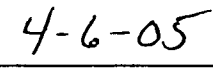
AGREED AS TO TERMS AND CONDITIONS:

Petitioner: Matheson Tri-Gas Company


By: _____


Title


Print Name


Date