

AN ORDINANCE **2011-04-21-0316**

AUTHORIZING THE RENEWAL OF A LICENSE AGREEMENT WITH SAN ANTONIO PIPELINE CORPORATION FOR THE USE OF A PIPELINE IN THE RIGHT-OF-WAY OWNED BY THE SAN ANTONIO INTERNATIONAL AIRPORT FOR THE RATE OF \$0.45 PER SQUARE FOOT PER YEAR.

* * * * *

WHEREAS, on June 15, 2000, the San Antonio City Council passed Ordinance No. 91980 approving the “License Agreement between the City of San Antonio and San Antonio Pipeline Corporation” (the “License Agreement”) and

WHEREAS, San Antonio Pipeline Corporation is owned by Pipeline Holdings, LLC and is an affiliate of Allied Aviation, LLC, the primary provider of Jet-A fuel to commercial aircraft at the San Antonio International Airport; and

WHEREAS, pursuant to the License Agreement, San Antonio Pipeline Corporation installed a pipeline from the New Star tank farm in Southeast San Antonio to the San Antonio International Airport, a distance of about 13 miles, for the purpose of transporting Jet-A fuel; and

WHEREAS, the pipeline installed by San Antonio Pipeline Corporation utilizes 2,649.5 linear feet of right-of-way and real property owned by the San Antonio International Airport; and

WHEREAS, Section 3.1 of the License Agreement authorized a renewal of said agreement subject to the approval by the San Antonio City Council; and

WHEREAS, the renewal of the License Agreement only applies to the 2,649.5 linear feet segment of pipeline within the premises of the San Antonio International Airport; and

WHEREAS, the rate formula applied to this renewal of the License Agreement is consistent with Section 37-10 of the San Antonio City Code;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The “Renewal of the License Agreement between the City of San Antonio and San Antonio Pipeline Corporation” as attached in Exhibit A is approved and incorporated into this ordinance for all purpose. The Aviation Director is authorized to execute the renewal agreement.

SECTION 2. Funds generated by this ordinance will be deposited per the table below.

Amount	General Ledger	Internal Order	Fund
\$5,000.00	4405952	233000000002	51001000
\$71,572.77	4409040	233000000004	51001000
Total Amount: \$76,572.77			

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 4. This Ordinance becomes effective immediately upon the receipt of eight affirmative votes, or in the event eight affirmative votes are not received, on the tenth day after passage.

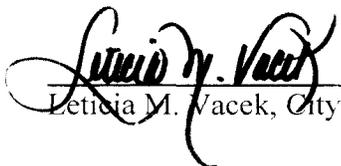
PASSED AND APPROVED, this 21st day of April 2011.



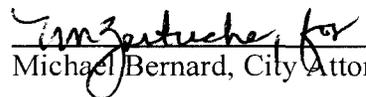
M A Y O R
Julián Castro

ATTEST:

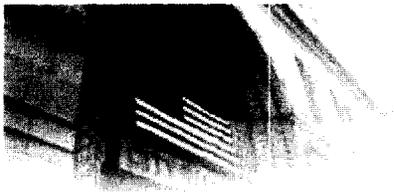
APPROVED AS TO FORM:



Leticia M. Vacek, City Clerk

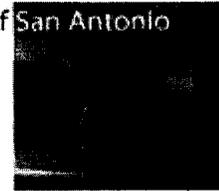


Michael Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 11

Name:	5, 6, 7A, 7B, 10, 11, 12, 14, 15, 16, 18A, 18B, 18C, 19, 21, 22, 23, 24						
Date:	04/21/2011						
Time:	10:13:59 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing the renewal of a license agreement with San Antonio Pipeline Corporation for the use of a pipeline in the right-of-way owned by the San Antonio International Airport for the rate of \$0.45 per square foot per year. [Pat DiGiovanni, Deputy City Manager; Frank Miller, Director, Aviation]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x			x	
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				x
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				

EXHIBIT “A”

**RENEWAL OF LICENSE AGREEMENT BETWEEN
THE CITY OF SAN ANTONIO AND
SAN ANTONIO PIPELINE CORPORATION**

WHEREAS, on June 15, 2000, the San Antonio City Council passed Ordinance No. 91980 approving the "License Agreement between the City of San Antonio and San Antonio Pipeline Corporation" (the "License Agreement"); and

WHEREAS, pursuant to Section 3.1 of the License Agreement, the City of San Antonio (the "City") and the San Antonio Pipeline Corporation (the "Licensee") (collectively the "parties") may negotiate a renewal of the License Agreement subject to approval by the San Antonio City Council; and

WHEREAS, the City and Licensee agree to this renewal of the License Agreement.

NOW, THEREFORE, the City and Licensee agree that the following amendments will replace and supersede their counterpart provisions in the License Agreement:

1.1 Licensed Premises. For and in consideration of the observance of the terms and conditions set forth below, City grants to Licensee a renewal of the License Agreement, such license, being permission to install, use, maintain and operate a "Jet-A" fuel pipeline beginning at the Allied Aviation Terminal (Formerly known as the Ogden Allied Aviation Terminal) under and across approximately 438 feet along Wetmore Road proceeding South adjacent to the East side of the Airport Property Fence and turning West just prior to the intersection of Loop 410 and Wetmore Road, and then entering Airport Property and proceeding West-Northwest for approximately 2,211.50 feet between the Airport Perimeter Fence and Airport Perimeter Road and proceeding to the Allied Aviation Jet-A Fuel Terminal Load Rack, all of which are City owned or controlled properties described in Exhibits F and G which are attached to the License Agreement and incorporated herein for all purposes, and solely for the purpose described in Section 1.3. For the purpose of this renewal of the License Agreement, the 2,649.5 foot licensed area is assumed to be part of the Airport Property.

1.3 Purpose and Use. The purpose of this License Agreement renewal is to permit the installation, use, maintenance and operation of an underground "Jet-A" fuel pipeline hereby authorized for the sole purpose of transport of "Jet-A" fuel within the San Antonio International Airport to supply the locations currently leased by the Allied Aviation fuel storage terminals, and for no other commodity or destination, without the express written consent of the City acting by and through its City Council, however, such consent shall not be unreasonably withheld. It is expressly the City's intent to allow expansion of this pipeline to serve other Airport Property customers or tenants in a non-discriminatory manner and consistent with this License Agreement renewal, however, such expansion must be reviewed by the City's Capital Improvements Management Services Department ("CIMS"), and Aviation prior to Council approval, either in the form of an amendment to this License Agreement renewal or by other instrument. Transport of gasoline is expressly prohibited without the express written consent of the City acting by and through the City Council. Licensee has submitted to the jurisdiction of the Texas Railroad Commission for purposes of regulation under rules applicable to common carriers. Licensee's

entry into and use of City property above shall be limited to that purpose. The Licensed Premises shall only be occupied by Licensee, its subsidiaries or affiliates. In order to ensure Licensee's compliance with this paragraph, City may perform a physical audit of the Licensed Premises by inspecting the Licensed Premises. Such inspection may be performed at reasonable times and City may be accompanied by Licensee's personnel. City may also audit the appropriate records of the Licensee for the purpose of determining compliance with this paragraph. All financial information provided to City under any such audit must be maintained as confidential, excepting any information that is determined to be an open record pursuant to the Texas Public Information Act. In the event any other line is placed in the Licensed Premises in violation of this paragraph, City may, at its option, terminate this Agreement. In the event of such termination, Licensee shall have one hundred and twenty (120) days to remove its pipeline from the Licensed Premises. The rights hereby granted to Licensee by the City are non-exclusive in nature and City expressly reserves the right to grant similar rights to others in the future to use City controlled property, however, Licensee shall have the exclusive right to utilize its pipeline within the Licensed Premises. Each party agrees that this License Agreement renewal is not intended to be interpreted to prohibit Licensee from delivering "Jet-A" fuel to other locations that are not situated within City property or right-of-way; however, in the event that the Licensee needs to utilize other City property or right-of-way not specified in this License Agreement, then Licensee shall seek the appropriate authorization from the City.

1.4 Regulatory Reports. The term "Texas Natural Resources Conservation Commission (TNRCC)" in the License Agreement is replaced with "Texas Commission on Environmental Quality (TCEQ)," and references to "TNRCC" are replaced with "TCEQ."

2.1 Payment as Consideration. In consideration of the License Agreement renewal, and pursuant to Section 37-10 of the City of San Antonio City Code, Licensee shall pay a non-refundable license processing fee of \$5,000.00. In addition, Licensee shall pay a total of \$71,572.77 during the 10 year term of the renewal period. During the first year of the renewal period, Licensee shall pay \$5,961.36 corresponding with a licensed area 5 feet wide by 2,649.50 feet long at a market rate of \$0.45 per foot. The annual license fee for each succeeding year shall be the previous year's fee multiplied by 1.04. The 10 year annual payment schedule is provided below:

Year	Baseline Fee	Annual 4% Escalation Factor	Annual Fee
Year 1	\$5,961.36	NA	\$5,961.36
Year 2	\$5,961.36	\$238.46	\$6,199.82
Year 3	\$6,199.82	\$247.99	\$6,447.81
Year 4	\$6,447.81	\$257.91	\$6,705.72
Year 5	\$6,705.72	\$268.23	\$6,973.95
Year 6	\$6,973.95	\$278.96	\$7,252.91
Year 7	\$7,252.91	\$290.12	\$7,543.03
Year 8	\$7,543.03	\$301.72	\$7,844.75
Year 9	\$7,844.75	\$313.79	\$8,158.54
Year 10	\$8,158.54	\$326.34	\$8,484.88

The city will accept the \$5,000.00 processing fee and the first year annual fee in the amount of \$5,961.36 upon execution of the License Agreement renewal. Payment for each succeeding year will be due on the anniversary of the effective date of the renewal (July 1st).

3.1 Term. The License Agreement renewal is for an initial ten (10) years with a subsequent ten (10) year period which may be granted at the discretion of the Aviation Director. The Licensee may request a second ten (10) year renewal by sending a letter to the Aviation Director six (6) months prior to the expiration of the initial ten (10) year renewal period. Should the Licensee request such renewal, the Aviation Director shall establish the per foot fair market value applicable to the second license renewal at that time. The term of the initial License Agreement renewal will be effective July 1, 2010 subject to execution by both parties and ordinance approval by the San Antonio City Council. Unless terminated by the Licensee or City, pursuant to the terms of the License Agreement, the License Agreement renewal shall stay in effect for the entire ten (10) year term. Should Licensee request a renewal for premises originally part of this License Agreement but no within the Airport Property, the Director of CIMS shall have the authority to amend the License Agreement to include such non-airport premises and establish the per foot fair market value applicable to those non-airport premises.

12.1 Notices to City. Notices to required or appropriate under this License Agreement shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid or sent via major courier service addressed to:

Aviation Director
City of San Antonio
9800 Airport Blvd.
San Antonio, TX 78216

With copy to:

Director of CIMS
City of San Antonio
P.O. Box 839966
San Antonio, TX 78236-3966

16.10 Approval of City. Whenever this License Agreement calls for approval by City, unless City Council approval is required or otherwise explained herein, such approval shall be evidenced by the written approval of the Director of Aviation for License Premises within the Airport Property or by the Director of CIMS for all other City property.

EXECUTED IN DUPLICATE ORIGINALS EACH OF WHICH HAS EQUAL FORCE AND EFFECT, this ____ day of _____, 2011.

LICENSOR:

CITY OF SAN ANTONIO
A Texas Home-Rule
Municipal Corporation

By: _____
Frank Miller
Aviation Director

LICENSEE:

**SAN ANTONIO PIPELINE
CORPORATION**

By: Robert L. Rose
Print Name: ROBERT L ROSE
Title: President

APPROVED AS TO FORM: _____
City Attorney