

REVISED

AGENCY: gc
ITEM:
DATE: 7-1-09

TO: MAYOR & CITY COUNCIL

FROM: BRYAN G. RAINES, Deputy City Manager

SUBJECT: APPROVING AN AGREEMENT EXTENDING THE TERM OF THE CURRENT FRANCHISE WITH SOUTHWEST GAS CORPORATION TO SUPPLY NATURAL AND/OR ARTIFICIAL GAS AND AUTHORIZING THE CITY MANAGER TO SIGN THE EXTENSION

DATE: JUNE 18, 2009

Purpose & Recommendation:

In July 1989, the City of Mesa approved Ordinance 2449 providing a twenty year franchise to construct, operate, and maintain within a defined service area in Mesa. In 2008 the City of Mesa and Southwest Gas Corporation initiated discussions on revisions to the agreement but those changes have not been finalized at this time. It is recommended that the City Council approve an agreement extending the terms of the current franchise agreement.

Background:

Southwest Gas and its predecessors have operated in defined territory within Mesa for years. The City's current franchise agreement was last approved in 1989. Since that time a variety of legal, technological and other changes have taken place.


Over the past twelve to eighteen months the City of Mesa and Southwest Gas have discussed renewal of the agreement but have not reached final agreement on content. As a result it is necessary to extend the existing contract until it can be replaced with a new, revised agreement.

Fiscal Impact:

Extension of the current agreement does not change the financial terms of the existing agreement.

Concurrence:

The City Attorney's Office concurs with the form of the revised agreement.



Bryan G. Raines, Deputy City Manager

AGENDA
ITEM 9C
DATE 7-1-09

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, RELATING TO FRANCHISES; APPROVING AN AGREEMENT EXTENDING THE PROVISIONS OF THE CURRENT FRANCHISE WITH SOUTHWEST GAS CORPORATION TO SUPPLY NATURAL AND/OR ARTIFICIAL GAS.

WHEREAS, the City of Mesa and Southwest Gas Corporation continue to negotiate and will enter into a new natural and/or artificial gas franchise agreement to become effective no later than the November 2, 2010 midterm elections, and;

WHEREAS, the uninterrupted flow of natural and/or artificial gas is crucial to Mesa homes and businesses, the City of Mesa and Southwest Gas Corporation desire that the current Franchise provisions remain in effect until the approval of a new franchise agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. The agreement adopting and extending the provisions of the current Franchise with Southwest Gas Corporation to operate and provide a natural and/or artificial gas system, attached to this ordinance as EXHIBIT 1, is authorized and approved.

SECTION 2. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 3. The City Manager is authorized to execute EXHIBIT 1 on behalf of the City.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this _____ day of July, 2009.

APPROVED:

Mayor

ATTEST:

City Clerk

**AGREEMENT EXTENDING
THE FRANCHISE PROVISIONS SET FORTH IN
CITY OF MESA ORDINANCE NO. 2449
BETWEEN
SOUTHWEST GAS CORPORATION
AND THE CITY OF MESA**

WHEREAS, the City of Mesa, an Arizona Municipal Corporation (“City”) and Southwest Gas Corporation, a California corporation (“SWG”), collectively “the Parties,” have entered into a franchise agreement whereby SWG will supply natural and/or artificial gas as set forth in the provisions contained within City of Mesa Ordinance No. 2449, dated July 24, 1989 (“Franchise”); and

WHEREAS, the Parties desire to enter into a new long term franchise agreement, which will be presented to the Mesa City Council for its approval and subsequent approval by the voters of Mesa no later than November 2, 2010; and

WHEREAS, the Parties desire to continue the above referenced Franchise relationship subsequent to the expiration of the Franchise on August 23, 2009; and

WHEREAS, the City finds that a short term interim agreement adopting the identical terms of the Franchise is in the best interests of the citizens of the City.

WHEREFORE, the Parties, through their authorized representatives, hereby agree that the terms of the Franchise, a true and correct copy which is attached hereto as “EXHIBIT A” and herein incorporated by reference as if set forth in its entirety shall govern the franchise relationship between the Parties until such time as a new long term franchise agreement is approved by the voters, but in any event no later than the date required by law to certify the November 2, 2010 franchise election results.

This “Agreement Extending the Franchise Provisions Set Forth in City of Mesa Ordinance No. 2449 Between the Southwest Gas Corporation and the City of Mesa” shall also be referred to by the short form “SWG Extension Agreement.”

The SWG Extension Agreement shall become effective at 11:59PM Mesa local time on August 23, 2009.

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

By our signatures below, we represent that we have read and understand the terms of this SWG Extension Agreement and sign this document as fully authorized representatives of our respective parties.

CITY OF MESA

Southwest Gas Corporation

By: _____

By: _____

Its: _____

Its: _____

Printed
Name: _____

Printed
Name: _____

Date: _____

Date: _____