



**INTER-OFFICE COMMUNICATIONS**  
**GENERAL MANAGER**

**DATE:** January 10, 2000  
**TO:** Honorable Mayor and  
 Members of the City Commission  
**FROM:** Michael L. Kurtz, General Manager  
**SUBJECT:** Authorizing a discount in electric rates applicable to Bear Archery.

2000 JAN - 7 PM 3:39  
 CITY OF GAINESVILLE  
 CITY COMMISSION

**RECOMMENDATION:**

The City Commission authorize the General Manager for Utilities to:

- 1) Execute an agreement with Bear Archery, LLC, substantially in the form attached, to engage in an exclusive long term energy supply relationship with the City in exchange for electric rate discounts that will be granted over a forty-eight month period, and
- 2) Execute an agreement substantially in the form attached, that obligates Bear Archery, LLC to annex the site of its Gainesville facility into the City once the site meets the prevailing criteria for annexation under the laws of Florida.

**EXPLANATION:**

Upon learning of the possibility that a significant local employer, Bear Archery, could be ceasing operations in the Gainesville area, on November 2, 1999 the City Commission authorized the General Manager to negotiate electric rate discounts in exchange for GRU being established as the firm's exclusive area power supplier for the next 10 years. The General Manager was also directed to determine if Bear Archery would consider voluntarily annexing into the City once its property became contiguous to the City limits. Finally, the General Manager was asked to provide further documentation that all the requirements of the City's Retained, Expanded, or Attracted Load Ordinance (960498) had been met. At stake are approximately 150 industrial jobs.

As a consequence of negotiations and other deliberations, Bear Archery has agreed to the prospective annexation and is willing to engage in the long-term power supply relationship with GRU. The value of discounts agreed to is approximately \$15,000 annually for four years, which is roughly 75% of the maximum allowed under the City's Ordinance. Bear Archery also agreed to voluntarily annex its site into the City whenever its site is lawfully eligible.

The Ordinance requires that retention of this customer must also be in the best interest of the City. The criteria for this determination are threefold: 1) the discount must be demonstratively necessary to retain the load; 2) revenue forgone by the City, under the Rider, and any other financial incentives offered by the City shall not outweigh the long term quantitative and qualitative benefits to the City's taxpayers and utility ratepayers; and 3) the business activity is consistent with the City's goals, objectives and policies regarding: Land Use and Zoning,

Environmental Impacts, Economic Development Objectives and Transportation Infrastructure. A report entitled "Evaluation of the Consistency of the Bear Archery Manufacturing Site with Goals and Objectives of the City of Gainesville" has been prepared which summarizes the evaluation of these criteria with documentation from appropriate local agencies and staff's fiscal impact analysis to assess criteria "2".

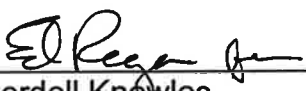
Staff concludes that criteria "1" is met in that the availability of the discount will be necessary to retain the customer. Staff performed a fiscal impact analysis, performed using the model developed for this purpose by Dr. Hank Fishkind. The analysis indicates that, even with the provision of the estimated maximum discount available (approximately \$20,000 per year for four years) retaining Bear Archery in Gainesville, with its high prospect for additional industrial expansion, results in approximately \$200,000 of net present benefit to the City over the next 10 years.

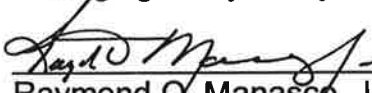
To determine the extent to which the business activity is consistent with the City's goals, objectives and policies regarding: Land Use and Zoning, Environmental Impacts, Economic Development Objectives and Transportation Infrastructure, the Economic and Community Development departments were consulted. The Economic Development department noted that the project is consistent with countywide economic development goals. Since the project is currently outside of the City limits, the Community Development department consulted with pertinent County departments including: the Department of Growth Management, the Public Works department and the Environmental Protection department.

For these reasons, staff recommends that the City Commission determine that retention of Bear Archery in the area is in the best interest of the City and authorize the General Manager to execute agreements with Bear Archery, LLC to extend the discounts under the terms contemplated herein and provide for voluntary annexation into the City Corporate Limits whenever appropriate.

FISCAL IMPACT

The City will forgo approximately \$15,000 of General Fund Transfer per year for four years, but will retain \$200,000 of net present value benefit that would be lost if Bear Archery were to relocate out of the Gainesville Urban Area.

Prepared by:   
Berdell Knowles  
Managing Utility Analyst

Reviewed by:   
Raymond O. Manasco, Jr.  
Utilities Attorney

Submitted by:   
Michael L. Kurtz  
General Manager

Attachments

990138

This Instrument Prepared by:  
Raymond O. Manasco, Jr., Utilities Attorney  
Gainesville Regional Utilities  
Post Office Box 147117  
Gainesville, Florida 32614-7117

Located in Gary Grant, Township 10 South,  
Range 19 East.

**CONSENT TO ANNEXATION**

This Consent to Annexation made and entered into this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, by and between the City of Gainesville, Florida, a municipal corporation organized and  
existing under the laws of the State of Florida, herein referred to as "City" and Bear Archery, LLC,  
a \_\_\_\_\_ corporation, authorized to conduct business in the State of Florida, herein  
referred to as "Customer". City and Customer shall also be referred to herein as Parties collectively  
and as Party individually.

**WITNESSETH:**

WHEREAS, the Customer has property and facilities that are currently served by the City's  
combined utility system which are not located within the corporate limits of the City, and

WHEREAS the Customer has under separate written agreement between Customer and the  
City, availed itself of certain electric service discounts which are afforded by direct reduction in the  
transfer of utility system revenues to the City's General Fund, and

WHEREAS the City desires the Customer's property and facilities be annexed into the corporate limits of the City, and

WHEREAS the Customer consents to have his property and facilities annexed into the City at such time as lawfully eligible therefor.

NOW, THEREFORE, in consideration of the foregoing and of benefits to be obtained from the covenants herein, the Parties agree as follows:

ARTICLE I

COMMENCEMENT

SECTION 1.1 - The term of this Consent to Annexation shall commence on the date executed by the Parties and shall continue in effect until such time as annexation of the Property is accomplished.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.1 - Customer consents that if the Property (as more particularly described in Exhibit A attached hereto, hereinafter "the Property") shall meet the prevailing criteria for annexation into the corporate limits of the City of Gainesville, Florida, as such criteria may be defined under the laws of Florida, Customer shall immediately apply for annexation of Customer's Property into the City of Gainesville, Florida, and take such other affirmative actions as may be appropriate for a property owner under prevailing, applicable law, as may be required to achieve such annexation. If Customer or a subsequent owner of the Property fails or refuses to comply with this covenant to annex when the Property becomes contiguous to the City limits, Customer hereby designates the Mayor of the City of Gainesville as attorney-in-fact to execute an appropriate

annexation agreement for the Property and to take such other actions as may be reasonably necessary to affect the annexation of the Property into the City of Gainesville. The Parties agree that this Consent to Annexation shall be recorded in the public records of Alachua County, Florida, for the purpose of serving notice of the terms of this agreement.

### ARTICLE III

#### MISCELLANEOUS

SECTION 3.1 - This Consent to Annexation may not be modified or amended, and conditions hereunder may not be waived, except in writing, signed by or on behalf of the Parties.

SECTION 3.2 - This Consent to Annexation shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation arising under this Consent to Annexation shall be in the federal or state courts in Gainesville, Florida.

SECTION 3.3 - Any amendment to this Consent to Annexation shall be effective upon the date of execution of such amendment by the Parties and subject to the regulatory authority of the Gainesville City Commission. The Parties shall be bound by any duly executed Amendment to this Consent to Annexation.

SECTION 3.4 - This Consent to Annexation shall be binding upon Customer's heir's, successors and assigns, it being the intention of the Parties that the lands subject to the agreement be burdened by the obligations contained herein.

SECTION 3.5 - This Consent to Annexation shall be recorded in the Public Records of Alachua County, Florida.

IN WITNESS WHEREOF, the Parties hereto have caused this Consent to Annexation to be executed by their duly authorized officers or representatives, and copies delivered to each Party, as of the day and year first above stated.

WITNESS:

BEAR ARCHERY, LLC

BY \_\_\_\_\_

BY \_\_\_\_\_

Name:

Title:

By \_\_\_\_\_

WITNESS:

CITY OF GAINESVILLE, FLORIDA

BY \_\_\_\_\_

BY \_\_\_\_\_

Michael L. Kurtz

General Manager

Gainesville Regional Utilities

By \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

BY \_\_\_\_\_

Raymond O. Manasco, Jr.  
Utilities Attorney  
Gainesville Regional Utilities

STATE OF FLORIDA  
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_, President of Bear Archery, LLC, a \_\_\_\_\_ corporation, on behalf of the corporation. He is personally known to me or \_\_\_\_\_ has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida  
Print Name: \_\_\_\_\_  
Commission No. \_\_\_\_\_  
Commission Expires \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Michael L. Kurtz, personally known to me to be the General Manager for Utilities of the City of Gainesville, a municipal corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public, State of Florida  
Print Name: \_\_\_\_\_  
Commission No. \_\_\_\_\_  
Commission Expires \_\_\_\_\_



EXHIBIT A

**CONSENT TO ANNEXATION CONTRACT**

**Description of Customer's Property**

A tract of land situated in the Gary Grant, Township 10 South, Range 19 East, Alachua County, Florida, said tract of land being more particularly described as follows:

Commence at the Northwest corner of the Gary Grant and run North 47 degrees, 28 minutes, 42 seconds East, 3,330.40 feet to the Southeast corner of Lot 21 of Riceland Subdivision as recorded in Plat Book "D" page 74, of the Public Records of Alachua County, Florida, said corner also being on the Northerly line of a 150 foot City of Gainesville public utilities easement; thence run North 48 degrees, 19 minutes, 45 seconds East, along the Northerly line of said City of Gainesville easement, 691.94 feet, thence run South 41 degrees, 40 minutes, 15 seconds East 150.00 to the Southerly line of said easement and the Point of Beginning; thence run North 48 degrees, 19 minutes, 45 seconds East along the Southerly line of said easement, 718.82 feet; thence run South 41 degrees 40 minutes, 15 seconds East 150.00 feet; thence run North 48 degrees, 19 minutes, 45 seconds East, 389.01 feet to the Westerly line of a proposed 90 foot road right-of-way; thence run Southeasterly along said Westerly line with a curve concave Northeasterly, said curve having a central angle of 03 degrees, 21 minutes, 43 seconds, a radius of 11,592.10 feet, an arc length of 680.19 feet; and a chord bearing and distance of South 36 degrees, 41 minutes, 39 seconds East, 680.09 feet; thence continue Southeasterly, along said Westerly line with a curve concave Northeasterly, said curve having a central angle of 01 degrees, 31 minutes, 03 seconds, a radius of 23,158.31 feet, an arc length of 613.37 feet, and a chord bearing and distance of South 36 degrees, 52 minutes, 18 seconds East, 613.35 feet, thence run South 52 degrees, 22 minutes, 10 seconds West, 1000.00 feet; thence run North 41 degrees, 40 minutes, 15 seconds West, 1368.30 feet to the Point of Beginning.

Also known as Tax Parcel No. 07240-001-003.



**ELECTRIC SERVICE CONTRACT**  
**Retained, Expanded or Attracted Load**

This CONTRACT made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the City of Gainesville, Florida, a municipal corporation organized and existing under the laws of the State of Florida, herein referred to as "City" and Bear Archery, LLC, a corporation authorized to conduct business in the State of Florida, herein referred to as "Customer". City and Customer shall also be referred to herein as Parties collectively and as Party individually.

**WITNESSETH:**

WHEREAS, the Customer has facilities that are currently served by the City or the Customer has facilities capable of being served by the City and other electricity suppliers as well, and

WHEREAS the Customer desires to receive electric services for such facilities exclusively from the City but only under the terms and conditions set forth in this Contract and that certain Consent to Annexation of even date, and

WHEREAS the City agrees to sell and deliver to the Customer and the Customer agrees to purchase and pay for the total requirements of electricity for the Customer's sole use, subject to the provisions of this Contract, and

WHEREAS the Parties acknowledge that this Contract applies only to the electric service provided to the Customer's facilities and does not apply to any other services obtained from the City.

NOW, THEREFORE, in consideration of the foregoing and of benefits to be obtained from the covenants herein, the Parties agree as follows:

ARTICLE I

TERM OF CONTRACT

SECTION 1.1 - The term of this Contract shall commence on the date executed by the Parties and shall continue in effect for an initial term of ten (10) years. After such initial ten (10) year period, this Contract shall be automatically extended for succeeding periods of three (3) years each. This Contract may be canceled by either Party pursuant to early termination provisions in Section 4.6 hereof. Notwithstanding such early termination provisions, this Contract may be canceled by either Party at the end of said initial ten (10) year period or at the end of any subsequent extension, provided that one hundred and eighty days (180) prior written notice of intent to cancel is given to the other Party.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.1 - For as long as business is conducted by Customer at the site for which service is applied for hereunder, Customer agrees that the City shall be its exclusive supplier of electric service throughout the term of this Contract. In no event shall the Customer utilize self-generated electricity or electricity supplied from any source other than the City for the duration of this Contract without the City's consent.

SECTION 2.2 - Customer must make, or have previously made, application to the City for service under either the City's General Service Demand, Large Power, or Transmission Service Rate Schedule and, as well, make application for service under the City's Retained, Expanded or Attracted Load Service Rider (Rider). Such application shall include documentation sufficient enough to allow the City to determine the Customer's eligibility for the Rider as being either Retained, Expanded or Attracted Load pursuant to City policy. The City must approve all such pertinent applications before service hereunder commences.

SECTION 2.3 - The Parties hereto agree that Customer's failure to sustain eligibility for service under the Rider may result in an early termination of this Contract pursuant to Section 4.6 herein.

SECTION 2.4 - All terms and conditions under the normally applicable Rate Schedule, either General Service Demand, Large Power or Transmission Service, shall apply to service supplied hereunder to the Customer, except as modified by this Contract.

ARTICLE III

APPLICATION OF DISCOUNT

SECTION 3.1 - For service hereunder, the following Rate Percentage Discounts shall be applied to the normally applicable Customer Charge, Demand (kW) Charge and Energy (kWh) Charge for the corresponding Billing Period, inclusive of any other applicable discounts:

<u>Billing Period</u>	<u>Rate Percentage Discount</u>
1st - 12th Billing period	10%
13th - 24th Billing period	10%
25th - 36th Billing period	10%
37th - 48th Billing period	10%

ARTICLE IV

MISCELLANEOUS

SECTION 4.1 - This Contract may not be modified or amended, and conditions hereunder may not be waived, except in writing, signed by or on behalf of both Parties.

SECTION 4.2 - This Contract shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation arising under this Contract shall be in the federal or state courts in Gainesville, Florida.

SECTION 4.3 - This Contract shall be valid, effective, and binding on the parties upon execution of the Contract by the Parties, except for and unless the Florida Public Service Commission issues an order disapproving this Contract. The provisions of this Contract and any disputes or breaches hereunder are subject to the regulatory authority of the Florida Public Service Commission over the City's rate structure. In the event that there is an order issued by the Florida Public Service Commission disapproving this Contract, neither party shall have an action against the other arising under this Contract.

SECTION 4.4 - Any amendment to this Contract shall be effective upon the date of execution of such amendment by the Parties and subject to the regulatory authority of the Gainesville City Commission and the statutory authority of the Florida Public Service Commission. Both Parties shall be bound by any duly executed Amendment to this Contract unless such amendment is disapproved by order of the Florida Public Service Commission.

SECTION 4.5 - The rights and obligations of the Customer under this Contract shall not be assignable without the prior written consent of GRU, which consent shall not be unreasonably withheld.

SECTION 4.6 - If at any time during the term of this Contract the Customer violates any terms and conditions of this Contract or of related City policies, the City may discontinue service and terminate the Contract. Deliberate misrepresentation of facts impacting a determination of the Customer's eligibility for the Rider may also result in early termination of this Contract. The Customer may avail itself to an early termination of this Contract, pursuant to all the provisions of this Section, by providing one hundred and eighty days (180) prior written notice to the City of such intent to terminate early. In the event of an early termination of this Contract, whether by either Party, normally applicable rate schedules become applicable immediately and the Customer will be required to reimburse the City for the full value of any Rate Percentage Discounts granted previously and for all reasonable costs incurred by the City due to such early termination.

SECTION 4.7 - Should the City become aware of any pending legislative or regulatory change which is likely to have an adverse impact upon the City's tax exempt bond status, due to provisions of this Contract, City shall promptly notify Customer thereof whereupon the Parties shall negotiate in good faith to modify the provisions of the Contract to eliminate such adverse impact on the City's tax exempt bond status.

SECTION 4.8 - Notwithstanding the expiration or termination of this Contract, the obligations of Customer under that certain Consent to Annexation, a copy of which is attached hereto, shall survive and continue in accordance with the terms thereof.



IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed by their duly authorized officers or representatives, and copies delivered to each Party, as of the day and year first above stated.

WITNESS:

BEAR ARCHERY, LLC

BY \_\_\_\_\_

BY \_\_\_\_\_  
Authorized Representative  
Title

WITNESS:

CITY OF GAINESVILLE, FLORIDA

BY \_\_\_\_\_

BY \_\_\_\_\_  
Michael L. Kurtz  
General Manager  
Gainesville Regional Utilities

APPROVED AS TO FORM AND LEGALITY:

BY \_\_\_\_\_  
Raymond O. Manasco, Jr.  
Utilities Attorney  
Gainesville Regional Utilities

W:\U0070\CONTRACT\NAAG\_CON