

AN ORDINANCE 2006-04-06-0430

**AUTHORIZING AN AGREEMENT BETWEEN SOUTHWESTERN BELL TELEPHONE, L.P. D/B/A AT&T TEXAS ("AT&T") AND THE CITY OF SAN ANTONIO TO ACCEPT \$415,000.00 AS A PREPAYMENT OF MUNICIPAL FRANCHISE FEES AND PAYMENTS IN LIEU OF IN-KIND CONTRIBUTIONS AS AUTHORIZED BY CHAPTER 66 OF THE TEXAS UTILITIES CODE.**

\* \* \* \* \*

**WHEREAS**, pursuant to Chapter 66 of the Texas Utilities Code, entitled "State-Issued Cable and Video Franchise," on November 1, 2005, the Texas Public Utility Commission granted AT&T Texas a state-issued certificate of franchise authority to provide video services in San Antonio, Texas; and

**WHEREAS**, under Sections 66.005 and 66.006 of the Texas Utilities Code, companies holding a state-issued certificate of franchise authority are required to make quarterly payments to cities in which they provide cable or video service of (1) a franchise fee of 5% of gross revenues for the use of municipal rights-of-way, and (2) a payment in lieu of in-kind contributions of 1% of gross revenues earmarked for capital costs associated with Public, Educational, and Governmental ("PEG") access channels; and

**WHEREAS**, under Section 66.009 of the Texas Utilities Code, upon the expiration of the cable franchise agreement between Time Warner Cable and the City of San Antonio on December 31, 2005, the City became responsible for the management and operation of the PEG access channels effective January 1, 2006; and

**WHEREAS**, in anticipation of taking over control of the PEG access channels, on December 15, 2005, the City Council authorized unbudgeted expenditures in the amount of \$414,275.00 for operation of the PEG access channels; and

**WHEREAS**, AT&T Texas plans to launch its video services in the City of San Antonio in 2006, and has agreed to make a prepayment of municipal fees to the City in the amount of \$415,000.00 to be used by the City for any lawful purpose, including PEG access channel operations, with the understanding that AT&T Texas will deduct this amount from its quarterly municipal fee payments to the City; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The terms and conditions of the Video Fee Prepayment Agreement ("Agreement") between the City of San Antonio and AT&T Texas accepting a prepayment of quarterly municipal fees in the amount of \$415, 000.00 is hereby authorized. A copy of the

Agreement in substantially its final form is attached hereto and made a part of this Ordinance as Exhibit "A." A copy of the fully executed Agreement will be attached to this Ordinance and will replace Exhibit "A."

**SECTION 2.** Within thirty (30) days of execution of the Agreement, AT&T Texas will make the prepayment to the City. Funds generated by this Ordinance are to be deposited into Fund 11001000, General Fund, Account 2150110, Deferred Revenue when received from AT&T Texas.

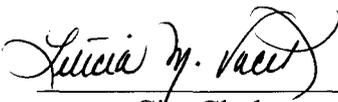
**SECTION 3.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

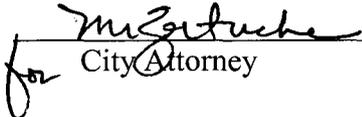
**SECTION 4.** The City Manager or her designee is hereby authorized for a period of ninety (90) days to execute any and all documents necessary to fulfill the purpose and intent of this Ordinance.

**SECTION 5.** This Ordinance shall become effective immediately upon the passage by eight (8) votes of the City Council and if passed upon fewer than eight (8) votes after the tenth (10<sup>th</sup>) day after passage.

**PASSED AND APPROVED** this 6<sup>th</sup> day of April 2006.

  
M A Y O R  
PHIL HARDBERGER

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
for City Attorney

# Agenda Voting Results

**Name:** 5.

**Date:** 04/06/06

**Time:** 10:04:19 AM

**Vote Type:** Multiple selection

**Description:** An Ordinance authorizing an agreement between Southwestern Bell Telephone, L.P., d/b/a AT&T Texas ("AT&T") and the City of San Antonio to accept \$415,000.00 as a prepayment of municipal franchise fees and payments in lieu of in-kind contributions as authorized by Chapter 66 of the Texas Utilities Code. [Presented by Ben Gorzell, Acting Director, Finance; Sheryl Sculley, City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		