

AN ORDINANCE 2006-04-20-0500

AUTHORIZING AN AMENDMENT AND EXTENSION OF THE CURRENT PAYPHONE CONTRACT WITH SOUTHWESTERN BELL TELEPHONE, L.P. DBA AT&T TEXAS (FORMERLY "SBC") TO PROVIDE EXCLUSIVE PAYPHONE SERVICES IN CITY FACILITIES AND NON-EXCLUSIVE SERVICES IN THE CITY'S PUBLIC RIGHT-OF-WAY.

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WHEREAS, on May 20, 2004, the City approved Ordinance No. 99228 authorizing an agreement with Southwestern Bell Telephone, L.P. d/b/a AT&T Texas ("AT&T") (formerly "SBC") to provide exclusive payphone services in City facilities and non-exclusive services in public rights-of-way for a term beginning June 1, 2004 and ending April 30, 2006 with the option to renew for two additional one year terms with City Council approval ("Payphone Agreement"); and

WHEREAS, the current trend in the decline in payphone usage due to the proliferation of wireless phones and other modes of communications justify an amendment to the Payphone Agreement; and

WHEREAS, the First Amendment to the Payphone Agreement at ("Amendment") will delete the requirement for a minimum number of payphones in certain City facilities and raise the monthly rate due from the City from \$50.00 to \$75.00 per month in order to maintain payphone service at locations where AT&T requests removal due to low usage; and

WHEREAS, the projected revenues for Fiscal Year 2006 under the amended Payphone Agreement has been estimated downward to \$139,000.00, which represents an 18% revenue decline from Fiscal Year 2005; and

WHEREAS, in addition to the aforementioned changes, the Amendment will extend the Payphone Agreement for one additional year through April 30, 2007; **NOW THEREFORE:**

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

SECTION 1. The terms and conditions of the Amendment are hereby authorized. A copy of the Amendment in substantially its final form is attached hereto and made a part of this Ordinance as Exhibit "A." A copy of the fully executed Amendment will be attached to this Ordinance and will replace Exhibit "A."

SECTION 2. Funds received under the amended Payphone Agreement are authorized to be deposited into Fund No. 11001000, General Fund; General Ledger 4407700, "C&R Commission for Contracts;" Internal Order Number 218000000001, Southwestern Bell Telephone Company.

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 allocations 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 authorized for a period of ninety (90) days following the effective day 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 (10th) day after passage.

PASSED AND APPROVED this 20th day of April 2006.



M A Y O R

PHIL HARDBERGER

ATTEST:



City Clerk

APPROVED AS TO FORM:



for City Attorney

EXHIBIT A



**FIRST AMENDMENT TO THE AGREEMENT PERMITTING
THE PLACEMENT OF PAYPHONES AT CITY FACILITIES IN RIGH-OF-WAY**

THIS FIRST AMENDMENT dated this 20th day of April 2006, is by and between the City of San Antonio, a Texas Municipal Corporation and Home-Rule municipality ("City") and Southwestern Bell Telephone, L.P., formerly doing business in Texas as SBC Texas, now d/b/a AT&T Texas ("AT&T"). AT&T and City may hereafter be referred to jointly as the "Parties" and individually as "Party".

WHEREAS, on May 20, 2004, City and AT&T executed an Agreement Between The City Of San Antonio and SBC Permitting The Placement Of Payphones At City Facilities And in Right-of-Way (the "Agreement") with an initial term of two (2) years, effective June 1, 2004 ("Effective Date") and expiring on April 30, 2006 ("Termination Date"); and

WHEREAS, the Parties desire to extend and amend the Agreement at this time in the manner set forth herein.

NOW THEREFORE, in consideration of the mutual obligations set forth herein, City and AT&T agree as follows:

1. The occurrence of the term "SBC" is hereby replaced with "AT&T" wherever such former term is referenced in the Agreement.

2. Pursuant to Section 4(a) of the Agreement, the City and AT&T hereby extend the Agreement for a period of one (1) year, thereby amending the Termination Date to April 30, 2007. Unless both Parties mutually agree otherwise in writing at least thirty (90) days prior to the aforementioned Termination Date, as amended in this Section 1, the Agreement shall lapse into a month-to-month arrangement, terminable by either Party upon thirty (90) days prior written notice.

3. Section 2(b) of the Agreement is hereby deleted in its entirety and replaced with the following:

(b) Upon mutual Agreement between **CITY** and **AT&T**, payphones at those locations in Exhibit A, may be removed or relocated. **CITY** agrees to pay **AT&T**'s standard relocation fee for any payphone which, at the request of **CITY**, is relocated from its original placement at a location. Provided that the revenue potential after the relocation meets with **AT&T**'s revenue requirements, **AT&T** will relocate the phone and will commit to capping the relocation fees for the life of the Agreement as follows; Open stations(affixed to a wall, no enclosures): \$140.00; Indoor Station w/enclosure; \$260; Outdoor stations: \$300. For any customized work required to relocate a phone that would result in additional cost to **AT&T**, fees will be communicated in writing to the City in advance, and if necessary, negotiated on a case by case basis. **AT&T** must provide the Supervisor of Public Utilities written notice of its desire to remove or relocate any payphone under this Agreement. Upon mutual Agreement between the **CITY** and **AT&T**, payphones may be added to locations in Exhibit A or at new locations. Any addition to Exhibit A during the term of this Agreement shall automatically expire on the

termination date of this Agreement. AT&T may, upon thirty (30) days' prior written notice, remove any payphone that has failed to generate a \$2 per day rolling average revenue (RAR), based on revenues collected over the most recent twelve (12) month period, or when a significant safety hazard to telephone users or AT&T employees exists. In the event AT&T gives notice of its intent to remove a payphone for failing to generate sufficient revenue, the City shall have the option of converting the phone to a Convenience Line (billable) for a nominal monthly fee, not to exceed \$75 per month. The CITY reserves the right of final approval regarding the installation of any payphone at any location. Upon the reasonable request of the CITY, AT&T must remove its payphone(s) from any location in any CITY facility and AT&T must remove its payphone(s) within 7 business days identified by the CITY in its request. If AT&T fails to remove any payphones in accordance herewith, then the CITY may remove the payphones and AT&T shall pay all of the CITY'S costs of removal.

4. The first AT&T (San Antonio) contact name and address under Section 12(b) is hereby deleted in its entirety and replaced with the following (the Chicago contact shall remain as is):

Wendy Sommer
Sr. Account Manager
712 E. Huntland Dr. – room 301
Austin, TX 78752

5. All other terms and conditions shall remain unchanged.

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed by their duly authorized representatives.

AT&T TEXAS

CITY OF SAN ANTONIO

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____