

CONSENT AGENDA
ITEM NO. 12

CITY OF SAN ANTONIO
INTERDEPARTMENTAL CORRESPONDENCE
Department of Finance

TO: Mayor and City Council

FROM: Ben Gorzell Jr. CPA, Public Utilities Supervisor/Assistant Finance Director

THROUGH: Terry M. Brechtel, City Manager

COPIES TO: Melissa Byrne Vossmer, Assistant City Manager; Milo D. Nitschke, Director of Finance; Andrew Martin, City Attorney; file

SUBJECT: Modification of the Term of the Time Warner Cable Franchise Agreement

DATE: September 11, 2003

SUMMARY AND RECOMMENDATION:

This Ordinance modifies the Time Warner Cable Franchise Agreement, which was passed by Ordinance No. 49433 and became effective on November 7, 1978, in order to extend the term of the Franchise to June 30, 2004.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION:

Time Warner Cable operates under a cable television franchise agreement originally granted to UA Columbia Cablevision of Texas, Inc. in 1978. This original franchise agreement has been transferred several times with acquisitions, reorganizations, and changes in ownership of the original franchise. The franchise agreement was for an original term of (15) fifteen years, was renewed for an additional (10) ten years, and will expire on November 7, 2003.

Time Warner Cable notified the City of its intent to seek renewal of its franchise agreement with the City in accordance with the Cable Act. Franchise renewal negotiations have been ongoing and progress has been made. To provide additional time to complete negotiations, both parties have agreed to extend the term approximately (7) seven months from November 7, 2003 to June 30, 2004. No other terms or conditions of the current franchise agreement have been modified. It is important to note that this modification of the franchise agreement is not considered a franchise renewal under provisions of the Federal Cable Act. Additionally, neither the City nor Time Warner Cable waive any rights that either party may have had prior to the approval of the extension of the term.

POLICY ANALYSIS:

The City uses the outside legal firm of Miller, Canfield, Paddock, & Stone to assist the City in negotiating the renewal of Time Warner Cable's franchise agreement. Miller, Canfield, Paddock, & Stone has specialized expertise in the area of telecommunications and cable law and their services complement the legal services provided by the City Attorney's Office.

The extension of the term of Time Warner Cable's franchise agreement to June 30, 2004 will allow both parties to continue negotiations under the informal process as defined under the Federal Cable Act. Additionally, it will allow the City to reopen its franchise agreement with Grande Communications and complete that process by June 30, 2004 as well. This timeline will also facilitate the City's ability to bring both franchise agreements to City Council for consideration simultaneously.

FINANCIAL IMPACT:

This Ordinance will not have a financial impact.

COORDINATION:

This Ordinance has been coordinated with the City Attorney's Office. The City also uses the legal firm of Miller, Canfield, Paddock, & Stone to assist in franchise renewal negotiations.

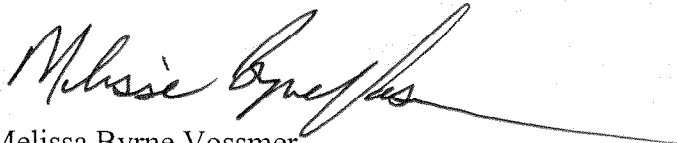
SUPPLEMENTARY COMMENTS:

The ethics disclosure form is attached.



Ben Gorzell Jr., CPA
Public Utilities Supervisor/
Assistant Director of Finance

Approved:



Melissa Byrne Vossmer
Assistant City Manager



Terry M. Brechtel
City Manager

ATTACHMENT(S)
ITEM NO **12****City of San Antonio
Discretionary Contracts Disclosure***

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2

Attach additional sheets if space provided is not sufficient.

State "Not Applicable" for questions that do not apply.

** This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.*

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and the Code of Ethics, an individual or business entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any **individual** who would be a party to the discretionary contract:

N/A

(2) the identity of any **business entity**¹ that would be a party to the discretionary contract:

Time Warner Cable, Inc.

and the name of:

(A) any individual or business entity that would be a **subcontractor** on the discretionary contract;

N/A

and the name of:

(B) any individual or business entity that is known to be a **partner**, or a **parent** or **subsidiary** business entity, of any individual or business entity who would be a party to the discretionary contract;

AOL Time Warner Inc.

¹ A *business entity* means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

- (3) the identity of any *lobbyist* or *public relations firm* employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

N/A

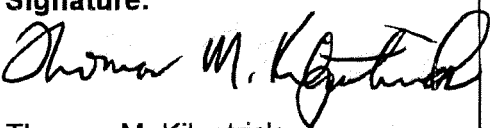
Political Contributions

Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any *current* or *former member* of City Council, any *candidate* for City Council, or to any *political action committee* that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

To Whom Made:	Amount:	Date of Contribution:
N/A	N/A	N/A

Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, reasonably understood, raise a question² as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

Signature:  Thomas M. Kilpatrick	Title: Company: Time Warner Cable, Inc.	Date: September 4, 2003

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.