

**CITY OF SAN ANTONIO
FINANCE DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Sheryl Sculley, City Manager

FROM: Ben Gorzell Jr., Acting Finance Director

SUBJECT: Ordinance authorizing a settlement with Grande Communications, Inc.

DATE: April 20, 2006

SUMMARY AND RECOMMENDATION

This Ordinance authorizes a settlement in the amount of \$148,930 with Grande Communications, Inc for outstanding obligations prior to the termination of its cable franchise agreement with the City of San Antonio.

Approval of this Ordinance is recommended.

BACKGROUND INFORMATION

In the summer of 2000, the City granted Grande Communications a franchise agreement to construct and operate a cable system within the City of San Antonio. Some key provisions of the agreement included a construction timeline, prepayment of franchise fees, PEG start-up funds and a requirement for a security fund. During the second special legislative session, the State approved Senate Bill 5 (SB5) which allowed certain cable providers to terminate local municipal cable franchise agreements and move to a state issued certificate.

On October 27, 2005, the Texas Public Utility Commission granted a certificate to Grande Communications to operate and provide cable services in San Antonio, thereby terminating its agreement with the City. At the time of this termination, the City and Grande had several unresolved obligations outstanding which had been under discussion. Under terms of the City's franchise agreement, failure to meet the construction milestones resulted in a penalty of \$200 per day. This penalty applied through the termination date results in an amount due to the City of \$93,000. Additionally, the balance of the prepayment of franchise fees under the franchise agreement may be subject to retention by the City for failure to build the cable system in accordance with terms of the franchise agreement. The prepayment balance was estimated at \$56,883 at the termination date of the City's franchise agreement. A balance of \$85,000 in Public, Educational, and Government (PEG) access channel start-up funds also remained under the franchise agreement. These potential claims by the City totaled approximately \$234,883 as of the termination date of the franchise agreement.

Staff and representatives of Grande met to discuss resolution of these claims by the City. As a result of these negotiations, a mutually agreeable proposed settlement was reached. The City will retain the \$100,000 security deposit under the franchise agreement and Grande will compensate the City an additional \$48,930 resulting in total value to the City of \$148,930.

POLICY ANALYSIS

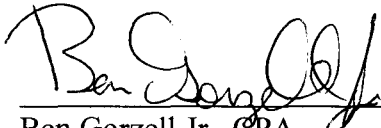
The passage of SB 5 and the termination of the City's franchise agreement with Grande did not abrogate, nullify, or adversely affect contractual obligations that existed or were incurred prior to its termination. The proposed settlement is reasonable with the City receiving total value of \$148,930 to resolve all outstanding claims under the franchise agreement. The City does retain the right to perform an audit of the franchise agreement for compliance prior to its termination and any issues identified under such an audit would be resolved at that time.

FISCAL IMPACT

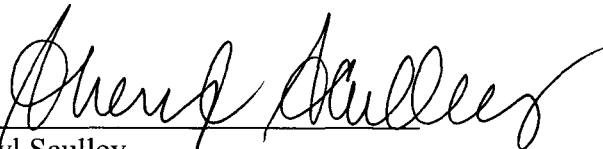
Under the proposed settlement, the City will receive total value of \$148,930. These funds will be designated for funding the City's costs for PEG and will be deposited into the City's General Fund.

COORDINATION

This item has been coordinated with the City Attorney's Office.


Ben Gorzell Jr., CPA
Acting Finance Director

Approved for Council Consideration:


Sheryl Sculley
City Manager

City of San Antonio
Discretionary Contracts Disclosure
For use of this form, see Section 2-59 through 2-61 of the City Code (Ethics Code)
Attach additional sheets if space provided is not sufficient.

(1) Identify any individual or business entity that is a party to the discretionary contract:

Grande Communications, Inc

(2) Identify any individual or business entity which is a partner, parent or subsidiary business entity of any individual or business entity identified above in Box (1):

☐ No partner, parent or subsidiary; or

List partner, parent or subsidiary of each party to the contract and identify the corresponding party:

Grande Communications Networks, Inc.

Grande Communications Holdings, Inc.

(3) Identify any individual or business entity that would be a subcontractor on the discretionary contract:

☒ No subcontractor(s); or

List subcontractors:

(4) Identify any lobbyist or public relations firm employed by any party to the discretionary contract for purposes related to seeking the discretionary contract:

☒ No lobbyist or public relations firm employed; or

List lobbyists or public relations firms:

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. A sole proprietor should list the name of the individual and the d/b/a, if any.

(5) Political Contributions

List all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made 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 Box (1), (2), (3) or (4) above, or by the officers, owners of any business entity listed in Box (1), (2) or (3).

☒ No contributions made; If contributions made, list below:

By Whom Made:	To Whom Made:	Amount:	Date of Contribution:


(6) Disclosures In Proposals

Any individual or business entity seeking a discretionary contract with the city must disclose any known facts which reasonably understood raise a question as to whether any city official or employee would violate Section 2-43 of the City Code (Ethics Code) ("conflicts of interest") by participating in official action relating to the discretionary contract.

☒ Party not aware of facts which would raise a "conflicts-of-interest" issue under Section 2-43 of the City Code; or

Party aware of the following facts:

This form is required to be supplemented in the event there is any change in the information 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, whichever occurs first.

Signature: 	Title: <i>COO</i> Company or D/B/A: <i>Granite Communications, Inc.</i>	Date: <i>4/18/06</i>
---	---	-------------------------

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.