

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

TO: Sheryl Sculley, City Manager

FROM: Ben Gorzell Jr., Acting Finance Director

SUBJECT: Ordinance Accepting a Pre-payment from AT&T Texas

DATE: April 6, 2006

SUMMARY AND RECOMMENDATIONS

This Ordinance authorizes an agreement between Southwestern Bell Telephone, L.P., d/b/a AT&T Texas ("AT&T") and the City of San Antonio to accept Four Hundred and Fifteen Thousand Dollars (\$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.

Approval of this Ordinance is recommended.

BACKGROUND INFORMATION

Senate Bill 5 (SB5) enacted Chapter 66 of the Texas Utilities Code. On November 1, 2005, the Texas Public Utility Commission granted AT&T a state-issued certificate of franchise authority to provide video services in San Antonio, Texas. Under Chapter 66, companies holding a state-issued certificate of franchise authority are required to make quarterly payments to cities of (1) a franchise fee of 5% of gross revenues for the use municipal rights-of-way, and (2) a payment in lieu of in-kind contributions of 1% of gross revenues earmarked for capital costs of Public, Educational, and Governmental ("PEG") access channels. Additionally, pursuant to this state legislation, the City of San Antonio took responsibility in overseeing the management and operations of the PEG access channels on January 1, 2006 – a duty previously held by the incumbent cable service provider, Time Warner Cable. In anticipation of taking over control of the PEG access channels, on December 15, 2005, the Office of Public Utilities presented to City Council a recommended course of action to maintain all three channels with an estimated cost of \$415,000 for the remainder of the fiscal year ending September 30, 2006. This amount was not budgeted for in fiscal year 2005-06.

AT&T plans to launch its video services in San Antonio in 2006. Although their quarterly payments are not currently due, AT&T has offered to assist the City with its unexpected PEG programming costs by providing a prepayment of \$415,000. Key terms outlined in the agreement include:

- ✓ Recovery of the prepayment amount by AT&T will be recognized as a credit on the quarterly payments due for franchise fees and the payment in-lieu of in-kind contributions as they become due in the future but recovery will not exceed a five year period.

- ✓ The City may use the prepayment for any lawful purposes, including the funding of PEG capital costs.
- ✓ City and AT&T agree to cooperate in good faith to assist AT&T in the development of an advanced web-based method for delivery of PEG access programming over AT&T's IPTV technology platform.

FISCAL IMPACT

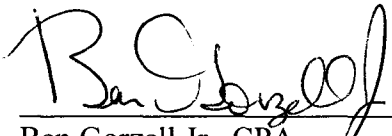
AT&T will make a prepayment of \$415,000.00 in municipal fees to the City to assist in funding PEG costs. As capital expenditures are still needed and operating expenditures will be reoccurring, these funds will be appropriated for PEG costs in FY 2006. This prepayment was not included in the City's FY 2006 Adopted Budget and will be available immediately upon receipt to fund the City's PEG costs. The City will provide a credit to AT&T as quarterly payments become due in the future until AT&T recovers the entire amount with recovery not to exceed a five year period. The City retains the right to receive quarterly reports and conduct an audit.

COORDINATION

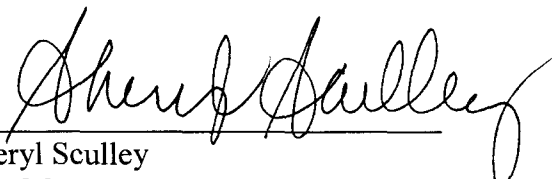
This item has been coordinated with the Communications and Public Affairs Department and the City Attorney's Office.

SUPPLEMENTARY COMMENTS

The disclosure requirements of the City's Ethics Ordinance are attached.


Ben Gorzell Jr., CPA
Acting Finance Director

Approved for Council Consideration:


Sheryl Sculley
City Manager