

**AGREEMENT REGARDING PROVISION
OF IP VIDEO SERVICES
BY AT&T CALIFORNIA IN THE CITY OF SAN JOSE**

This is an agreement between Pacific Bell Telephone Company, a California corporation, doing business as "AT&T California" ("AT&T") and the City of San Jose ("City") concerning the provision of Internet Protocol enabled Video Service ("IP Video Service") by AT&T to City residents over AT&T's communications network facilities in City's public rights of way (the "Agreement"), and is made and entered into this 30th day of January, 2007.

SECTION 1. PURPOSE AND INTENT

In light of the passage of Assembly Bill 2987 by the California Legislature on August 31, 2006, the City and AT&T want to bring the benefits of AT&T IP Video Service product and video services competition to City residents as soon as possible.

SECTION 2. BASIC TERMS

- A. AT&T and the City agree that they will voluntarily comply with the following provisions of AB2987 (together with those portions of Sec. 3, § 5830 that define terms in the following provisions) until AT&T files and receives a state franchise under AB2987 to serve the City (parenthetical descriptions are provided for reference only, and are not binding on either party):
- Sec. 3, §5860 (concerning the franchise fee);
 - Sec. 3, §5870 (concerning Public, Educational, and Governmental ("PEG") channels);
 - Sec. 3, §5880 (concerning Emergency Alert System requirements);
 - Sec. 3, §5885 (concerning construction and the encroachment permit process);
 - Sec. 3, §5890 (concerning nondiscrimination)
 - Sec. 3, §5900 (concerning customer service and protection), except subsection (k) (concerning renewal of state franchise);
 - Sec. 4, §107.7(a)-(e) (to be codified in the Revenue & Taxation Code).
- B. For the purposes of interpretation of this Agreement, the provisions cited above are intended to apply in the same manner as they would apply if AT&T had already received a state franchise pursuant to the terms of AB2987, and any provisions cited above that apply on a statewide basis shall be interpreted under this agreement as applying on a statewide basis. City and AT&T California agree that the foregoing provisions shall govern the delivery of IP Video Services by AT&T California to City residents and City shall not impose any additional or different requirements. However, the parties acknowledge that additional conditions exist as part of the construction and encroachment process. Those conditions are outside this Agreement except to the extent they may be found to be inconsistent with the above referenced provisions.

SECTION 3. PEG CHANNELS

The City and AT&T agree that AT&T shall not be required to provide any PEG channels over AT&T's network before August 31, 2007.

SECTION 4. AUTHORIZATION AND TERM OF AGREEMENT

This Agreement shall begin as of the effective date of Ordinance # 27956 (the planned effective date of Ordinance #27956 is February 23, 2007), and shall expire as soon as AT&T receives a state franchise under AB2987 to provide services to City residents; however, this Agreement will terminate in the event that AT&T has not received such a franchise as of January 1., 2008. To the extent necessary, this document constitutes the authorization for AT&T to provide video services in the City pursuant to AB2987, Sec. 3, §§ 5840 and 5830(f). In the event that AT&T receives a franchise pursuant to the terms of AB2987 to provide video services to City residents, this authorization shall immediately terminate and the terms of the franchise shall govern the delivery of AT&T California's IP Video Services to City residents.

SECTION 5. APPLICATION FOR STATE FRANCHISE

AT&T will apply for and diligently pursue receipt of a state franchise pursuant to the terms of AB 2987 as soon as reasonably practicable. In the event that AT&T has not received a franchise pursuant to the terms of AB2987 90 days prior to the date this Agreement would terminate, AT&T and the City agree to meet and confer in good faith concerning the franchise requirement issue, and, to the extent reasonably necessary, to negotiate in good faith the terms and conditions of a local video franchise agreement. If AT&T has not been granted a required franchise to provide video services in the City as of the date this Agreement would terminate, either from the City or any other authorizing entity, then these terms and conditions will continue until terminated by either party. The foregoing notwithstanding, AT&T California reserves the right to discontinue providing IP Video Service in City and terminate this Agreement upon 30 days prior written notice to City.

SECTION 6. DEFENSE OF CITY

In the event that any person files a claim against the City in state or federal court arising out of the fact that the City entered into this Agreement, challenging the lawfulness of this Agreement and/or seeking to modify the obligations under an existing cable franchise on the basis that the City entered into this Agreement, the Company shall cooperate with the City to provide information that may assist the City in responding to such claim. At the City's request, the Company will intervene in any such action and participate in the defense of any claim. In such event, the Company shall assume, at its expense, the sole defense of the claim through counsel selected by the Company and shall keep the City fully informed as to the progress of such defense. Upon reasonable request by the Company and at the Company's expense, the City shall cooperate with Company in the defense of the claim. At its option and expense, the City may retain or use separate counsel to represent it, including in-house counsel. However, the Company shall maintain control of the defense and resolution or settlement of the claim, except that if the settlement of a claim would

adversely affect the City, the Company may settle the claim as to the City only with its consent, which consent shall not be unreasonably withheld or delayed.

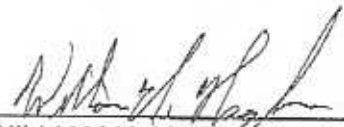
SECTION 7. RESERVATION OF RIGHTS

AT&T contends that it has authority to provide video services under its current telephone franchise under Section 7901. City does not agree with AT&T's interpretation of AT&T's current rights under Section 7901. In view of the likelihood that this potential disagreement will be mooted by the issuance of a state franchise to AT&T under AB2987, both parties agree to fully reserve their rights as to their interpretations of 7901 and other related local, state, and federal laws, and enter this agreement to allow the network upgrades to occur for the benefit of the residents of the City without further delay.

SECTION 8. ENTIRE AGREEMENT

This constitutes the full and complete agreement between the City and AT&T concerning these matters, and supersedes all prior agreements, understandings, representations, or offers.

APPROVED AS TO FORM:



WILLIAM H. HUGHES
Assistant City Attorney

"CITY"

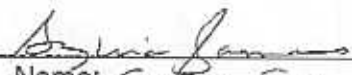
CITY OF SAN JOSE, a municipal corporation

By 

LES WHITE
CITY MANAGER

"AT&T"

PACIFIC BELL TELEPHONE COMPANY, a California corporation, doing business as "AT&T CALIFORNIA"

By 

Name: Sylvia Samano
Title: Vice President - External Affairs - Bay Area
Date: 1/23/06