06-O-0824

AN ORDINANCE BY CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE RENEWAL AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, INC., TO PROVIDE TELECOMMUNICATIONS SERVICES USING PUBLIC RIGHT-OF-WAY; SPECIFYING THE COMPENSATION DUE THE CITY OF ATLANTA BY THE FRANCHISE AGREEMENT; AND FOR OTHER PURPOSES.

WHEREAS, BELLSOUTH TELECOMMUNICATIONS, INC., has operated a franchise in the City and desires to continue to provide telecommunications services on, under, over and through the public right-of-way of the City; and

WHEREAS, BELLSOUTH TELECOMMUNICATIONS INC., has negotiated a franchise agreement with the City, which provides such access and preserves the rights of the City.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS:

SECTION 1: That the Mayor be and is hereby authorized to execute a renewal franchise agreement with BELLSOUTH TELECOMMUNICATIONS INC., for use of the public right-of-way for telecommunications purposes.

SECTION 2: That such franchise agreement shall expire and terminate on April 1, 2008.

SECTION 3: BELLSOUTH TELECOMMUNICATIONS INC., shall pay the City an annual franchise fee equal to three percent (3%) of the franchisee's annual Gross Revenue, provided that in any calendar year that Grantee's Gross Revenue does not exceed $500,000.00, the Franchise Fee shall be $15,000.00 per year; provided further, however, that in no event will the Franchise Fee exceed an annual inflation-based cap. During the first two years of this Agreement, this cap will be set at eleven million dollars ($11,000,000.00) annually. For the following three years of this Agreement, this eleven million dollar ($11,000,000.00) cap will be increased annually at the anniversary date of the execution of this Agreement, by the rate of inflation, which will be measured by the percentage change in the Gross-Domestic-Price Index ("GDI"), which is the gross domestic product fixed weight price index calculated by the United States Department of Commerce. The Grantee's obligation to pay the Franchise Fee shall commence on the Effective Date and continue throughout the Term; fees shall be paid on a quarterly basis for the preceding quarter, and shall be due on April 15, July 15, October 15, and the 15th day of January of each year throughout the Term. In the quarter, the Franchise Fee shall be prorated relative to the number of days in the quarter that the Franchise is in effect. On or before each quarterly payment date, Grantee shall provide a certificate, signed and attested to by the appropriate corporate officers or authorized corporate representatives, which verifies Grantee's Gross Revenues for the prior quarter.

SECTION 4: That the City Attorney shall prepare a renewal franchise agreement containing all of the foregoing terms, which shall be approved by the City Attorney as to form.

SECTION 5: That said franchise agreement shall not be binding on the City until executed by the Mayor sealed by the Municipal Clerk and delivered to BELLSOUTH TELECOMMUNICATION INC.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE **ATTN: GREG PRIDGEON**

Legislative Counsel (Signature):

Contact Number: x 6310

Originating Department: Office of Communications

Committee(s) of Purview: City Utilities Committee

Council Deadline: April 10, 2006

Committee Meeting Date(s): April 25, 2006 **Full Council Date:** May 1, 2006
Commissioner Signature _____

CAPTION

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE RENEWAL AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS CORPORATION, TO PROVIDE TELECOMMUNICATIONS SERVICES USING PUBLIC RIGHT-OF-WAY; SPECIFYING THE COMPENSATION DUE THE CITY OF ATLANTA BY THE FRANCHISE AGREEMENT; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT: The City of Atlanta will receive 3% of the company's gross revenues derived from business in the City of Atlanta.

Mayor's Staff Only

Received by Mayor's Office: 4/12/06 (date) Reviewed by: _____ (date)

Submitted to Council: _____ (date)

TRANSMITTAL FORM FOR LEGISLATION

TO: **MAYOR'S OFFICE:** GREG PRIDGEON
(For review & Distribution to Execution Management)

Commissioner's Signature: _____ Director's Signature: _____

From: Origination Dept. Office of Communications Contact (name): Joe Morris III
404-330-6504

Committee(s) Purview: CUC Committee Deadline: _____

Committee Meeting Date(s): APRIL 25, 2006 City Council Meeting Date: MAY 1, 2006

CAPTION:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE RENEWAL AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS CORPORATION, TO PROVIDE TELECOMMUNICATIONS SERVICES USING PUBLIC RIGHT-OF-WAY; SPECIFYING THE COMPENSATION DUE THE CITY OF ATLANTA BY THE FRANCHISE AGREEMENT;AND FOR OTHER PURPOSES.

BACKGROUND/PURPOSE/DISCUSSION:

The City governs the telecommunications and cable companies that do business in the City through the franchise agreement. The franchise agreement sets the legal and financial boundaries in which the companies are to adhere.

FINANCIAL IMPACT (If Any):

The City of Atlanta will receive 3% of the company's gross revenues derived from business in the City of Atlanta.

Mayor's Staff Only

Received by Mayor's Office: _____ Reviewed by: _____
(date) (initials)

Submit to Council: _____
(date)

Action by Committee: _____Approved _____ Adverse _____Held _____Amended

_____Substitute _____Referred _____Other