

03-0-0459

(Do Not Write Above This Line)

AN ORDINANCE BY:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE AGREEMENT WITH TIME WARNER TELECOM OF GEORGIA, LP, A DELAWARE LIMITED PARTNERSHIP, TO PROVIDE TELECOMMUNICATIONS SERVICES USING PUBLIC RIGHT-OF-WAY; SPECIFYING THE COMPENSATION DUE THE CITY OF ATLANTA BY THE FRANCHISE AGREEMENT AND WAIVING CERTAIN PROVISIONS OF THE ROW FOR THIS INSTANCE ONLY; AND FOR OTHER PURPOSES

ADOPTED BY

APR 21 2003

COUNCIL

ADOPTED BY

MAY 05 2003

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 3/17/03
 Referred To: C. U.
 Date Referred 4/21/03
 Referred To: City Utilities
 Date Referred _____
 Referred To: _____

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

City Committee Files
April 1, 2003
Chair
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To 1st Adopt

April 1, 2003
Chair
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

April 1, 2003
Chair
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

April 1, 2003
Chair
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

April 1, 2003
Chair
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

FINAL COUNCIL ACTION 2nd 1st & 2nd 3rd
 Readings Consent V Vote R/C Vote

CERTIFIED

CERTIFIED
 MAY 05 2003
 ATLANTA CITY COUNCIL PRESIDENT
Atlanta W. Hubbard

CERTIFIED
 MAY 05 2003

DEPUTY MUNICIPAL CLERK
 MAYOR'S ACTION

Shirley French
 MAY 13 2003



AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE AGREEMENT WITH TIME WARNER TELECOM OF GEORGIA, LP, A DELAWARE LIMITED PARTNERSHIP, PROVIDING TELECOMMUNICATIONS SERVICES USING PUBLIC RIGHT-OF-WAY; SPECIFYING THE COMPENSATION DUE THE CITY OF ATLANTA BY THE FRANCHISE AGREEMENT AND WAIVING CERTAIN PROVISIONS OF THE ROW FOR THIS INSTANCE ONLY; AND FOR OTHER PURPOSES

WHEREAS, TIME WARNER TELECOM OF GEORGIA, LP, desires to provide telecommunications services on, under over and through the public right-of-way of the City; and

WHEREAS, TIME WARNER TELECOM OF GEORGIA, LP, 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 franchise agreement with TIME WARNER TELECOM OF GEORGIA, LP, for use of the public right-of-way for telecommunications purposes.

SECITON 2: That such franchise agreement shall expire and terminate on April 1, 2006. -

SECTION 3: TIME WARNER TELECOM OF GEORGIA, LP, 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 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 TIME WARNER TELECOM OF GEORGIA, LP.

SECTION 6: That the City hereby modifies, waives or amends for this instance only, the following provisions of Chapter 138: 138-127 (h)(1)-Compensation; 138-134 (a)(1) —Term of the franchise; 138-127 (h)(7)-Audit; 138-134 (a)(12)-Transfer provisions.

A true copy,

A handwritten signature in black ink, appearing to read "Fred [unclear]", is written over the text "A true copy," and "Deputy Clerk".

Deputy Clerk

ADOPTED by the City Council
APPROVED by the Mayor

May 5, 2003
May 13, 2003

RCS# 4672
5/05/03
2:37 PM

Atlanta City Council

Regular Session

MULTIPLE

0458;0459;0462;0465;0466;0469;0470;0472
0473;0476;0478;0479;0461;0463;0467;68;77
FINAL ADOPT

YEAS: 10
NAYS: 3
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

| | | | |
|-----------|-------------|-----------|------------|
| Y Smith | Y Archibong | N Moore | Y Mitchell |
| N Starnes | Y Fauver | N Martin | Y Norwood |
| Y Young | Y Shook | Y Maddox | NV Willis |
| B Winslow | Y Muller | Y Boazman | NV Woolard |

MULTIPLE

RCS# 4637
4/21/03
4:10 PM

Atlanta City Council

Regular Session

MULTIPLE

0458;0459;0461;0462;0463;0465;0466;0467
0468;0469;0470;0472;0473;0476;0477;78;79
ADOPT/REFER

YEAS: 8
NAYS: 4
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

| | | | |
|-----------|--------------|-----------|------------|
| Y Smith | NV Archibong | N Moore | N Mitchell |
| N Starnes | Y Fauver | NV Martin | Y Norwood |
| NV Young | Y Shook | Y Maddox | Y Willis |
| Y Winslow | Y Muller | N Boazman | B Woolard |

MULTIPLE

RCS# 4636
4/21/03
3:56 PM

Atlanta City Council

Regular Session

MULTIPLE

0458;~~0459~~;0461;0462;0463;0465;0466;0467
0468;0469;0470;0472;0473;0476;0477;78;79

RECONSIDER

YEAS: 12
NAYS: 3
ABSTENTIONS: 0
NOT VOTING: 0
EXCUSED: 0
ABSENT 1

| | | | |
|-----------|-------------|-----------|------------|
| Y Smith | Y Archibong | N Moore | Y Mitchell |
| Y Starnes | Y Fauver | Y Martin | Y Norwood |
| Y Young | Y Shook | Y Maddox | N Willis |
| Y Winslow | Y Muller | N Boazman | B Woolard |

MULTIPLE

RCS# 4631
4/21/03
3:47 PM

Atlanta City Council

Regular Session

MULTIPLE

0458;0459;0461;0462;0463;0465;0466;0467
0468;0469;0470;0472;0473;0476;0477;78;79
1st ADOPT/REFER

YEAS: 6
NAYS: 7
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

| | | | |
|-----------|-------------|-----------|------------|
| Y Smith | N Archibong | N Moore | Y Mitchell |
| N Starnes | NV Fauver | N Martin | NV Norwood |
| Y Young | Y Shook | Y Maddox | N Willis |
| Y Winslow | N Muller | N Boazman | B Woolard |

MULTIPLE



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