

FRANCHISE AGREEMENT

between

THE CITY OF LAS VEGAS

and

AT&T COMMUNICATIONS OF NEVADA, INC.

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FRANCHISE AGREEMENT

This Franchise Agreement (“this Agreement”) is executed to be effective the 1st day of November, 2007, between the City of Las Vegas, a municipal corporation of the State of Nevada, (“the City”) and AT&T Communications of Nevada, Inc., a corporation organized and existing under the laws of the State of Nevada (“Company”).

WHEREAS, the City is a municipal corporation duly incorporated within the State of Nevada and authorized, pursuant to the City Charter and applicable provisions of general laws of the State of Nevada, to enter into this Agreement; and

WHEREAS, Company has applied for a franchise for the purpose of constructing, installing, operating and maintaining Telecommunications Service Facilities in the Rights-of-Way within the corporate limits of the City; and

WHEREAS, the City Council has adopted a resolution setting forth the name of the applicant for and the purpose, character, terms, time and conditions of the proposed franchise and the date, time and place of a public hearing on the question of the advisability of granting said proposed franchise to Company; and

WHEREAS, said application coming on regularly for hearing on the 5th day of December, 2007, and it appearing by an Affidavit of Publication that due and legal notice of the filing of said application, and of the filing of the date, time and place for consideration of the same, has been given by publication of that Resolution adopted by the City Council in the Las Vegas Review Journal, a newspaper of general circulation within the City, to-wit:

In the issue of said newspaper published on the 21st day of
November, 2007, and the 28th day of November, 2007; and

WHEREAS, the City Council, in the exercise of its lawful power has determined that it is in the best interests of the inhabitants of the City that a franchise be granted, subject to the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and of the performance by Company of the conditions hereinafter set forth, the City Council of the City of Las Vegas, State of Nevada, hereby grants a franchise to Company, subject to the following terms and conditions:

SECTION 1: SHORT TITLE

This Franchise Agreement may be cited as the “AT&T Franchise Agreement.”

SECTION 2: DEFINITIONS

For the purpose of this Agreement, the following terms, phrases, words and their derivations shall have the meaning given in this Section. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and “may” is permissive. Words not defined in this Section shall be given their common and ordinary meaning.

- A. “**City**” means the City of Las Vegas, a municipal corporation of the State of Nevada.
- B. “**City Council**” or “**Council**” means the legislative body of the City.
- C. “**Company**” means AT&T Communications of Nevada, Inc., a corporation organized and existing under the laws of the State of Nevada.
- D. “**Director**” means the Director of the Public Works Department of the City or his/her designee.
- E. “**Facilities**” mean and include, but are not limited to, plant, works, systems, improvements and equipment owned, leased or otherwise used by Company such as poles, wires, fixtures, equipment, underground circuits and conduit in Rights-of-Way and other property necessary or convenient for the transmission, distribution or connection of Telecommunications Service.
- F. “**Franchise**” means the non-exclusive authorization granted herein to rent and use Rights-of-Way to construct, operate and maintain Company Facilities for the purpose of providing Telecommunications Service.

G. **“Gross Revenue”** means any and all intrastate retail revenue of the Company from Telecommunications Service provided to customers within the City, including but not limited to:

1. All revenue charged on a flat rate basis;
2. All revenue from intrastate long distance calls originating in the State of Nevada and billed to an address physically located in the City;
3. All revenue from installation service charges;
4. All revenue from connection, disconnection or change-of-service fees;
5. All revenue from penalties or charges to customers for late payments or for checks returned from banks;
6. Recoveries of bad debts previously written off and revenue from the sale or assignment of bad debts, provided that revenue may be adjusted for net write-off of uncollectible accounts computed on the average annual rate for customers within the City;
7. All revenue that is designated by City, State or Federal law to be subject to fees under this Franchise.

“Gross Revenue” shall not include: (a) any tax passed through to consumers on behalf of governmental agencies received by Company for service provided to customers through the use of Facilities; (b) any charges passed through to the customers for interconnection with the local exchange provider; (c) any proceeds from the sale of bonds, mortgages or other evidence of indebtedness, securities or stocks; (d) any long-haul wholesale revenue; and (e) any revenue other than intrastate revenue collected from retail customers. Company is not required to measure each category of revenue separately; provided that in the event of an audit by the City, Company will be required to provide an appropriate justification for amounts reported as Gross Revenue under this Agreement.

H. **“Reasonable Attorney’s Fees”** means reasonable charges for legal representation as may be incurred by the City and determined by a court of proper jurisdiction.

I. **“Rights-of-Way”** means all present and future streets, avenues, highways, alleys, bridges and public ways (excluding railroad rights-of-way) of the City within the City limits.

J. **“Telecommunications”** has the same meaning as that term is defined in the United States Code, 47 U.S.C. 153(43), as it may be amended from time to time.

K. **“Telecommunications Carrier”** has the same meaning as that term is defined in the United States Code, 47 U.S.C. 153(44), as it may be amended from time to time.

L. **“Telecommunications Service”** has the same meaning as that term is defined in the United States Code, 47 U.S.C. 153(46), as it may be amended from time to time.

SECTION 3: GRANT OF NON-EXCLUSIVE FRANCHISE

A. The City hereby grants to Company, subject to the terms, conditions and limitations contained in this Agreement, a Franchise with permission to rent, use and occupy Rights-of-Way within the corporate limits of the City, as the same now exist or may be extended in the future, to provide Telecommunications Service, including the right and privilege to erect, construct, maintain and operate Telecommunications Facilities within the Rights-of-Way necessary or convenient for the transmission and distribution of Telecommunications Service, including private property easements on which preliminary subdivision plats have been approved by the City for the provision of public utilities within the corporate limits of the City, as the same now exist or may be extended in the future.

B. Company shall be subject to all requirements of City ordinances, rules, regulations and specifications hereafter enacted or established in so far as such ordinances are not in violation of any State or Federal regulation.

C. This Franchise does not give permission to Company to provide any video services without a separate agreement with the City.

D. This Franchise is non-exclusive and shall not be construed as a limitation on the City’s right to grant rights, privileges and authority to other persons or entities similar to or different from those

herein set forth to construct, install, operate or maintain a public utility.

SECTION 4: DURATION

This Franchise is for a period of ten (10) years from and after the effective date of this Agreement. If Company is in compliance with all the material provisions of this Agreement, Company has the option of renewing this Franchise under the same terms and conditions of this Agreement for one (1) additional period of five (5) years.

SECTION 5: CONSTRUCTION PLANS AND DRAWINGS

A. Before Company may conduct underground work involving excavation, new construction or major relocation work in any Rights-of-Way:

1. Company shall first notify the City and shall comply with any special conditions relating to location, scheduling, coordination and public safety;

2. Company shall make proper application for a construction permit with the Department of Public Works. Prior to beginning any work within the Rights-of-Way, Company shall submit and obtain approval of a traffic barricade plan;

3. Company shall file maps and drawings with the Director showing the location of any construction or extension of its Facilities in any Rights-of-Way. For conduit, the maps and drawings shall show the size, location, burial depth and configuration of the conduit, the trench backfill material and width, and the method of pavement restoration. As further set out in Section 16, upon request from the City, Company shall provide the City with updates of the maps and drawings showing the location of any new construction, extension or relocation of its Facilities. All materials provided pursuant to this Section shall be kept confidential to the fullest extent possible under the law; and

4. Company shall participate in "Call Before You Dig" program set forth in state law under NRS 455.080 et seq. with regard to giving and receiving notice of the location of facilities and excavations.

B. Such proposed construction work to be done by Company shall be performed in a safe manner subject to the approval of the Director and in accordance with applicable Federal and State laws and City ordinances, regulations and permitting requirements. Company shall pay all normal permit fees and provide the City with evidence of insurance coverage pursuant to Section 20.

SECTION 6: INSTALLATIONS, EXCAVATIONS AND RESTORATIONS

A. Company shall have the right to excavate in, occupy and use any and all Rights-of-Way for the purpose of installing, erecting, constructing, repairing, maintaining, removing, relocating and operating its Facilities after obtaining any and all appropriate permits from the City, provided that:

1. Company shall not place any of its Facilities on, over or within the median portion of any boulevard or parkway without first having obtained the written permission of the City;

2. Company shall not place any of its above-ground Facilities in any sidewalk area in the Rights-of-Way without the prior written consent of the Director, which he/she may grant, deny or condition in his/her sole discretion.

3. Where appropriate and as may be required by the City through any permitting process, installations, excavations and restorations affecting street and/or lane closures shall, as often as practicable, be performed after 6:30 p.m. and before 6:00 a.m., but in no event shall any such work be performed from 7:00 a.m. to 9:00 a.m. and from 4:00 p.m. to 6:00 p.m. except for emergency repairs;

4. The City reserves the right to assist in the coordination and scheduling of any Company projects where such project may be reasonably coordinated with the placement of other Rights-of-Way users' facilities. Otherwise, and subject to City permitting processes and approvals, it is recognized that, notwithstanding the foregoing, Company retains discretion over the timing of Company's proposed projects which shall be in accordance with Company's construction schedule for its network ring, which schedule shall be furnished to the City during Company's initial permitting process by the City; and

5. Company shall, to the extent commercially reasonable, employ “trenchless” technology in the placement of its Facilities. Except in an emergency, not less than seven (7) working days prior to the commencement of any work by Company which involves excavation in any Rights-of-Way, Company shall notify the Director and any appropriate utility coordinating committee for purposes of utility location. Minimum notice to the City shall be by telephone communication or in person prior to any work, followed by notice in writing as soon as practical. Company will provide advance notice so as not to disrupt services of the City or any other person or utility using any Rights-of-Way and allow the City to place any inspector it may deem necessary at the site of the project.

B. Whenever work is performed in any Rights-of-Way, Company shall take all reasonable precautions to minimize interruption to traffic flow, damage to property or creation of a hazardous condition.

C. After any excavation is made and after work is completed pursuant to the provision of this Agreement, Company shall, at its own expense and as soon as practicable, but not later than one (1) day, remove all surplus material in compliance with specifications, requirements and regulations of the City in effect at the time of such restoration and restore the portion of the Rights-of-Way. Following written notice to Company, Company has thirty (30) days to use its best efforts to make the restoration in a manner satisfactory to City, and all costs incurred for such restoration, whether done with City work forces and equipment or otherwise, shall be paid by Company, including the cost of any inspectors the City may assign to the project.

D. Company shall be responsible for its pro rata share of the maintenance and repair of all Rights-of-Way to the extent the same are directly impacted by the presence of Company’s Facilities, subject to all City Ordinances and within reasonable proximity of and upon which Company maintains above-ground Facilities, including the removal of weeds and litter.

E. Company shall ensure its Facilities in Rights-of-Way are located and constructed in a

manner such that access is not impaired in compliance with the Americans with Disabilities Act (“ADA”). Following notice by the City of an ADA construction problem, Company shall have thirty (30) days, or such other time as the City determines in its discretion to be reasonable, to remedy the problem at Company’s sole expense.

SECTION 7: LOCATION AND RELOCATION OF FACILITIES

A. All Facilities of Company shall be placed so that they do not interfere with the use of Rights-of-Way by the City and shall only be placed after approval of the location by the Director and in accordance with any specifications adopted by the City governing the location of Facilities. The City reserves the right to construct, install, maintain and operate any public improvement, work or facility, do any work that the City may find desirable on, over or under any Rights-of-Way, and vacate, alter or close any Rights-of-Way. All such work shall be done in such manner as not to obstruct, injure or prevent free use and operation of Company’s Facilities. Company agrees to obtain the City’s express written approval before placing any poles in Rights-of-Way and to comply with Title 13 of the Las Vegas Municipal Code, as it may be amended from time to time, when locating its Facilities in Rights-of-Way.

B. The City shall have the right to require the removal or relocation of Facilities used by Company in any Rights-of-Way as may reasonably be required by the City for any reason, after notice to Company, including but not limited to City projects for the installation of water, sanitary sewer, storm drainage, landscaping or traffic signal facilities, or for any road reconstruction and construction. Company shall remove and relocate such Facilities within sixty (60) days following written notice to do so from the City. Prior to any such relocation, the City agrees to provide for a temporary suitable location for such relocated Facilities sufficient to maintain service. All costs directly attributable to removal or relocation of Company Facilities shall be paid by Company. Company shall at the City’s request, if joint use pursuant to Section 11 is not feasible due to technical reasons, relocate its Facilities

to accommodate another Rights-of-Way user in the City if both Company's and the other user's facilities can be located in the Rights-of-Way without interfering with operations of Company's Facilities. The costs of any relocations occasioned by another Rights-of-Way user shall be paid by said user, and in no event shall the costs be the responsibility of the City. Company shall remove and relocate its Facilities upon receipt of payment of anticipated costs from the other Rights-of-Way user, which shall pay Company any balance owed within thirty (30) days of receipt of statement following Company's completion of removing and replacing its Facilities.

C. Company shall reconstruct, replace or restore any street or alley, any water, sewer, sanitary sewer, storm drainage or traffic signalization facilities, or any other facility of the City disturbed by Company, in a timely fashion and without cost to the City, to a condition acceptable to the City consistent with reasonable standards of safety and appearance. Any facility so disturbed by Company shall be reconstructed, replaced or restored only under the supervision of City personnel. Subject to the provision of Section 5 herein and upon notice to the City, Company may remove or relocate Facilities maintained by Company on its own initiative.

D. When the City, acting itself or through an agent, contractor or permit holder, proposes to improve a street, including but not limited to landscaping, traffic signalization, water line, storm sewer or sanitary sewer repair or installation within the Rights-of-Way, and such improvements include excavation and the placement of underground utilities vaults and conduit sufficient for Company's Facilities by and at the expense of someone other than Company, then upon notification by the City and upon such reasonable scheduling as may be required by the City, Company shall replace its overhead Facilities as are then within the affected Rights-of-Way with underground Facilities within the vaults and conduits provided therefor. Any such placement shall be at Company's expense. The conversion from overhead to underground shall be conditioned upon the City requiring the undergrounding in the area in which both the existing and new Facilities are and will be located, and the City shall require that

all existing overhead communication and electric distribution facilities in such area be removed.

SECTION 8: PUBLIC WORKS AND IMPROVEMENTS

A. The City reserves the right to construct, install, maintain and operate any public improvement, work or facility and do any work that the City may find desirable on, over or under any Rights-of-Way. All such work shall be done, if possible, in such manner as not to obstruct, injure or prevent free use and operation of Company's Facilities.

B. Whenever the City shall excavate or perform any work in any present or future Rights-of-Way, or shall contract for such excavation work, where such excavation or work may disturb but not require removal or relocation of Company's Facilities, the City shall notify Company sufficiently in advance of such contemplated excavation or work to enable Company to take such measures as may be deemed necessary to protect such Facilities from damage and possible inconvenience or injury to the public or the Rights-of-Way. If Company cannot take such measures, Company shall be required to relocate its Facilities in accordance with Section 7. In such case, Company shall, upon request, furnish field markings to the City or contractor, as the case may be, showing the location of all its Facilities in the area involved in such proposed excavation or other work.

C. Whenever the City shall vacate any Rights-of-Way for the convenience or benefit of any person or governmental agency or instrumentality, Company's rights shall be preserved as to any of its Facilities then existing in such Rights-of-Way.

SECTION 9: MOVING OF BUILDINGS

Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the cables or wires or other apparatus of Company to permit the passage of any building, machinery or other object, Company shall perform such rearrangement upon the receipt of written notice from the person desiring to move said building, machinery or other objects. The written notice shall detail the route of movement of the building, machinery or other object. The costs incurred by Company in making such

rearrangements of its aerial Facilities will be borne, excepting the City, by the person seeking such rearrangement, unless the aerial Facilities are placed or maintained in violation of the applicable rules of any local, state or federal regulatory agency and thereby interferes with the movement of said building, machinery or other object.

SECTION 10: SAFETY STANDARDS

Company's Facilities shall at all times be constructed, operated and maintained so as to protect and safeguard the health and safety of the public, and Company shall observe all rules pertaining thereto prescribed by any local, state or federal regulatory authority.

SECTION 11: JOINT USE AGREEMENTS

Company is authorized to enter into joint-use agreements with any person or entity franchised by the City with respect to the placement of Facilities. Company may require any such person or entity to furnish evidence of adequate insurance covering Company and adequate bonds covering the performance of the person or entity using Company's Facilities as a condition precedent to granting permission to any such person or entity to attach its own facilities to Company's Facilities; provided that Company's requirements for such insurance and bonds shall be reasonable.

SECTION 12: FEES; CONDITIONS

A. Company must maintain a valid, unexpired business license from the City and pay business license fees based on its Gross Revenue pursuant to the provisions of Title 6, Chapter 67, of the Las Vegas Municipal Code, as it may be amended from time to time, and Section 2(G) of this Agreement.

B. In addition to payment of consideration pursuant to Subsection (A), Company shall be liable for lawful property taxes, ad valorem taxes and local improvement district assessments. Company shall also be responsible for exactions, fees and charges that are generally applicable during Company's real property development or use as required by the City's ordinances.

C. In the event that the business license fee specified above is declared illegal, unconstitutional or void for any reason by any court or proper authority, Company shall be contractually bound to pay the City, at the same times and in the same manner as provided for herein, an aggregate amount equal to the amount which would have been paid as a business licensee fee; provided such fee is applied to all telecommunications providers in a competitively neutral, non-discriminatory manner.

D. The fees required to be paid pursuant to Subsections (A) and/or (C) shall be paid quarterly by the fifteenth day of the second month following the end of each calendar quarter for which payment or portion thereof is due. Company shall furnish to the City with each payment of compensation required by this Section a written statement, showing the amount of Gross Revenue of Company subject to a fee under this Agreement for the period covered by the payment.

E. Acceptance by the City of any payment due under this Section shall not be deemed to be a waiver by the City of any breach of this Agreement occurring prior thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due, or from collecting any balance due to the City.

SECTION 13: SECURITY FOR PERFORMANCE

A. As security for compliance with the terms of this Agreement and the Las Vegas Municipal Code, including but not limited to restoration of Rights-of-Way in which Company constructs, maintains, operates, reconstructs, removes or relocates its Facilities, Company shall at all times provide security in the form of a letter of credit, performance bond or cash deposit, delivered to the Director of Department of Finance and Business Services, in the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) or such amount as may otherwise be approved by the City Council, to remain in force during the term of this Agreement, any or all of which may be claimed by the City as payment for fees and liquidated damages, and to recover losses resulting to the City from Company's failure to perform.

B. Any bond provided pursuant to Subsection (A) shall:

1. In addition to all other costs, provide for payment of Reasonable Attorney's Fees;
2. Be issued by a surety company authorized to do business in the state of Nevada and listed in the U.S. Department of the Treasury Fiscal Service (Department Circular 570, Current Revision): companies holding certificates of authority as acceptable sureties on federal bonds and as acceptable reinsuring companies;
3. Require the attorney-of-fact who executes the bond on behalf of the surety to affix thereto a certified and current copy of his power of attorney;
4. If prepared by a licensed non-resident agent, be countersigned by a resident agent per Nevada Revised Statutes, Section 680A.300; and
5. Guarantee the performance of all of Company's obligations under this Agreement and all applicable laws.

C. Upon written application by Company, the City Council may, in its sole discretion, permit the amount of the security required herein to be reduced or waive the requirements for such security. Reductions granted or denied upon application by Company shall be without prejudice to Company's subsequent applications or to the City's right to require the full amount of the security at any time thereafter, provided that no application shall be made by Company within one (1) year of any prior application.

D. The following procedures shall apply to drawing on the security required herein:

1. If Company fails to make timely payment to the City of any amount due under this Agreement or applicable law, or fails to compensate the City within thirty (30) days of written notification that such compensation is due, for any damages, costs or expenses the City suffers or incurs by reason of any act or omission of Company in connection with this Agreement or its enforcement, or fails, after thirty (30) days' written notice, to comply with any provision of this Agreement or the Las

Vegas Municipal Code that the City determines can be remedied by drawing on the security, the City may withdraw the amount thereof, with interest and any penalties, from the security.

2. Within three (3) days of a withdrawal from the security, the City shall mail, by certified mail, return receipt requested, written notification of the amount, date and purpose of such withdrawal to Company.

3. If at the time of a withdrawal from the security by the City, the amounts available are insufficient to provide the total payment towards which the withdrawal is directed, the balance of such payment shall continue as the obligation of Company to the City until it is paid.

4. No later than thirty (30) days after the mailing of notification to Company of a withdrawal from the security, Company shall restore the security to the total amount specified herein.

E. Failure to maintain or restore the security shall constitute a material violation of this Agreement.

F. Recovery by the City of any amounts under the insurance and/or security required herein, or otherwise, does not limit Company's duty to indemnify the City in any way; nor shall such recovery relieve Company of its obligations under this Agreement, limit the amounts owed to the City, or in any respect prevent the City from exercising any other right or remedy it may have.

SECTION 14: BREACH

In the event that a revocation of the Franchise is declared as provided under Section 21 of this Agreement, it shall be deemed a failure to perform on the part of Company, and the City may proceed against and draw upon, as required, the security provided for in Section 13 of this Agreement for amounts due under this Agreement.

SECTION 15: BOOKS OF ACCOUNT AND REPORTS

A. The City shall have the right to annually review or audit Company's books and records in accordance with generally accepted accounting and audit standards regarding any amounts which may

be owed under this Agreement. This right includes the right to review and audit all books and records of revenue which may be reasonably considered by the City to be subject to a franchise fee. The City shall give written notice to Company of any additional amount claimed to be due to the City as a result of the City's review. Any amount due shall be paid within thirty (30) days following the City's notification that such amount is due and payable. If the City's review shows Company has overpaid, said overpayment shall be reimbursed to Company by the City within thirty (30) days of such determination.

B. Company shall keep complete and accurate books and records of its business and operations pursuant to this Agreement in accordance with generally accepted accounting practices and in accordance with the rules and regulations of the State of Nevada.

C. Company shall provide the City with access to and/or copies of all records, books, contracts, accounts and documents of Company (or any affiliate thereof), whether in an electronic, print or other format (hereafter referred to collectively as "Records") for Company's operations in the City, to the extent reasonably necessary for the City to perform an audit. All Records shall be retained by Company for a period of five (5) years. Company shall make Records available to the City for inspection and/or copying at a location in the City, upon thirty (30) days notice from the City. Unless otherwise agreed, all audits will take place on Company's premises in the City.

D. Upon request by the City, Company shall provide to the City by U.S. mail, postage prepaid, a copy of all papers filed by Company with any federal or state regulatory agency that pertain to the Company's Facilities located in the City.

SECTION 16: SUPPLYING MAPS UPON REQUEST

Company shall maintain on file maps and operational data pertaining to its operations in the City. The City may inspect the maps and data at any time during business hours. Upon request of the City, Company shall furnish to the City as soon as practical without charge, current maps either in a "hard copy" printed form or in the City's GIS format or compatible data base, showing the location and

dimension of any existing and proposed Facilities, but not other proprietary information, used in operating Company's Facilities within the City.

SECTION 17: TRANSFERS

A. No transfer of this Agreement or the Franchise granted herein, (including but not limited to transfer by forced or voluntary sale, receivership or similar means) shall occur unless prior application is made by Company to the City. No application for a transfer shall be granted unless all of the following conditions are met:

1. Company and the transferee agree in writing to the transfer, in a form acceptable to the City.

2. The transferee agrees that it will accept all terms of this Agreement and will assume all of the obligations and liabilities for all acts and omissions, known and unknown, of Company under this Agreement for all purposes, whether such obligations and liabilities arose before or arise after the date of the transfer.

3. The transferee provides proof that it has a Certificate of Public Convenience and Necessity from the Nevada Public Utilities Commission authorizing it to provide Telecommunications Service in the City.

4. The transferee provides security for performance and insurance coverage in compliance with Sections 13 and 20, respectively, no later than the date of the transfer. If the transferee is a corporate affiliate of Company, it shall receive the benefit of any bond waivers or self-insurance approvals received by Company.

B. Approval by the City of a transfer does not constitute a waiver or release of any of the rights of the City under this Agreement against Company, whether arising before or after the date of the transfer.

SECTION 18: ADDITIONAL CITY RIGHTS

Pursuant to the City Charter and applicable State statute, the right and privilege of the City to construct, purchase or condemn a public utility or Telecommunications provider, or Facilities located within the City is expressly recognized herein.

SECTION 19: INDEMNIFICATION

Company shall defend, indemnify and hold the City harmless against all claims for damages to persons or property by reason of the construction, maintenance and operation of its Facilities, and conduct of business, or in any way arising out of performance under this Agreement, directly or indirectly, when or to the extent injury is caused, or alleged to have been caused, wholly or in part, by any act, omission, negligence or misconduct of Company or any of its contractors, subcontractors, officers, agents or employees, or by any person for whose act, omission, negligence, or misconduct Company is by law responsible.

This provision is not intended to create liability for the benefit of third parties but is solely for the benefit of Company and the City. In the event any claim is made against the City that falls under this indemnity provision and a Court of competent jurisdiction should adjudge, by final decree, that the City is liable therefor, Company shall indemnify and hold the City harmless of and from any such liability, including any court costs, expenses and Reasonable Attorney's Fees incurred by the City in defense thereof and incurred at any stage. Upon commencement of any suit, proceeding at law or in equity against the City relating to or covering any matter covered by this indemnity, wherein Company has agreed to indemnify and hold the City harmless, or to pay said settlement, final judgment and costs, as the case may be, the City shall give Company immediate notice of such suit or proceeding; whereupon Company shall provide a defense to any such suit, including any appellate proceedings brought in connection therewith, and pay as aforesaid, any settlement, costs or judgments that may be rendered against the City by reason of such damage suit.

Upon failure of Company to comply with the “defense of suit” provisions of this Section, after reasonable notice to it by the City, the City shall have the right to defend the same and, in addition to being reimbursed for any settlement or judgment that may be rendered against the City together with all costs incurred therein, Company shall reimburse the City’s Reasonable Attorney’s Fees, including those employed by the City in such cases, as well as all expenses incurred by the City by reason of undertaking the defense of such suit, whether such suit is successfully defended, settled, comprised or fully adjudicated against the City. In the event the City is compelled to undertake the defense of any such suit by reason of Company’s failure to perform as provided herein, the City shall have the full right and authority to make or enter into any settlement or compromise of such adjudication as the City Council shall deem in the best interest of the City, without the prior approval or consent of Company with respect to the terms of such compromise or settlement.

SECTION 20: INSURANCE

A. Company shall at all times during the term of this Agreement maintain in full force and effect, at its own cost and expense, a general comprehensive liability insurance policy for the protection of the City and its officers, boards, commissions, agents and employees, with a company approved by the City Manager and a form satisfactory to the City Attorney, protecting the City and all persons designated above against liability for loss or damage for personal injury, death and property damage occasioned by the operations of Company under this Agreement, with minimum liability limits of ONE MILLION DOLLARS (\$1,000,000.00) for personal injury or death of any one person and THREE MILLION DOLLARS (\$3,000,000.00) for personal injury or death of two or more persons in any one occurrence and FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for damage to property resulting from any one occurrence.

B. The policies required by Subsection (A) shall name the City and its officers, boards, commissions, agents and employees as additional insureds and shall contain a provision that a written

notice of cancellation of, or reduction in coverage under, each policy shall be delivered to the City at least thirty (30) days in advance of the effective date thereof. If any such insurance is provided by a policy which also covers Company or any other entity or person other than those above named, then such policy shall contain the standard cross-liability endorsement.

C. With respect to Company's obligation under Subsection (A) for commercial general (public) liability insurance coverage, the City may allow Company to self-insure upon annual production of evidence that is satisfactory to the City's Risk Manager.

SECTION 21: REMEDIES AND PENALTIES NOT EXCLUSIVE: DEFAULT

A. All remedies and penalties under this Agreement are cumulative and not exclusive, and the recovery or enforcement by one available remedy or imposition of any penalty is not a bar to recovery or enforcement by any other such remedy or imposition of any other penalty. The City reserves the right to enforce the penal provisions of any ordinance or resolution and to avail itself of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon Company by this Agreement. A specific waiver of a particular breach of any term, condition or obligation imposed upon Company by this Agreement shall not be a waiver of any other or future breach of the same or of any other term, condition or obligation, or a waiver of the term, condition or obligation itself. "Director" for the purposes of this Section means the Director of the Department of Finance and Business Services.

B. Company agrees that an "Event of Default" shall include but not be limited to any of the following acts or failure to act by the Company:

1. Failure to obtain any applicable permits or pay any applicable permit fees pursuant to this Agreement;

2. Failure to comply with the terms of Section 17 concerning the transfer of this Agreement;

3. Failure to supply the necessary security for performance or insurance as specified in Sections 13 and 20;

4. Failure to make any payment required by Sections 6 or 12 of this Agreement within the period provided for such payment, including notice;

5. Failure to comply with any rules, regulations, orders or directives of the City as set forth in this Agreement within applicable periods; or

6. Substantial or repeated failure to comply with Section 6 concerning installations, excavations and restorations.

C. Upon the occurrence of an Event of Default, the City may, in accordance with the procedures provided for in this Agreement:

1. Require Company to take such actions as are reasonably required to remedy such Event of Default;

2. Seek money damages from Company as compensation for such Event of Default;

3. Accelerate the expiration of the term of this Agreement by decreasing the term of this Agreement provided in Section 4, the extent of such acceleration to be determined by the City Council, including any period of time up to the remaining term of this Agreement; or

4. As a last measure only, revoke the Franchise granted herein by termination of this Agreement.

D. The City shall exercise the rights set forth in this Section in accordance with the following procedures:

1. The Director shall notify Company, in writing, of an alleged Event of Default. This written notice shall set forth with reasonable specificity the facts the City believes are the basis for declaring that an Event of Default has occurred. Company shall, within sixty (60) days of the date of the notice, or such additional time as the Director may specify in the notice: (a) cure the alleged Event of

Default; (b) present in writing, for review by the Director, a reasonable time frame and method to cure the Event of Default; or (c) present in writing with reasonable specificity, for review by the Director, facts and arguments as to why Company disagrees that an Event of Default has occurred.

2. If Company presents a written response that challenges whether an Event of Default has occurred, the Director shall within fourteen (14) days review the submitted materials and determine again whether an Event of Default has occurred. If the Director reaffirms that an Event of Default has occurred, Company shall be notified in writing of this decision and shall, within thirty (30) days, cure the alleged Event of Default.

3. If Company fails to cure the Event of Default so declared pursuant to this Section within the time permitted by the Director, the Director shall prepare a written report to the City Council and recommend action to be taken. The City Council may order an appropriate remedy as set forth in this Section.

E. In addition to the rights under this Section, the City, upon any termination, may direct Company to remove, at Company's sole cost and expense, any of its Facilities from all Rights-of-Way, subject to the following:

1. If the City determines that removal of any buried cable or conduit is not necessary, Company shall abandon its Facilities in place and transfer ownership of the installed Facilities to the City.

2. In removing any part of its Facilities, Company shall refill and compact any excavation that shall be made by it and shall leave all Rights-of-Way in as good a condition as that prevailing prior to Company's removal of the Facilities.

3. The City shall have the right to inspect and approve the condition of the Rights-of-Way after removal has occurred.

4. The removal shall commence within thirty (30) days of an order to remove being

issued by the Director at the direction of the City Council.

5. Company shall be responsible for all necessary removals of its Facilities and maintenance of the Rights-of-Way area in the same manner and degree as if the Facilities were in active use, and Company shall retain all liability associated with such removals.

6. Nothing herein shall cause the City to incur any costs related to the removal of the Company's Facilities or the transfer of ownership of said Facilities to the City.

SECTION 22: SEVERABILITY CLAUSE

If any provision, condition, covenant or portion of this Agreement is for any reason held invalid, unenforceable or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity or enforceability of the remaining portions of this Agreement. With respect to any portion of this Agreement held to be invalid, unenforceable or unconstitutional, the parties shall promptly use their best reasonable efforts to negotiate an amendment to this Agreement that is valid and enforceable and that is consistent with the parties' original intent. The City Council hereby declares that it would have approved this Agreement and each portion thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 23: NOTICES

Any notice or other communication required or permitted to be given under this Agreement (the "Notice") shall be in writing and shall be personally delivered, or delivered by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. The Notice shall be deemed received on the earlier of the date of actual receipt or three days after mailing. The Notice shall be directed to the parties at their respective addresses shown below, or such other address as either party may, from time to time, specify in writing to the other party in the manner described above:

TO THE CITY: Director – Finance and Business Service
City of Las Vegas
400 Stewart Avenue, 3rd Floor
Las Vegas, Nevada 89101

with a copy to: City Attorney’s Office
City of Las Vegas
400 Stewart Avenue, 9th Floor
Las Vegas, Nevada 89101

TO COMPANY: AT&T Communications of Nevada, Inc.
Attn: Right of Way
3001 Cobb Parkway, NW – Room 162
Atlanta, Georgia 30339

with a copy to: AT&T Services, Inc.
Law Department
175 East Houston Street – 210
San Antonio, Texas 78205
Attn: General Attorney and Ass’t. General Counsel

SECTION 24: PUBLIC PURPOSE

All of the regulations provided in this Agreement are hereby declared to be for a public purpose and the health, safety and welfare of the general public. Any member of the governing body or City official or employee charged with the enforcement of this Agreement, acting for the City in the discharge of his/her duties, shall not thereby render himself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties. Neither the City nor Company by accepting this Agreement waives its right to seek all appropriate legal and equitable remedies as allowed by law upon violation of the terms of this Agreement, including seeking injunctive relief in a court of competent jurisdiction. Such right to injunctive relief is expressly reserved and all terms and provisions hereof shall be enforceable through injunctive relief. Neither party shall be liable for any consequential or punitive damages, including lost profits.

SECTION 25: APPLICABLE LAW

This Agreement is governed by and construed and enforced in accordance with the laws of the

State of Nevada, and the Federal Communications Act of 1934, as amended by the Telecommunications Act of 1996 or subsequent amendments.

SECTION 26: PUBLIC UTILITIES COMMISSION AND CHARTER REQUIREMENTS

This Agreement is subject to and contingent upon Company complying with all applicable rules and regulations of the Public Utilities Commission of Nevada and the City adopting a Resolution, conducting a public hearing and enacting an Ordinance granting this Franchise to Company in accordance with Section 7.050 of the City Charter.

SECTION 27: DISCLOSURE OF OWNERSHIP AND PRINCIPALS

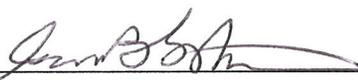
Pursuant to Resolution R-79-99 adopted by the City Council effective October 1, 1999, and amendments thereto by the City Council on November 17, 1999, Company warrants that it has disclosed, on the form attached hereto as Exhibit A, all principals, including partners, of Company, as well as all persons and entities holding more than a 1% interest in Company or any principal of Company. If Company, principals or partners described above are required to provide disclosure under

Remainder of page intentionally left blank

federal law (such as disclosure required by the Securities and Exchanges Commission or by the Employee Retirement Income Security Act), and attaches current copies of such federal disclosures to Exhibit A, the requirement of this Section shall be satisfied. Throughout the term hereof, Company shall within ten (10) days notify the City in writing of any material change in the above disclosure. Copies of new federal disclosure filings shall also be sent to the City within ten (10) days of any such filing.

EXECUTED to be effective on the date specified above.

CITY OF LAS VEGAS

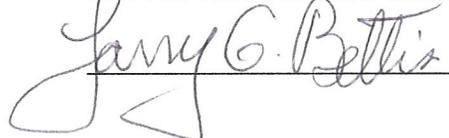
By: 
OSCAR B. GOODMAN, Mayor

“CITY”

ATTEST:


BEVERLY K. BRIDGES, CMC, City Clerk

APPROVED AS TO FORM:

 10-24-07
Date

AT&T COMMUNICATIONS OF NEVADA, INC.

By: 
Its: DIRECTOR NETWORK ENGR

CERTIFICATE DISCLOSURE OF OWNERSHIP/PRINCIPALS

1. Definitions

“City” means the City of Las Vegas.

“City Council” means the governing body of the City of Las Vegas.

“Contracting Entity” means the individual, partnership, or corporation seeking to enter into a contract or agreement with the City of Las Vegas.

“Principal” means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members.

2. Policy

In accordance with Resolution 79-99 and 105-99 adopted by the City Council, Contracting Entities seeking to enter into certain contracts or agreements with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract or agreement.

3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting Entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

4. Incorporation

This Certificate shall be incorporated into the resulting contract or agreement, if any, between the City and the Contracting Entity. Upon execution of such contract or agreement, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract or agreement, and/or a withholding of payments due the Contracting Entity.

Block 1	<u>Contracting Entity</u>
	AT&T Communications of Nevada, Inc.
	Name 3001 Cobb Parkway, NW – Room 162, Atlanta, GA 30339
	Address 770-953-5500
	Telephone Fed. Tax #109384348
	FEIN or DUNS

Block 2	<u>Description</u>
	Subject Matter of Contract/Agreement: Franchise for the purpose of constructing, installing, operating and maintaining Telecommunications Service Facilities in the rights of way within the corporate limits of the City.
	RFP #:

Block 3**Type of Business**

Individual Partnership Limited Liability Company Corporation

**CERTIFICATE – DISCLOSURE OF OWNERSHIP/PRINCIPALS
(CONTINUED)**

Block 4 Disclosure of Ownership and Principals

In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one-percent (1%) ownership interest in the Contracting Entity.

	FULL NAME/TITLE	BUSINESS ADDRESS	BUSINESS PHONE
1.	Charles Allen – Treasurer	175 E. Houston St., San Antonio, TX 78205	210-351-3800
2.	Charles Allen – Director	175 E. Houston St., San Antonio, TX 78205	210-351-3800
3.	Leonard Weitz – President	One AT&T Way, Bedminster, NJ 07921	908-532-1984
4.	Wayne A. Wirtz – Secretary	175 E. Houston St., San Antonio, TX 78205	210-351-3736
5.			
6.			
7.			
8.			
9.			
10.			

The Contracting Entity shall continue the above list on a sheet of paper entitled "Disclosure of Principals – Continuation" until full and complete disclosure is made. If continuation sheets are attached, please indicate the number of sheets: _____

Block 5 Disclosure of Ownership and Principals - Alternate

If the Contracting Entity, or its principals or partners, are required to provide disclosure (of persons or entities holding an ownership interest) under federal law (such as disclosure required by the Securities and Exchange Commission or the Employee Retirement Income Act), a copy of such disclosure may be attached to this Certificate in lieu of providing the information set forth in Block 4 above. A description of such disclosure documents must be included below.

Name of Attached Document: _____

Date of Attached Document: _____ Number of Pages: _____

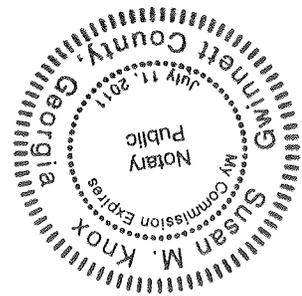
I certify, under penalty of perjury, that all the information provided in this Certificate is current, complete, and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity.



 Name
 10/16/07

 Date

Subscribed and sworn to before me this 16 day of
October, 2007.



Susan M Knox
Notary Public