VZ
6/18/15
Item No. 45

AN ORDINANCE 2015-06-18-0571

AUTHORIZING THE FIRST AMENDMENT AND EXTENSION OF THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF SAN ANTONIO AND ALAMO COLLEGES FOR THE CONTINUED OPERATION OF THE CITY'S EDUCATIONAL ACCESS CHANNEL; INCLUDING ANNUAL COMPENSATION CONSISTENT WITH CHAPTER 66 OF THE PUBLIC UTILITIES REGULATORY ACT.

* * * * *

WHEREAS, prior to 2005, cable operators were required to negotiate municipal franchise agreements with municipal governments in order to access public rights-of-way used for the installation of their cable systems, and in exchange for such access, the cable operators paid municipal franchise fees and other financial and in-kind contributions to operate Public, Educational and Government (PEG) access channels; and

WHEREAS, effective September 7, 2005 the Public Utilities Regulatory Act (PURA) was revised by adding Chapter 66 to the Texas Utilities Code, entitled "State-Issued Cable and Video Franchise," which removed the authority of local governments to grant cable franchise agreement and authorized the Texas Public Utility Commission (PUC) to issue certificates of authority for the delivery of cable and video services in the State of Texas; and

WHEREAS, Chapter 66 of PURA shifted the responsibility of the operation, management and control of PEG access channels from cable service providers to municipalities; and

WHEREAS, on December 31, 2005, the cable franchise agreement between the City of San Antonio and Time Warner Cable, the incumbent cable service provider responsible the operation of PEG access channels, expired; and

WHEREAS, on January 1, 2006, Time Warner Cable began operating in San Antonio under a PUC issued certificate of franchise authority and began paying the City an in-kind contribution equivalent to 1% of gross revenues to support the operation of PEG access channels (in addition to a franchise fee of 5% of gross revenues); and

WHEREAS, the City also receives PEG and franchise payments from Grande Communications and AT&T, who have been awarded certificates of franchise authority by the Texas PUC to provide cable and video services in San Antonio; and

WHEREAS, pursuant to Section 66.009(f) of PURA, the City is responsible for management and operation of PEG access channels while the cable service providers bear the responsibility for connectivity at each PEG access channel point of distribution, and the transmission of PEG programming content over their cable systems; and

WHEREAS, pursuant to Section 66.009(d) of PURA, failure on the part of the City to utilize any PEG channel for at least eight (8) hours of daily programming may result in the access channel no longer being available to the City; and

WHEREAS, acting by and through San Antonio College (SAC), a member institution, Alamo Colleges has historically equipped a studio for the purpose of developing and cable-casting original educational programming for the Educational Access Channel; has coordinated with other local educational institutions for the purpose of airing their educational programming on the Educational Access Channel; and has contributed significant original educational programming, including distance learning college courses that are integrated into SAC's educational curriculum; and

WHEREAS, following the expiration of the cable franchise agreement between the City and Time Warner Cable, SAC agreed to continue its association with the Educational Access Channel and expanded its role to manage the daily operations of the access channel under the supervision of the City's Director of Communications and Public Affairs; and

WHEREAS, since the expiration of the cable franchise agreement between the City and Time Warner Cable, the City and SAC have worked cooperatively in maintaining the Educational Access Channel; and

WHEREAS, this Ordinance will extend the Interlocal Agreement with Alamo Colleges for the continued operation of the Educational Access Channel by SAC, amend the Interlocal Agreement to provide for the administrative approval by the Director of Communications and Public Affairs of the second extension, and establish a budget process for providing financial assistance to SAC for capital expenditures from eligible PEG funds; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The terms and conditions of the First Amendment and Extension of the Interlocal Agreement between the City of San Antonio and the Alamo Community College District for the continued operation of the Educational Access Channel and the administrative approval by the Director of Communications and Public Affairs of the second extension are hereby approved.

SECTION 2. The Director of Communications and Public Affairs is authorized to use PEG funds in the amount up to $150,000.00 to support SAC's capital expenditures associated with the operation of the Educational Access Channel for Fiscal Year 2016 based on the budget needs presented by SAC to the Director.

SECTION 3. The transfer of PEG funds to SAC in support of the Educational Access Channel under this Ordinance are authorized from the City's appropriate PEG Fund

SECTION 4. The City Manager or the Director of Communications and Public Affairs is hereby authorized to execute the First Amendment and Extension, a copy of which in substantially final form is attached to this Ordinance as **Exhibit A** and any and all documents necessary to fulfill

the purpose and intent of this Ordinance. A copy of the fully executed First Amendment and Extension will replace the copy once finalized by the parties.

SECTION 5. This Ordinance shall become effective immediately upon the passage by eight (8) votes of the City Council and if passed upon fewer than eight (8) votes after the tenth (10th) day after passage thereof.

PASSED AND APPROVED this 18th day of June 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek
City Clerk

APPROVED AS TO FORM:

Martha G. Sepeda
Acting City Attorney

Agenda Item:	**45 (in consent vote: 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 24, 25A, 25B, 25C, 25D, 25E, 25F, 25G, 25H, 26, 28, 29, 30, 31, 32, 33, 34, 35A, 35B, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64A, 64B, 65A, 65B, 66A, 66B, 66C, 67A, 67B, 67C, 68A, 68B, 68C, 69A, 69B, 69C, 69D, 70A, 70B, 70C, 70D, 70E)**
Date:	06/18/2015
Time:	10:00:14 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing a two-year extension to the interlocal agreement with Alamo Colleges for the continued operation of the City's Educational Access Channel consistent with Chapter 66 of the Public Utilities Regulatory Act. [Edward Benavides, Chief of Staff; Di Galvan, Director, Communications and Public Affairs]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x				
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3	x					
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

Exhibit A

EXTENSION AND FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR OPERATION OF THE CITY'S EDUCATIONAL ACCESS CHANNEL

FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, this Extension and First Amendment to the Interlocal Agreement with Alamo Community College District ("Alamo Colleges") for the operation of the City's Educational Access Channel is entered into by the City of San Antonio, a Texas Municipal corporation ("City"), acting by and through its City Manager or her designee, pursuant to Ordinance No. 2015-06-18-_____ adopted on June 18, 2015 and Alamo Colleges, acting by and through its Chancellor, pursuant to Board of Trustees authority provided on _____, 2015.

A. City and Alamo Colleges entered into an Interlocal Agreement in 2010 for the operation by San Antonio College of the City's Educational Access Channel ("Agreement") pursuant to Ordinance # 2010-02-11-0117 adopted on February 2, 2010.

B. City and Alamo Colleges agree to extend and amend specific provisions of the Agreement as set out in this Extension and First Amendment.

1. **Pursuant to Section 3.1, the term of the Agreement is hereby extended for 2 additional years effective September 1, 2015 and ending on August 31, 2017.**

2. **A new Section 3.2 is added to the Agreement as follows:**

   The Director of the Communications and Public Affairs may exercise the second 2 year renewal of this Agreement, provided Alamo Colleges in compliant with the terms of the Agreement.

Except as otherwise expressly modified hereby, all terms and provisions of the Agreement are ratified and confirmed and shall remain in full force and effect, enforceable in accordance with their terms.

EXECUTED to be effective the 18th day of June, 2015.

CITY OF SAN ANTONIO

_____
Diane Galvan, Director
Communications and Public Affairs

ALAMO COLLEGES

_____
Dr. Bruce H. Leslie
Chancellor

APPROVED AS TO FORM:

_____
Veronica M. Zertuche
Deputy City Attorney