
Video Competition Agreement

Between

The City of North Royalton, Ohio

and

AT&T Ohio

Effective Date: _____, 2007

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AGREEMENT

This *AGREEMENT*, effective as of _____, 2007 (the "Effective Date"), is made by and between the **City of North Royalton, Ohio** (the "City") and **The Ohio Bell Telephone Company**, an Ohio corporation that uses the name **AT&T Ohio** (the "Company"). For purposes of this Agreement, unless otherwise defined in this Agreement, the capitalized terms, phrases, words, and their derivations shall have the meanings set forth in Appendix A.

RECITALS

A. The Company is authorized to construct, operate, maintain, repair and upgrade facilities and equipment in the Streets that enable it to provide telecommunications services and other services, and the Company is authorized to provide those services. Pursuant to this existing authorization, the Company asserts that it is also authorized to construct, operate, maintain, repair and upgrade new and existing facilities that enable it to provide an integrated Internet Protocol ("IP") platform of voice, video and data services (the video component of which is switched, two-way, point-to-point and interactive, is referred to herein as the "IP Video Service," and is further defined in Appendix A), and that it is authorized to provide those services; and

B. The Company believes that it is not subject to Title VI of the Communications Act of 1934, 47 U.S.C. §§ 521-573, as amended ("Title VI") and does not need to obtain a Title VI or similar franchise in order to provide IP Video Service; and

C. Without determining whether the system or services that the Company will use in the City to provide the IP Video Service are subject to Title VI, the Company and the City have entered into this Agreement which the parties, in good faith, intend to be binding as a matter of contract between them and believe is in accord with such obligations as might be imposed by Title VI, if and to the extent such are applicable; and

D. The Company and the City desire to work cooperatively to achieve the full benefits that competition and the availability of advanced services can bring to the community; and

E. Both parties agree that the Company's investment in the construction, operation and upgrade of new and existing facilities permitting the provision of the IP Video Service should not be delayed by possible litigation to establish the scope of or the applicability of the City's Title VI franchise authority to the IP Video Service; and

F. The City and the Company further agree that litigation to resolve this issue would be complex and protracted, and that it is in the best interests of both parties and the residents of the City to reach a compromise of each other's positions and claims; and

G. The Company recognizes the right of the City in accordance with Ohio law to impose reasonable conditions regarding the construction, operation and maintenance of the Company's Facilities in the City's public rights-of-way (ROW).

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

SECTION 1 GRANT OF AUTHORITY

1.1 Grant of Authority. The Company is hereby authorized to occupy and use the Streets anywhere within the geographical boundaries of the City (including any future annexations thereto) to construct, operate, maintain, repair and upgrade existing and new facilities that are in the Streets (the “Facilities”) in order to provide an integrated, switched, point-to-point, interactive IP platform of voice, video and data services, including IP Video Service, and other services, and the Company is authorized to provide those services. The authority granted by this Section 1.1 is in addition to all existing authorizations that the Company holds and is not intended to limit any such existing authorizations.

1.2 Nature of Agreement: Jurisdiction.

1.2.1 Nature of This Agreement. This Agreement is entered into by the City and the Company for the purpose of clarifying and confirming the authority of the Company, inducing deployment of the Facilities and services, and granting authority to the Company, to the extent necessary, to construct, operate, maintain, repair and upgrade the Facilities that enable it to provide an integrated, switched, point-to-point, interactive IP platform of voice, video and data services, including IP Video Service, and other services, and to confirm that the Company is authorized to provide those services. The City’s regulatory authority under this Agreement relates solely to the Facilities to the extent they are used to provide point-to-point IP Video Service.

1.2.2 Jurisdiction Over Telecommunications Facilities and Equipment. The City and the Company acknowledge that the Facilities are being constructed and upgraded and will be operated and maintained as an upgrade to or extension of, or both, the Company’s existing telecommunications facilities and equipment. The jurisdiction of the City over such facilities and equipment is restricted by federal and state law, and the City does not now and shall not in the future assert jurisdiction over the Facilities in contravention of those limitations. Nothing in this Agreement is intended to expand the City’s existing authority over the Company’s facilities and equipment.

1.2.3 Title VI Inapplicable. Nothing in this Agreement shall confer jurisdiction under Title VI, or subject the Company’s services, existing telecommunications facilities and equipment or the Facilities, or any part thereof, to Title VI.

1.2.4 No Effect on Other Agreements. The parties acknowledge that the Company has other agreements, authorizations and understandings with the City or other governmental entities, or both, regarding a number of matters, including but not limited to the construction, operation, maintenance, repair and upgrade of facilities and equipment used to provide any service (including voice, video and data services offered on an IP platform), and nothing in this Agreement is intended to amend, modify, replace or otherwise affect such

agreements, authorizations or understandings, or to confer any additional right or jurisdiction on the City or other governmental entities or any additional right or authority upon the Company except as provided herein.

1.3 Conflict with Federal/State Law. In the event there is any direct conflict between this Agreement and federal or applicable state law or requirements, such federal or state law or requirements, as applicable, shall govern; provided, however, that if Section 8.1 regarding the procedure for subsequent action shall apply to the federal or state law or requirements in question, the Company shall have the rights set forth in Section 8.1.

1.4 Public Safety. This Agreement is subject to the City's laws of general applicability adopted pursuant to the City's lawful exercise of its public safety right-of-way management authority, powers of local self-government and police powers in accordance with Ohio law.

1.5 Term. The term of this Agreement shall be five (5) years from the Effective Date of this Agreement; thus, the Agreement will expire on _____, 2012. The term may be extended upon mutual agreement of the parties.

1.6 Reservation of Authority. Nothing in this Agreement shall (a) expand or abrogate the right of the City to perform any public works or public improvements of any description, or (b) be construed as a waiver, release or expansion of the rights of the City in and to the Streets.

1.7 Transferability of Agreement or Interest Therein. The Company may not assign or transfer this Agreement or any interest therein without the prior consent of the City, which consent shall not be unreasonably withheld; except that the Company may assign or transfer this Agreement or any interest therein to an affiliated parent or subsidiary entity of the Company or other direct or indirect majority owned subsidiary of AT&T Inc. upon written notice and without prior consent of the City.

SECTION 2 FACILITIES DESCRIPTION AND CONSTRUCTION REQUIREMENTS

2.1 Description of IP Platform. A general description of the integrated, switched, point-to-point, interactive IP platform of voice, video and data services and the IP Video Service is set forth in Appendix B.

2.2 Requirements With Respect to Construction and Other Work on the Facilities.

2.2.1 General Requirements. The Company shall, at a minimum and except as otherwise provided herein, comply with the same terms and conditions as are applicable under its existing authorizations for the Company's facilities and equipment in the Streets, with respect to all work involved in the construction, maintenance, repair and upgrade of the Facilities.

2.2.2 Specific Construction Standards. Notwithstanding the provisions of Section 2.2.1, with respect to the Facilities of the Company utilized to provide the IP Video Service:

(a) All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970, as amended, as well as all state and local codes where applicable, as adopted by the City.

(b) All installation of electronic equipment shall be of a permanent nature, durable and installed in accordance with the provisions of the National Electrical Safety Code of the National Bureau of Standards and National Electrical Code of the National Board of Fire Underwriters.

(c) Antennas and their supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state and City laws, codes and regulations.

(d) All of the Company's Facilities: (i) shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices; and (ii) all such work must be performed by experienced maintenance and construction personnel so as not to endanger or interfere with improvements the City may deem appropriate to make, interfere in any manner with the rights of any property owner, or unnecessarily hinder or obstruct pedestrian or vehicular traffic. Nothing in this section shall be construed to limit the Company's rights to access and make use of its own or general utility easements in accordance with the terms of such easements.

(e) The Company shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

(f) Any and all Streets, other public property or private property which are damaged or disturbed as a result of the construction, installation, repair, replacement, maintenance or operation of the Company's Facilities shall be promptly repaired and restored by the Company, at its expense, to a condition as good as that prevailing prior to said disturbance or damage.

2.2.3 Cabinet enclosures.

(a) In initially constructing or upgrading its Facilities in the Streets, the Company shall use the smallest equipment enclosures (Lightspeed cabinets) and power pedestals and cabinets then in use by, or approved for use by, the Company or any AT&T affiliate, taking into account the location of the cabinet and the number of subscribers to be served thereby. In addition, the Company agrees that at such time as any extension or renewal of the term may be discussed under Section 1.5 of this Agreement, it shall disclose to the City the dimensions of the smallest cabinets then being used by the Company or any AT&T affiliate to provide the IP Video Service.

(b) The Company shall disclose by permit request to the City in advance the location selected for each cabinet to be installed in the Streets in connection with the construction, installation or upgrade of the Facilities and shall notify the City in advance of any change in a previously-disclosed selection. If the location of a specific permit request by the Company raises a reasonable public health, safety, and welfare concern, the City and the Company agree to work together to identify alternative locations, if available, that satisfy any technical specifications or limitations of the Facilities or equipment to be placed in the Streets and that are acceptable to the City. In furtherance of the foregoing and upon request by the City, the Company shall meet with the City and will make a map available for review, which shall be updated as necessary, disclosing the location selected for each such cabinet. In addition, the Company and the City shall work together to ensure that equipment installed or upgraded in connection with the Company's upgrade of the Facilities to enable the provision of IP Video Service is appropriately landscaped and/or screened.

(c) After conferring with the City as set forth in Section 2.2.3(b), the Company shall, to the extent technologically feasible and economically practical, select for the Lightspeed cabinets, power pedestals and associated enclosures location that are within or upon property owned by the City or political subdivisions of the City.

2.2.4 Timeline. If a permit is needed for any work involved in the construction, maintenance, repair and upgrade of the Facilities, the Company shall apply for, and the City shall process applications for and issue, permits in the City's normal, routine and customary course of business, without regard to whether the work that is the subject of such permits is related to IP Video Service. The parties recognize that speed to market is a priority and, as a result, the City shall endeavor to process all such permit applications in a timely manner.

2.2.5 City to Not Unreasonably Withhold or Deny Consent. Consistent with Chapter 4939 of the Ohio Revised Code, the City's management, regulation and administration of its public ROW with regard to matters of local concern is presumed to be a valid exercise of the power of local self-government granted to the City by Section 3, Art. XVIII of the Ohio Constitution; provided, however, that the City cannot unreasonably withhold or deny consent to the Company for use of the Streets.

2.2.6 Limited Regulatory Authority. Consistent with Section 1.2, the City's regulatory authority under this Agreement does not extend to the construction, choice of technology or equipment, operation, maintenance, repair and upgrade of the Facilities to the extent such Facilities are being constructed, operated, maintained, repaired and upgraded for the purpose of providing services other than the IP Video Service.

2.3 Access to Open Trenches. The City agrees to include the Company in the platting process for any new subdivision. The City agrees, at a minimum, to require as a condition of issuing a permit for open trenching to any utility or developer that (a) the utility or developer give the Company at least ten (10) days advance notice of the availability of the open trench, and (b) the utility or developer provide the Company with reasonable access to the open trench. Notwithstanding the foregoing, the Company shall not be required to utilize any open trench.

2.4 Service Area.

2.4.1 Provision of IP Video Service and Other Services. The Company currently offers video service to City residents via either direct-to-home satellite service or, within the Company's DSL footprint, via an alternative technology (Homezone™). In addition to these existing video services, the Company shall determine, in its sole discretion, where in the City Facilities shall be constructed, operated, maintained, repaired and upgraded to provide, and where in the City to provide, IP Video Service and other service (which areas shall be known as the "Service Area"). The Company will not deny access to its IP Video Service to any group of potential residential subscribers because of the income of the group within the Service Area. The Company shall have a reasonable period of time to become capable of providing its IP Video Service to any group of potential residential subscribers within the Service Area. Notwithstanding any other provision of this Agreement, Company shall not be required to comply with, and the City may not impose or enforce, any mandatory build-out or deployment provisions, schedules or requirements.

2.4.2 Technical and Operational limitations. The Company's construction, operation, maintenance, repair and upgrade of its Facilities within the Service Area is subject to the following technical and operational limitations: (A) for periods of Force Majeure; (B) for periods of delay caused by the City; (C) for periods of delay resulting from the Company's inability to obtain authority to access rights-of-way in the Service Area; (D) in areas where developments or buildings are subject to claimed exclusive arrangements with other providers; (E) in developments or buildings that the Company cannot access under reasonable terms and conditions after good faith negotiation, as determined by the Company; and (F) in areas, developments or buildings where the Company is unable to provide video service for technical reasons or which require non-standard facilities which are not available on a commercially reasonable basis; and (G) in areas where the occupied residential household density does not meet the density (average density is equal to or greater than 30 occupied residential dwelling units per mile as measured in strand footage from the nearest technically feasible point on the active network trunk or feeder line) and other requirements.

2.4.3 Nondiscrimination. The Company will not deny service or access to IP Video Service to any person within the municipal boundaries of the City because of the person's race, color, religion, creed, national origin, sex, sexual orientation, age, disability or income.

2.4.4 Alternative Service Methods. The Company may, subject to the terms herein, satisfy its nondiscrimination and service area obligations through the use of direct-to-home satellite service or another alternative technology (such as Homezone™) that provides comparable content, service, and functionality.

SECTION 3 PUBLIC AND COMMUNITY BENEFITS

3.1 Public, Educational and Governmental Programming. In order to promote a diversity of community voices and the availability of noncommercial Public, Educational and Governmental (PEG) programming currently provided on the PEG access channels on the incumbent cable systems in the City, the Company and the City shall mutually agree upon and

select an appropriate methodology to carry such currently available PEG access programming on the Company's IP Video Service and the Company shall thereafter carry such programming so long as it is available. An overview of AT&T's PEG system is set forth in Appendix C.

Operation of PEG access channels shall be the responsibility of the City, with respect to governmental access programming, and the North Royalton City School District (the "School District") with respect to educational programming. The City and the School District shall each be responsible, respectively, to ensure that all PEG transmissions, retransmissions, content, or programming that may be requested to be transmitted over a channel or facility by the Company are provided or submitted to the Company, at an agreed upon connection point, in a manner or form that is capable of being accepted and transmitted by the Company, without requirement for additional alteration or change in the format or content by the Company, over the network of the Company, and which is compatible with the technology or protocol utilized by the Company to deliver IP Video Services.

3.2 Use of Capacity. Any programming made available under Section 3.1 shall be solely for noncommercial public, governmental and educational purposes. All programming made available under Section 3.1 shall be the responsibility of the City and/or the North Royalton City School District and the Company shall not exercise any editorial control over any public, governmental or educational access programming.

3.3 Emergency Message. By December 31, 2007, the Company shall carry all Federal, State and Local alerts provided over the "Federal Emergency Alert System" through Company's IP-enabled Video Services in the event of a public safety emergency, which at a minimum will include the concurrent rebroadcast of local broadcast channels.

3.4 PEG Capital Support. The Company shall remit to the City on a quarterly basis, at the same time as payments made pursuant to Section 4.1, one half of one percent (0.5%) of the Company's gross revenues, as defined in Section 4.1, in lieu of any in-kind compensation and grants except as otherwise provided herein. This Agreement shall not be construed as limiting any rights the Company may have to charge its subscribers for the cost of the PEG support it provides to the City.

3.5 Service to Schools and Public Buildings. It is the City's intention that each accredited primary and secondary school building, each City government building, and each public library building within the City be provided with cable service, IP Video Service or similar service at no cost, and that the burden of providing such connections be shared by all cable and IP Video Service providers in the City in an equitable manner. The Company will offer one (1) free installation and free monthly IP Video Service to one (1) outlet at each current and future City government building, fire station, police station, accredited primary and secondary school building and library building that is passed by the Company's IP Video service. The Company shall have the responsibility to offer a free installation and free basic monthly IP Video Service (comparable to that level of service provided to public buildings by incumbent cable operators as of the Effective Date of this Agreement) to a share of all such schools, governmental, or library buildings, with the Company's share to be proportionate to the total number of cable operators or competitive video service providers (collectively "Providers"), unless other negotiated compensation has been provided to the City.

The Company shall negotiate with other Providers in good faith, as necessary, to determine who will provide video service to which school or public building. If Providers are unable to reach agreement as to who will provide free video service to which school, governmental, or library building, the Mayor or her or his designee will confer with the Providers and determine the assignments in a reasonable manner. The Company's obligation to provide free service under this Section 3.5 shall apply, with respect to any particular building or facility, when the Company's IP Video Service is available on the section of its system that passes such building.

SECTION 4 COMPENSATION AND OTHER PAYMENTS

4.1 Revenue To City. During the term of this Agreement, the Company shall pay to the City a fee of five percent (5%) of the gross revenues received by the Company or any affiliate or parent entity from the provision of the IP Video Service product over the Company's Facilities in the City ("Gross Revenues"). Gross Revenues includes subscription fees received from the Company's IP Video Service subscribers within the City (including, without limitation, pay-per-view and video on demand fees) and a pro rata portion of all revenue derived by the Company from advertising and home-shopping sales associated with the IP Video Service provided over the Company's Facilities in the City. The allocation or pro-ration of advertising and home-shopping revenue referred to above shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement. If the Company bundles IP Video Service with any services that are not IP Video Service, then the Company agrees that it will allocate the revenues associated with the IP Video Service component of such bundle consistent with the portion allocated in the Company's books and records kept in the regular course of its business. The fee does not apply to taxes or other governmental fees, non-video revenues, except as provided herein, or the non-video revenues of a bundled product that contains both IP Video and non-video offerings.

4.2 Collection and Remittance to City. All amounts to be paid to the City under Sections 3.4 and 4.1 shall be collected monthly from subscribers, and the amounts collected shall be remitted to the City on a quarterly basis, within forty five (45) days after the last day of each calendar quarter, unless the parties otherwise agree.

4.3 Term of Payment Obligation. The Company will remit 5.5 percent (5.5%) of its Gross Revenues for as long as the Company provides IP Video Services in the City, subject to any relevant changes in federal or state law and conditioned upon any incumbent cable operator's continued obligation to remit an equivalent percentage of its gross revenues, unless the parties otherwise agree.

4.4 Time Limitation on Fee Review. The City may annually audit the amounts paid under Sections 3.4 and 4.1 for a period not to exceed five (5) years after the payment is due. Any additional amount due the City as a result of the audit shall be paid by the Company within thirty (30) days after the Company receives a written notice of the results of the audit from the City. The notice shall include a copy of the audit report. The Company shall reimburse the City for the cost of the audit if the audit results in a finding that the Company has underpaid the fees

due to the City under Sections 3.4 and 4.1 by more than five percent (5%) for the time period reviewed.

SECTION 5 BOOKS AND RECORDS; INSPECTION

5.1 Company To Maintain Books and Records. The Company shall maintain books of account and records adequate to enable the Company to demonstrate that it is in compliance with its obligations under this Agreement with respect to IP Video Service, including the compensation obligation specified in Sections 3.4 and 4.1 of this Agreement. The Company shall not be required to maintain books and records for compliance purposes under this Agreement for a period longer than five (5) years.

5.2 City's Right of Inspection. Upon thirty (30) days' notice to the Company, the City or its designated representative shall have the right to examine books and records directly related to the Company's compliance with its obligations under this Agreement, including the compensation obligation specified in Sections 3.4 and 4.1 of this Agreement. The City shall have no right to examine any aspect of the books and records that does not directly relate to the Company's obligations under this Agreement.

5.3 Information Treated as Confidential and Proprietary. Notwithstanding any other provision of this Agreement, the Company shall not be required to disclose information that it reasonably deems to be confidential or proprietary, nor disclose any of its or an affiliate's books and records not directly related to the Company's compliance with its obligations under this Agreement. The City agrees to treat any information disclosed by the Company and clearly marked by the Company as confidential and/or proprietary in a manner that protects such confidential and proprietary information and to limit disclosure, to the extent permitted by law, to employees, representatives and agents of the City that have a need to know in order to enforce this Agreement.

SECTION 6 SPECIFIC RIGHTS AND REMEDIES

6.1 Performance Bond. Within sixty (60) days of execution of this Agreement, the Company shall deposit with the City a surety bond in the amount of Fifty Thousand Dollars (\$50,000) in a form reasonably acceptable to the City's Law Director (the "Performance Bond"). The Performance Bond shall be conditioned on and insure the faithful performance by the Company of all terms and conditions of this Agreement and the payment by the Company of any claim, liens, costs, expenses and taxes due the City that arise by reason of the operation or maintenance of the Facilities for the purposes described in this Agreement. The Performance Bond shall be maintained at Fifty Thousand Dollars (\$50,000) during the entire term of this Agreement, regardless of withdrawals which may be made under this Section. The rights reserved to the City with respect to the Performance Bond are in addition to all other rights the City may have under this Agreement or any law. The Company providing such Bond must be authorized to do business in the State of Ohio.

6.2 Procedure for Notice of Breach and Imposition of Liquidated Damages Payments.

A. Whenever the City finds that the Company has allegedly violated one (1) or more terms, conditions or provisions of this Agreement, a written notice shall be given to the Company. The written notice shall describe in reasonable detail the alleged breach so as to afford the Company an opportunity to remedy the violation(s). The Company shall have thirty (30) days subsequent to receipt of the breach notice in which to correct the violation(s) before the City may assess liquidated damages against the Company and/or assert a claim against the Performance Bond. The time for the Company to correct any alleged violation(s) shall be extended by the City if more than thirty (30) days are required to correct the alleged violation(s); provided, however, that the Company must commence the corrective action within fifteen (15) days of receipt of the notice and thereafter use reasonable diligence, as determined by the City, to correct the violation(s).

B. Within fifteen (15) days after receipt of written notice of the alleged violation(s), the Company may request to be heard by the City on the issue of the violation(s) alleged in the notice. The Company's request for a hearing on the alleged violation(s) shall be in writing and shall specify with particularity the matters the Company disputes. Upon receipt of such request, the City shall notify the Company of, the date, time and place of such hearing, which shall not be scheduled for a date that is less than thirty (30) days from the date of the Company's request for a hearing. At the hearing, the Company shall be permitted to furnish evidence that:

1. demonstrates that corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance;
2. rebuts the alleged violation or noncompliance; and/or
3. disputes the amount.

C. Upon completion of the hearing, the City shall issue a written decision, including findings of fact, determining whether the Company is in violation of this Agreement. If the City determines that the Company is in violation of this Agreement following hearing, or if the Company fails to correct the violation and fails to request a hearing, then the City may assess liquidated damages of Two Hundred Fifty Dollars (\$250.00) per day against the Company, which shall accrue from the date on which the City first provided the Company with written notice of the violation(s), and/or may draw against the Performance Bond for the liquidated damages.

D. The City shall stay or waive the imposition of any liquidated damages set forth above upon a finding that any failure or delay is a result of an act of God or due to circumstances beyond the reasonable control of the Company.

E. The Company shall not be excused from complying with any of the terms or conditions of this Agreement by any failure of the City upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions.

6.3 No Removal or Transfer. Under no circumstances, including termination of this Agreement, does this Agreement confer upon the City any right to require the Company or its assignees or transferees to: (a) remove or relocate the Facilities; (b) cease providing any service over the Facilities; or (c) sell, lease or otherwise transfer any right, title, interest, use or control of the Facilities, in whole or in part, including any capacity used to provide IP Video Service, to the City or to any third party.

SECTION 7 INSURANCE AND INDEMNITY

7.1 Liability Insurance.

A. The Company shall either provide an adequate statement of self insurance, subject to the Law Director's reasonable approval, or maintain, throughout the term of this Agreement, commercial, general and umbrella liability insurance with a company authorized to do business in the State of Ohio with a rating by Best of not less than "A-," insuring The Company and the City (wherein the City is named as additional insured), in the minimum amounts of:

1. One Million Dollars (\$1,000,000.00) for bodily injury or death to any one (1) person;
2. Three Million Dollars (\$3,000,000.00) for bodily injury or death resulting from any one accident or occurrence;
3. One Million Dollars (\$1,000,000.00) for all other types of liability;
4. Ten Million Dollars (\$10,000,000.00) excess liability or umbrella coverage.

B. The amounts shown in paragraph A may be reviewed not more frequently than every two (2) years and an increase in the coverage amounts may be reasonably required by the City to account for inflation or a material change in conditions or circumstances.

C. The Company shall maintain in force, during the Term of this Agreement and any renewal or extension thereof, Workers' Compensation insurance, covering its obligations under the Workers' Compensation statutes, and upon request and reasonable notice shall show the City that such insurance is in effect at all times.

D. The insurance required by paragraph A above shall be on an "Occurrence Coverage Basis."

E. Within sixty (60) days of the Effective Date, the Company shall furnish the City with a certificate and a copy of the policy evidencing that a satisfactory insurance policy has been obtained. Such insurance policy shall contain a provision that requires the insurer to provide the City with thirty (30) days advance written notice prior to any expiration, cancellation or non-renewal.

F. All employees of the Company (or any contractor or subcontractor of the Company) who enter the homes of City residents subscribing to the IP Video Service in the course of their employment shall, in the event they are not covered by the liability insurance provisions of this Agreement, be bonded in an appropriate amount to insure against any liability, loss, cost or expense which may be incurred by such residents as a result of the activities of the Company's employees (or any contractor's or subcontractor's employees) in or about the homes of such residents.

G. The Company shall require any contractor or subcontractor involved in the construction, installation, maintenance or operation of the Facilities to obtain appropriate insurance coverage consistent with this section and appropriate to the extent of its involvement in the construction, installation, maintenance or operation of the Company's Facilities. The City shall be named as an additional insured under such insurance coverage.

7.2 Liability and Indemnity.

7.2.1 Indemnification of the City. The Company shall indemnify and hold harmless the City, its officers, employees and agents from and against all liabilities, damage, cost, and expense resulting from the Company's negligent construction, operation, maintenance, repair or upgrade of the Facilities (to the extent such Facilities are used to provide IP Video Service) or the Company's willful misconduct with respect thereto. Notwithstanding the foregoing, the Company shall not indemnify (a) the City for any liabilities, damages, cost and expense resulting from the willful misconduct or negligence of the City, its officers, employees and agents; (b) third parties for any activity or function conducted in connection with any access channels provided under Section 3.1 or in connection with any emergency messages under Section 3.3; or (c) the City for any claim or action by any person challenging the lawfulness of this Agreement, the City's authority with respect to this Agreement, or the effect of this Agreement on such person and/or such person's agreement with the City, except as otherwise herein provided. Notwithstanding the foregoing, the Company acknowledges and agrees that it assumes the risk of placing its Facilities in the Streets and that the City shall not be responsible for any damages to any part of the Facilities that may result from the City's lawful activities in the Streets (such as, for example, snowplowing) unless it is demonstrated that the City acted intentionally and with the purpose of damaging the Company's Facilities.

7.2.2 City to Hold Company Harmless. The City shall hold the Company (including its officers, employees and agents) harmless from and against all liabilities, special, incidental, consequential, punitive and all other damage, cost and expense (including reasonable attorneys' fees) resulting from the City's willful misconduct or negligence.

7.2.3 Company's Agreement to Defend in the Event of Certain Claims by Other Provider. (a) In the event that any incumbent video service provider in the City 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 or seeking to modify its obligations under its 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.

(b) 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 will 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 the 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. The Company, however, will 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.

(c) The Company shall pay the full amount of (i) any judgment or award issued by a court against the City as a result of entering into the Agreement with the Company or (ii) any settlement negotiated by the Company with respect to the claim and all other expenses related to the resolution of the claim. The Company's obligation to pay excludes an incumbent video service provider's costs, interest and reasonable attorneys' fees in bringing such action or claim unless ordered by a court or otherwise agreed to by the Company in any settlement agreement.

SECTION 8 SUBSEQUENT ACTION

8.1 Procedure for Subsequent Action. (a) The parties agree to consult in the event that, after the Effective Date, any court, agency, commission, legislative body, or other authority of competent jurisdiction issues a finding that limits the validity or enforceability of this Agreement, in whole or in part. Should the finding be final, non-appealable and binding upon either the City or the Company, this Agreement shall be deemed modified or limited to the extent necessary to address the subject of the finding unless either party, within thirty (30) days of receipt of the ruling, provides written notice to the other party of election to terminate, in which case this Agreement shall terminate within six (6) months or such earlier period as the parties mutually may agree. Where the effect of a finding is a modification, the parties shall enter into good faith negotiations to modify this Agreement in the manner which best effectuates its overall purposes and the intentions of the parties. Failure to reach a mutually satisfactory modification within ninety (90) days of the commencement of such efforts shall entitle either party to terminate the Agreement on the provision of thirty (30) days' written notice.

(b) Where any court, agency, commission, legislative body, or other authority of competent jurisdiction issues a finding or takes action described in paragraph 8.1.a above, and such finding is not final and is subject to appeal, during the interval of such appeal the parties may agree mutually to acts taken in mitigation of legal or administrative risks as may be presented should the finding or action be sustained upon appeal. Should the finding or action subsequently be repealed, reversed, amended or changed, the City and the Company shall act to restore this Agreement to operation as preceded the finding or action, in a manner consistent with such repeal, reversal, amendment or change. The Company may discontinue any or all of the IP-enabled Services and terminate this Agreement in the event that it is subject to a ruling of a court or agency of competent jurisdiction that directs or requires such result or that renders the

continued provision of such Services commercially impracticable as an economic matter, notwithstanding the absence of a final judgment, in which case the Company shall provide no less than thirty (30) days' prior written notice to the City before discontinuing such Services. Where Services have been terminated under such circumstances, the Company shall have no obligation to restore Services or revive this Agreement in the event the finding later is reversed, overturned, modified or changed.

(c) Under no circumstances shall any finding, conclusion or requirement described in Section 8.1(a) or (b) be applied retroactively or be interpreted to have any retroactive effect.

SECTION 9 MISCELLANEOUS

9.1 Authorization Granted on Terms More Favorable to the Provider. If, during the term of this Agreement, the City or State grants an authorization for the provision of video services similar to those authorized by this Agreement, and the terms and conditions of such other authorization are such that, on balance, they are more favorable or less burdensome to the provider of such video services than the terms and conditions in this Agreement are to the Company, then the Company shall have a right to request amendments to this Agreement that relieve the Company of regulatory burdens that create a competitive disadvantage. In requesting amendments, the Company shall file a petition with the City seeking to amend this Agreement. Such petitions shall: (i) identify the basis for the Company's belief that certain provisions of this Agreement place the Company at a competitive disadvantage to another video service provider, (ii) identify the regulatory burdens to be amended or repealed in order to eliminate such competitive disadvantage, and (iii) may propose other remedies to alleviate any competitive disadvantage to the Company. The City shall act on the petition within thirty (30) days of receipt and shall not unreasonably deny the Company's petition.

9.2 Additional Company Termination Right. In addition to the termination rights set forth in Section 8.1, the Company shall have the right to terminate this Agreement and all obligations hereunder upon ninety (90) days notice to the City, if the Company concludes in its reasonable business judgment that the provision of IP Video Service in the City is no longer technically, economically or financially consistent with the Company's business objectives. In the event the Company terminates this Agreement in accordance with this Section 9.2, payments of PEG capital that have been made by the Company pursuant to Section 3.4 of this Agreement shall remain the non-refundable property of the City.

9.3 Appendices. The Appendices to this Agreement, attached hereto, and all portions thereof and exhibits thereto, are incorporated herein by reference and expressly made a part of this Agreement. The procedures for approval of any subsequent amendment or modification to said Appendices shall be the same as those applicable to any amendment or modification of this Agreement.

9.4 Entire Agreement. This Agreement, including all Appendices, embodies the entire understanding and agreement of the City and the Company in connection with the offering of IP Video Service by the Company and merges and supersedes all prior representations,

agreements and understandings, whether oral or written, between the City and the Company with respect to the offering of IP Video Service, including, without limitation, all prior drafts of this Agreement and any Appendix to such draft and any and all written or oral statements or representations by any official, employee, agent, attorney, consultant or independent contractor of the City or the Company. The parties acknowledge that the Company has other agreements, authorizations and understandings with the City and/or other governmental entities regarding other subject matters, including but not limited to the construction, operation, maintenance, repair and upgrade of facilities and equipment used to provide any service (including voice, video and data service offered on an IP platform), and nothing in this Agreement is intended to amend, modify, replace or otherwise affect such agreements, authorizations or understandings.

9.5 Delays and Failures Beyond Control of the Company. Notwithstanding any other provision of this Agreement, the Company shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due to impossibility, strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood, tornado, or other act of God, technical failure, sabotage or other events, where the Company has exercised reasonable care in the prevention thereof, to the extent that such causes or other events are beyond the control of the Company and such causes or events are without the fault or negligence of the Company. In the event that any such delay in performance or failure to perform affects only part of the Company's capacity to perform, the Company shall perform to the extent it is able to do so and shall take reasonable steps within its power to correct such cause(s).

9.6 Notices. All notices, statements, requests, or other communication hereunder by any party to another shall be in writing and shall be sufficiently given and served upon the other party, immediately if delivered personally or by telex or telecopy (provided with respect to telex and telecopy that such transmissions are received on a business day during normal business hours), the first business day after dispatch if sent by express mail, and the second business day after dispatch if sent by first class mail, registered or certified, return receipt requested, postage prepaid, and addressed as follows:

CITY:

Mayor's Office
City of North Royalton
13834 Ridge Road
North Royalton, Ohio 44133-4896

With copies to:

Law Director
City of North Royalton
13834 Ridge Road
North Royalton, Ohio 44133-4896

COMPANY:

President
AT&T Ohio
150 East Gay Street
Columbus, Ohio 43215

With copies to:

Sr. VP & General Counsel
225 W. Randolph
Chicago, IL 60606

9.7 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assigns.

9.8 No Waiver, Cumulative Remedies. No failure on the part of the City or the Company to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other right, all subject to the conditions and limitations established in this Agreement. The rights and remedies provided herein are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Agreement shall impair any of the rights of the City or the Company under applicable law, subject in each case to the terms and conditions of this Agreement. A waiver of any right or remedy by the City or the Company at any one time shall not affect the exercise of such right or remedy or any other right or other remedy by the City or the Company at any other time. In order for any waiver of the City or the Company to be effective, it must be in writing.

9.9 Headings; Other Terms. The headings contained in this Agreement are to facilitate reference only, do not form a part of this Agreement, and shall not in any way affect the construction or interpretation hereof. Terms such as “hereby,” “herein,” “hereof,” “hereinafter,” “hereunder,” and “hereto” refer to this Agreement as a whole and not to the particular sentence or paragraph where they appear, unless the context otherwise requires. The term “may” is permissive; the terms “shall” and “will” are mandatory, not merely directive. All references to any gender shall be deemed to include all others, as the context may require. Terms used in the plural include the singular, and vice versa, unless the context otherwise requires.

9.10 Claims Under Agreement. The City and the Company agree that, to the extent jurisdiction and venue lie, any and all claims asserted by or against the City or the Company arising under this Agreement or related thereto must be heard and determined by the United States District Court for the Northern District of Ohio located in Cleveland, Ohio. The parties agree not to seek removal to any other court of any claim arising under this Agreement or related thereto. The parties may agree that any claim arising under this Agreement or related thereto be submitted to non-binding arbitration or mediation under rules to be agreed upon by the parties. Each party shall bear its own costs of arbitration or mediation.

9.11 Modification. Except as otherwise provided in this Agreement, any Appendix to this Agreement, or applicable law, no provision of this Agreement nor any Appendix to this

Agreement, shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the City and the Company.

9.12 No Third Party Beneficiary Rights. Nothing in this Agreement is intended to interfere with any tariffs, contracts or other arrangements between the Company and a third party, or to create any third party beneficiary rights.

IN WITNESS WHEREOF, the party of the first part, Mayor Cathy Luks, thereunto duly authorized by the City Council of the City, has caused the corporate name of the City to be hereunto signed and the corporate seal of the City to be hereunto affixed and the Company, the party of the second part, by its officers thereunto duly authorized, has caused its name to be hereunto signed and its seal to be hereunto affixed as of the date and year first above written.

City of North Royalton, Ohio

By _____
Name: Cathy Luks
Title: Mayor

(Seal)

Attest:

The Ohio Bell Telephone Company

By _____
Name: Connie Browning
Title: President, AT&T Ohio

(Seal)

Attest:

APPENDIX A

DEFINED TERMS

=====
For purposes of the Agreement to which this Appendix A is appended, the following terms, phrases, words, and their derivations shall have the meanings set forth herein, unless the context clearly indicates that another meaning is intended.
=====

“**Agreement**” means the Agreement to which this Appendix A is appended, together with all Appendices attached thereto and all amendments or modifications thereto.

“**City**” means the **City of North Royalton, Ohio**, or, as appropriate in the case of specific provisions of this Agreement, any board, bureau, authority, agency, commission, department of, or any other entity of or acting on behalf of, the **City of North Royalton, Ohio**, or any officer, official, employee, or agent thereof, any designee of any of the foregoing, or any successor thereto.

“**Company**” means **The Ohio Bell Telephone Company**, an Ohio corporation that uses the name **AT&T Ohio**, and whose principal place of business is located at 45 Erieview Plaza, Cleveland, Ohio 44114.

“**Effective Date**” shall be the date this Agreement is executed, as set forth in the opening clause of this Agreement.

“**Facilities**” means the Company’s existing facilities and new facilities to be installed within the Streets that will be constructed, operated, maintained, repaired and upgraded to provide IP Video Service and other IP-based services. Said Facilities are a part of and an extension to the Company’s existing telecommunications facilities and equipment.

“**FCC**” means the Federal Communications Commission, its designee, or any successor thereto.

“**IP Video Service**” means the video service described in Appendix B and offered by the Company over the Facilities in the Streets.

“**Service Area**” is defined in Section 2.4 of this Agreement.

“**Streets**” means the surface of, and the space above and below, any and all streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers, public grounds and public places or waters within and belonging to the City and any other property within the City to the extent to which there exist public easements or public rights of way.

APPENDIX B

DESCRIPTION OF IP PLATFORM OF VOICE, VIDEO AND DATA SERVICES AND IP VIDEO SERVICE

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Project Lightspeed will offer an integrated, switched, point-to-point, interactive IP platform of voice, video and data services. AT&T's IP-enabled services are based on a switched, two-way, client server architecture designed to send each subscriber only the programming that the subscriber chooses to view at a particular time. In practice, the end user will only receive the specific content he or she requests. That content is provided via two-way communication between the network and the set-top box, which, depending upon the subscriber's interests and unique demands, renders the selected content from the network on the television screen. In this arrangement nothing is sent to the subscriber until the subscriber interacts with the network and requests a unique result, in this case to view a specific piece of programming.

In many ways, IP Video Service will be provided in a manner comparable to other communications services provided by AT&T, albeit using state of the art technology. The best example of this is Internet access service. In the case of a subscriber "surfing" the Internet there is client software that resides on the subscriber's computer, such as Microsoft's Internet Explorer. From this client software the subscriber selects content from servers that are a portion of the Internet. The Internet itself is essentially a network of networks so these servers could reside in various networks interconnected with the public Internet. Once the subscriber selects this content, the client software residing in the subscriber's computer communicates with the web server to display that content on the subscriber's computer.

IP Video Service provided over AT&T's platform performs in a similar manner. The set top boxes used with AT&T's IP Video Service contain client software that interacts with servers residing in the network. In this case the client, or end user on the system, requests content from servers that reside in AT&T's network and the client software residing in the set top box displays that content on a video display device.¹

The fact that AT&T is sending to the subscriber the specific content that the subscriber requests at a given point in time is what allows AT&T to provide a video service over significantly less bandwidth than traditional cable service. This significant technological distinction is fundamental to AT&T's Project Lightspeed deployment. AT&T would not be able to offer any reasonable form or amount of video service over the 20-25 MB per second pipe if it employed the same technology and delivery methods as traditional cable television.

¹ It should be noted that AT&T's IP Video Service does not access content from the public Internet today. For security reasons the content selection is limited to content that is contained within a "walled-garden" in AT&T's network. Thus, while the design of AT&T's system is a client-server architecture, it does not literally access the public Internet.

Incumbent cable service is a one-way service in which all the video programming is simultaneously transmitted (i.e., broadcast) to all households connected to the system, and it is the tuners built into customers' set-top equipment that select the appropriate channel to display on each customer's television. Cable systems are thus fundamentally one-way, passive distribution systems. In contrast to the passive, all-at-once broadcast model of cable systems, AT&T's Project Lightspeed switched system involves regular two-way communication and interaction between individual subscribers and the network; nothing is sent to the customer until the customer communicates and interacts with the IP-enabled services and requests specific content. Moreover, because other applications provided over the network will also be IP-based, subscribers will be able to tailor and integrate much of the voice, video, and data content.

APPENDIX C

AT&T PEG Community TV Overview

Internet Sourced PEG

AT&T is committed to carrying Public, Educational and Governmental (PEG) programming over its AT&T U-verse TV service. Because AT&T's U-verse service is based on IP, which is fundamentally the common language of the Internet, AT&T U-verse TV allows AT&T to develop applications that can integrate content from the Internet; such as a "stream" of live video, and deliver them directly to the end user's TV via AT&T's U-verse Set Top Box.

AT&T will use this capability to deliver PEG programming. Delivering PEG in this manner will enable cities to take advantage of many of the IP-based video capabilities. For example, AT&T's PEG solution will potentially enable cities to make community access programming more accessible via the public Internet as well as being available to AT&T U-verse subscribers on their TVs.

AT&T's PEG solution will not only allow AT&T U-verse subscribers to view existing PEG channels made available by the city, but also will enable cities to potentially make available additional content either in the form of additional streams of video and/or on an archived or "on-demand" basis.

"Live PEG Streams"

Municipalities will need to provide the PEG content in a signal form that is compatible with AT&T's U-verse TV platform. This means that the city will need to place equipment at the PEG origination source that "captures" the live feed (i.e., from the city's existing PEG channel) and performs an analog to digital conversion to re-encode the content in MS Windows Media 9 or Higher.

The city will then need to deliver the properly encoded PEG content stream to the Internet and/or directly to a designated point of presence on AT&T's network. AT&T will then "link" to that content source and carry it over AT&T's U-verse TV service. AT&T also will provide the city with non-exclusive access to a channel number on AT&T's programming guide.

Upon selection of this channel number, an AT&T U-verse TV subscriber will activate the PEG application using the remote control and access a list of the various streams of PEG content made available by a given municipality.

In some instances AT&T may elect to place a submenu beneath the channel number containing all of the individual programming selections as described by the municipality.

The following is a list of the technical attributes of AT&T's Internet Sourced PEG service:

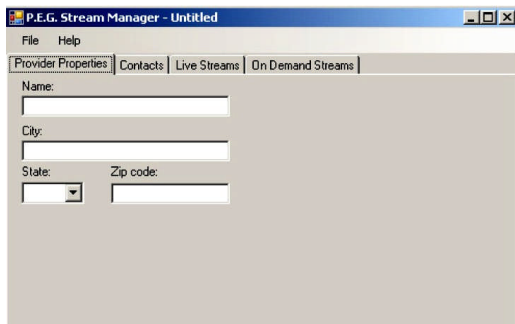
- The encoding format is Microsoft MS Windows Media 9 or greater (Windows Media 9 or higher) at a data rate of 1.0 Mbps per stream/channel. Transport may be obtained from AT&T and/or a third party transport provider, or in some instances could be

derived from existing facilities depending upon available bandwidth.

- Live streams of PEG content will be listed/defined in the U-verse TV programming guide as noted above. AT&T will work with municipalities to address channel assignment issues at the time of implementation.

- AT&T will not exercise any production or editorial control over content. The city/municipality will be responsible for the production of all PEG content, ensuring viewer suitability of content.

- AT&T will provide an administrative tool to allow the city or its designee to create text (e.g., titles or labels) for each live stream of PEG content describing the programming that will in turn be used for display in AT&T's PEG application.

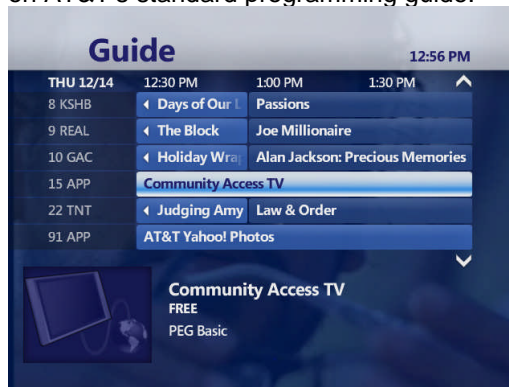


Description: Administrative screen that will be provided to cities to list streams of PEG content to be made available on AT&T's U-verse TV

In order to assist municipalities in making PEG content available in a format compatible with its platform, AT&T is in the process of evaluating several encoder equipment providers. AT&T will provide this list to municipalities needing such information upon request.

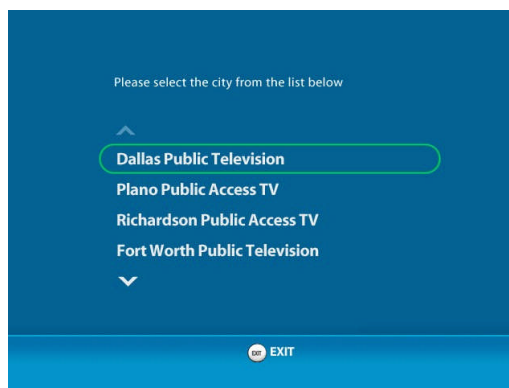
Screen Sample(s)

The following are samples of AT&T's PEG screens. PEG content selections will be listed on AT&T's standard programming guide.



Description: Sample AT&T U-verse Program Guide

application, it will launch and become activated. Within AT&T's PEG application there will be a list of the various municipalities offering PEG content available to the end user as illustrated below:



Description: Initial screen AT&T's PEG application listing multiple municipalities offering PEG content associated with a given channel number

Upon selection of an individual municipality, the PEG application will then transition to a subsequent screen that lists the various PEG channels available.



Description: Transition screen listing available PEG content in a municipality after end user selects desired municipality

This example demonstrates the flexibility of IPTV to blend web and video applications. Video is on the left, navigation on the right, following the paradigm of the U-verse TV.

User Interface

Upon selection of an individual stream offered by the municipality, the video image corresponding to the stream will then be enlarged to three-quarters or potentially full-screen view such as shown below:



Description: Three-quarter screen view of PEG content. Future features may include a full-screen view of PEG content

Archived PEG Content

AT&T's PEG solution also has the potential to enable cities to make available content on an archived or "on demand" basis. In the case of archived content, it is anticipated that content will be provided by the municipality in a manner similar to "live streams." However, AT&T would link to a file being hosted and managed by the municipality available on the Internet.

AT&T's archived PEG solution is currently under development and the following is an overview of some of the potential features being planned. However, this information is preliminary and subject to change. Additional details can be provided upon request as more specifics become available.

The technical attributes of the archiving solution will mirror those of the "live stream" solution outlined above. Municipalities would have to encode archived content in MS Windows Media 9 or higher at a data rate of approximately 1.0 Mbps.

In order to take advantage of this optional solution municipalities will be required to record, store and host their content in the form of files to be made available on the public Internet. Web hosting and storage may be obtained from AT&T or a third party web hosting provider.

AT&T will then "link" to that content source and enable the archived files to effectively be played on the TV via AT&T's U-verse Set Top Box. Archived files, as made available by municipalities, will be listed on the end user's programming guide in a drop down menu below the channel number corresponding to the city's live stream.

As with "live streams" cities will use the same administrative tool described above that will allow the city or its designee to create text (e.g., titles or labels) for PEG content describing the programming that will in turn be used for display in AT&T's PEG application.