

ORDINANCE NO.: 2008-082

Ordinance Granting Consent to Application for Franchise for Cable Service and Setting Franchise Fee

WHEREAS, Article 8, Section 15 of the Constitution of the State of South Carolina provides, among other things, that no law shall be passed by the General Assembly granting the right to a utility to construct and operate lines and facilities in public street or on public property "without first obtaining the consent of the governing body of the municipality in control of the streets or public places proposed to be occupied for any such or like purpose"; and

WHEREAS, the General Assembly by 2006 Act 288 (known as the "South Carolina Competitive Cable Services Act") has imposed a system of a State-issued Certificate of Franchise Authority ("COFA") under which a cable service provider may designate by application to the Secretary of State those municipalities in which the provider wishes to operate, and the municipality so designated, within the period of time after notice from the Secretary of State as set out in S.C. Code Section 58-12-310, is to advise the Secretary of State whether the municipality consents to the COFA or denies consent; and

WHEREAS, S.C. Code Section 5-7-260(4) requires that the municipal council act by ordinance in granting, renewing or extending a franchise; and

WHEREAS, the Council has determined, in the exercise of its lawful discretion and authority, to grant its consent to a franchise and to the application for a COFA for the applicant,
NOW, THEREFORE,

BE IT ORDAINED by the Mayor and Council of the City of Columbia this 24th day of September, 2008, as follows:

1. The Council, as the municipal governing body, consents to the application of BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (copy attached) to operate cable service within the City of Columbia.
2. The maximum franchise fee rate allowed by controlling law shall apply to the applicant's provisions of cable service within the City. City Council reserves all rights to impose on the applicant all ad valorem taxes, service fees, sales tax, or other taxes and fees lawfully imposed or to be imposed on other businesses within the City.
3. All rights of the City under Article 8, Section 15 of the Constitution of the State of South Carolina, under State law (including the South Carolina Competitive Cable Services Act), and under any superseding Federal law are specifically reserved.

This Ordinance shall be effective from the date of final reading.

Requested by:


MAYOR

Approved by:


City Manager

Approved as to form:


City Attorney

Introduced: 9/17/2008
Final Reading: 9/24/2008

ATTEST:

City Clerk

ORIGINAL
STAMPED & RECORDED