

AGREEMENT

THIS AGREEMENT ("Agreement") dated November 26, 2013 ("Effective Date") is made by and between BellSouth Telecommunications, LLC, d/b/a AT&T Alabama ("AT&T Alabama" or "Provider"), a Georgia corporation, and the City of Alabaster, Alabama, a municipal corporation ("City"). AT&T Alabama and City shall sometimes be referred to separately as a "Party," and collectively as the "Parties."

RECITALS

WHEREAS, as a telephone corporation, AT&T Alabama asserts that it has a statewide franchise under Alabama Code Section 23-1-85 (1975), its predecessors, and by operation of law, to construct, operate and maintain its telecommunications facilities in the public rights of way ("ROW") throughout the state of Alabama without having to obtain a local franchise or pay franchise fees. This assertion by AT&T Alabama is supported by the opinion of the Alabama Attorney General Opinion 2008-021 issued to Representative Greg Canfield; and

WHEREAS, AT&T Alabama is in the process of modifying its existing telecommunications network to provide an integrated Internet Protocol ("IP") enabled broadband platform of voice, data and video services ("IP Network"), the video component of which AT&T Alabama asserts is a switched, two-way, point-to-point and interactive service ("IP-enabled Video Service"). The IP Network upgrade will involve the use of the City's ROW.

WHEREAS, the City believes that the system and services that AT&T will use in the City to provide IP-enabled Video Service are "Cable Services" as defined in 47 U.S.C. 522 (6) and are subject to Title VI of the Communications Act of 1934, as amended ("Title VI") and AT&T disagrees; and

WHEREAS, the Parties, without determining whether the system or services that AT&T will use in the City to provide IP-enabled Video Service are subject to Title VI or Alabama Law, desire to enter 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, Alabama law and the Ordinances of the City, if and to the extent such are applicable; and

WHEREAS, both Parties agree that the deployment of the IP Network and the provision of IP-enabled Video Service should not be delayed by possible litigation 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;

WHEREAS, the Parties recognize and acknowledge that their positions differ regarding the jurisdiction of the City to require AT&T to enter into an agreement before it may occupy or use the public way to upgrade its existing telecommunications network and provide broadband products and services, including Competitive Video Service, to the citizens of the City. However, the Parties voluntarily enter into this Agreement to avoid litigation and delay. Furthermore, it is the understanding of the Parties that AT&T specifically reserves its right as a "telephone company," and thus, a "transportation company" under Alabama law to access the

ROW, including, without limitation, its rights under the Alabama Code, to deploy optical fiber and associated network facilities in its existing telecommunications network to provide products and services to its customers. In addition, the Parties acknowledge and agree that by entering into this Agreement the City reserves all rights it may have to regulate AT&T's use of the ROW to the maximum extent permissible under the law and the City does not, in any way, waive or surrender any of its regulatory rights in the ROW by virtue of executing this Agreement.

NOW, THEREFORE, in consideration of and reliance upon the respective representations, promises, concessions, terms and conditions contained herein, City and AT&T Alabama agree as follows.

1. Requirements. The City and AT&T hereby execute a Competitive Video Services Agreement for the provision of IP-Enabled Video Service. IP-Enabled Video Service is a switched, two-way point-to-point interactive video service provided by AT&T Alabama over its wireline network. Unless preempted by state or federal law, during the term of this Agreement so long as the terms of this Agreement remain enforceable, the City will not attempt to nor subject the provision of AT&T's IP-enabled Video Service to regulation except under the terms of this Agreement. For the reasons set forth herein, the parties agree to enter into this agreement for the exclusive and limited purpose of addressing the provision by AT&T of wireline video service within the City. The execution of this Agreement does not affect AT&T's statewide franchise granted under Section 23-1-85 of the Code of Alabama or its predecessors.

1.1 AT&T agrees that it must locate its IP Video Service equipment in the ROW so as not to cause unreasonable interference with the rights of the traveling public on public rights of way, not to unreasonably limit the visibility of vehicular and/or pedestrian traffic, and not to cause unreasonable interference with the rights, if any, of property owners who adjoin any of the said streets, alleys or other public ways.

1.2 AT&T shall comply with the lawful application of all applicable provisions of the Code of Ordinances of the City, state and federal law with respect to the location of AT&T's IP Video Service equipment and facilities in the ROW. If the location selected by AT&T for a specific IP Video Service cabinet raises a reasonable public health, safety, and welfare concern, the City and AT&T agree to work together to identify alternative locations, if available, to satisfy any technical specifications or limitations of the facilities or equipment to be placed in the ROW and that are acceptable to the City.

1.3 AT&T shall comply with the same terms and conditions as are applicable under its existing authorizations for AT&T's facilities and equipment in the ROW with respect to all work involved in the construction, maintenance, repair and upgrade of the IP Network. Nothing in this Agreement shall in any way reduce or expand the City's authority over the ROW to the maximum extent permitted by law.

1.4 The City agrees to subject the construction and installation of the IP Network to the same process and review as it subjects the installation and construction of AT&T's existing telecommunications infrastructure consistent with applicable provisions of the City Ordinances, rules and regulations, state and federal law.

1.5 In accordance with the City Ordinances, rules and regulations, the City agrees to process any and all applicable permits for the installation and construction of IP Video Service facilities in a timely and prompt manner consistent with reasonable Municipal practices. City agrees not to unreasonably block, restrict, or limit the construction and installation of the IP Network.

1.6 With respect to the IP Network of AT&T located in the ROW and utilized to provide IP-enabled Video Service:

a. All construction practices for IP Video Service facilities shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970, as amended.

b. All installation of electronic IP Video Service equipment shall be 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. All of AT&T's IP Network equipment and facilities shall be installed, located, erected, constructed, reconstructed, replaced, or removed in accordance with good engineering practices. All such work must be performed so as not to unreasonably interfere with road improvements the City may deem appropriate to make, or unreasonably hinder or obstruct the rights of the traveling public. Nothing in this Section shall be construed to limit AT&T's rights to access and make use of its own or general utility easements in accordance with the terms of such easements so long as such use is consistent with applicable law.

d. AT&T shall at all times employ ordinary care and shall use commonly accepted methods and devices.

e. AT&T shall to the extent applicable, comply with the provisions of the City Ordinances, rules and regulations regarding tree trimming on public rights of way.

2. Term. The term of this Agreement shall be from the Effective Date of this Agreement through December 31, 2023. The term may be extended upon mutual agreement of the Parties in writing.

3. Compensation to City.

3.1 During the term of this Agreement, AT&T Alabama shall pay to City a fee equal to 5% of the Gross Revenues derived from the provision of AT&T's IP-Enabled Video Service, which fee shall be paid quarterly. AT&T will remit this fee pursuant to this Agreement irrespective of the classification of this service under the Communications Act. Such fees shall be paid to the City within 45 days after the end of the preceding quarter for which payment is made. AT&T may designate that portion of the subscriber's bill attributable to fees imposed pursuant to this Agreement and recover such amount from the subscriber as a separate line item of the bill. Any fees paid to the City pursuant to this Agreement shall be in lieu of any franchise, business, privilege, or similar fees or taxes.

3.2 Payment shall be accompanied by a report, in such form and containing sufficient detail to determine AT&T's compliance with this Section, not later than forty-five (45) days after the last day of each March, June, September, and December, throughout the term of this Agreement setting forth the Gross Revenue for the quarter ending on said last day. In the event that a Video Service Fee payment or other sum due is not received by the City on or before the date due, Grantee shall pay in addition to the payment, or sum due, interest from the due date at the legal rate of interest set forth in Alabama Code Section 8-8-1.

The City shall have the right to audit any such payment for a period of six (6) years, and no acceptance of any payment shall be deemed final until the period for audit shall have expired.

3.3 Gross revenues shall mean all consideration of any kind or nature, including without limitation, cash, credits, property, and in-kind contributions (services or goods) received by AT&T from the provision of AT&T's IP-Enabled Video Service within the City.

3.4 The term Gross Revenues shall include the following:

a. All charges and subscription fees paid by subscribers for the provision of AT&T's IP-Enabled Video Service, including fees attributable to AT&T's IP-Enabled Video Service when sold individually or as part of a package or bundle, or functionally integrated, with services other than the AT&T's IP-Enabled Video Service;

b. All revenue derived from the Provider's Service pursuant to compensation arrangements for advertising sales and home shopping (including Home Shopping Network and any comparable shopping from home network) sales derived from the operation of the Service within the City. Advertising commissions paid to third parties (excluding any refunds, rebates, or discounts the Provider may make to advertisers) shall not be deducted from advertising revenue included in Gross Revenues. The allocation of advertising and home shopping revenue shall be based on the number of subscribers in the Municipality divided by the total number of subscribers in relation to the relevant region or national compensation arrangement; and

c. All revenue collected by the Provider, arising from or attributable to the provision of Service by the Provider within the Municipality including, but not limited to: fees charged Subscribers for any basic, optional, premium, per-channel or per-program service; installation and re-connection fees; converter rentals and/or sales; video service fees; late fees; wire maintenance revenue associated with stand-alone AT&T IP-Enabled Video Service; upgrade, downgrade or other change-in-service fees.

3.5 For purposes of this Agreement, Gross Revenues do not include:

(a) uncollectible fees, provided that all or part of uncollectible fees which is written off as bad debt but subsequently collected, less expenses of collection, shall be included in Gross Revenues in the period collected;

(b) discounts, refunds, and other price adjustments that reduce the amount of compensation received by AT&T Alabama;

(c) Except as provided for in Section 3.4(c) any tax, fee, or assessment of general applicability imposed on the customer or the transaction by a Federal, State, or local government or any other governmental entity, collected by the Provider, and required to be remitted to the taxing entity, including sales and use taxes, and utility user taxes;

(d) revenue from the sale or rental of capital assets to non-subscribers;
or

(e) any revenues received by AT&T for the provision of information services, or the provision of directory or Internet advertising (including yellow pages, white pages, banner advertisement, and electronic publishing).

4. Public, Educational and Governmental Programming.

4.1 AT&T shall, at City's request, provide capacity for the City's public, educational and governmental ("PEG") programming through AT&T's IP-enabled Video Service, including sufficient bandwidth capacity to carry PEG channels required by the City. The City may be required to support a change in or addition to current City equipment now in use for PEG programming to make it compatible with AT&T's IP-enabled video technology. AT&T's obligation herein will begin when its IP-enabled Video Service subscribers in the Service Area reach one thousand (1000) subscribers or eighteen (18) months after the Effective Date, whichever comes first.

Any operation of any PEG access channel by City shall be the responsibility of City, and AT&T Alabama's only obligation, if any, is the responsibility for the transmission of such channel. The City will be responsible to ensure that all transmissions, retransmissions, content, or programming that may be requested to be transmitted over a channel or facility by AT&T Alabama in the future, if any, are provided or submitted to AT&T Alabama, at the AT&T Alabama designated connection point, in a manner or form that is capable of being accepted and transmitted by AT&T Alabama, without requirement for additional alteration or change in the format or content by AT&T Alabama, over the network of AT&T Alabama, and which is compatible with the technology or protocol utilized by AT&T Alabama to deliver IP Video Service. City may use a provider of its choosing, including self-provisioning, to deliver PEG content to AT&T's designated connection point, provided that the bandwidth and streaming specifications are followed.

4.2 AT&T shall pay the City a PEG fee determined in City's sole discretion, which fee shall not exceed one percent of AT&T's Gross Revenues as defined by paragraph (2) of this Agreement for PEG and institutional network support. The City shall provide AT&T written

notice forty-five (45) days in advance of the date on which it seeks to start collecting the fee setting forth the percentage it seeks to collect. All fees paid to the City under this section shall be paid in accordance with 47 U.S.C. Sections 531 (a) (4) (B) and may be used by the City as allowed by federal law; further, the PEG fee shall not be offset, deducted or chargeable as a credit against video fee payments required by section 3 of this Agreement. Payments made for PEG and institutional network support shall be collected and paid in the same manner as outlined in Section 3 of this Agreement.

4.3 If technically and economically feasible, AT&T Alabama will, at its discretion, use reasonable efforts to interconnect with the incumbent cable provider to provide PEG programming.

4.4. AT&T must, collectively with all other video providers, provide the City free of charge one (1) basic installation and monthly service to each public school, municipal government building, fire building, police building, and library building that is passed by AT&T's system. No more than one (1) provider shall provide the service required by this Section 4.4 to any given location. The City will confer with all providers and determine the assignments in a reasonable manner. AT&T shall not seek to offset recurring costs associated with the requirements of this Section against the fees due under Section 3.1 of this Agreement, nor shall AT&T impose such costs on the schools or institutions receiving such free installations and service. AT&T shall offset any non-recurring installation and non-recurring repair of service charges provided pursuant to this section against any fees due under Section 3 of this Agreement. Such charges shall not exceed the installation charge applicable to residential customers or, at such time as a business product is available, to business customers.

5. Emergency Message. AT&T Alabama shall carry all Federal, State and Local alerts provided over the "Federal Emergency Alert System" through AT&T Alabama'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.

6. Customer Service Standards. AT&T Alabama shall comply with the customer service requirements set forth in 47 C.F.R. Section 76.309(c), as may be amended from time to time. The requirements of 47 C.F.R. 76.309(c) are set forth below, but are intended to be identical to the federal law and shall be deemed automatically amended should 47 C.F.R. 76.309(c) be amended.

6.1 AT&T will maintain a local, toll-free or collect call telephone access line that will be available to subscribers to its IP-enabled Video Services twenty-four (24) hours a day, seven days a week. Trained AT&T representatives will be available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day, except for service interruptions.

6.2 Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds.

These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis. AT&T will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards described in this Section unless an historical record of complaints indicates a clear failure to comply.

6.3 Under normal operating conditions, an AT&T customer will receive a busy signal less than three (3) percent of the time.

6.4 AT&T customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

6.5 Under normal operating conditions, each of the following four standards related to installations, outages and service calls will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:

a. Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.

b. Excluding conditions beyond the control of AT&T, AT&T will begin working on "service interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. AT&T must begin actions to correct other service problems the next business day after notification of the service problem.

c. The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (AT&T may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

d. AT&T may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

e. If an AT&T representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time that is convenient for the customer.

6.6 Refund checks will be issued promptly, but no later than either (i) the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or (ii) the return of the equipment supplied by AT&T if service is terminated.

6.7 Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

6.8 The following definitions shall apply to the terms listed below, as such terms are used in this Section 6:

a. "Normal business hours" means those hours during which most similar businesses in the City are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

b. "Normal operating conditions" means those service conditions that are within the control of AT&T. Those conditions that are not within the control of AT&T include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions that are ordinarily within the control of AT&T include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the IP Network.

c. "Service interruption," means the loss of picture or sound on one or more IP-enabled Video Service channels.

7. Removal. Upon abandonment, AT&T Alabama will, at the City's written request and within a reasonable amount of time, remove from the City rights-of-way any visible equipment that AT&T Alabama used exclusively for video services.

8. Insurance.

8.1 General Liability. AT&T shall maintain, through the term of this Agreement, adequate proof of self-insurance or Commercial General Liability Insurance using carriers authorized in the State of Alabama and maintaining a Best rating of at least A-IV. Such insurance shall include coverage for premises and operations, underground, collapse and explosion, and products and completed operations, and shall include as an Additional Insureds the City, and its officers, boards, Commissions, City Council, elected and appointed officials, agents and employees. Such insurance shall be in the amount of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate covering bodily injury, including death, and property damage. If AT&T employs independent contractors, AT&T shall insure that these contractors maintain appropriate levels of insurance and that the City is named as an additional insured under each liability policy.

8.2 Automobile Liability. AT&T shall maintain during the term of this Agreement Comprehensive Automobile Liability insurance with a limit of Three Million Dollars (\$3,000,000) per occurrence combined single limit for bodily injury, including death, and property damage covering owned, non-owned and hired automobiles used in conjunction with its operations under this Agreement. Such insurance shall include the City as an Additional Insured.

8.3 Workers' Compensation. AT&T shall maintain, during the course of this Agreement, Workers' Compensation coverage as prescribed by the laws of the State of Alabama and Employer's Liability coverage in an amount of not less than One Million Dollars (\$1,000,000) per accident, \$1 million per disease, per employee and \$1 million per disease, aggregate.

8.4 Evidence of Insurance. On or prior to the Effective Date of this Agreement, AT&T shall furnish to the City Certificates of Insurance upon each policy renewal evidencing all of the aforementioned types and limits of insurance to be in effect.

8.5 Self-Insurance. AT&T maintains the option, at the Effective Date of this Agreement and at any time throughout the term of this Agreement, to self-insure any or all of the types and/or limits of insurance coverage described in this Section 8 and shall provide the City with a statement certifying such self-insurance, which self-insurance must be approved by the City.

8.6 Maintenance of Insurance Policies. The liability insurance policies required under this Section shall be maintained by AT&T through the term of this Agreement. Each policy of insurance shall provide that it not be cancelled without at least thirty (30) days' written notice to the City.

8.7 Alteration of Minimum Limits. The City may, following the Effective Date, increase the minimum limitation(s) of the self-insurance or insurance policy(ies) required under this Section by a percentage not to exceed the percentage increase in the Consumer Price Index for the Birmingham Metropolitan Statistical Area as of the Effective Date.

8.8 No Limit of Liability. The legal liability of AT&T to the City and any person for any of the matters that are the subject of the insurance policy(ies) required by this Section, shall not be limited by said insurance policy(ies) or by the recovery of any amounts thereunder.

8.9 Certificate of Insurance. AT&T shall furnish or have its insurer furnish to the City Certificates of Insurance for all the coverage described above, from companies acceptable to the City, properly executed by an authorized representative of the insurer authorized to do business in the State of Alabama. Certificates shall include the City as an additional insured and all policies shall waive rights of subrogation in favor of the City, and contain a provision that coverage afforded under the policies will not be cancelled, unless insurers have provided at least thirty (30) days prior written notice has been given to the City. All notices or certificates shall be delivered to the City Clerk of the City of Alabaster at 201 1st Street North, Alabaster, Alabama 35007. All deductibles under said policy shall be the sole responsibility of the provider.

9. Breach of Agreement. Should either party claim that a breach of any part of this Agreement has occurred, that party will provide prompt written notice to the other, specifying the nature of the breach; and upon receipt the other party shall cure such breach within 60 days.

10. Dispute Resolution. Except as otherwise provided in this Agreement, the Parties shall, prior to any court action, make diligent good faith efforts to resolve all issues and disputes that arise in the administration of this Agreement through discussions between designated representatives of the Parties and use of a mediator when such discussions have failed.

11. Non-discrimination. AT&T Alabama shall not deny access to its IP Video Services to any group of potential residential customers because of the income of the residents of the local area in which the group resides.

12. Indemnification.

12.1 In the event that the incumbent video service provider(s) 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 and/or seeking to modify its obligations under its existing cable franchise on the basis that the City entered into this Agreement, AT&T agrees to pay the full amount of any judgment or award issued by a court against the City as a result of entering into this Agreement or any settlement negotiated by AT&T with respect to the claim and all other expenses incurred by the City, including attorneys' fees and costs related to the resolution of the claim. AT&T's obligation to pay excludes an incumbent cable service provider's costs, interests and attorneys' fees in bringing such action or claim unless otherwise agreed to by AT&T in any settlement agreement

12.2 With respect to AT&T's indemnity obligations set forth above, AT&T shall provide the defense of any claims brought against the City by selecting counsel of AT&T's choice to defend the claim, subject to the consent of the City, which shall not be unreasonably withheld. Nothing herein shall be deemed to prevent the City from cooperating with AT&T and participating in the defense of any litigation by its own counsel at its own cost and expense, provided, however, that after consultation with the City, AT&T shall have the right to defend, settle or compromise any claim or action arising hereunder at its sole cost, and AT&T shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the terms of any such settlement do not include the release of the City, AT&T shall not settle the dispute without the City's consent, which consent shall not be unreasonably withheld.

12.3 AT&T shall not be responsible for the acts of negligence or willful misconduct or breaches of obligation committed by the City. AT&T shall not be required to indemnify the City for the above acts of the City, its officers, employees, agents, attorneys, consultants, independent contractors or third parties.

13. Notices. Any notice to be given under this Agreement shall be in writing and may be delivered to either personally, by facsimile or by certified or registered mail with postage prepaid and return receipt requested, addressed as follows:

If to City:

Honorable Marty B. Handlon, Mayor
City of Alabaster
201 1st Street North
Alabaster , Alabama 35007

If to AT&T Alabama:

AT&T Alabama
General Counsel – Alabama
Suite 28A2
600 19th Street N
Birmingham, AL 35203

14. Compliance with Laws. AT&T shall comply with all applicable federal, state and local laws during the term of this Agreement, to the extent such laws apply to AT&T and to its obligations under this Agreement.

15. Privacy. AT&T shall comply with all applicable federal (47 U.S.C. § 551), state and local privacy laws during the term of this Agreement, to the extent such laws apply to AT&T and its obligations under this Agreement.

16. Taxes. Nothing contained in this Agreement shall be construed to exempt AT&T's IP-enabled Video Service from any tax, levy or assessment which is or may later be properly authorized by law; provided any tax, levy or assessment on any AT&T product is equally applicable to all other businesses in the City.

17. Employment. AT&T hereby agrees that it shall not refuse to hire or employ, nor will it bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment, because of age, race, creed, color, national origin, handicap, religious faith or sex.

18. Books and Records; City's Right of Inspection and Audit

18.1 AT&T shall maintain books of account and records adequate to enable AT&T to demonstrate that it is in compliance with the obligation to pay the fees described in Section 3.1 and Section 4.2 of this Agreement with respect to IP-enabled Video Service. AT&T shall also maintain books and records to demonstrate AT&T's compliance with all other terms of this Agreement. AT&T shall not be required to maintain books and records for compliance purposes under this Agreement for a period longer than six (6) years.

18.2. The City shall have the right to audit AT&T within six (6) years from which the fee payment was due. The City may re-compute any amounts determined to be payable in satisfaction of the fees described in Section 3 and 4 of this Agreement with respect to IP-enabled Video Service. Any additional and valid amount due the City as a result of the audit shall be paid by AT&T within thirty (30) days after AT&T receives a written notice from the City. The notice that the City sends to AT&T shall include a copy of the audit report. The City may not retain any person or entity for compensation that is dependent in any manner upon the outcome of any such audit, including the audit findings, the recovery of fees, or the recovery of any other payments.

18.3 In the event that payment of any valid fees described in Section 3.1 of this Agreement with respect to IP-enabled Video Service that has been recomputed pursuant to Section 19.2 above is not made on or before the expiration of thirty (30) days following written

notice by the City, AT&T shall be charged and shall pay, in addition to the amount due, interest on the amount due equal to the prevailing prime rate plus two hundred (200) basis points of interest compounded daily from the due date for payment of the recomputed amount until paid in full. The prevailing prime rate shall be the prime rate of the Regions Bank of Birmingham, Alabama.

18.4 Upon reasonable notice to AT&T, the City or its designated representative shall have the right to examine books and records directly related to AT&T's compliance with its obligations under this Agreement, including the fees described in Section 3 and 4 of this Agreement. The City shall have no right to examine any aspect of the books and records that does not directly relate to AT&T's obligations under this Agreement.

18.5 City acknowledges that some of the records which may be provided by AT&T may be classified as confidential and therefore may subject AT&T to competitive disadvantage if made public. City shall therefore maintain the confidentiality of any and all records provided to it by AT&T which are not required to be made public pursuant to applicable laws.

19. Furnishing of Information. Each Party shall cooperate to make available or cause to be made available information requested by the other Party relating to this Agreement and each Party's obligations under this Agreement to the extent such information may be requested in writing by a Party and is in the possession or the control of the other Party. Any disputes between the Parties as to any information requested pursuant to this Section shall be subject to the dispute resolution process described in Section 10 of this Agreement.

20. Termination and Revocation of this Agreement. A verified and continuing pattern of noncompliance with any material provision of this Agreement shall constitute a material breach of this Agreement. This Agreement may be revoked, after a full due process hearing, by a simple majority vote of the City Council upon the recommendation of the Municipality, for a material breach of this Agreement after giving AT&T thirty (30) days notice in writing of intention to revoke such Agreement, unless such violation is corrected during the period of notice, or unless AT&T has made a reasonable attempt to correct the violation during that time and is unable to correct such violation despite such reasonable attempts.

20.1 In addition to all other rights, powers, or remedies pertaining to the City in connection with this Agreement or otherwise, the City reserves the right to terminate this Agreement and all rights and privileges of AT&T's under this Agreement if any of the following events shall occur and not be cured in a timely manner.

a. Substantial failure on more than one occasion to comply with any material provision of this Agreement or any other local, state, or Federal law or regulation of a nature such as to prevent AT&T from carrying out all of the terms of this Agreement for a period of more than one (1) month.

b. AT&T does not pay any portion of the fees, payments, or contributions required under this Agreement, when due and payable.

c. Any material representation or warranty made by AT&T in connection with this Agreement shall be false in any material respect when made.

d. AT&T shall violate any other material covenant, agreement or condition of this Agreement and such violation shall not have been corrected, within such reasonable period of time to cure as granted to AT&T by the City pursuant to the provisions of this Agreement.

e. AT&T attempts to evade any of the provisions of this Agreement or practices any fraud or deceit upon the City or upon subscribers.

21. Inspection Rights.

21.1 The City shall have the right to inspect, upon reasonable prior written notice, and at its expense, all construction and installation work performed by AT&T of IP Video Service-specific facilities on the public rights-of-way as it shall find necessary to ensure compliance with a specified permit. Any such inspection shall be solely for the benefit of the City.

22. Amendment of this Agreement.

22.1 This Agreement may be amended or modified only by a written instrument executed by both Parties or as otherwise provided by law or the occurrence of any condition stated herein.

22.2 Except as provided below, the Parties agree to consult in the event that 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 AT&T, 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 this Agreement on the provision of thirty (30) days' written notice.

22.3 In addition to the rights set forth in above, either AT&T or the City shall have the right to terminate this Agreement and all obligations hereunder upon ninety (90) days' notice to the other Party, if (a) AT&T concludes in its reasonable business judgment that IP-enabled Video Service in the City is no longer technically, economically or financially consistent with AT&T's business objectives; (b) Title VI obligations or any similar obligations are imposed on AT&T's IP-enabled Video Service; or (c) a change in state or federal law permits the City to obtain greater compensation from AT&T than the compensation provided for under the terms of this Agreement.

23. Assignment

23.1 AT&T may not assign or transfer this Agreement or any interest therein, without the prior consent of the Municipality, which consent shall not be unreasonably withheld or delayed.

23.2 A change in the actual working control of AT&T shall be considered a transfer and shall not take place without the prior written consent of the City. Such consent shall not be unreasonably withheld or delayed.

23.3 Notwithstanding anything to the contrary, no consent shall be required, however, for (1) a transfer of an agreement or any interest therein to an Affiliate or (2) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title or interest of AT&T in this Agreement or the system in order to secure indebtedness.

23.4 Any request for consent to a transfer of this Agreement or change in control of AT&T shall be handled by the City in accordance with applicable federal and state law.

23.5 In the event of a transfer of this Agreement the transferee or assignee must agree, in writing, to be bound by the terms of this Agreement subject to applicable law.

24. Entire Agreement. This Agreement constitutes the entire agreement between City and AT&T Alabama with respect to the subject matter contained herein and supersedes all prior or contemporaneous discussions, agreements, and/or representations of or between City and AT&T Alabama regarding the subject matter hereof.

25. Waiver. Failure on the part of either Party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

26. Miscellaneous.

26.1 AT&T Alabama and City each hereby warrants that it has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof.

26.2 The headings used in this Agreement are inserted for convenience or reference only and are not intended to define, limit or affect the interpretation of any term or provision hereof. The singular shall include the plural; the masculine gender shall include the feminine and neutral gender.

26.3 AT&T Alabama and City shall cooperate fully with one another in the execution of any and all other documents and in the completion of any additional actions including, without limitation, the processing of permits that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

26.4 Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward any person or entity not a party to this Agreement, unless otherwise expressly set forth herein.

27. Binding Effect. This Agreement shall be binding upon and for the benefit of each of the Parties and their respective successors and assigns and any parents, subsidiaries or affiliated corporations or entities, as applicable.

28. Counterpart Execution. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile and any signature transmitted by facsimile will be given the same force and effect as an original signature.

29. Compliance with this Agreement. AT&T shall not be excused from complying with any of the terms, conditions, and provisions of this Agreement by any failure of the City upon one or more occasions to insist upon or to seek compliance with any such terms, conditions or provisions.

30. Force Majeure. In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by a force majeure, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference.

31. AT&T and the City agree not to challenge the legality of any provision in this Agreement, or any future amendments as agreed by the parties, irrespective of any changes in the law applicable to video service providers.

32. Choice of Laws. This Agreement shall be construed and interpreted according to the laws of the State of Alabama, and shall be enforced in the Birmingham Division of the Circuit Court of Jefferson County, Alabama, or in the United States District Court for the Northern District of Alabama.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement and made the same effective as of this 26th day of NOVEMBER, 2013.

AT&T Alabama

By: *Fred McCallum, Jr.*
Name: Fred McCallum, Jr.
Title: President – AT&T Alabama

State of Alabama)
County of JEFFERSON)

Sworn to and subscribed before me this 3rd day of December, 2013.

Martina H. Swartz SEAL
NOTARY PUBLIC

My Commission Expires: 5-19-2016

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: May 19, 2016
BONDED THRU NOTARY PUBLIC UNDERWRITERS

CITY OF ALABASTER

By: *Marty B. Handlon*
Name: Marty B. Handlon
Title: Mayor

Attest: *George Henry*
George Henry
City manager / Clerk

State of Alabama)
County of Shelby)

Sworn to and subscribed before me this 26th day of November, 2013.



J. Lisa Blazquez SEAL
NOTARY PUBLIC

My Commission Expires: My Commission Expires Feb 2, 2014

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