



MEMORANDUM

TO: Mayor Laurel Lunt Prussing and Members of the City Council

FROM: William R. Gray, Public Works Director

DATE: July 10, 2008

RE: Landscape Screening of AT&T Facilities within the City Rights-of-Way
Budget Amendment Ordinance

Introduction

Earlier this year, AT&T contacted City staff to discuss a new service they would be providing Urbana residents in 2009 called AT&T U-verse. AT&T U-verse will provide customers, for a fee, all-digital programming and high definition TV channels with advanced features and controls. To make this possible, AT&T must upgrade their facilities. This undertaking is called Project Lightspeed. A key component to this project upgrade is the installation of cabinets in the right-of-way called Video-Ready Access Device (VRAD) whose dimensions are approximately four feet tall by four feet wide by two feet deep. AT&T is sensitive to how these proposed twelve VRADs look in the public right-of-way and is offering three screening options to address this. They are as follows:

1. AT&T will provide the City a stipend of \$1500 for each box constructed in the City. The City will assume all responsibility for the installation and on-going maintenance of each site. The City chooses which site should be landscaped and can respond to citizen input.
2. AT&T will provide the City a \$2000 stipend for each site the City determines needs to be landscaped. The City will assume all responsibility for the installation and on-going maintenance of those sites. The City is not obligated to landscape any sites but to the extent it is determined screening is needed; this money would be used for that purpose.
3. AT&T and the City visit each site and determine which sites will require landscaping and AT&T will bid out the landscaping and cause the work to be done and will only provide initial watering after which the City will be responsible to maintain. Plant material will be guaranteed for one year by AT&T's contractor.

It is staff recommendation to select option #1. Screening will not be required at all locations. Where screening is to be provided, City staff can design, install, and maintain initially the vegetation and would then seek adjacent property owner buy-in to water and maintain the vegetation in perpetuity. AT&T will not permit painting of their VRADs or any other physical alterations or attachments to “enhance” their appearance.

Attached please find a draft letter agreement between AT&T and the City of Urbana that spells out the terms of agreeing to option #1.

Fiscal Impact

Per option #1 the City would receive \$1500 per location to fund the installation and maintenance of the vegetative screening where it is determined to be needed with the installation of VRADs in the City right-of-way. It is estimated option #1 would provide the City \$20,000.

Recommendation

It is recommended that an Ordinance Revising the Annual Budget Ordinance (Public Works Arbor AT&T Landscaping) be approved.

Attachments: Agreement
Ordinance

[AT&T letterhead]

July --, 2008

Mr. William R. Gray
Director of Public Works
City of Urbana
706 South Glover Avenue
Urbana, Illinois 61802

Dear Director Gray:

AT&T Illinois ("AT&T") is in the process of installing facilities in the public rights-of-way ("ROW") within the City of Urbana, Illinois (the "City") in connection with AT&T's network upgrade, known as Project Lightspeed. As part of this upgrade process, AT&T remains committed to working with the City pertaining to the location of screening, landscaping and maintenance of these facilities.

In furtherance of this commitment, AT&T hereby agrees to be bound by the terms contained in this letter (hereafter referred to as the "Agreement"). AT&T shall make a payment to the City of One Thousand Five Hundred Dollars (\$1,500.00) (a "Payment") for each separate Video-Ready Access Device ("VRAD") located in the ROW of the City ("AT&T's Facilities"). The Payments shall be used by the City for screening, landscaping and maintenance of the screening and landscaping related to AT&T's Facilities, subject to the following terms:

1. The City shall assume all responsibilities, including all costs, expenses and liabilities, related to the screening and landscaping of AT&T's Facilities within the City. In fulfilling these responsibilities, the City shall comply with all applicable land use and safety regulations including, but not limited to, the Illinois Underground Utilities Facilities Damage Prevention Act, 220 ILCS 50/1 *et seq.* and the City shall reserve a four (4) foot set-back on all four sides of every VRAD cabinet, upon which no landscaping or obstruction will be placed, such that every VRAD cabinet may be easily accessed by AT&T.
2. Except for its responsibility to make the Payments, AT&T shall not be responsible for any costs, expenses or liabilities related to the screening and landscaping or the ongoing maintenance of the screening and landscaping of AT&T's Facilities within the City.
3. As long as this Agreement remains in effect, AT&T's Facilities shall not be subject to any applicable City Code provisions regarding screening, landscaping, maintenance or security requirements, including, but not limited to, the posting of a bond, letter of credit or the establishment of an escrow account. If, after the installation of all the AT&T Facilities envisioned under the terms of this Agreement, the City promulgates new City Code provisions which differ from or adversely impact the terms of this Agreement, the parties hereto will enter into negotiations in an effort to determine the terms for such new installations.

4. AT&T asserts that any payment obligations, including bond, letter of credit or escrow account requirements, imposed by the City in relation to AT&T's Facilities are inconsistent with applicable law, including the Cable and Video Competition Law of 2007, 220 ILCS 5/21-100 *et seq.*, the Telecommunications Infrastructure Maintenance Fee Act, 35 ILCS 635/1 *et seq.* or the Telephone Company Act, 220 ILCS 65/1 *et seq.* However, despite AT&T's assertion, AT&T will make this payment voluntarily under the conditions described above. As to other municipalities, AT&T reserves the right to challenge any such similar payment requirement.

Please express your agreement and acceptance of the terms of this Agreement by signing below.

Sincerely,

Marc D. Blakeman
Regional Vice President, External Affairs

AGREED TO AND ACCEPTED:

CITY OF URBANA

By: _____

Name: _____

Title: _____

ORDINANCE NO. 2008-07-077

**AN ORDINANCE
REVISING THE ANNUAL BUDGET ORDINANCE
(Public Works Arbor AT&T Landscaping)**

WHEREAS, the Annual Budget Ordinance of and for the City of Urbana, Champaign County, Illinois, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, (the "Annual Budget Ordinance") has been duly adopted according to sections 8-2-9.1 et seq. of the Illinois Municipal Code (the "Municipal Code") and Division 2, entitled "Budget", of Article VI, entitled "Finances and Purchases", of Chapter 2, entitled "Administration", of the Code of Ordinances, City of Urbana, Illinois (the "City Code"); and

WHEREAS, the City Council of the said City of Urbana finds it necessary to revise said Annual Budget Ordinance by deleting, adding to, changing or creating sub-classes within object classes and object classes themselves; and

WHEREAS, funds are available to effectuate the purpose of such revision; and

WHEREAS, such revision is not one that may be made by the Budget Director under the authority so delegated to the Budget Director pursuant to section 8-2-9.6 of the Municipal Code and section 2-133 of the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the Annual Budget be and the same is hereby revised to provide as follows:

FUND:	Capital Improvements Supplementary	
ADD REVENUE:	AT&T Reimbursement	\$20,000
ADD EXPENSE:	Landscaping Costs	\$20,000

Section 2. This Ordinance shall be effective immediately upon passage and approval and shall not be published.

Section 3. This Ordinance is hereby passed by the affirmative vote of two-thirds of the members of the corporate authorities then holding office, the "ayes" and "nays" being called at a regular meeting of said Council.

PASSED by the City Council this _____ day of _____,

_____.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____,
_____.

Laurel Lunt Prussing, Mayor