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**SENT VIA E-MAIL**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

**Re: Council File Nos. 15-0600-S22 and 14-1571 – Draft Ordinance Amending Section 62.06 of the Municipal Code and Section 5.121.6 of the Los Angeles Administrative Code to Revise the Street Damage Restoration Fee and the Street Damage Restoration Fee Special Fund**

Honorable Members:

Thank you for the opportunity to comment on the Draft Ordinance revising the City's Street Damage Restoration Fee and the Street Damage Restoration Fee Special Fund. We appreciate the City's need to update these fees and recover the costs associated with street excavations. We are concerned, however, that the draft ordinance places a premium on AT&T's ability to access the City's streets in contravention of Public Utilities Code § 7901 and Government Code § 50030.

As a telephone corporation, AT&T has a statewide franchise under Public Utilities Code § 7901 to install its facilities in the public rights-of-way throughout California subject to a local jurisdiction's right under Public Utilities Code § 7901.1 to impose reasonable time, place and manner restrictions on the construction of such facilities. Government Code § 50030 limits the fees local jurisdictions can impose for access to its streets to the "reasonable costs of providing the service for which the fee is charged" and prohibits fees generated for "general revenue purposes."

AT&T believes that the draft ordinance, as currently drafted, would place an undue burden on its ability to use the City's streets to provide the latest communications services to City residents and businesses and generate fees that could exceed the City's costs. Specifically, we have the following concerns:

1. **The draft ordinance does not consider the quality of the trench.** It treats all trenches the same regardless of the actual damage caused by the excavation. Trenches that are slurry-backfilled last a lot longer than earth-filled trenches, and should be subject to a reduced fee.
2. **Likewise, the SDRF should be recalculated to align with the BOE's new Standard Plan S-477-1.** Standard Plan S-477-1, which was put in place last year, created standards intended to extend the life of the streets of Los Angeles. AT&T is currently complying with Plan S-477-1 and repaving streets up to 5 feet on both sides of our trench cut. The SDRF should be abated accordingly to reflect the extended life generated by the extended repaving requirement. This is

consistent with the draft ordinance's treatment of concrete streets which allow full slab replacement for excavations in lieu of the SDRF.

3. **The draft ordinance does not consider the age of the street.** The draft ordinance exempts excavations made within one year of a scheduled resurfacing and up to 23 months prior to a scheduled resurfacing. However, the latter exemption only applies to entities that submit a five-year excavation plan and a one-year excavation plan identifying the entity's existing facilities and all planned excavation work. This exemption is unworkable for an entity like AT&T whose excavation work is primarily residential and business service order driven and not amenable to a five-year plan.
4. **The draft ordinance does not take into account the condition or use of the street being assessed by the SDRF.** As currently written, the draft ordinance would allow the City to assess all of its street maintenance costs on entities seeking excavations permits regardless of other factors influencing the condition of the street, such as heavy traffic, road construction methods, and non-permitted trenches. In addition, the same fees will be assessed regardless of the number of prior or subsequent excavations – leading to double or even triple recovery of the City's costs. At the very least, the draft ordinance should allow for a waiver or reduction of the SDRF to account for these circumstances.

Thank you for considering AT&T's concerns regarding the draft ordinance. We understand that the City has not updated its SDRF since 2006 and appreciate the City's need to protect its streets, but we are concerned that the new proposal will make it difficult for companies like AT&T to provide next generation communications services to the citizens of Los Angeles and give them the tools they need to connect to the world. We have a strong history of collaboration with the City and will continue to be available to work on reasonable and workable revisions to the draft ordinance.

Sincerely,



Lori Ortenstone

Asst. Vice President – Senior Legal Counsel

cc: Los Angeles City Council President Herb J. Wesson, Jr.

Los Angeles Councilmember Bob Blumenfield, Chairman, Public Works and Gang Reduction Com.

Los Angeles Councilmember Joe Buscaino, Vice Chair, Public Works and Gang Reduction Com.

Los Angeles Councilwoman Nury Martinez

Los Angeles Councilmember David E. Ryu

Los Angeles Councilwoman Monica Rodriguez

Lupita Sanchez-Cornejo

Blanca Barrera