

Agenda Report

DATE: August 7, 2000

TO: CITY COUNCIL
FROM: CITY MANAGER
SUBJECT: RENEWAL OF A CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN
THE CITY AND CHARTER COMMUNICATIONS

RECOMMENDATION:

It is recommended that the City Council:

- 1) Conduct a public hearing on the proposed renewal of the cable television franchise between the City and Charter Communications Entertainment II, LLC; and
- 2) Hold first reading of the ordinance authorizing renewal of the cable television franchise agreement.

BACKGROUND:

The City entered into a fifteen-year cable television franchise agreement with Falcon Communications in 1984. Control of the franchise was transferred several times during the franchise term. Charter Communications Entertainment II, LLC (Charter Communications), the current franchisee, has owned the franchise since September 1995. The franchise also was extended twice, and currently expires on September 30, 2000.

Staff has been working over the past several years to negotiate a renewed franchise agreement with Charter Communications. An overview of the franchise renewal process, major deal points of the renewed franchise agreement, and outreach for the public hearing follow.

Franchise Renewal Process

The franchise renewal process has included a variety of activities, including: evaluation of Charter Communications' performance under the terms of the current franchise; public comment in three public hearings; assessment of

subscriber, city, educational, and public access needs in a new franchise agreement; review and prioritization of issues by the City Council; and negotiations with Charter Communications. These activities have taken place over several years, beginning with initial staff work and a public hearing in 1996. A timeline of franchise renewal activities is presented below.

Initial review of Charter Communications' performance	January – May, 1996
Public hearing at the Business Enterprise Committee assessing Charter Communications' performance	June, 1996
Public hearing at the Business Enterprise Committee seeking input on future franchise requirements	February, 1997
Public hearing of the full Council	June, 1998
Compliance and financial audits of Charter Communications	November, 1998 – February, 1999
Settlement of compliance and financial issues	March – September, 1999
Franchise renewal needs assessment	June – October, 1999
Draft franchise agreement developed	June – November, 1999
Technical audit and assessment	October, 1999
Council review of public and institutional needs	November, 1999
Draft franchise agreement delivered to Charter Communications	December, 1999
Franchise renewal negotiations	January – July, 2000
Adoption of resolution declaring the City's intent to enter into a renewed franchise with Charter Communications	July, 2000

Major Deal Points

Staff has negotiated a renewed cable television franchise agreement with Charter Communications based on needs identified during the community needs assessment process and prioritization of those needs by the City Council. The renewed agreement includes the following key provisions:

- Non-exclusive franchise – The City of Pasadena may enter into multiple cable television franchise agreements.
- Five-year term.

Cable TV Franchise Renewal

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- Discounts for low-income subscribers – Charter Communications will provide a 10% discount for subscribers meeting the City's low-income criteria. The City will also waive the 9.4% utility users tax for those customers.
- Undergrounding of some of Charter Communications' above ground pedestals.
- Maintenance and inspection standards for Charter Communications' remaining above ground boxes.
- Triggers for Charter Communications to provide advanced services to Pasadena residents and for modification or upgrade of Charter Communications' infrastructure – The franchise includes regular comparisons with state-of-the art systems in other Southern California cities and bandwidth monitoring to ensure the system has sufficient capacity to support new services.
- Requirements related to public, educational, and governmental access, including:
 - Public access production will shift to Charter Communications' local studio. Charter plans a major upgrade of the facility.
 - Guaranteed minimum hours for use of studios and editing equipment at that facility.
 - Responsibility for programming (what airs when) and playback (airing programs at their appointed time) remains with the Pasadena Community Access Corporation (PCAC).
 - PEG access equipment grants to the City, Pasadena Unified School District, Pasadena Community Access Corporation, and Pasadena City College totaling \$323,500.
 - Ability to cablecast live from 20 locations across Pasadena, as well as an allowance for rental of microwave equipment.
- Provision of a "virtual" network and access to the Internet for PUSD schools within Charter Communications' service territory (Pasadena and Altadena) via cable modems.
- Agreement to negotiate further with the City to address municipal telecommunications and Institutional Network (INET) requirements.
- Cable service for community and city facilities.

Other areas covered by the franchise agreement include:

- Conditions on Charter Communications' use of the public right-of-way
- Technical standards for operation of Charter's cable TV system
- Liability insurance and indemnification

- Identification of conditions of default
- Other penalties associated with Charter's failure to perform according to the franchise terms

Outreach for the Public Hearing

On July 17, 2000, the City Council approved a resolution declaring the City's intention to enter into a renewed cable television franchise with Charter Communications. The resolution also established 7:00 p.m., Monday, August 7, 2000 as the time for the public hearing on the granting of the renewed franchise. The period between adoption of the resolution and the public hearing is designed to provide the public an opportunity to review the franchise agreement and prepare any comments.

The resolution setting the public hearing date was published in the Pasadena Star News on July 25, 2000 and in the Pasadena Journal on July 20, 2000. A press release was sent to those newspapers, as well as the Pasadena Weekly, the Los Angeles Times, the City News Service, and Neighborhood Connections. The press release also was available on the City's website. A flyer announcing the public hearing was mailed to all field representatives, neighborhood associations, chairpersons of City commissions, the Pasadena Unified School District, Pasadena City College, the Chamber of Commerce, and community and religious organizations. Flyers were also available at the City's public counters. Finally, notice of the hearing appeared on the KPAS and PCAC bulletin boards.

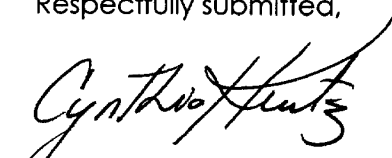
Copies of the proposed franchise agreement were placed in the main library and at each branch library and were available for review or photocopying at the City Clerk's Office.

FISCAL IMPACT:

The franchise agreement with Charter Communications will produce several types of revenue for the City: franchise fees, utility user taxes, grants, and in-kind services. Staff estimates the franchise will generate the following during its five-year term:

Franchise fee revenue	\$5,398,000
Utility user tax revenue	8,596,000
Grants for public, educational and governmental access equipment	453,500
In-kind services, including: cable service for community and city facilities; cable modems and virtual private network service for public schools; rental of live remote equipment; live cablecast sites; training; and commercial ad time.	500,000 (approx.)

Respectfully submitted,




CYNTHIA J. KURTZ
City Manager

Prepared by:



Lori B. Sandoval
Technical Planning Manager

Approved by:



Robert K. Person
Assistant to the City Manager



Ordinance Fact Sheet

DATE: August 7, 2000

TO: CITY COUNCIL
FROM: CITY MANAGER
SUBJECT: ORDINANCE OF THE CITY OF PASADENA AUTHORIZING THE RENEWAL OF A CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN THE CITY AND CHARTER COMMUNICATIONS ENTERTAINMENT II, LLC

TITLE OF PROPOSED ORDINANCE:

An Ordinance of the City of Pasadena Authorizing the Renewal of a Cable Television Franchise Agreement Between the City and Charter Communications Entertainment II, LLC.

BACKGROUND:

Charter Communications Entertainment II, LLC (Charter) is the authorized holder of a franchise that authorizes the construction, operation, and maintenance of a cable television system within the City of Pasadena.

In accordance with Resolution No. 7880 adopted by the City Council on June 12, 2000, the Franchise will terminate in its entirety on September 30, 2000.

Negotiations between the Charter and the City have resulted in a new five-year agreement entitled "An Agreement between the City of Pasadena and Charter Communications Entertainment II, LLC, dba Charter Communications, Renewing a Nonexclusive Franchise to Operate a Cable Television System in the City of Pasadena."

PURPOSE OF ORDINANCE:

The purpose of the ordinance is to renew a non-exclusive agreement with

MEETING OF 8/7/2000

AGENDA ITEM NO. 9.A.2.
& 6.A.

Charter Communications for operation and maintenance of a cable television system in Pasadena.

REASON WHY LEGISLATION IS NEEDED:

Section 1104 of the City Charter requires all franchises to be granted by ordinance of the City Council.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

This ordinance will affect the City of Pasadena and Charter Communications. The Pasadena Unified School District, Pasadena City College, and Pasadena Community Access Corporation are also beneficiaries of the public and educational access and technology infrastructure support provisions of the franchise agreement.

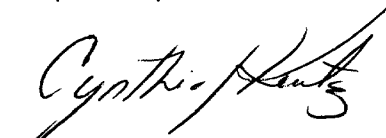
Departments responsible for implementing the franchise agreement include: the City Manager's Office, Information Technology Services Division; the Public Works and Transportation Department; and the Finance Department.

FISCAL IMPACT:

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Respectfully Submitted,



CYNTHIA J. KURTZ
City Manager

Prepared by:

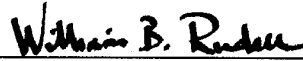


Lori B. Sandoval
Technical Planning Manager

Approved by:

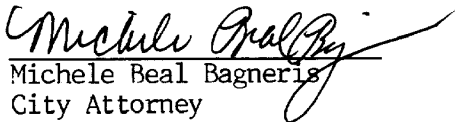


Robert K. Person
Assistant to the City Manager



William B. Rudell
Special Counsel

Reviewed by:



Michele Beal Bagneris
City Attorney

ORDINANCE NO. _____

AN UNCODIFIED ORDINANCE OF THE CITY OF
PASADENA AUTHORIZING THE RENEWAL OF A CABLE
TELEVISION FRANCHISE AGREEMENT BETWEEN THE
CITY AND CHARTER COMMUNICATIONS ENTERTAINMENT
II, LLC

THE PEOPLE OF THE CITY OF PASADENA ORDAIN AS FOLLOWS:

Section 1. This uncodified ordinance is adopted in consideration of the following facts and circumstances:

A. Charter Communications Entertainment II, LLC ("Franchisee") is the duly authorized holder of a franchise ("Franchise") that authorizes the construction, operation, and maintenance of a cable television system within the City of Pasadena ("Franchise Authority").

B. In accordance with Resolution No. 7880 adopted by the City Council on June 12, 2000, the Franchise will terminate in its entirety on September 30, 2000.

C. Negotiations between the Franchise Authority and the Franchisee have resulted in a new agreement entitled "An Agreement between the City of Pasadena and Charter Communications Entertainment II, LLC, dba Charter Communications, Renewing a Nonexclusive Franchise to Operate a Cable Television System in the City of Pasadena and Setting Forth Terms and Conditions Relating to the Renewal of the Franchise" ("Franchise Renewal Agreement").

Section 2. The Franchise Authority authorizes the renewal of a nonexclusive franchise with Franchisee to construct, operate, and maintain a cable television system within the City. This authorization is made in accordance with the applicable provisions of Title 18 of Article VI of the Pasadena Municipal Code, the applicable provisions of state and federal law, and the terms and conditions of that certain Franchise Renewal Agreement attached as Exhibit A to this ordinance. A copy of the Franchise Renewal Agreement is directed to be retained in the office of the City Clerk until the date that this ordinance becomes effective.

Section 3. That certain Franchise Renewal Agreement attached as Exhibit A to this ordinance is authorized and approved, and the City Manager is authorized to execute that agreement on behalf of the Franchise Authority following its execution by the Franchisee.

Section 4. The City Clerk is directed to transmit a certified copy of this ordinance to: Director of Government and Community Relations, Charter Communications, 1628 3rd Street, Duarte, CA 91010-1816.

Section 5. The City Clerk is directed to certify to the passage and adoption of this ordinance and to cause it to be published or posted as required by law.

Section 6. This ordinance will become effective upon the expiration of 30 days from its publication.

Signed and approved this ____ day of _____, 2000.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held the ____ day of _____, 2000, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Published:

Jane L. Rodriguez
City Clerk

APPROVED AS TO FORM:

William B. Ruden
Special Counsel

Michele Beal Bagneris
Michele Beal Bagneris
City Attorney