Agenda Report

TO: CITY COUNCIL

FROM: CITY MANAGER

SUBJECT: TRANSFER OF CHARTER COMMUNICATIONS CABLE TELEVISION FRANCHISE TO PAUL G. ALLEN

RECOMMENDATION

It is recommended that Council adopt a resolution transferring the cable television franchise held by Charter Communications to Paul G. Allen, subject to the conditions outlined in the attached resolution.

BACKGROUND

In mid-July, 1998, the City learned through the media that Paul G. Allen, co-founder of Microsoft, intended to purchase Charter Communications, Inc. ("Charter") in a transaction valued at $4.46 billion. Mr. Allen's proposed purchase of Charter would elevate the company from the tenth largest cable company to the seventh largest in the United States.

Under Chapter 18.16 of Title 18 of the Pasadena Municipal Code, the City has the right to review and approve the financial, technical and legal qualifications of the transferee in connection with a proposed transfer of control of the franchise and franchisee. Charter formally requested the City's consent to the assignment or transfer of control of the cable television franchise from Kelso Investment Associates V, L.P. (the largest owner of Charter Communications) to Paul Allen by submitting the required federal Form 394 on August 24, 1998.

Staff's initial conclusion was that Paul Allen and his new entity appear to have the requisite financial, technical and legal qualifications to perform adequately and to meet the requirements of the franchise agreement. Financially, Charter should be strengthened as a result of Paul Allen's ownership. Mr. Allen has significant resources from which to draw. Charter has indicated that Mr. Allen will assume the company's current debt without further borrowing. In some instances, debt instruments are expected to be eliminated. Technically and legally, Charter should continue to be in a position to perform adequately. The purchase agreement specifies that Charter management will remain in place to manage the new entity (as well as the Marcus franchises that Mr. Allen recently acquired). Charter does not anticipate any changes to corporate or system management.

To supplement staff's analysis of the legal, technical and financial qualifications of the new entity to perform adequately and meet all obligations required under the franchise agreement, the City engaged the services of Communications Support Group, Inc. and Municipal Resource Consultants. Communications Support Group is performing a performance and compliance audit of the franchisee's obligations under the franchise agreement. Municipal Resource Consultants is performing an audit of franchise fee and utility user tax payments made to the City by Charter.

Charter has indicated in writing that, in order to expedite the City's approval of the transfer of ownership, it will assume responsibility for addressing and correcting all matters that are identified in these audits as being in non-compliance with the provisions of the franchise agreement -- provided that the City approves the transfer prior to December 23, 1998. Charter has further agreed to compensate the City for its costs in reviewing the transfer application, estimated at $20,000.

Acceptance of the transfer of ownership in no way affects subsequent decisions the City may make regarding renewal of the franchise, scheduled to expire in June, 2000.

FISCAL IMPACT

Charter will reimburse City costs for the review of Charter's transfer of ownership application, including auditing services, legal expenses, and staff costs. These costs are estimated at $20,000. Under the terms of the City's approval, Charter is responsible for correcting all findings of noncompliance. Those remedies may include subsequent payments by Charter and Paul Allen to the City. Prior to completion of the compliance and financial audits in late January, it is not possible to identify what those payments may be.

Respectfully submitted,

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for

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