

DATE ISSUED: April 24, 2002 REPORT NO. 02-095

ATTENTION: Honorable Mayor and City Council
Docket of April 30, 2002

SUBJECT: Cox Communications Cable Television Agreements

REFERENCE: City Manager Report 02-053, March 13, 2002

SUMMARY

Issues – Should the Council:

- 1) Adopt Ordinance O-2002-114 amending Cox Communications Cable Television Franchise Agreement by extending the term to 40 years; increasing the franchise fee to 5%; and the City of San Diego agreeing to pay for some costs associated with the Undergrounding Utility Conversion Program, utilizing funds from proposed undergrounding surcharge with remaining costs to be borne by Cox?
- 2) Approve proposed Compromise and Settlement Agreement with Cox Communications regarding “launch fee” revenues.

Manager's Recommendation – Approve, as recommended, Cox Communications Cable Television Franchise Extension and the Compromise and Settlement Agreement.

Other Recommendations - None.

Fiscal Impact - The cable television franchise extension will execute an increase in cable television franchise fee revenues from 3% to 5% of cable service gross revenues. Increased franchise fee revenues to the City will be approximately \$2 million annually. A one-time \$3 million Technology Capital Grant is also specified in the franchise extension agreement.

BACKGROUND

The City maintains cable television franchise agreements with Cox Communications and Time Warner Cable for the use of the City's streets, alleyways, and other right-of-way property to provide cable television services. The City's current franchise with Cox Communications is a non-exclusive thirty-year agreement adopted by the City Council in January 1979 for the service area south of the San Diego River.

Cox Communications' current cable television franchise provides for a franchise fee of 3% of the company's cable television service gross revenues for use of the City's public right-of-way. In calendar year 2001, the City received a total of \$2.9 million in franchise fee revenues from Cox Communications. The current cable television franchise also contains provisions for services to the City including three dedicated PEG (Public, Educational, Governmental) access channels and standard cable service to City and public school facilities.

The federal Cable Act allows for both formal and informal processes for the renewal of cable television franchises. Under the formal renewal process, discussions regarding franchise renewal begin three years prior to the expiration of the existing franchise. Most local government franchise authorities choose to go through a less structured informal renewal procedure. Current law also allows the extension of existing cable television franchise agreements.

As of 1999, most cable television rates and service charges were deregulated under the provisions of the federal Telecommunications Act of 1996. The City maintains limited rate regulatory authority to review, consistent with Federal Communications Commission guidelines, the rates charged for the lowest tier or "basic tier" of service marketed by Cox Communications as their "Limited Basic Service" (Channels 4-18, 20-27). This review is only to ensure the rates comply with Federal Communications Commission guidelines.

DISCUSSION

Under the proposed cable television franchise extension agreement, the existing Cox franchise would be extended an additional 10 years, expiring January 31, 2019. As part of this extension agreement, Cox would increase the percentage of franchise fees paid to the City from the current 3% to 5%. The franchise fee rate of 5% of gross revenues is a standard set under the 1984 Cable Communications Act.

Cox Communications has consistently met all federally mandated customer service standards and has had an excellent history in the City for providing good customer service.

In addition to increasing the percentage of franchise fees to that of current industry standards, the extension agreement designates the following additional provisions:

- A technology grant of \$3 million for use by the City for telecommunications capital improvements, equipment, and services.

- A dedicated digital channel and specified number of digital converters to be used for internal public safety training purposes by Police and Fire/Life Safety Services within the Cox service area.
- No cost underground service drops to City facilities within 50 feet of existing cable distribution lines and standard cable service to leased City facilities that are already served by cable.
- Settlement of a franchise fee dispute over revenues obtained from the launch of new cable television channels.

The franchise extension also includes language codifying the City's responsibility to pay costs associated with increases to the Underground Utility Conversion Program identified in City Manager's Report No. 02-053, dated March 13, 2002.

Under the proposed franchise extension agreement, most provisions of the City's current franchise remain the same.

ALTERNATIVE

Do not approve proposed cable television franchise extension agreement with Cox Communications as currently drafted. Without the franchise extension, the current franchise would be set for formal/informal renewal discussions to commence in 2006.

Respectfully submitted,

P. Lamont Ewell
Assistant City Manager

Attachment: [City Manager's Report No. 02-053, dated March 13, 2002](#)