

DATE ISSUED: November 21, 2003 REPORT NO. 03-238  
ATTENTION: Honorable Mayor and City Council  
Docket of November 24, 2003  
SUBJECT: Time Warner Cable Franchise Extension Agreement  
REFERENCE: Ordinance No. 15213, March 10, 1980

SUMMARY

Issue - Should the City Council approve a 10 year extension to the Time Warner Cable Television Franchise through April 9, 2020.

Manager's Recommendation - Approve Cable Television Franchise Extension.

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 average \$2.4 million per year between 2004 and 2010. Additional FY 2004 revenues from this Franchise Extension will assist with the anticipated budgetary shortfall.

BACKGROUND

The City maintains cable television franchise agreements with Time Warner Cable and Cox Communications 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 Time Warner Cable is a non-exclusive thirty-year agreement adopted by the City Council in March 1980 for the service area north of the San Diego River.

Time Warner Cable's 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 2002, the City received a total of \$3.5 million in franchise fee revenues from Time Warner Cable. The existing 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.

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 Time Warner as their “Local Basic Service” (Channels 2,3,5-24). The City’s review ensures that the rates comply with Federal Communications Commission guidelines.

## DISCUSSION

Under this proposed cable television franchise extension agreement, the existing Time Warner franchise would be extended an additional 10 years expiring April 11, 2020. As part of this extension, Time Warner would increase the percentage of franchise fees paid to the City from the current 3% to 5% on the effective date of the Extension Agreement. The franchise fee rate of 5% of gross revenues is a standard set under the 1984 Cable Communications Act.

Time Warner Cable has consistently met all federally mandated service standards and has had an excellent history in the City for providing quality customer service.

In addition to the increase in franchise fees, the extension agreement designates the following additional provisions:

- A dedicated non-commercial channel for the distribution of video programming in the public interest including the County of San Diego and the County Office of Education.
- An interconnected digital channel and specified number of digital converters to be used for internal public safety training purposes by Police and Fire-Rescue.
- No cost service to leased City facilities within 150 feet of existing cable distribution lines.
- Limited updated franchise language incorporating current cable television regulatory provisions.

As part of the extension agreement, the City will provide an annual credit to Time Warner in the amount of \$75,000 adjusted with the Consumer Price Index (CPI) for costs associated with providing public access television operations as required by the Franchise Agreement. Public

access users will also be limited to residents within the City. In addition, Time Warner will no longer be required to telecast “live” public access productions to accommodate improved scheduling flexibility.

ALTERNATIVE

Do not approve proposed cable television franchise extension with Time Warner Cable as currently drafted. Without the franchise extension, the current franchise would be set for formal/informal renewal discussions commencing in 2007, three years prior to the expiration date of the current franchise.

Respectfully submitted,

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Richard E. Wilken  
Information Technology & Communications  
Director

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Approved: Rey Arellano  
Deputy City Manager

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