



# MAYOR & COUNCIL COMMUNICATION

May 1, 2007

Subject: Public Hearing: Renewal of Cable Television License with Cox Communications; Approving and Authorizing Execution of a Nonexclusive Cable License Between the City of Tucson and CoxCom, Inc. (City-Wide) Page: 1 of 2

Issue – Attached for Mayor and Council consideration is a resolution authorizing and approving the execution of a renewal cable license with CoxCom, Inc., doing business as Cox Communications Tucson (“Cox”). This item is scheduled as a public hearing in accordance with Arizona Revised Statutes Section 9-507(B).

Recommendation – It is recommended that the Mayor and Council adopt the attached resolution authorizing and approving the execution of a renewal cable license with Cox.

Background – At the study session of March 2, 2007, the Mayor and Council directed the City Attorney to accept a written proposal from Cox for renewal of the cable license only if that proposal contained certain specified minimum terms. The proposed renewal license incorporates all of those specified terms, which include the following:

1. With regard to the provision of Public, Educational and Governmental (PEG) Channels:

a. City will return one analog channel to Cox and may reallocate programming to the digital channel currently operated as the Digital Fire channel 30 days after effective date of new license;

b. The higher education channels (the U of A and PCC channels) will be returned to Cox 30 days after Cox has entered into written agreements with those institutions providing them with a channel. If during the term of the license either of the higher education channel deals are terminated by either party, the City gets one digital channel back for each terminated higher education channel deal.

c. One analog PEG channel becomes a digital channel when Cox's digital penetration reaches 65% or by December 1st, 2009, whichever is sooner. Entertainment On Demand (EOD--as described in paragraph 2 below) will become available at that same time.

In summary, upon completion of this transition period, the license will provide for 3 analog and 2 digital PEG channels, plus the EOD as described below, with the higher education channels provided through separate agreements.

2. Entertainment On Demand - Cox will provide 2000 hours of EOD capability, including virtually live capability, at the same time as the transition described in 1(c) above.

3. The City shall be held financially whole in terms of cable license fees until “cross-over” occurs under the Arizona State Law definition of gross revenue.

MAY1-07-248

4. Cox shall pay the City \$200,000 to resolve all outstanding audit issues.
5. Drops to Schools - Cox will provide a letter to TUSD restating its historic policy to continue providing free monthly expanded basic cable service to all public K-12 schools. If Cox changes this policy in the future, it commits to provide TUSD two years notice.
6. The term for the renewed license shall be 5 years.
7. No provision is included in the renewal license relating to required City oversight of public channels. The City will continue its oversight of public channels in a manner decided by the Mayor and Council.

Financial Considerations – Per the renewal license, the City shall be held financially whole in terms of cable license fees until “crossover” occurs under the Arizona State Law definition of gross revenue. This means that for the term of the renewal license, Cox will pay to the City the greater of the 2006 Fee or the amount allowed under the State Law as amended last year.

Also, by means of a separate settlement agreement, Cox shall pay the City \$200,000 to resolve outstanding issues from the prior audit of fee payments.

Legal Considerations – The City Attorney’s Office has reviewed and approved the renewal license, and has prepared the attached resolution authorizing the approval and execution of the license. Adoption of this resolution will result in a renewal of the cable license with Cox on terms and conditions that are more favorable to the City than those that would be available to the City under amendments to A.R.S. § 9-506 as adopted by the Arizona legislature last year. Adoption of this resolution also will end the formal renewal proceeding pursuant to 47 U.S.C. § 546(c) that has been pending pursuant to that section of the federal Cable Act.

Respectfully submitted,



Mike Letcher  
Deputy City Manager

ML:MR:tc  
MAY1-07-248

Attachment: Resolution