Franchise Agreement
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 5
AGENDA DATE: Thu 11/04/2004
PAGE: 1 of 1

SUBJECT: Approve an ordinance on third reading, amending Ordinance No. 000420-28, a franchise permitting the delivery of cable services granted to Grande Communications, Inc. that: extends the deadline for completing the City-wide build-out of facilities by sixty (60) months; extends the initial term of the franchise by one year; and reduces by one year the franchise extension term.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING DEPARTMENT: Financial and Administrative Services - Telecommunications and Regulatory Affairs

DIRECTOR'S AUTHORIZATION: Vickie Schubert

FOR MORE INFORMATION CONTACT: Rondella Hawkins, Manager 974-2422

PRIOR COUNCIL ACTION: Second reading approved on November 4, 2004. First reading approved on October 28, 2004.

BOARD AND COMMISSION ACTION: Approved by the Council Committee for Telecommunications Infrastructure.

In April of 2000, the City of Austin granted a cable franchise to Grande Communications to provide cable services in the City of Austin with a 60-month deadline to complete the construction of their facilities city-wide.

Grande Communications has requested an amendment to their franchise to extend their deadline for facilities construction by 60 months, to June 2010; to extend the initial term of the franchise for one year, to ten years; to reduce the extension term by one year.

The total length of the franchise term, including the available extension, remains unchanged at 15 years.

Grande has presented credible evidence detailing their inability to meet the June, 2005 deadline for completing the construction of their facilities city-wide.

Staff recommends that Council approve the proposed amendments to Grande's cable franchise as it is in the best interest of the public to promote competition in the delivery of cable services in Austin.

ORDINANCE NO.

AN ORDINANCE AMENDING THE FISCAL YEAR 2004-2005 NEIGHBORHOOD PLANNING AND ZONING DEPARTMENT OPERATING BUDGET OF ORDINANCE NO. 040913-01 TO APPROPRIATE FUNDS, INCREASE EXPENSE REIMBURSEMENTS, AND ADD ONE FULL-TIME EQUIVALENT POSITION; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Council amends the Fiscal Year 2004-2005 Neighborhood Planning and Zoning Department Operating Budget of Ordinance No. 040913-01 to appropriate funds in the amount of $59,069, increase expense reimbursements by $69,069, and add one full-time equivalent position to support the Capital Area Metropolitan Planning Organization program.

PART 2. The Council finds that the need to amend the budget constitutes an emergency, a grave public necessity, and an unusual and unforeseen condition that could not, by reasonable diligence, have been included in the original budget for the current fiscal year. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety

PASSED AND APPROVED

_____, 2004 §
§
§ _____
Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Brown
City Clerk

ORDINANCE NO. 041028-

AN ORDINANCE AMENDING ORDINANCE 000420-28, A FRANCHISE GRANTED TO GRANDE COMMUNICATIONS, INC., RELATING TO THE DELIVERY OF CABLE SERVICES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS:

(A) The Council finds that promoting competition in the delivery of cable services is in the best interest of the public.

(B) The Council finds that Grande Communications, Inc. ("Grantee") has presented credible evidence detailing their inability to meet the June, 2005 deadline for completing the construction of their facilities city-wide.

(C) The Council finds that the evidence presented by Grantee shows that their inability to meet the original build-out schedule deadline was largely due to factors beyond their control, including the unavailability of investment capital during the recent three-year economic recession.

(D) The Council finds that granting Grantee's request to extend the deadline for facilities' construction by 60 months, to June 2010; extend the initial term of the franchise for one year, to ten years; and to reduce the extension term by one year to five years is reasonable and serves the best interests of both the City and the public.

(E) The Council finds that granting this request will not alter the competitive neutrality of Grantee's franchise as compared to that held by other franchised cable providers.

PART 2. Section 2, Subsection (B) is amended to read:

(B) The term of this franchise shall commence on June 20, 2000 and shall extend for a period of ten years [~~nine~~] until June 20, 2010 [~~2009~~]. The Grantee shall be entitled to an extension of the term of this franchise until June 20, 2015 upon its request, provided that Grantee shall have complied with the conditions of this section and shall have notified the City of the request for extension on or before January 1, 2007 [~~2006~~]. The City may deny the extension of the term only if the Grantee has failed to comply with the

conditions set forth in this section. The City shall notify the Grantee of the basis for denial on or before July 1, 2007 [~~2006~~].

PART 3. Section 2, Subsection (C) (2) is amended to read:

(C) The Grantee shall be entitled to the extension provided in Subsection [~~2~~] (B) only if.

(2) the Grantee provides written notice to the City by January 1, 2007 [~~2006~~] that it seeks the five [six] year extension (and agrees not to give formal renewal notice under 47 U.S.C. 546(a) before this time);

PART 4. Section 8, subsection (B)(4) is amended to read:

(B) Build-out Plan.

(4) The construction shall be completed on or before 120 [~~60~~] months of the effective date provided herein, unless the schedule for completion is amended in accordance with the terms of this Franchise

PART 5. This ordinance takes effect on November 8, 2004.

PASSED AND APPROVED

§
§
October 28, 2004 §

Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Brown
City Clerk