

CABLE TELEVISION FRANCHISE RENEWAL

Introduction

A cable refranchising or franchise renewal process involves numerous tasks and the coordinated efforts of a team of persons expert in the field of cable, City staff, elected officials, and local residents. The process involves an examination of the past performance of the current cable service provider, an exploration of future community telecommunication needs and interests, and a negotiation process. The outline which follows is intended to serve as a broad overview of what is typically involved in the franchise renewal process.

I. Preparing for the Franchise Renewal Process

- Develop an Understanding of the Authority of the City and Basic Federal and State Laws that Apply
- Understand the Formal and Informal Renewal Process
- Develop a Renewal Plan and Timeline
- Educate Key City Staff, Elected Officials, and Community Leaders
- Understand the Current Regulatory Environment

II. Conducting a Review of the Cable Operator's Past Performance

- Contract Compliance Audit
- Update the Enabling Ordinance
- Technical Evaluation of the Cable Plant, Headend, and Quality of Past Plant Maintenance
- Customer Service and Satisfaction Survey
- Financial Review
- PEG Access Review
- Public Hearings

III. Ascertainment: Identifying Future Community Cable Related Needs and Interests

- Conduct Focus Group Workshops
- Conduct Telephone or Mail Survey
- PEG (Public, Educational, And Government) Access Usage and Community Communications Planning
- Public Hearing(s)

IV. Preparing for and Conducting Negotiations

- Consolidate Information Gathered Into Goals for Renewal
- Determine Next Step in Renewal Process -- Exploration of Process Options
- Prepare the Initial Draft of the New Franchise Agreement
- Conduct Formal and Informal Negotiations
 - Consider Various Strategies
 - Review the Impact of 1996 Cable Act on Negotiations
- Prepare the RFRP and Evaluate the Proposal(s) (under formal Cable Act process)
- Final Franchise Agreement Preparation and Public Hearings

Overview: The Role of a Cable Communications Consultant

Throughout a cable franchise renewal project, the cable communications consultant works closely with designated City representatives, including the Cable Administrator and Cable Communications Commission (if applicable), the City Manager, the City Attorney, and other City staff as appropriate.

The time period typically needed to undertake all tasks involved in a franchise renewal process is about 18 months, if informal negotiations are successful. Should informal negotiations prove to be unsuccessful, an additional nine months to a year may be required to complete a the formal renewal process.

As a first step, the consultant reviews all available City documents relating to the cable franchise, including the franchise agreement between the City and cable company, the City Code and/or any enabling ordinance, modifications (if any) to the franchise agreement, any requests filed with the City by the cable company regarding the initiation of the franchise renewal process, and any other documents or files reflecting performance reviews or audits that were undertaken by the City during the term of the franchise. The consultant also meets with the City staff and legal staff to clarify certain preliminary matters. In particular, agreement should be reached on any necessary changes to the renewal strategy, including an identification of the tasks to be performed by City staff, local counsel, and the consulting team. Membership and roles for the refranchising team must be established, general franchise renewal goals must be clarified, logistics for meetings and other communications must be arranged, any resolutions or ordinances required to permit the franchising process to move forward must be developed, and a detailed short-term schedule must be set.

As part of this initial work, the consultant's view as to the applicability of the formal renewal provisions of the Cable Act to this process would be explained, and, if the City agrees, a course would be devised to keep the City's options open with respect to its Cable Act rights.

An outline of the tasks that are performed by a consultant is provided on the next page.

- A. Develop a detailed plan for franchise renewal as well as strategies for the implementation of that plan.
 - 1. Devise reasonable and cost-effective renewal procedures consistent with federal, state and local law.
 - 2. Work with the City Attorney to identify requirements of state and local laws that must be satisfied and any ordinance amendments required to enable the franchise process to move forward smoothly.

- B. Conduct Technical Audit of Cable System.
 - 1. Review Technical Reports from the Cable Company.
 - 2. Physical Plant Assessment.
 - 3. Electrical Plant Testing.
 - 4. Headend Evaluation.

- C. Evaluate the Past Performance of the Cable Company.
 - 1. Review the Operator's Compliance with the Existing Franchise.
 - 2. Determine Operator's Compliance With Franchise Fee Provisions.
 - 3. Perform Financial Review of the Existing System.
 - 4. Review Customer Service Standards and Consumer Complaints.
 - 5. Review Current PEG Access Channels, Equipment, Facilities and Services.

- D. Identify Future Community Cable-Related Needs and Interests.
 - 1. Conduct a Needs Assessment.
 - 2. Ascertainment Workshops.
 - 3. Identify System Design Needs.

- E. Develop Cable or Telecommunication Ordinance

F. Participate in Franchise Negotiation and Draft Franchise Ordinance.

1. Assist the City in Developing the Substance of Proposed Franchise Provisions to be Pursued through Negotiations.
 - a. Assist the City in Developing Proposed Franchise Provisions.
 - b. Develop Franchise Monitoring and Enforcement Procedures.
 - c. Recommend Franchise Provisions that Ensure the System Will be Upgraded in the Future.
2. Assist in Development of Negotiation Strategy and Conduct of Negotiations.
3. Provide Advice During Negotiation Process.

G. Prepare a Request for Proposal(s) (if necessary).

1. Draft and Distribute Request for Proposal(s).
2. Evaluate the Submitted Proposal(s).
3. Prepare Report for City Staff.

H. Conduct Administrative Hearings (if necessary).