

RESOLUTION NO. 12264

A RESOLUTION CONTINUING THE PEG ACCESS SUPPORT FEE UNDER THE FRANCHISE AGREEMENT BETWEEN THE CITY OF PUEBLO AND COMCAST OF COLORADO IV, LLC

WHEREAS, pursuant to Article XXII, Section 4 of the Franchise Agreement between the City of Pueblo and Comcast of Colorado IV, LLC ("Comcast") executed on December 4, 2009 ("Franchise"), Comcast is required to collect and remit to the City a PEG access support fee of \$0.50 per month per subscriber to be used solely for PEG capital facilities and equipment; and

WHEREAS, under a side letter dated November 23, 2009 between Comcast and City (the "Advance Agreement"), Comcast agreed to advance a capital support payment of \$202,000 in one lump sum to be repaid from monthly PEG fees collected until the advance was recovered; and

WHEREAS, under the Advance Agreement, after recovery of the advance, Comcast is required to thereafter remit the subscriber PEG access support fee payment directly to the City upon passage of a resolution by the City Council. NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

As provided by Article XXII §4 of the Franchise and Paragraph C of the Advance Agreement, the PEG access support fee in the amount of \$0.50 per month per subscriber is hereby continued for the duration of the Franchise term, to be remitted quarterly to City as provided by the Franchise.

SECTION 2.

The City Manager is directed to provide a copy of this Resolution to the Franchisee, Comcast of Colorado IV, LLC forthwith and to do all things necessary or desirable in order to effectuate its intent.

SECTION 3.

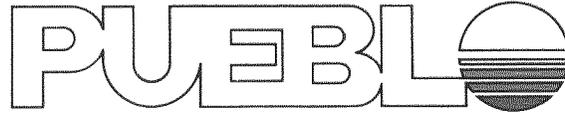
This Resolution shall become effective immediately upon final passage.

INTRODUCED November 14, 2011

BY: Chris Kaufman
COUNCILPERSON

APPROVED Ray Aguilar
PRESIDENT OF CITY COUNCIL

ATTEST: [Signature]
City Clerk



Background Paper for Proposed
RESOLUTION

DATE: November 14, 2011

AGENDA ITEM # M-9

DEPARTMENT: Law Department
Thomas J. Florczak, City Attorney

TITLE

A RESOLUTION CONTINUING THE PEG ACCESS SUPPORT FEE UNDER THE FRANCHISE AGREEMENT BETWEEN THE CITY OF PUEBLO AND COMCAST OF COLORADO IV, LLC

ISSUE

Should City Council continue the 50¢ monthly PEG access fee for 2012 through 2014 under the Comcast cable-tv franchise to support the capital needs of the PEG channels?

RECOMMENDATION

Approve the Resolution.

BACKGROUND

Under the federal Cable Communications Policy Act of 1984, as amended, it is permissible for franchising authorities to require cable-television franchisees to collect fees to support so-called Public, Educational and Governmental ("PEG") access channels. The fees are to be remitted to the franchising authority, in this case the City of Pueblo, to be used only for PEG capital facilities and equipment. The 2009 cable-television Franchise granted to Comcast requires the fee to be collected in the amount of 50¢ per month.

As part of the inducements for the City to grant the Franchise, Comcast agreed in a side letter to advance \$202,000 to the City to be used for PEG capital facilities. This advance would be recaptured from the fee over 2 years. Thereafter, the side letter provides that the City must pass a resolution to continue the fee thereafter, although that is not a requirement stated in the Franchise.

In April 2010, City Council passed an Ordinance which approved an Intergovernmental Agreement with Pueblo Community College ("PCC") under which the City provided \$130,000 of the \$202,000 advance to PCC for PEG capital needs. Section 3(d) of that Agreement also provided that, subject to receipt of PEG funds from Comcast in 2012 and 2013, and appropriation of same, \$65,000 per year would be passed along to PCC as PEG Capital Grants. It was envisioned that approximately \$36,000 per year of PEG fees would be retained by the City to be used for PEG capital needs.

Passage of this Resolution will enable the PEG fees to continue so that both PCC and the City will be able to fund the capital requirements needed to support these access channels.

FINANCIAL IMPACT

This will permit the City to receive approximately \$101,000 per year for the remaining three years of the Comcast cable-tv franchise.