

CONSENT CALENDAR
Agenda Item No.: 8q
CC Mtg.: 6/28/2005

DATE: June 9, 2005

TO: Mayor and City Council Members

FROM: Administrative Services Department

SUBJECT: **RESOLUTION NO. 7601 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE LEASE AGREEMENT WITH COMCAST CABLE COMMUNICATIONS, INC., FOR THE LEASE OF PROPERTY LOCATED WITHIN THE CITY HALL PROPERTIES AT 50 NATOMA STREET FOR THE LOCATION OF A CABLE TELEVISION ANTENNA**

BACKGROUND / ISSUE

In 1986, the City entered into an agreement with Sacramento Cable Television, now Comcast Cable Communications (Comcast), to lease 4,225 square feet of property on the Northeast portion of the City Hall property to locate a microwave receiving dish and cable television broadcasting equipment. The lease rate was set at two-hundred fifty dollars (\$250) per month, with a rate adjustment every fifth year, based in the Consumer Price Index. This lease was to expire on December 31, 2003, and included an option to renew for one fifteen-year term.

In 1998, the City amended this agreement (Amendment #1) to allow Comcast to install an emergency power generator. In addition, this amendment increased the lease rate to four-hundred fifty dollars (\$450) per month, modified the rate adjustment language to a flat 12% every five years, extended the lease term to December 31, 2008, and required Comcast to control combustible vegetation. The amendment did not modify the option to renew and it remains at one fifteen-year term.

Staff has negotiated an amendment to this agreement (Amendment #2) that recognizes the scheduled lease rate increase to five-hundred four dollars (\$504) per month and modifies the option to renew to three five-year terms. In addition, staff negotiated with Comcast to install and maintain a fiber-optic cable connection from City Hall to Comcast's facilities in order to provide the infrastructure enabling live telecast of City Council meetings. Comcast installed, and will maintain, this cable at no cost to the City, and this amendment documents that agreement.

POLICY / RULE

Government Code Section 37380 grants the City authority to lease real property

ANALYSIS

Excepting the fiber-optic cable connection from City Hall to Comcast's facilities, the modifications contained in this amendment do not represent a significant change in the business relationship between the City and Comcast contemplated in the original agreement. Staff does believe, however, that the installation of this fiber-optic cable represents a significant milestone in the effort to live telecast City Council Meetings.

While the fiber-optic cable connection provides the infrastructure to enable live telecast of City Council meetings, a considerable number of policy, technology, and scheduling issues remain unresolved, such as deciding which meetings to telecast, installing the necessary production equipment, and rescheduling the cable TV channel time slots. The channel scheduling issue is potentially a difficult one, and staff continues to work with the Vice Mayor Morin (the City's representative to the Cable Commission) and the Cable Commission staff to resolve these issues.

FINANCIAL ANALYSIS

While the monetary gains provided by the increase in the lease rate are modest, the Sacramento Cable Commission staff estimated the cost to provide the fiber-optic cable connection from City Hall to Comcast's facilities at \$3,000 per month. Having Comcast install and maintain this cable at no cost represents a significant value to the City.

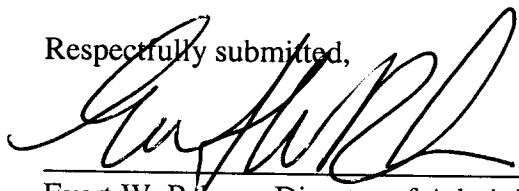
ATTACHMENTS

1. Resolution No. 7601 - A Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Lease Agreement with Comcast Cable Communications, Inc., for the Lease of Property Located within the City Hall Properties at 50 Natoma Street for the Location of a Cable Television Antenna
2. Amendment Number Two to Lease with Comcast Dated April 20, 2005

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends that the City Council approve Resolution No. 7601 - A Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Lease Agreement with Comcast Cable Communications, Inc., for the Lease of Property Located within the City Hall Properties at 50 Natoma Street for the Location of a Cable Television Antenna

Respectfully submitted,



Evert W. Palmer, Director of Administrative Services

Attachment #1

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AMENDMENT NO. 2 TO THE LEASE AGREEMENT WITH COMCAST CABLE
COMMUNICATIONS, INC., FOR THE LEASE OF PROPERTY LOCATED WITHIN
THE CITY HALL PROPERTIES AT 50 NATOMA STREET FOR THE LOCATION OF
A CABLE TELEVISION ANTENNA**

RESOLUTION NO. 7601

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE LEASE AGREEMENT WITH COMCAST CABLE COMMUNICATIONS, INC., FOR THE LEASE OF PROPERTY LOCATED WITHIN THE CITY HALL PROPERTIES AT 50 NATOMA STREET FOR THE LOCATION OF A CABLE TELEVISION ANTENNA

WHEREAS, in 1986, the City entered into an agreement with Sacramento Cable Television, now Comcast Cable Communications, (Comcast) to lease 4,225 square feet of property on the Northeast portion of the City Hall property to locate a microwave receiving dish and cable television broadcasting equipment; and

WHEREAS, Amendment Number 1 to the Agreement, executed in 1998, requires a lease rate increase to five-hundred four dollars (\$504) per month; and

WHEREAS, Comcast proposes to modify the option to renew the lease from one fifteen-year term to three, five-year terms; and

WHEREAS, staff negotiated with Comcast to install and maintain a fiber-optic cable connection from City Hall to Comcast's facilities in order to provide the infrastructure enabling live telecast of City Council meetings;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to execute Amendment No. 2 to the Lease Agreement with Comcast Cable Communications, Inc., for the lease of property located within the City Hall properties at 50 Natoma Street for the location of a Cable Television Antenna.

PASSED AND ADOPTED this 28th day of June 2005 by the following roll call vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSTAIN: Council Member(s):
ABSENT: Council Member(s):

Stephen E. Miklos, MAYOR

ATTEST:

Christa Schmidt, CITY CLERK

Attachment #2

Amendment Number Two to Lease with Comcast Dated April 20, 2005

AMENDMENT NO. 2 TO LEASE

This amendment, for reference dated April 20, 2005, by and between the CITY OF FOLSOM, a municipal corporation having its principal office at 50 Natoma Street, Folsom, California, 95630, hereinafter referred to as LESSOR, and COMCAST OF CALIFORNIA III, LLC having its principal office at 4350 Pell Drive, Sacramento, California, 95838, hereinafter referred to as LESSEE. (This amendment is hereinafter referred to as the AMENDMENT NO. 2 TO LEASE).

RECITALS

- A. LESSOR and PREDECESSOR IN INTEREST TO COMCAST CABLEVISION OF SACRAMENTO and COMCAST CABLEVISION OF SACRAMENTO, INC., a general partnership, LESSEE, entered into that certain Lease Agreement dated April 11, 1986 for the lease of certain property located within the City of Folsom City Hall properties at 50 Natoma Street in the City of Folsom, County of Sacramento, California, hereinafter referred to as the LEASE AGREEMENT;
- B. LESSOR and LESSEE previously amended the LEASE AGREEMENT to allow LESSEE to install and operate an Onan 20kVA LP Gas Generator and a 250 gallon LP Tank within the leased premises, hereinafter referred to as AMENDMENT NO. 1 TO LEASE;
- C. AMENDMENT NO. 1 TO LEASE Section 2 (LEASE OF PROPERTY; TERM) Paragraph a, states that the LEASE AGREEMENT shall terminate at midnight on December 31, 2008, unless LESSEE exercises its option to renew upon the terms and conditions set forth in Section 16 of the LEASE AGREEMENT;
- D. AMENDMENT NO. 1 TO LEASE Section 4 (RENT) Paragraph b, states, in part, that the BASE RENT shall automatically be adjusted upon the commencement of the fifth year of the term and upon the commencement of every fifth year thereafter (the ADJUSTMENT DATE) as follows: The BASE RENT shall increase on each ADJUSTMENT DATE by an amount equal to 12% of the BASE RENT;
- E. LESSOR and LESSEE desire to amend such LEASE AGREEMENT on the terms and conditions hereinafter set forth;

NOW THEREFORE, for the reasons above stated, and in consideration of the covenants contained herein, LESSOR and LESSEE agree to amend the LEASE AGREEMENT as follows:

1. CONTROLLING DOCUMENT

- a. This AMENDMENT NO. 2 TO LEASE shall be effective as of the date executed by all parties; approved as to form by the City Attorney; and acknowledged by the City Finance Director;

- b. To the extent that any of the provisions of this AMENDMENT NO. 2 TO LEASE are inconsistent with the terms of the LEASE AGREEMENT and AMENDMENT NO. 1 TO LEASE, it is the intent of the parties that this AMENDMENT NO. 2 TO LEASE take precedence and be controlling. All other terms of the LEASE AGREEMENT and AMENDMENT NO. 1 TO LEASE shall remain in full force and effect;
- c. This AMENDMENT NO. 2 TO LEASE shall terminate and be of no further force or effect upon the termination of the LEASE AGREEMENT.

2. RENT

Paragraph "a" of Section 4 (RENT) of the AMENDMENT NO. 1 TO LEASE is replaced in its entirety with the following paragraph:

- a. The minimum monthly rent shall be Five Hundred Four dollars (\$504.00) per month (BASE RENT).

3. NOTICES

Section 14 (NOTICES) of the LEASE AGREEMENT is amended to provide as follows:

Any notice to LESSEE shall be given to:

Comcast of California III, LLC
4350 Pell Drive, Sacramento, CA 95838
Attn.: Director of Business Operations

With a copy sent to:

Comcast Cable Communications, Inc.
1500 Market St.
Philadelphia, PA 19102
Attention: General Counsel

4. OPTION TO RENEW AND HOLDING OVER

Paragraphs "a", "b", and "c" of Section 16 (OPTION TO RENEW AND HOLDING OVER) of the LEASE AGREEMENT are replaced in their entirety with the following:

- a. The LESSEE shall have the option to extend the term of this LEASE for three additional five (5) year terms following the expiration of the initial term provided that LESSEE is not in default of this LEASE beyond the applicable notice and cure period. The LEASE shall automatically renew unless LESSEE provides written notice to LESSOR of its intent to terminate the LEASE at least sixty days in advance of the current term expiration. The terms, covenants, and conditions during the renewal terms shall be the same as the terms, covenants, and conditions

during the original LEASE AGREEMENT, as amended.

5. INSTALLATION, MAINTENANCE, AND AVAILABILITY OF SIGNAL TRANSMISSION EQUIPMENT

LESSEE will provide and maintain the necessary cables, equipment, and bandwidth capacity (from the demarc point defined as the fiber optic transmitter located at Folsom City Hall), to enable LESSOR to transmit audio & video from the Folsom City Hall, located at 50 Natoma Street, Folsom CA, to LESSEE facility located at 6901 Roseville Rd., Sacramento, CA" for the purpose of providing programming to the Metro Government Channel's equipment referred to presently as "Metro 14".

