

ADMINISTRATIVE ORDER NO. 44-98-05

City of Eugene

CONCERNING ADOPTION OF A PROGRAM FOR IMPLEMENTATION OF A TELECOMMUNICATION IN-KIND SERVICES IN LIEU OF ANNUAL LICENSE AND REGISTRATION FEES.

The City Manager Pro Tem of the City of Eugene finds as follows:

A. Section 2.019 of the Eugene Code, 1971, authorizes the City Manager to adopt rules for administration and implementation of any provisions of that Code. In addition, Section 3.400 of that Code specifically authorizes the City Manager to adopt rules implementing the City's provisions regulating telecommunication activities within the City. Pursuant to that authority Telecommunications Administrative Rule R-3.400 was adopted by Administrative Order No. 44-97-05-F on August 29, 1997.

B. Subsections (1) and (2) of Section 3.415 of the Eugene Code, 1971 impose annual registration and licensing fees of 2% and 7% respectively of a licensee's gross revenues derived from the licensee's telecommunication activities within the City.

C. Subsection (6) of Section 3.415 of the Eugene Code, 1971 and R-3.400-J of Telecommunications Administrative Rule R-3.400 authorize the City Manager to accept a proposal to provide in-kind services in lieu of all or a portion of a licensee's annual registration and license fee.

D. I find that it would be more efficient for staff, and provide direction and insight to telecommunications providers to adopt a program establishing the procedures to be followed in proposing and/or accepting in-kind services proposals as hereinafter set forth.

Based on the above findings, I hereby propose to adopt the following:

TELECOMMUNICATION IN-KIND SERVICES

IN LIEU OF ANNUAL LICENSE AND REGISTRATION FEES PROGRAM

1. Purpose and Intent. Adoption of this program is intended to insure that proposals for in-kind services are submitted, processed, and determinations made thereon in a fair and equitable manner. The in-kind services are authorized by the Council, and proposals may be submitted at the option of registrants/licensees.

2. Priority. Until budget and contractual experience is gained in this program, priority shall be given to proposals for provision of in-kind services related to

services/equipment (program administration and the Community Telecommunications Projects list) in lieu of the 2% registration fee. Providers may, however, forward proposals relating to the provision of in-kind services in lieu of the 7% right-of-way use license fee. The City Manager may also consider in-kind proposals for services and equipment relating to the City Council's goals/strategies as specified in the City's annual call for proposals.

3. Call for Proposals.

3.1 The City's Franchise Manager shall issue an annual "call for proposals" to registered telecommunications providers who are in compliance with the City's telecommunications regulations as of the call date. The "call" shall make it clear that the program is optional and that no provider is required to submit a proposal.

3.2 The "call" will include a City-desired list of services and equipment relating to expenses that the 2% registration fee supports and to specified City Council goals/strategies for which in-kind service proposals will be accepted.

3.3 Providers may also forward proposals to provide in-kind services in lieu of all or part of the 7% license fee, although the primary evaluation criteria will place priority on program administration and the City's list of community-wide telecommunication projects.

3.4 The "call" will apprise registrants/licensees that failure to provide all or a portion of the approved in-kind services will result in termination of the approval, and the registrant/licensee shall be required to pay to the City the registration and/or license fee that would have been due if the in-kind services had not been approved.

4. Evaluation Criteria. Proposals shall be evaluated based on the following criteria:

4.1 The proposal must have a value equal to or greater than the registration and/or license fees, or the portion of those fees in lieu of which the City will accept services.

4.2 The quality of the response to the Code requirement that the provider forward an independent value analysis of the proposal, at the provider's own expense.

4.3 The extent to which City-desired program administration expenses and community telecommunication projects identified in the call are addressed.

4.4 The extent to which the proposal supports or achieves City Council goals/strategies.

4.5 The extent to which cash reserves exist in program administration and community projects accounts to make the in-kind service offer feasible, i.e. do cash reserves exist to support fixed costs that cannot be supported through in-kind service or equipment?

4.6 The extent to which the offer of service or equipment is compatible with existing or planned City services and equipment.

5. Evaluation of Proposals.

5.1 Proposals shall be evaluated initially by an evaluation team consisting of Franchise, Telecommunications, and Financial Management staff. The evaluation team shall forward its recommendation to the City Manager.

5.2 The City Manager shall review the recommendation of the evaluation team and make a final determination of each proposal.

5.3 A final recommendation of the City Manager approving a proposal shall be forwarded to the City Council. If any two City Councilors provide the City Manager with written objections to the proposed arrangement within 20 days from the date the proposal is forwarded, the City Manager's approval shall not become effective unless the Council votes to approve the proposal. If no objections are made within the 20-day period, the approval shall become effective on the 21st day after the date of approval.

5.4 The registration and/or license shall reflect the final approval of an in-kind payment agreement.

Public notice of this proposed adoption of a program for implementation of an in-kind services program for telecommunications services shall be given by making copies thereof available to telecommunication registrants and licensees, any person who has requested such notice, and by publication thereof in the Register Guard, a newspaper of general circulation within the City for at least five days, providing interested persons an opportunity of not less than 15 days to submit data or comments thereon. If no valid comments or objections are received within the time and in the manner prescribed in the notice, the program as contained herein will be adopted and become effective immediately thereafter.

Updated on July 23, 1998