

ORDINANCE NUMBER 1193

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS GRANTING A NON-EXCLUSIVE FRANCHISE TO PROVIDE CABLE SERVICE TO VERIZON CALIFORNIA INC.

WHEREAS, the City of Perris is a “Franchising Authority” as defined by Title VI of the Communications Act (see 47 U.S.C. §522(10)) and is authorized to grant one or more nonexclusive cable franchises pursuant to California Government Code § 53066 and Chapter 13.12 of the City of Perris Municipal Code;

WHEREAS, Verizon California Inc. (“Franchisee”) is in the process of planning and installing a Fiber to the Premise Telecommunications Network (“FTTP Network”) that will occupy the Public Rights-of-Way within the City of Perris for the transmission of non-cable services pursuant to its status as a telecommunications carrier as set forth in Title II of the Communications Act and under authority granted by the State of California;

WHEREAS, the FTTP Network, once installed, will enable the provision of cable service to the residents of Perris;

WHEREAS, negotiations between the Franchising Authority and the Franchisee have resulted in a franchise agreement, which agreement comports with the requirements of applicable law;

WHEREAS, notice of public hearing before the City Council to consider the proposed cable franchise agreement was properly published in the Perris City News on June 15, June 22, June 29 and July 6, 2006, in accordance with California Government Code §§ 6066 and 53066.3(a);

WHEREAS, the Franchising Authority has reviewed the legal, technical and financial qualifications of the Franchisee to operate and provide cable service within the City and Franchising Authority’s staff has prepared a Staff Report dated June 27, 2006 (“Staff Report”) setting forth those qualifications, the future cable-related needs and interest of the City of Perris and its residents, and examining each of the requirements and criteria set forth by federal, state and local law with respect to granting an additional cable television franchise, as well as any applicable provisions in existing franchises; and

WHEREAS, after receiving the comments of interested parties at a public hearing affording due process to all parties, in deliberation of the entire record regarding this matter before it, including other pertinent information, and specifically considering each of the requirements and criteria enumerated in California Government Code § 53066.3(a), 47 U.S.C. § 541(a), and all other applicable provisions of law, as well as any applicable provisions in existing franchises, the Franchising Authority determines that is in the public interest to approve the proposed cable television franchise agreement and authorize and direct the execution of the proposed Franchise Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council concludes that the cable-related needs and interests of the City of Perris, California, and the Franchisee's legal, technical, and financial qualifications to operate and provide cable service within the City are accurately identified by the attached Staff Report. The Staff Report, as well as the supporting evidence presented at the public hearing on June 27 and July 11, 2006, is hereby adopted by the Franchising Authority in its entirety as its ascertainment of the cable-related needs and interests of the City, the Franchisee's qualifications to operate and provide cable service within the City, and the Franchisee's qualifications to operate and provide cable service within the City. The Staff Report and evidence also support the Franchising Authority's consideration of each of the requirements and criteria enumerated in California Government Code § 53066.3(a), 47 U.S.C. § 541(a), all other applicable provisions of law, as well as any applicable provision in existing franchises.

Section 2. The Franchising Authority determines that it is in the public interest to grant a nonexclusive franchise to operate and provide cable service to Verizon California Inc. As evidence of its consideration of each of the factors enumerated in California Government Code § 53066.3(a), 47 U.S.C. § 541(a)(3), all other applicable provisions of law, as well as any applicable provisions in existing franchises, the Franchising Authority hereby adopts the attached Findings of Fact in support of this determination.

Section 3. The Franchising Authority authorizes the grant of a nonexclusive franchise to the Franchisee to operate and provide cable service within the City. This authorization is made in accordance with the applicable provisions of California Government Code § 53066.3 and Title VI of the Communications Act. A copy of the Franchise Agreement in the form set forth and presented to public hearing on June 27, 2006, and July 11, 2006, is directed to be retained in the office of the City Clerk for the purpose of public inspection.

Section 4. That certain Franchise Agreement in the form set forth and presented to the City Council at this public hearing is approved, and the City Manager is authorized and directed to execute that agreement on behalf of the Franchising Authority.

Section 5. The effective date of the Franchise Agreement shall be the date set forth therein.

Section 6. Notice of Adoption. The City Clerk of the City of Perris shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under Section 36033 of the California Government Code.

Section 7. This Ordinance shall become effective thirty (30) days after the date of its adoption.

ADOPTED, SIGNED and APPROVED this 11th day of July, 2006

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Judy L. Haughney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Ordinance Number 1193, introduced at a regular meeting of the City Council of the City of Perris held on the 27th day of June, 2006, was duly and regularly adopted by the City Council at a regular meeting thereof held on the 11th day of July, 2006, and that it was so adopted by the following called vote:

AYES: Motte, Rogers, Yarbrough, Landers, Busch
NOES:
ABSENT:
ABSTAIN:

City Clerk, Judy L. Haughney

ATTACHMENT
(ORDINANCE NUMBER 1193)

FINDINGS OF FACT
BY THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA

June 27, 2006

Following thorough evaluation of Verizon California Inc.'s request to provide cable service in the City of Perris, California, after receiving the comments of interested parties at a public hearing affording due process to all parties, in consideration of the entire record regarding this matter before it, including a Staff Report from the City Manager's office dated June 27, 2006, and other pertinent information, and considering each of the factors enumerated in California Government Code § 53066.3(a), 47 U.S.C. § 541(a)(3), all other applicable provisions of law, as well as any applicable provisions in existing franchises, the City Council of the City of Perris, California, determines that it is in the public interest to grant a nonexclusive franchise to provide cable service to Verizon California Inc. ("Verizon"). In exercise of its discretion and legislative authority, the City Council makes the following findings in support of this determination:

1. Federal, state and local law, and the interests of the residents of Perris favor competition in the provision of multichannel video programming services directly to consumers. By fostering competition, granting Verizon a nonexclusive franchise to provide cable services will have a significant positive impact on Perris and will not have any negative impact. See, without limitation, California Government Code § 53066.3(a)(1).
2. Granting Verizon a nonexclusive franchise to provide cable services will not have an adverse economic impact on Perris. See, without limitation, California Government Code § 53066.3(a)(2). To the contrary, granting Verizon a franchise will bring substantial economic and developmental benefits to Perris.
3. Granting Verizon a nonexclusive franchise to provide cable services will not have an adverse aesthetic impact upon the public or private property within Verizon's service area. See, without limitation, California Government Code § 53066.3(a)(2).
4. There will be no unreasonable disruptions or inconvenience to existing users, nor any adverse effects on the future use of utility poles, public easements or public rights-of-way contrary to the intent of Section 767.5 of the Public Utilities Code resulting from the grant of a franchise to Verizon. See, without limitation, California Government Code § 53066.3(a)(3); Cal. Pub. Util. Code § 767.5.
5. Verizon has demonstrated the financial, technical and legal qualifications and ability to provide cable service in Perris. See, without limitation, California Government Code § 53066.3(a)(4).
6. Granting Verizon a nonexclusive franchise to provide cable services will not adversely impact the City's interest in having universal cable service or societal interests. See, without limitation, California Government Code §§ 53066.3(a)(5), (6).
7. Granting a nonexclusive franchise to provide cable services within Verizon's proposed service area is economically feasible. See, without limitation, California Government Code § 53066.3(a)(7).
8. The franchise agreement with Verizon fully complies with the statutory nondiscrimination requirements. See, without limitation, California Government Code § 53066.3(d); 47 U.S.C. § 541(a)(3).

9. The franchise agreement includes provisions that require Verizon to provide adequate public, educational, and governmental access channel capacity, facilities or financial support in the future. See, without limitation, California Government Code § 53066.3(d).
10. Verizon's plans for providing cable services in Perris meet or exceed the City's cable-related needs and interests. See, without limitation, California Government Code § 53066.3(a)(8).
11. Granting Verizon a nonexclusive franchise to provide cable services will enhance competition, further the ubiquitous availability of a wide choice of state-of-the-art services and enhance the development and deployment of new technologies, consistent with the policies set forth in Public Utilities Code Section 709. See, without limitation, Cal Pub. Util. Code § 709; California Government Code § 53066.3(a)(8); accord Telecommunications Act of 1996, § 706, Pub. L. No. 104-104, 110 Stat. 153, reprinted in 47 U.S.C. § 157 note.
12. The material provisions of the franchise agreement between Verizon and the City are competitively neutral with the provisions contained in the incumbent franchise agreement that the City has most recently renewed by a grant of renewal to Century-TCI California, L.P. doing business as Adelphia Cable Communications, on April 28, 2005, and provide all parties equal protection under the law. See, without limitation, California Government Code § 53066.3(d).
13. Granting a nonexclusive franchise to provide cable services to Verizon is in the public interest. See, without limitation, California Government Code § 53066.3(a)(8).