



CITY OF PORTLAND, OREGON

Office of Cable Communications and Franchise Management

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To: Seth Reeser
OMF, Financial Planning

From: Amanda Fritz, Commissioner
David Olson, Director
Office of Cable Communications and Franchise Management.

Subject: Fall Budget Monitoring Report – Fiscal Year 2010-11

General Fund Revenues:

The bureau collected over \$72 million in general fund revenues during the fiscal year. This is a 4.8% or over \$3.3 million increase from last fiscal year. The revenues include over \$4 million from compliance enforcement and audit settlements.

Expenditures:

The expenditures for the bureau are within the budget for both Cable Fund and General Fund portion of the bureau budget.

New Requests:

Wireless Program Administration: The bureau requests appropriation of \$20,000 in FY 2010-11 to meet anticipated expenses associated with the substantial increase in administration arising from dramatically higher levels of applications and citizen involvement in the process of the placement and usage of utility poles by wireless companies. The appropriation will be covered 100% from new revenues generated by the bureau. In fiscal year 2009-10, bureau collected \$16,000 from various wireless companies and based on upcoming wireless applications already announced (OCCFM expects at least 20 more sites to be formally applied for this year), the requested appropriation will more than be defrayed by new wireless revenues anticipated in the current fiscal year.

Budget Adjustments:

REQ1. Franchise Fee Litigation: Council has authorized (Res. 36639) \$150,000 in general fund appropriation for conducting legal proceedings in consultation with the City Attorney's Office for enforcing franchise agreements of telecom companies. The bureau collected over \$4 million in unpaid franchise fees during fiscal year 2009-10 from various telecom companies. The bureau requests to carry over the balance of \$137,500 to fiscal year 2010-11 to continue perform these functions.

REQ2. Revolving Audit Fund: In fiscal year 2009-10, a revolving fund for \$80,000 was appropriated for audits; collection of audits of franchise fees, utility license fees, and privilege taxes. The bureau has an interagency with the Revenue Bureau to perform some of these audit functions. The cost of the IA is \$35,000. The bureau requests to carry over the remainder of the revolving fund of \$45,000 to

fiscal year 2010-11 for conducting franchise fee audits. The bureau has recognized more than \$240,000 in additional franchise fees in FY 2009-10 from these audits.

REQ 3. COLA – Mid Year Reduction Replenishment: The bureau received \$13,946 in COLA for fiscal year 2009-10. The COLA was given to the bureau by reducing the FY 2010-11 appropriations. The bureau maintained a balance of \$11,564 in Personnel and a total of \$98,068 balance in general fund programs by implementing effective budget controls. The bureau requests to replenish \$13,946 in fiscal year 2010-11. Additionally, with the budget cut absorbed in fiscal year 2010-11, the replenishment of these funds is essential for continuance of basic bureau operations.

Workload:

Utility Program

Utility Franchise Audits & Negotiations

Staff is on track to conduct and close audits in accordance with the audit schedule. An audit settlement of \$245,000 has been agreed to with one company and we are awaiting final language on the Settlement Agreement. An unanticipated audit of a CLEC from 2008 to present will be performed this fiscal year. PBOT is on track to amend Title 17 of the Code this year, after which OCCFM will refine all franchise renewal templates and conduct industry wide meetings to finalize the template, then individual meetings with each company to renew its franchise. As most franchises expire in December, 2011, this workload is urgent, and the City faces additional litigation threats from several quarters (telecommunications, petroleum pipelines, etc).

Wireless activity

Wireless activity in the bureau is increasing exponentially, and is reaching the breaking point in terms of staff administrative time. Staff is fielding hundreds of calls and emails from neighbors where wireless sites are proposed for utility poles in the right-of-way; neighbors are beginning to demand the City be represented at all neighborhood meetings; the bureau estimates at least 20 more right-of-way sites will be requested this year; in the meantime, the federal government plans to double the amount of spectrum for wireless, and wireless issues need to be included in the City strategic Broadband Plan (due to the Council June 2011). In addition, the bureau is already at the center of two lawsuits by citizens over the right-of-way siting policies; others may wait in the wings. The bureau is also beginning to encounter wireless issues not previously anticipated, including: questions on whether Historic Designations apply in the right of way; street tree issues; involvement in siting requests in Parks; "Distributed Antenna Service" providers (DAS), and many others. Finally, there are at least 8 other bureaus as well as Council offices involved in these issues and dependent upon OCCFM's resources and professional involvement as the key City bureau facilitator and policy lead on the Council's behalf through Commissioner Fritz.

Utility License Fees

The most recent amendments to the Utility License Law became effective on January 1, 2010. Implementation is continuing on schedule. As the bureau previously administered 50 franchises with 2.5 FTE, the addition of 250 new licensees, coupled with ongoing licensing and revenue compliance, is increasingly stretching program resources. The recent assignment of processing all Accounts

Receivables to the Utility Program Specialist creates another workload issue that needs to be managed. Database solutions to replace multiple Excel spreadsheets are in process and should help. After two quarters of implementation, new ULF revenue collections are over \$300,000 per quarter and are on track to exceed \$1,000,000 in new revenue.

Advocacy: Staff worked closely with the Mayor's Office and Commissioner Fritz, as well as PDC and citizen/business volunteer activists to prepare and submit a complete City response (March) to Google's RFI to construct a 1 gbps broadband system; staff also prepared and submitted a federal BTOPS broadband grant application in cooperation with numerous city and community partners.. Staff is working closely with Government Relations & allied cities at the federal level in opposition to wireless industry preemption efforts at both Congress and the FCC.

Cable Program

Qwest/CenturyLink Cable Franchise Transfer

The sale of Qwest's telephone & broadband properties (including Qwest's broadband franchise with the City) was announced in April 2010; staff has completed negotiations with Qwest and will be bringing a proposed transfer approval agreement forward to the Mt. Hood Cable Regulatory Commission jurisdictions and the Portland City Council in October & November.

Broadband: In addition to the Google response and Broadband Technology Opportunity Program (BTOP) grants, the bureau's Deputy Director has been appointed as the Oregon cities representative to the Oregon Broadband Advisory Council, and in response to a Council resolution (September) the bureau in cooperation with BTS and PDC will be developing a Citywide broadband strategic plan for submittal to the Council by June 2011.

Utility License Fee Reform: Staff updated Chapter 7.14 Utility License Fee code including assessing the fee on Comcast Digital Voice which is projected to bring in \$600,000 - \$800,000 in new general fund revenue annually. Staff continues to respond to the Auditor's Audit and is on target to meet all deadlines.

Comcast Cable Franchise Renewal: Following an extensive federally-mandated community ascertainment process ("Your Voice/Your Vision"), Staff began franchise renewal negotiations with Comcast cable in connection with Comcast's current cable franchises, all of which expire (Countywide) in December 2010. The negotiations are underway, and affect \$millions in franchise fees as well as nearly \$4 million/year in dedicated PEG capital funds which support community cable channels and high bandwidth services to local governments, schools and libraries throughout the County. Comcast's current adversarial position in the negotiations will necessitate a 6 month franchise term extension, which will come before the City Council in October or November 2010.

Cable Franchise Fee Review: Staff has launched a Comcast cable franchise fee financial review to ensure that all compensation to the City and MHCRC jurisdictions is paid in compliance with the franchise terms.

Grant Program: Staff continues to oversee multiple PEG grants worth over \$3+ million dollars to various public and NPO entities during the fiscal year. The administrative workload for the grant program has increased substantially in connection with SAP requirements.

Please call Sebastian Rodrigues at 3-5413 if you have further questions.

BUDGET AMENDMENT REQUEST

Cable Communications and Franchise Management

PERIOD Fall BuMP

FISCAL YEAR FY 2010-11

CB_001 - Franchise Fee Litigation

Council has authorized (Res. 36639) \$150,000 in general fund appropriation for conducting legal proceedings in consultation with the City Attorney's Office for enforcing franchise agreements of telecom companies. The bureau collected over \$4 million in unpaid franchise fees during fiscal year 2009-10 from various telecom companies (Time Warner, Level 3 Communications, and McLeaod). The bureau requests to carry over the appropriation balance of \$122,465 to fiscal year 2010-11 to continue perform these functions for the Utility Franchise Management Program.

Dollar Amount: \$137,056
Type: Carryover Request
Resources: General Fund Discretionary

CB_002 - Revolving Audit Fund

In fiscal year 2009-10, a revolving fund for \$80,000 was appropriated for audits; collection of audits of franchise fees, utility license fees, and privilege taxes. The bureau has an interagency with the Revenue Bureau to perform some of these audit functions. The actual cost incurred for the IA in FY 2009-10 was \$4,854, and the bureau recognized more than \$240,000 in additional franchise fees from these audits. The bureau requests to carry over the balance of \$75,146 to fiscal year 2010-11 for performing similar audits. The bureau will submit a request for replenishing the \$4,854 revolving funds expended in FY 2009-10 in the Winter BuMP.

Dollar Amount: \$75,146
Type: Carryover Request
Resources: General Fund Discretionary

CB_003 - COLA - Mid Year Reduction Replenishment

The bureau received \$13,946 in COLA from fiscal year 2009-10. The COLA was given to the bureau by reducing the FY 2010-11 appropriations. The bureau maintained a balance of \$11,564 in Personnel and a total of \$98,068 balance in general fund programs by implementing effective budget controls. The bureau requests to replenish the \$13,946 in fiscal year 2010-11. With cut absorbed by the bureau for fiscal year 2010-11, the replenishment of these funds are essential for keeping the bureau operation afloat.

Dollar Amount: \$13,946
Type: Compensation Set Aside Request
Resources: General Fund Discretionary

CB_004 - Wireless Pole Administration

The bureau requests to appropriate \$20,000 in FY 2010-11 for covering expenditures related to administering the pole placement of the wireless companies. The bureau has been collecting \$2,000 from wireless companies to cover these costs. In fiscal year 2009-10, bureau collected \$16,000 from various wireless companies to administer the placement and usage of the poles. The bureau is anticipating more than sufficient additional funds from wireless fees in the current fiscal year to fully defray the additional appropriation.

Dollar Amount: \$20,000
Type: New Request
Resources: New Revenues

Prior Year Business Area Reconciliation Report

	FY 2009-10 Revised Budget	FY 2009-10 Year-End Actuals	Percent of Actuals to Revised
Cable Communications and Franchise Management			
EXPENDITURES			
Personal Services	\$588,847	\$577,284	98%
External Materials and Services	\$1,052,201	\$1,023,490	97%
Internal Materials and Services	\$408,858	\$351,064	86%
TOTAL EXPENDITURES	\$2,049,906	\$1,951,837	95%
REVENUES			
Licenses & Permits	\$0	\$64,007	0%
Charges for Services	\$160,543	\$0	0%
Interagency Revenue	\$12,000	\$7,000	58%
Miscellaneous	\$0	\$0	0%
General Fund Discretionary	\$1,877,363	\$0	0%
TOTAL REVENUES	\$2,049,906	\$71,007	3%

Bureau Reconciliation Narrative

Expenditures: The bureau expenditures were 5% less than the revised budget. Variances in major object categories were less than 3% except Internal Services. Internal Services had a 14% variance due to the lower than anticipated I/A expenditures for performing franchise fee audits by the Revenue Bureau. The IA expenditures were less than \$5,000 and the budgeted amount was \$35,000.

Revenues: There are no major GF revenues reported in this business area. However, the bureau collected \$16,000 from wireless providers to cover the cost associated with administering pole placements. There is a \$48,000 franchise fee revenues in CBUF000002 which should've been posted to MFFM000002. Both cost centers are within the General Fund.

The bureau collected over \$72 million in General Fund revenues in fiscal year 2009-10 which is posted under Management and Finance cost center MFFM000002.

Prior Year Fund Reconciliation Report

	FY 2009-10 Revised Budget	FY 2009-10 Year-End Actuals	Percent of Actuals to Revised
Cable Fund			
EXPENDITURES			
Unappropriated Fund Balance	\$798,010	\$0	0%
Personal Services	\$418,715	\$408,968	98%
External Materials and Services	\$5,356,598	\$4,001,705	75%
Internal Materials and Services	\$72,575	\$70,207	97%
Fund Transfers - Expense	\$18,668	\$18,668	100%
Contingency	\$862,220	\$0	0%
TOTAL EXPENDITURES	\$7,526,786	\$4,499,548	60%
REVENUES			
Budgeted Beginning Fund Balance	\$3,424,337	\$0	0%
Licenses & Permits	\$1,256,827	\$5,075,760	404%
Charges for Services	\$12,000	\$38,000	317%
Intergovernmental Revenues	\$2,478,676	\$0	0%
Interagency Revenue	\$283,579	\$283,579	100%
Fund Transfers - Revenue	\$867	\$867	100%
Miscellaneous	\$70,500	(\$596,064)	-845%
TOTAL REVENUES	\$7,526,786	\$4,802,141	64%

Fund Reconciliation Narrative

Expenditures: The total Cable Fund expenditures were 8.6% less than budgeted. Personnel and Internal M&S had less than 5% variance and External M&S had less than 9% variance.

Revenues: Revenues exceeded by 14% when compared to prior fiscal year. There are two primary reasons for the increase. They are:

First, effective Fall 2008, the MHCRC East County Jurisdictions (all Cable Fund) entered into a new cable franchise with Frontier (FKA Verizon). Staff anticipated minimal increase since Frontier's service area overlapped Comcast service area. On the contrary, the growth was substantially higher than estimated; \$334,000 or 300% compared to prior fiscal year. Second, staff budgeted lower revenues for cable franchise fees and PEG fees from Comcast due to the sluggish economic conditions. However, the cable franchise fees continue to grow, mostly because of their annual rate increase. Total increase in Cable Fund revenues were 14% when compared to prior fiscal year actual. The unanticipated growth in revenues vs. the conservative budget forecast created even a wider variance between the budgeted vs. actual revenues.

Prior Year Business Area Reconciliation Report

	FY 2009-10 Revised Budget	FY 2009-10 Year-End Actuals	Percent of Actuals to Revised
Cable Communications and Franchise Management			
EXPENDITURES			
Unappropriated Fund Balance	\$798,010	\$0	0%
Personal Services	\$1,007,562	\$986,252	98%
External Materials and Services	\$6,408,799	\$5,025,195	78%
Internal Materials and Services	\$481,433	\$421,271	88%
Fund Transfers - Expense	\$18,668	\$18,668	100%
Contingency	\$862,220	\$0	0%
TOTAL EXPENDITURES	\$9,576,692	\$6,451,385	67%
REVENUES			
Budgeted Beginning Fund Balance	\$3,424,337	\$0	0%
Licenses & Permits	\$1,256,827	\$5,139,766	409%
Charges for Services	\$172,543	\$38,000	22%
Intergovernmental Revenues	\$2,478,676	\$0	0%
Interagency Revenue	\$295,579	\$290,579	98%
Fund Transfers - Revenue	\$867	\$867	100%
Miscellaneous	\$70,500	(\$596,064)	-845%
General Fund Discretionary	\$1,877,363	\$0	0%
TOTAL REVENUES	\$9,576,692	\$4,873,148	51%

Bureau Reconciliation Narrative

Expenditures: The bureau expenditures were 5% less than the revised budget. Variances in major object categories were less than 3% except Internal Services. Internal Services had a 14% variance due to the lower than anticipated I/A expenditures for performing franchise fee audits by the Revenue Bureau. The IA expenditures were less than \$5,000 and the budgeted amount was \$35,000.

Revenues: There are no major GF revenues reported in this business area. However, the bureau collected \$16,000 from wireless providers to cover the cost associated with administering pole placements. There is a \$48,000 franchise fee revenues in CBUF000002 which should've been posted to MFFM000002. Both cost centers are within the General Fund.

The bureau collected over \$72 million in General Fund revenues in fiscal year 2009-10 which is posted under Management and Finance cost center MFFM000002.

Office of Cable Communications and Franchise Management
FY 2010-11 Fall BuMP
Budget Note: Service Improvement Plan

1. Utility Franchise Program service improvements: The bureau fully responded to the City Auditor's Audit (May 2009) by means of a number of initiatives developed and discussed with Commissioner Fritz and the City Auditor's office. The Auditor accepted the bureau's One-Year Status report in June 2010, and Audit staff expressed appreciation for the work of the Bureau in responding to 2009 Audit and implementing recommended process and service improvements.
2. Utility & franchisee audit process & schedules, going forward: The bureau continues to implement process efficiencies in connection with utility and franchisee audits and processes. Among other things bureau is implementing engaged in the following activities:
 - a. Renewed the I/A with Revenue for FY 2010-11 to conduct audits.
 - b. Will be requesting monies for the Revolving Audit fund in the Fall BUMP.
3. The bureau has completed the required performance review and ascertainment survey of the community's current and future communications technology needs and interests as mandated for the countywide Comcast franchise renewal process. One outcome is the ability of the bureau to track benchmarks for successful engagement based on cultural and ethnic statistics for the Portland metro area. The bureau also continues to document and evaluate the impact of past cable-related public benefits (grants, I-Net, community access, consumer protection, franchise fees) over the past 10-15 years in order to enhance cable and franchise regulatory functions. The Final Report is complete, (www.yourvoice.org). Franchise negotiations with Comcast are continuing and will necessitate a 6 month extension of the franchise term to conclude negotiations for the Comcast franchises, which otherwise expire Countywide in December 2010.