

RESOLUTION NO. 2864-2005

RESOLUTION OF THE FORT BRAGG CITY COUNCIL AUTHORIZING CITY MANAGER TO EXECUTE AN AGREEMENT WITH CENTURY MENDOCINO CABLE TELEVISION, INC. DBA ADELPHIA CABLE COMMUNICATION GRANTING NONEXCLUSIVE RIGHTS TO CONSTRUCT AND TO OPERATE A CABLE SYSTEM IN THE CITY OF FORT BRAGG AND SETTING FORTH TERMS AND CONDITIONS RELATING TO THE EXERCISE OF THOSE RIGHTS UPON EXECUTION OF AGREEMENT BY ADELPHIA

WHEREAS, under applicable laws, the City of Fort Bragg has the authority to regulate the use of streets, public rights of ways and other City property, and to grant access thereto upon certain terms and conditions; and

WHEREAS, the City desires to promote the availability of high quality and diverse cable service to City residents, local governmental entities, businesses, and public institutions to promote the availability of information resources to the community; to take advantage of technologies to provide more open government, and to enhance educational opportunities for building a stronger community; and

WHEREAS, the City is authorized by federal, state and local laws to manage the use of public rights of ways and franchise operators of cable systems which use such public rights of ways; and

WHEREAS, Adelphia is currently operating a cable system within the City of Fort Bragg pursuant to a Franchise Agreement entered into with Group W Cable, Inc. on November 25, 1985; and

WHEREAS, the Franchise Agreement was transferred to Century Communications and later transferred to Adelphia; and

WHEREAS, the term of the Franchise Agreement was extended by action of the City until such time as the parties negotiate an acceptable renewal; and

WHEREAS, Adelphia has requested a renewal of its Cable Franchise and has proposed to operate a state of the art telecommunications system and to provide advanced telecommunications services to the City, its residents and subscribers; and

WHEREAS, the City undertook a review of Adelphia's cable service, proposed facility design, the present and future cable-related community needs, and Adelphia's ability to carry out its commitments and overall financial, legal and technical qualifications to hold a City Franchise; and

WHEREAS, the City has conducted the required public forums and hereby finds that it would serve the public interest to grant a franchise renewal subject to the terms and conditions set forth in the Agreement attached and in the City Municipal Code Chapter 4.04; and

WHEREAS, the City negotiated the terms of the Agreement with Adelphia, in accordance with applicable laws; and

WHEREAS, Adelphia has agreed to comply with the provisions of said Agreement (Attachment A) and Chapter 4.04 of the Fort Bragg Municipal Code; and

WHEREAS, the City Council has reviewed the present and future cable related needs of the City and its residents, and Adelphia's financial, legal, and technical qualifications to perform its obligations under said Agreement, and has determined that the public interest would be served by authorizing Adelphia to construct and operate a Cable System subject to the terms of said Agreement (Attachment A) and the provisions of Chapter 4.04 of the Fort Bragg Municipal Code.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg, in accordance with the provisions of Chapter 4.04 of the Fort Bragg Municipal Code and the Agreement (Attachment A), does hereby grant to Adelphia, and Adelphia accepts from the City, the nonexclusive rights to construct and operate a Cable System in the City of Fort Bragg; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby authorize the City Manager to execute an Agreement with Century Mendocino Cable Television, Inc. dba Adelphia Cable Communication granting nonexclusive rights to construct and to operate a cable system in the City of Fort Bragg and setting forth terms and conditions relating to the exercise of those rights upon execution of the Agreement by Adelphia.

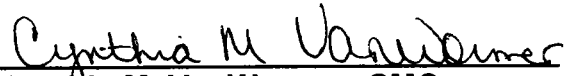
The above and foregoing Resolution was introduced by Councilmember Gjerde, seconded by Councilmember Baltierra, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 9th day of May, 2005, by the following vote:

AYES: Councilmembers Gjerde, Baltierra, Hammerstrom, Melo, and Mayor Turner.
NOES: None.
ABSENT: None.
ABSTAIN: None.



DAVE TURNER,
Mayor

ATTEST:


Cynthia M. VanWormer, CMC
City Clerk