

# AGENDA ITEM SUMMARY

July 16, 2019

Electric Utility Enterprise Board

## STAFF

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Erin Shanley, Broadband Marketing Manager  
Colman Keane, Broadband Director  
Judy Schmidt, Legal

## SUBJECT

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Second Reading of Ordinance No. 006, Authorizing Long-Term License Contracts for the Acquisition of Video Content Rights in Furtherance of Fort Collins Connexion's Delivery of Telecommunication Services.

## EXECUTIVE SUMMARY

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This Ordinance, unanimously adopted on First Reading on July 2, 2019, Approves long-term license contracts for rights to deliver cable or other subscriber video content, programming, and streaming services from local channels, individual channels and channel families, and video content aggregators for the telecommunication services division ("Fort Collins Connexion" or "Connexion") to be offered to subscribers purchasing video services. Such video content is only available from certain providers under terms and conditions set forth in their standard form contracts, which in many cases may require long-term contracts. The Electric Utility Enterprise is authorized by state law, City Charter Article XII Section 7(b) and City Code Section 26-392 and Section 26-398 (being amended to appear at Section 26-572) to enter into long-term license contracts payable solely from the revenues of Fort Collins Connexion, as a division of the Electric Utility Enterprise.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on Second Reading.

## ATTACHMENTS

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1. First Reading Agenda Item Summary, July 2, 2019 (w/o attachments) (PDF)
2. Ordinance No. 006 (PDF)

## AGENDA ITEM SUMMARY

July 2, 2019

Electric Utility Enterprise Board

### STAFF

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Erin Shanley, Broadband Marketing Manager  
Colman Keane, Broadband Director  
Judy Schmidt, Legal

### SUBJECT

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First Reading of Ordinance No. 006, Authorizing Long-Term License Contracts for the Acquisition of Video Content Rights in Furtherance of Fort Collins Connexion's Delivery of Telecommunication Services.

### EXECUTIVE SUMMARY

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This purpose of this item is to approve long-term license contracts for rights to deliver cable or other subscriber video content, programming, and streaming services from local channels, individual channels and channel families, and video content aggregators for the telecommunication services division ("Fort Collins Connexion" or "Connexion") to be offered to subscribers purchasing video services. Such video content is only available from certain providers under terms and conditions set forth in their standard form contracts, which in many cases may require long-term contracts. The Electric Utility Enterprise is authorized by state law, City Charter Article XII Section 7(b) and City Code Section 26-392 and Section 26-398 (being amended to appear at Section 26-572) to enter into long-term license contracts payable solely from the revenues of Fort Collins Connexion, as a division of the Electric Utility Enterprise.

### STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading.

### BACKGROUND / DISCUSSION

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As part of Fort Collins Connexion providing video services, license agreements are required with local channels and national networks. Contracts with content providers require long-term license contracts that will vary per provider, but typically range from 3-7 years. These contracts are "standard" across the industry and Connexion will have little to no bargaining leverage to modify the standard terms and conditions to include annual appropriation provisions.

Considering the unique nature and practices of the video content rights market, the uniqueness and limited availability of comparable content, the limited number of suppliers, and the proprietary content restrictions imposed by such suppliers, City Council has taken two prior actions to assist Connexion in accessing necessary video content:

1. On February 19, Council adopted Resolution 2019-025 approving the purchase of video content licensing and services from the National Cable and Television Cooperative (NCTC) for Fort Collins Connexion as an exception to the competitive purchase process. This Resolution allowed Connexion, as a member of NCTC, to access licensing with hundreds of networks through NCTC's pre-negotiated agreements and obtain access to video content cost-effectively, efficiently, and with better terms than available with bi-lateral contracting.
2. On March 19, City Council adopted Ordinance No. 051, 2019, amending City Code Section 8-161 to

add an exception to the competitive purchasing process for purchases of video content licensing.

This ordinance proposed for adoption by the Electric Utility Enterprise Board will provide further access to video content available from the video content suppliers listed in Exhibit A to the Ordinance by approving long-term license agreements of up to 7 years (more than the 5 year limit otherwise applicable under the purchasing provisions of the City Code) as permitted by the City Charter provisions regarding telecommunication services and facilities in Article XII, Section 7. Some of the video content from suppliers listed on Exhibit A will be obtained by long term license agreements through NCTC; the remainder will be obtained by long term license agreements directly with one or more of the listed content suppliers. The party to such long term license agreements will be the Electric Utility Enterprise.

**ATTACHMENTS**

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1. Powerpoint presentation (PDF)

COPY

ORDINANCE NO. 006  
OF THE CITY OF FORT COLLINS ELECTRIC UTILITY ENTERPRISE BOARD  
AUTHORIZING LONG-TERM LICENSE CONTRACTS FOR THE ACQUISITION  
OF VIDEO CONTENT RIGHTS IN FURTHERANCE OF FORT COLLINS  
CONNEXION'S DELIVERY OF TELECOMMUNICATION SERVICES

WHEREAS, City Code Section 26-392(a) provides that the City's Electric Utility constitutes an enterprise of the City (the "Enterprise") and authorizes the City Council, acting ex officio as the board of the Enterprise, (the "Enterprise Board") to approve by ordinance financial obligations of the Enterprise payable solely from the net revenues derived from the operation of the Enterprise; and

WHEREAS, on January 16, 2018, City Council adopted Ordinance No. 011, 2018, establishing a telecommunication services division within the City's Electric Utility ("Fort Collins Connexion") and authorizing the Electric Utility in City Code Section 26-398 to acquire, construct, provide, fund and contract as necessary to provide telecommunication facilities and services in the City, and to take such other actions as may be necessary for the proper administration of said facilities and services; and

WHEREAS, as so authorized in the City Charter and City Code, the City has begun the acquisition and construction of telecommunications facilities in preparation for Fort Collins Connexion to begin delivering broadband internet, video, and other telecommunication services; and

WHEREAS, on April 16, 2019, City Council adopted Ordinance No. 051, 2019, amending City purchasing practices in response to the nature and practices of the video content rights market, including uniqueness and limited availability of comparable content, consolidation of supply, and proprietary content restrictions imposed by content developers on bundling and duration of licensing, to enable Fort Collins Connexion to efficiently acquire video content rights and deliver telecommunication services; and

WHEREAS, due to proprietary content restrictions imposed by video content developers on licensing periods and funding commitments, in order to obtain necessary video content for video services, Fort Collins Connexion may be required to enter into long-term license contracts; and

WHEREAS, in the exercise of authority provided under City Code Sections 26-392 and 26-398 (being amended to appear at Section 26-572) and Section 7(b) of Charter Article XII, the Enterprise is authorized to enter into long-term license contracts to acquire video content rights in furtherance of Fort Collins Connexion's delivery of telecommunication facilities and services; and

WHEREAS, the long-term license contracts authorized under this Ordinance will permit Fort Collins Connexion to acquire video content to be offered to Fort Collins Connexion subscribers and obtained from the video content providers listed on Exhibit "A," attached hereto and incorporated by reference, and will be payable solely from revenues of Fort Collins Connexion (the "Authorized Obligations"); and

WHEREAS, the Enterprise Board's adoption of this Ordinance is in the exercise of its authority as described above to approve and enter into contracts like the Authorized Obligations to enable Fort Collins Connexion to offer video services to its customers.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF THE ELECTRIC UTILITY ENTERPRISE OF THE CITY OF FORT COLLINS as follows:

Section 1. That the Enterprise Board hereby makes and adopts the determinations and findings contained in the recitals set forth above. In addition, the Mayor, as the Enterprise's president and the City Clerk, as the Enterprise's secretary, are both authorized to sign this Ordinance in their respective capacities.

Section 2. That the Enterprise Board hereby finds it is in the best interests of the Enterprise, the Electric Utility and the City to negotiate and enter into the Authorized Obligations for rights to deliver cable or other subscriber video content, programming, and streaming services from local channels, individual channels and channel families, and video content aggregators when: (i) viable market demand supports obtaining rights to deliver specific content; and (ii) the anticipated cost to acquire such rights is reasonable based on the uniqueness of the content, region, and market.

Section 3. That the Enterprise Board hereby approves the Authorized Obligations and authorizes the Purchasing Agent to execute one or more of the Authorized Obligations, each of which shall have a term of not more than seven years and is subject to the purchasing exceptions set forth in Chapter 8 of the Fort Collins City Code for the acquisition of video content rights.

Section 4. That the Authorized Obligations shall not constitute a debt or obligation of the City and shall be payable solely from the revenues of Fort Collins Connexion.

Introduced, considered favorably on first reading, and ordered published this 2nd day of July 2019, and to be presented for final passage on the 16th day of July 2019.

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President

ATTEST:

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Secretary

Passed and adopted on final reading on the 16th day of July 2019.

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President

ATTEST:

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Secretary

## EXHIBIT "A"

Parent Company	Network
2929 Entertainment	AXS TV
A&E Television Networks	History
A&E Television Networks	A&E
A&E Television Networks	Lifetime Movie Network
A&E Television Networks	Lifetime Television
A&E Television Networks	Crime and Investigation Network
A&E Television Networks	FYI
A&E Television Networks	ViceLand
Altitude Sports	Altitude Sports
AMC Networks	AMC
AMC Networks	BBC America
AMC Networks	BBC World News
AMC Networks	WeTV
AMC Networks	IFC
CBS Corporation	CBS Sports Network
City of Fort Collins	City of Fort Collins Public Access (PEG)
City of Fort Collins	City of Fort Collins Governmental Access (FCTV)
Colorado State University	Colorado State University Educational Access (PEG)
C-SPAN	C-SPAN3
C-SPAN	C-SPAN
C-SPAN	C-SPAN 2
Discovery Inc.	Discovery en Espanol
Discovery Inc.	Travel Channel
Discovery Inc.	Food Network
Discovery Inc.	HGTV (Home & Garden)
Discovery Inc.	Great American Country
Discovery Inc.	Cooking Channel
Discovery Inc.	Do-It-Yourself Network HD (DIY)
Discovery, Inc.	Animal Planet
Discovery, Inc.	Discovery Channel
Discovery, Inc.	Investigation Discovery
Discovery, Inc.	The Learning Channel (TLC)
Discovery, Inc.	Oprah Winfrey Network (OWN)
Discovery, Inc.	American Heroes Channel
Discovery, Inc.	Destination America
Discovery, Inc.	Discovery Family
Discovery, Inc.	Discovery Life
Discovery, Inc.	Science Channel
Discovery, Inc.	Discovery Familia
Disney ESPN Media Networks	Disney Channel
Disney ESPN Media Networks	ESPN
Disney ESPN Media Networks	ESPN2
Disney ESPN Media Networks	Freeform
Disney ESPN Media Networks	Disney Junior
Disney ESPN Media Networks	Disney XD

## EXHIBIT "A"

Disney ESPN Media Networks	ESPN Classic
Disney ESPN Media Networks	ESPN Deportes
Disney ESPN Media Networks	ESPNNews
Disney ESPN Media Networks	ESPNU
Epix	Epix
Eternal Word Television Network	Eternal Word Television Network (EWTN)
EVINE Live	EVINE Live
EWTN Global Catholic Network	EWTN
Family Entertainment TV	Family Entertainment Television (FETV)
First Media	Baby First TV
Fox Networks Group	Fox Business Network
Fox Networks Group	Fox News
Fox Networks Group	Fox Sports 1
Fox Networks Group	FX
Fox Networks Group	FXX
Fox Networks Group	National Geographic
Fox Networks Group	Fox Sports 2
Fox Networks Group	FXM (FX Movie Channel)
Fox Networks Group	National Geographic WILD
Fox Networks Group	Big Ten (BTN)
Fox Networks Group	Fox College sports (3 channels)
Fox Networks Group	Fox College Sports Atlantic
Fox Networks Group	Fox College Sports Central
Fox Networks Group	Fox College Sports Pacific
Fox Networks Group	Fox DePortes
Game Show Network	Game Show Network
Hallmark Channel	Hallmark Channel
Hallmark Channel	Hallmark Movies and Mysteries
Hallmark Channel	Hallmark Drama
Home Box Office, Inc	Cinemax (Family of Channels)
Home Box Office, Inc	HBO (Family of Channels)
Hubbard Broadcasting	ReelzChannel
Inspiration Network	INSP (Inspiration Channel)
InterMedia Partners	UpTV
Ion Media Networks	Ion Media Networks Basic/Expanded (KPXC)
Jewelry Television	Jewelry Television
Magic Johnson Enterprises	Aspire
Major League Baseball	MLB
Major League Baseball	MLB Strike Zone
National Basketball Association	NBA Channel
NBC Universal	Bravo
NBC Universal	CNBC
NBC Universal	E!
NBC Universal	MSNBC
NBC Universal	Oxygen
NBC Universal	SyFy
NBC Universal	Telemundo (KDEN)



## EXHIBIT "A"

NBC Universal	The Golf Channel
NBC Universal	USA
NBC Universal	NBC Sports Network
NBC Universal	Universo
NFL Network	NFL Network (2014 Agreement)
NFL Network	NFL RedZone
Olympusat	Olympusat Enrich (Daystar Television Network) KRMT
Olympusat	Cine Mexicano
Olympusat	OlympuSat Altavision
Olympusat	OlympuSat TeleN
Olympusat	TBN Enlace
Outdoor Channel	Outdoor Channel
Ovation TV	Ovation
Poudre School District	Poudre School District Educational Access (PSD TV)
Qurate Retail Group	Home Shopping Network (HSN)
Showtime Networks	Smithsonian
Showtime Networks	Showtime (Family of Channels)
Showtime Networks	The Movie Channel
Sinclair Broadcast Group	Tennis Channel
Sportsman Channel	Sportsman Channel
Starz Entertainment Group	IndiePlex
Starz Entertainment Group	RetroPlex
Starz Entertainment Group	Encore (Family of Channels)
Starz Entertainment Group	Starz (Family of Channels)
Three Angels Broadcasting Network (3ABN)	3ABN
Tribune Media	WGN America
Trinity Broadcasting Network	TBN (Trinity Broadcasting Network)
Trinity Broadcasting Network	Enlace
Trinity Broadcasting Network	JUCE
Turner Broadcasting System	HLN
Turner Broadcasting System	TNT
Turner Broadcasting System	truTV
Turner Broadcasting System	Turner Classic Movies (TCM)
Turner Broadcasting System	Cartoon Network
Turner Broadcasting System	CNN
Turner Broadcasting System	TBS
Turner Broadcasting System	CNN en Espanol
TV One	TV One
Univision	Univision (KCEC)
Univision	Fusion
Univision	Galavision
Viacom	BET
Viacom	BET Her
Viacom	Comedy Central
Viacom	MTV

## EXHIBIT "A"

Viacom	Nickelodeon
Viacom	TV Land
Viacom	VH1
Viacom	Paramount Network
Viacom	BET Jams
Viacom	CMT (Country Music Television)
Viacom	Logo
Viacom	MTV Classic
Viacom	MTV2
Viacom	Nick Jr.
Viacom	Nick Music
Viacom	Nicktoons
Viacom	Teen Nick
Viacom	MTV Tr3s
Weather Channel	The Weather Channel
	KCNC-TV (CBS)
	KDVR (Fox)
	KFCT (Fox)
	KMGH-TV (ABC)
	KRMA-TV (PBS)
	KUSA (NBC)
	KWGN-TV (CW)
	QVC

NOTE: Some of the video content from the suppliers listed above will be obtained by long term license agreements through National Cable Television Cooperative (NCTC); the remainder will be obtained by long term license agreements directly with one or more of the listed content suppliers. The party to such long term license agreements will be the Electric Utility Enterprise.