

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your **BUDGET AND FINANCE** Committee
AND Committee
ADMINISTRATIVE SERVICES
report as follows:

Yes No

Public Comments: X

BUDGET AND FINANCE and ADMINISTRATIVE SERVICES COMMITTEES REPORT relative to implementation of Citywide public and educational access cable television in Los Angeles.

Recommendations for Council action, as recommended by the City Administrative Officer, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. AWARD a grant in the amount of \$155,835 for Fiscal Year 1994-95, which is equivalent to an annual amount of \$220,000, to a Citywide Access Corporation to provide Citywide public and educational access in accordance with the provisions of the City's cable franchise agreements, to be effective on October 15, 1994.
2. REQUEST the City Attorney to prepare a grant agreement between the City and the Citywide Access Corporation, and that it be presented to the City Council within 45 days.
3. REQUEST the Citywide Access Corporation to submit a budget to the City Attorney to be included in the grant agreement.
4. TRANSFER \$100,308 from the Reserve Fund to the Unappropriated Balance and appropriate therefrom that amount to the Telecommunications Development Account, Dept. 92, Fund 342, Acct. 0005.
5. TRANSFER \$155,835 from the Telecommunications Development Account (Dept. 92, Fund 342, Acct. 0005) to the Citywide Access Corporation Account (Dept. 92, Fund 342, Acct. 0012).
6. AUTHORIZE the grant to the Citywide Access Corporation to be paid from the Citywide Access Corporation Account (Dept. 92, Fund 342, Acct. 0012) for Citywide public and educational access for Fiscal Year 1994-95.
7. INSTRUCT the Department of Telecommunications to begin negotiations with the cable franchise holders to devise a means of funding the Citywide Access Corporation from cable franchise revenues which do not pass through the City, and to report back to the City Council on the negotiations within 90 days.

YOUR

BUDGET AND FINANCE
and
ADMINISTRATIVE SERVICES

Committee

Committee

report as follows:

SUMMARY

Formation of the Special Committee of Access Corporation Conveners

Under terms of franchise agreements renegotiated with the City in 1987, cable operators are required to provide up to three local and three citywide access channels: local and citywide government channels, educational channels, and public access channels. Franchise agreements place control of citywide public and educational access in the hands of a newly created nonprofit "access corporation".

In approving the 1987 cable television replacement franchise, the City Council directed that a Committee of Access Conveners be formed to present to the Mayor and Council a structure for a Citywide Access Corporation as specified by the franchise. The Council provided funding of \$60,000 for the Access Conveners to develop its proposal.

The mission of the Access Conveners was to develop, incorporate and guide the formation of an Access Corporation, to be responsible for operation of the City's interconnected public and educational access channels and coordination of access services as outlined in the cable TV agreements. The Access Corporation would be established as independent from local government to provide the City with a buffer against liability for programming on these channels and First Amendment violations. It would provide policy direction for the channels, serve as the coordinating body for multiple user groups and manage a local production grant program.

By Ordinance No. 160873, funding for citywide access programming would be provided in the Telecommunications Development Account, funded by cable franchise fees.

Report of the Special Committee of Access Corp. Conveners

On July 2, 1992, the Access Conveners submitted their report to the Mayor and Council. The Access Conveners had spent a year of hearings and deliberations relative to implementation of up to two Citywide cable channels offering public and educational access programming.

The Access Conveners proposed a three-year operating and capital budget as follows: Year 1 - \$373,085; Year 2 - \$791,038; Year 3 - \$934,490.

The full Report of the Access Conveners and their short- and long-term operating plans may be found attached to the Council File.

YOUR

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Committee

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Telecommunication Department report

In her report dated November 8, 1992, the General Manager, Telecommunications Department voiced concerns over whether the Access Corporation should confine itself to the basic requirements set forth in the 1987 franchise agreements, or whether it should expand upon those requirements. For example:

Should the Access Conveners schedule and operate the access channels on a first-come, first served, non-discriminatory basis as specified in the franchises, or select programs based upon pre-established criteria as the Conveners propose?

Should the Access Conveners coordinate and facilitate the use of existing equipment and facilities dedicated for public and educational access that is available in each franchise area as specified by the cable franchise agreements, or expand upon those existing resources and require additional equipment and facilities specifically dedicated for the Access Conveners as the Conveners propose?

Should the Access Conveners primarily schedule, operate and manage the Citywide access channels as specified in the franchise agreements, or expand that mandate so the Access Conveners may commission the production of programming on thematic issues of Citywide concern using City grant funds?

City Attorney report

In his report dated November 23, 1992, the City Attorney reviewed certain legal issues raised by the Conveners' report relating to financial proposals, editorial control, contract issues, and insurance and indemnification. The City Attorney concluded that "the kinds and degrees of involvement proposed in the Conveners' report (emphasis added) can create a legal entanglement with the Access Corporation which can impose on the City monetary liability as set for the above issues."

Access Conveners supplemental report

In their supplemental report dated January 25, 1993, the Access Conveners addressed the concerns put forth by the General Manager, Dept. of Telecommunications, and the City Attorney. In addition, the Access Conveners stated that they expected Citywide access to be funded from the Telecommunication Development Account (TDA) pursuant to Ord. No. 160873, matched with in-kind contributions from the cable channels and with funds raised by the Access Corporation.

The Access Conveners concluded that its original proposals remained sound.

YOUR

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and
ADMINISTRATIVE SERVICES

Committee

Committee

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Report from Access Conveners' counsel

In its letter dated January 23, 1993, the Law Firm of Robins, Kaplan, Miller and Ciresi provided its legal opinion regarding the validity of the City's position in response to the recommendations contained in the Access Conveners' report. The firm believes that the City's contention that public funding of the proposed Access Corporation will unconstitutionally "entangle" the City with the Corporation and subject the City to civil liability, is untenable and contrary to law.

Administrative Services Committee

The Administrative Services Committee (then chaired by Councilmember Mike Hernandez) reviewed this matter at meetings held October 8 and November 23, 1992, and January 25, 1993. At its public hearing on January 25, 1993, the Committee moved that this matter be referred to the Budget and Finance Committee for review of funding proposals, and then that the matter be referred back to the Administrative Services Committee prior to scheduling for Council.

Budget and Finance Committee: 1993

At the request of the Budget and Finance Committee, the City Administrative Officer (CAO) produced a report dated March 18, 1993. The report stated that all available TDA funds are currently being used to fund the Department of Telecommunications and its related activities, so it is not feasible for an Access Corporation to be funded from this source. The CAO recommended that the Access Conveners identify an alternative source of funding for the proposed Access Corporation.

The Budget and Finance Committee held a public hearing on this matter on July 20, 1993. The Access Conveners stated they were requesting TDA funding of \$2 million for three years (with an additional \$10 million to be brought in by cable operators, fundraising, etc.) Upon conclusion of the public hearing and the various issues raised, the Committee moved this matter be continued for review of legal issues raised in this matter.

On August 10, 1993, the Committee continued this matter one week at the Access Conveners' request.

On August 17, 1993, the Committee heard additional public comment. The CAO reiterated that all TDA funds were committed to funding the Department of Telecommunications and its activities, except for approximately \$184,000 in uncommitted funds. The Access Conveners maintained that they had legal access to funds in the TD account and that they had been assured funding of approximately \$1 million per year. The Access Conveners suggested that the budgets for the Department and its Channel 35 activities be cut to provide funding for

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BUDGET AND FINANCE
and
ADMINISTRATIVE SERVICES

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Citywide Access. The Access Conveners then stated they would lower their funding requirement to approximately \$600,000 (with a grants program of approximately \$300,000 to be added to this amount). Upon review, the Committee took this matter Off Calendar, instructing staff to develop recommendations for a possible alternate source of funding, and the Conveners to scale their budget proposal down to a "minimal but worthwhile program."

1994

At the Budget and Finance Committee's meeting of July 12, 1994, the funding figure of \$220,000 for Fiscal Year 1994-95 was agreed upon. The Committee also agreed to open negotiations with the cable franchise holders to devise a means of funding the Access Corporation with cable franchise revenues which do not pass through the City, thus avoiding the legal issues raised by the City Attorney and enabling the Access Corporation to operate as envisioned by the Conveners.

However, it was noted that Verdugo Hills-TV (VHTV) was scheduled in Council the next day to receive \$35,302 plus a possible additional \$62,198 from the TD Account, thereby depleting the account. In light of this, the Committee continued the matter one week, and staff was instructed to develop a way to fund both VHTV and the Access Corporation, without jeopardizing VHTV and without relying exclusively on the Reserve Fund.

At its final meeting of July 19, 1993, the Budget and Finance Committee approved the final recommendations contained in this report, and returned the matter to the Administrative Services Committee as it had requested on 1-25-93.

At its meeting of July 20, 1994, the Administrative Services (currently chaired by Councilmember Rudy Svorinich) concurred in the recommendations contained in this report.

Your Committees now submit this matter for Council consideration.

Respectfully submitted,

BUDGET AND FINANCE COMMITTEE

ADMINISTRATIVE SERVICES
COMMITTEE

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11:10 AM
ADOPTED

TO APPROVE COMTE. REPT.

JUL 29 1994

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LOS ANGELES CITY COUNCIL

MAYOR WITH FILE - A