

CHAPTER 6 - CABLE COMMUNICATION SYSTEMS

Sec. 6-13. Selection of Licensee; Initial License.

(a) *Solicitation of Proposals.* The City may, by advertisement or any other means, solicit and call for Proposals for Initial License, and may determine and fix any date upon or after which the same shall be received by the City, or the date before which the same must be received, or the date after which the same shall not be received and may make any other determinations and specify any other times, terms, conditions, or limitations respecting the soliciting, calling for, making and receiving of such Proposals. The terms and conditions for Proposals shall be described in a document called "Request for Proposals."

(b) *Unsolicited Proposals.* The City upon receipt of an unsolicited Proposal for Initial License may by advertising or other means solicit and call for competing Proposals pursuant to Paragraph (a), or may, in its sole discretion, reject such Proposal as untimely.

(c) *Compliance with City Requirements.* A person, firm or corporation submitting a Proposal for Initial License to operate a Cable System in response to the City's Request for Proposals shall provide all information required by this Chapter and all other information requested by City's Request for Proposals or otherwise required by the City. Each Proposal shall be responsive to the questions soliciting the information, and shall completely, accurately and materially supply all of the information so solicited. Any misrepresentation, failure, neglect or refusal to provide any of such information may, at the option of the City, render a Proposal invalid. This requested information must be complete and verified as true by the applicant.

(d) *Property of City.* All Proposals received by the City from an applicant shall become the sole property of the City.

(e) *Applicant Responsibility.* Before submitting a Proposal, each applicant shall be solely responsible for and must (1) examine all regulatory Chapters and the Request for Proposals documents thoroughly; (2) be familiar with local conditions which may in any manner affect performance under the License, including but in no event limited to, community and institutional telecommunication needs, relevant demographics, topographies, pole attachment policies of appropriate utility authorities, undergrounding, and Subscriber desires; (3) be familiar with all applicable federal, state and local laws, chapters, rules and regulations affecting performance under the License; and (4) carefully correlate all observations with the requirements of this Chapter and the Request for Proposals documents.

(f) *Referral to City Manager.* Upon receipt of any Proposal for Initial License, the City Manager shall prepare or cause to be prepared a report, including recommendations respecting such Proposal, and cause the same to be completed and filed with the City. The City will evaluate all Proposals that are submitted. At the discretion of the City Council, an applicant that has met the City's qualifications in the Request for Proposals and has submitted Proposals on the required forms will be offered the opportunity to make a formal presentation to the City Council in support of their Proposals.

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(g) *Investigations.* The City may make such investigations as it deems necessary to determine the ability of the applicant to perform under the Initial License, and the applicant shall furnish to the City all such information and data for this purpose as the City may request.

(h) *Rejection.* The City may reject any and all Proposals from whatever source and whenever received and the City also reserves the right to waive all formalities where the best interest of the City may be served, and may, if it so desires, request new or additional Proposals.

(i) *Public Comment.* If, upon receiving the City Manager's report, the City Council shall determine to further consider the Proposals, the City Clerk shall set a public hearing for the consideration of Proposals; fixing and setting forth a day, hour, and place certain when and where any persons having any interest therein or who wish to file objections may file written comments and appear before the City Council and be heard, and directing the City Clerk to publish notice of such hearing at least once within ten days of the passage thereof in the newspaper of general circulation within the City.

(j) *Consideration.* In making any determination hereunder as to any Proposal for Initial License, the City may consider any and all factors relevant to significant interests of the community in cable television including, but not limited to the quality of the Cable Services proposed, areas to be served, rates to Subscriber, income to the City, experience, character, background, and financial responsibility of any applicant, and its management and owners, technical and performance quality of equipment, willingness and ability to meet construction and physical requirements, to meet all requirements set forth in this Chapter, and to abide by all policy conditions, License limitations and requirements, and all other matters deemed pertinent by the City for safeguarding the interests of the City and the public.

(k) *Determination.* At the time set for the hearing on Proposals for an Initial License, or at any adjournment thereof, the City Council shall proceed to hear all comments. Thereafter, the City Council shall make one of the following determinations:

- (1) that such Proposal be denied, which determination shall be final and conclusive; or
- (2) that such Initial License be granted and the terms and conditions thereof. No provision of this Chapter shall be deemed or construed so as to require the granting of an Initial License.

(l) *Additional Information.* The City may at any time demand and applicant(s) shall provide such supplementary, additional or other information as the City may deem reasonably necessary to determine whether the requested Initial License should be granted.

(m) *Awards based on Public Record.* It is the intention of the City to award an Initial License solely on the basis of the public record. To this end, communication with the

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City Council by those wishing to submit Proposals for an Initial License shall be limited to public sessions. Requests for information should be directed to the Office of the City Manager.

(n) *City Council Decisions Shall be Final.* Any decision of the City Council concerning award of an Initial License pursuant to this Chapter shall be final.

State law reference(s) -- Similar provisions, A.R.S. § 9-507.

(Ord. No. 95-13, 3/7/95, Enacted)