

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Official Code*

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To grant an open video system franchise to Starpower Communications, LLC, approve an open video system franchise agreement between the District of Columbia and Starpower Communications, LLC, and to authorize the Mayor and the Chairman of the Council to sign the agreement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Approval of Starpower Communications, LLC’s Open Video System Franchise Act of 2004”.

Sec. 2. Grant of franchise.

Pursuant to the Cable Television Communications Act of 1981, effective October 9, 2002 (D.C. Law 14-193; D.C. Official Code § 34-1251.01 *et seq.*) (“Cable Act”), the application of Starpower Communications, LLC for an open video system franchise is hereby approved, and Starpower Communications, LLC is granted a 5-year, non-exclusive, revocable open video system (“OVS”) franchise to provide cable television service in the District of Columbia. The OVS franchise is subject to the provisions of the Cable Act and the terms and conditions of the OVS franchise agreement approved by section 3.

Note,
§ 34-1254.01

Sec. 3. Approval of franchise agreement.

(a) The Council approves the proposed franchise agreement between the District and Starpower Communications, LLC, transmitted to the Council by the Mayor on February 17, 2004, with the following modifications and conditions:

(1) Section 4 is amended by adding a new section 4.4.4 to read as follows: “4.4.4 Technology Grant. The Company shall provide, on an annual basis over the course of each year of the term of the Franchise, Ten Thousand Dollars (\$10,000) to be used by OCTT to fund the District’s efforts relating to technology training, including, but not limited to, OCTT’s hiring of students to teach on-the-job skills relating to the operation and management of the city’s municipal cable television channels. The aggregate commitment shall be Fifty Thousand Dollars (\$50,000). The Company will make the first payment of Ten Thousand Dollars

(\$10,000) at the Closing of this Agreement and additional payments of Ten Thousand Dollars (\$10,000) each will be made on the anniversary date of the Effective Date for the succeeding years of the Franchise. The payments made pursuant to this Section are in addition to (and not in lieu of) any other commitments, fees or taxes owed by the Company to the District, whether pursuant to this Agreement or otherwise.”.

(2) Section 6 is amended as follows:

(A) Strike the word “Voluntary” from the title.

(B) Section 6.7 is amended by adding the sentence “The Memorandum of Understanding shall require that the Company make at least good-faith efforts to contract and procure at least 35% of its goods and services with local, small, and disadvantaged business enterprises.” at the end.

(C) Add a new section 6.10 to read as follows: “6.10 Enforcement. The Company shall take steps to ensure that the requirements of Section 6 are adhered to by (i) the Company, (ii) its officers and employees and (iii) any Affiliated Person that is regularly performing functions in the District of Columbia with respect to the System that normally are performed by an operator in the operation of a cable system.”.

(3) Section 7 is amended as follows:

(A) Section 7.5 is amended by adding the following two sentences at the end “Subject to Section 9.2 hereof, the required Service Center shall be open for not less than six (6) hours on Saturday, in addition to any other periods required by applicable law. In addition, the Company shall make operational by September 30, 2005 not less than one (1) location in each ward of the District of Columbia where Subscribers may pay their bills (receiving credit for doing so as if the payment had been made to the Service Center), provided that the Company shall not have to do so for a ward containing a Service Center. The Company shall use best efforts to maintain such locations at places other than a liquor store.”.

(B) Section 7 is amended by adding a new section 7.6 to read as follows: “7.6 Customer Service Representative. The Company shall maintain at least one (1) customer service representative who will provide customer service assistance to District residents who want to file complaints; ask questions and get information regarding bills or service; pay bills; request upgrade or terminate service; request a service call; and resolve escalated customer complaints including those forwarded to the Company by OCTT.”.

(4) Section 10 is amended as follows:

(A) Section 10.4.1 is amended by striking the phrase “sixty (60) days” and inserting the phrase “one hundred twenty (120) days” in its place.

(B) Add a new section 10.11 to read as follows: “10.11 Additional Information. In addition to the information required by Section 10.6 and Appendix G, the District shall have the right to request during the transfer review period set forth in Section 10.4.1 of this Agreement such additional qualifications to assume the Company's obligations under the Agreement and/or to determine how the transferee intends to address any outstanding compliance issues under this Agreement, and the Company shall respond to such information

and document request within the time period specified by the District. Assuming that the Company has submitted all of the information required by Section 10.3 and Appendix G, any additional information and document request pursuant to this Section shall not toll the transfer review period under Section 10.4.01 of this Agreement, provided that, if the Company does not respond within ten (10) days to such additional information and document request, which the District has reasonably determined in good faith to be necessary for a determination of the transferee's qualifications and/or plans to address outstanding compliance issues, the transfer review period under Section 10.4.01 of this Agreement shall be tolled from the end of such ten (10) day period until the Company does respond.”.

(5) Section 12.2.2 is amended by striking the phrase “One Hundred Thousand Dollars (\$100,000.00)” and inserting the phrase “One Hundred Fifty Thousand Dollars (\$150,000)” in its place.

(6) Section 3.1.3. is amended to read as follows: “3.1.3. Future Construction. The Company agrees, that at time of Closing, it has constructed the System throughout 95% of the Franchise Area and is capable of providing Services throughout the Franchise Area except for that area of the District known as the “fire zone”. The “fire zone” shall constitute that specific area of the Franchise set forth in Appendix Q. The Company further agrees that it will construct the System throughout 100% of the Franchise Area with the exception of the Fire Zone within five (5) years and shall complete construction of 50% of the unserved homes outside the fire zone within three (3) years, provided OCTT may extend either time period if it is determined after a public hearing that it is not financially feasible for Starpower to complete the required construction within the time period. Every three (3) months the Company shall submit to the OCTT quarterly written reports detailing the Company’s construction progress. Such reports shall explain what work has been done and how such work satisfies the requirements of this Agreement. The first such report shall be submitted within ninety (90) days after the Effective Date of this Agreement. The last such report shall be due with the certification to the District that such construction has been completed. Such reports shall explain what work has been done and shall include as-build maps in both paper and electronic forms. The Company further agrees that, upon request of the District, it will discuss with the District its financial situation and the feasibility of performing construction in the “fire zone”.”.

(7) Appendix D is amended by adding at the end “4. Cable Television service to all offices, commons, and production areas, and two (2) high speed T-1 circuits for Internet connections, at no monthly fee, to, Public Access Corporation headquarters.”

(8) Appendix E is amended as follows:

(A) Section I.A.2 is amended to read as follows: “I.A.2 Without charge to the District, as of October 1, 2004, the Company shall provide one high-amplitude building drop (of at least +19dB/mV as measured at the tap port closest to the drop location) from the external distribution plant of the Subscriber Network to OCTT’s new headquarters at 3007 Tilden Street, NW, Washington, D.C. The Company shall provide approximately the same number of additional outlets as it provides at OCTT’s 2217 14th Street, NW headquarters as of

June 1, 2004, and shall distribute the Company's Services from the demarcation point to such additional outlet at locations requested by OCTT. The Company shall not charge the District for any Services (or for any additional Services provided pursuant to the last sentence of Section I.A.4) received by any such additional outlet. The drops at OCTT's office shall include converters for analog, digital, HDTV, and other advanced services as developed."

(B) Section I.A.5 is added to read as follows: "I.A.5. The Company upon request by OCTT shall, at no charge, provide service pursuant to Section I.A.1 to any new governmental facilities opened and operating during the period of the Agreement as long as the facility located within the Company's network."

(b) The Chairman of the Council and the Mayor may sign the cable franchise agreement approved, as modified, by this section.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia