

RESOLUTION NO. 7677-R34

A RESOLUTION AUTHORIZING THE MAYOR
TO EXECUTE AN AGREEMENT FOR CATV
CONSULTING SERVICES

WHEREAS, the Champaign-Urbana Joint CATV Commission, which acts as an advisory body to the City Councils of the City of Champaign and the City of Urbana, has recommended that an Agreement for CATV consulting services be executed with Dr. Delbert D. Smith; and

WHEREAS, Dr. Delbert D. Smith has satisfactorily provided similar CATV consulting services to the Cities of Champaign and Urbana in the past; and

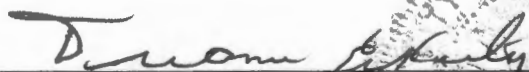
WHEREAS, the City of Urbana now wishes to enter into an Agreement with and retain the professional CATV consulting services of Dr. Delbert D. Smith.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

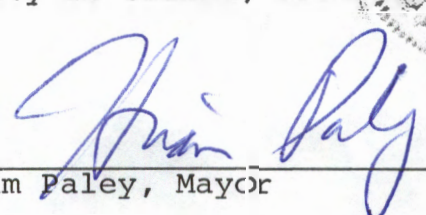
Section 1. That the Mayor be and the same is hereby authorized for and on behalf of the City of Urbana to execute an Agreement for CATV consulting services with Dr. Delbert D. Smith, a copy of which Agreement is attached hereto and made a part hereof.

Section 2. The costs of said CATV consulting services shall be paid by the City of Urbana in accordance with the provisions of said Agreement.

PASSED by the City Council of the City of Urbana, Illinois, this 15th day of November, 1976.


Duane Eckerty, City Clerk

APPROVED by the Mayor of the City of Urbana, Illinois, this 22 day of November, 1976.


Hiram Paley, Mayor

Approved by Resolution 7677-R34
Att 7677-R34
09.1

CATV CONSULTING SERVICES AGREEMENT

THIS AGREEMENT entered into by and between the CITY OF URBANA, a municipality located in the State of Illinois, and DR. DELBERT D. SMITH,

W I T N E S S E T H:

WHEREAS, the Cities of Champaign and Urbana have jointly established a Champaign-Urbana Joint CATV Commission, which acts as an advisory body to the City Councils of the City of Champaign and the City of Urbana for the purpose of overseeing the construction, development and operation of the CATV System and the administration of the CATV Franchise Agreement; and

WHEREAS, the Champaign-Urbana Joint CATV Commission has recommended, and the City of Urbana has determined that it wishes to contract with Dr. Delbert D. Smith for the purpose of providing CATV Consulting Services to the City and the CATV Commission.

NOW, THEREFORE, in consideration of the mutual agreements contained in this Agreement, the CITY OF URBANA and DR. DELBERT D. SMITH agree as follows:

A. DEFINITIONS

For the purpose of this Agreement, the following terms, phrases and words and their derivations shall have the meaning given herein:

1. "CATV Commission" means the present Champaign-Urbana Joint CATV Commission, or an independent

successor Urbana CATV Commission, in the event such Commission is established by Ordinance.

2. "CATV System" means the Urbana Television System, as described and provided for in the Urbana CATV Franchise Ordinance, which Champaign-Urbana Communications, Inc., proposes to construct, own and operate to serve the City and citizens of Urbana, and the University of Illinois.
3. "CUCI" means Champaign-Urbana Communications, Inc. which is the CATV franchise grantee, and consists of Cable Communications, Inc., a local company, and American Television and Communications Corporation, a national company.
4. "FCC" means the Federal Communications Commission.
5. "Associates" means any individuals, partnerships, associations or corporations working with or for Dr. Delbert D. Smith in the execution and implementation of this Agreement, excluding CUCI.

B. MEMBERSHIP

The Parties to this Agreement shall be the City of Urbana and Dr. Delbert D. Smith.

C. OVERSIGHT AND SUPERVISION

The CATV Commission, on behalf of the City of Urbana,

and in its capacity as an advisory body to the Urbana City Council, shall be responsible for overseeing and supervising the execution and administration of this Agreement with Dr. Delbert D. Smith.

D. SERVICES AND TASKS

Dr. Delbert D. Smith shall provide the following services and perform the following tasks:

1. General oversight of CUCI developmental plans and operations, to ensure compliance with the Urbana CATV Franchise Ordinance and applicable FCC reports and decisions.
 - a. Inspection of records kept by CUCI to ensure compliance with the relevant Urbana ordinance provisions.
 - b. Evaluation of the procedural rules established by CUCI for use of the public access channels, with an emphasis on the sharing of equipment or channel time among access users.
 - c. The development of a program plan for the use of the municipal access channel, including both hardware and software considerations.
 - d. Evaluation of the system proposed by CUCI for dealing with subscriber complaints.
 - e. Preparation of a comprehensive plan for oversight of the CATV System for a three (3) and five (5) year period.

- f. Witness proof of performance testing undertaken by CUCI prior to turning on of first section of the CATV System, and at the completion of all construction together with an examination of the CATV System components for conformance with City technical standards and CUCI's proposal.
2. Evaluation of the timeliness and completeness of the Urbana CATV Franchise Ordinance, and assistance in effecting any necessary changes.
 3. Consultation with the Program Advisory Board to develop procedural and substantive guidelines.
 4. Consultation with Parkland College officials to ascertain their needs and the most effective means of utilizing available leased channel capacity.
 5. Providing of current information regarding alternatives or further clarification of the FCC cable rules and regulations, the prospects of satellite interconnection, and recent advances in the CATV industry.
 6. Attendance at quarterly meetings with the CATV Commission together with representatives of CUCI as required to discuss progress in services and tasks 1 through 5 above.
 7. Notify, in writing, the Chairperson of the CATV Commission from time to time of the names and

addresses of any associates. Any associates for which notice has not been received shall not be covered by the Indemnity Agreement included herein.

E. COMMENCEMENT AND DURATION

This Agreement shall commence on the day after every Party to it has given final ratification to all of the terms and provisions of the Agreement. This Agreement shall be for a period of one (1) year, and shall therefore terminate one (1) year after the date of commencement, except to the extent that it may be extended as provided below.

F. EXTENSION

During the first three (3) months of this Agreement, each of the described services and tasks will be commenced by Dr. Delbert D. Smith in the context of past and current CUCI activity and planning, and current and future projections.

At the first quarterly meeting between the CATV Commission and Dr. Delbert D. Smith, any delays anticipated by the CATV Commission in the commencement of operational services by CUCI will be considered, and the projected activities of Dr. Delbert D. Smith for the remaining nine (9) months will be scheduled and adjusted by mutual agreement between the CATV Commission

and Dr. Delbert D. Smith.

Similar reviews and evaluations of CUCI's progress will follow at the second and third quarterly meetings between the CATV Commission and Dr. Delbert D. Smith, and likewise the projected activities of Dr. Delbert D. Smith for the remaining months of the Agreement will be scheduled and adjusted by mutual agreement between the CATV Commission and Dr. Delbert D. Smith.

If necessitated by the delays as set forth above, the period of the Agreement may be extended by mutual agreement between the CATV Commission and Dr. Delbert D. Smith for up to six (6) additional months. However, if these delays prevent completion of the previously described services and tasks within eighteen (18) months after commencement of the Agreement, then a formal extension to the Agreement will be negotiated reflecting any service and task continuation modification, and subsequent fee requirements.

G. ADDITIONAL ADVISORY SERVICES

During the original one (1) year period of the Agreement, Dr. Delbert D. Smith will perform additional advisory services, beyond the scope of the previously described services and tasks, which are mutually agreed to between the CATV Commission and Dr. Delbert D. Smith, such additional advisory services to be performed for an additional fee plus expenses as agreed to between the CATV Commission and Dr. Delbert D. Smith, and approved

by the Parties to this Agreement.

H. FEE AND PAYMENT

The fee for the performance and satisfactory completion of the previously described services and tasks shall be \$6,200 which includes ordinary travel, telephone and per diem allowances.

Payment of the above fee to Dr. Delbert D. Smith is to be made by the City of Urbana. The payment of the fee is to be made in accordance with the following schedule:

<u>TIME OF PAYMENT</u>	<u>CITY OF URBANA</u>
Upon acceptance of the Agreement	\$1,550
Six (6) months after acceptance of the Agreement	1,550
Nine (9) months after acceptance of the Agreement	1,550
Twelve (12) months after acceptance of the Agreement, or at completion of services, whichever is later.	1,550
TOTAL	<u>\$6,200</u>

I. INDEMNITY AGREEMENT

In consideration of the services and tasks to be performed by Dr. Delbert D. Smith and any associates, the City of Urbana, Illinois, agrees to indemnify and save harmless Dr. Delbert D. Smith and any associates from any and all claims or causes of action arising out of

the performance of such services and tasks; and to defend or pay the costs of such claims or causes of action against Dr. Delbert D. Smith or any associates; PROVIDED, HOWEVER, that such indemnity is agreed not to include punitive damages and is limited to an amount established by those funds reasonably anticipated to be available ^{to Urbana} ~~from~~ the CATV Franchise Fees at three percent (3%), as received during the CATV Franchise period. Any and all liabilities incurred by Dr. Delbert D. Smith and any associates which exceed an amount equal to those funds reasonably anticipated to be available from the CATV Franchise Fees at three percent (3%) as received during the CATV Franchise period, and which arise out of the services and tasks noted above, shall be borne by and be the sole responsibility of Dr. Delbert D. Smith and any associates.

J. AMENDMENT

Before this Agreement may be amended, the CATV Commission must consider the amendment. An amended Agreement shall be effective when executed by the City of Urbana, and ratified by the Parties to the Agreement.

K. SEVERABILITY

If any provision of this Agreement is found to be invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect without the invalid provision.

L. GOVERNING LAW

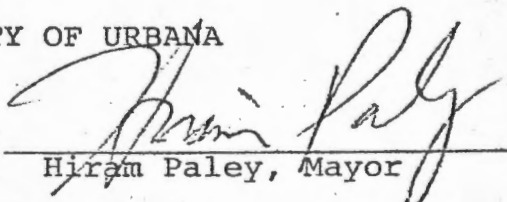
This Agreement shall be construed in accordance with the Laws and Constitution of the State of Illinois.

IN WITNESS WHEREOF, the undersigned Parties to this Agreement have caused this Agreement to be duly executed. The undersigned representative of the City of Urbana has attached herewith a copy of the legislation authorizing him to sign and execute this Agreement for and on behalf of the City of Urbana.

DR. DELBERT D. SMITH

CITY OF URBANA

By: _____
Dr. Delbert D. Smith

By:  _____
Hiram Paley, Mayor

DATE: _____

DATE: _____

ATTEST: _____

ATTEST: _____
Duane Eckerty,
City Clerk