



# City of Grand Island

Tuesday, September 25, 2012

Council Session

## Item I4

**#2012-276 - Consideraiton of Approving Additional Funds  
Necessary for the City to Meet Its Obligations Pursuant to Its  
Contract for Cable Consultant Services**

Staff Contact: Robert J. Sivick, City Attorney

# **Council Agenda Memo**

**From:** Robert J. Sivick, City Attorney

**Meeting:** September 25, 2012

**Subject:** Approving Additional Funds Necessary for the City to Meet Its Obligations Pursuant to Its Contract for Cable Consultant Services

**Item #'s:** I-4

**Presenter(s):** Robert J. Sivick, City Attorney

## **Background**

On March 7, 2006 the Grand Island City Council (Council) approved Resolution 2006-78 which approved the expenditure of \$87,500.00 for consulting services provided by the law firm of Moss & Barnett of Minneapolis. Those consulting services were pursuant to a contract entered between the City of Grand Island (City) and Moss & Barnett for that firm to represent the City in its negotiations with CCVI Operating, LLC d/b/a Charter Communications (Charter) for the renewal of the City's cable franchise agreement with Charter.

In August, 2011, at the request of the Administration, I began reviewing the status of the agreements the City had with Charter and Moss & Barnett. I determined progress had been slow due in part to Charter's Chapter 11 bankruptcy filing in 2009. I concluded it was in the best interests of the City to continue its contract with Moss & Barnett as terminating it would require the City Legal Department to start negotiations over from scratch. This would have proven difficult given the Department's limited personnel and resources which was the reason the City originally entered into the contract with Moss & Barnett in 2006.

I made contact with representatives of Moss & Barnett and Charter, expressed the City's disappointment in the slow progress of negotiations and its desire for completion. In addition, I began personally participating in negotiations on behalf of the City. Since then I, along with representatives of Charter and Moss & Barnett participated in thirteen separate conference calls related to the City's renewal of its cable franchise agreement. An agreement has been reached and will be presented to Council for review at its Study Session meeting on October 2, 2012 and approval at the October 9, 2012 meeting.

## **Discussion**

The City Legal Department made every effort to reduce the fees paid to Moss & Barnett by keeping as much work related to the renewal of the cable franchise agreement in house thus reducing the total time devoted to this matter by Moss & Barnett.

The total fee of Moss & Barnett in providing legal and consulting services to the City is \$96,084.62. This amount is \$8,584.62 in excess of the \$87,500.00 approved in 2006 pursuant to Resolution 2006-78. The City Attorney has reviewed the billings of Moss & Barnett and determined they were reasonable given that firm's expertise in this particular area of the law and the considerable time devoted representing the City over more than six years.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve.
2. Refer the issue to a Committee.
3. Postpone the issue to future date.
4. Take no action on the issue.

## **Recommendation**

The City Administration recommends the Council approve the appropriation of \$8,584.62 for the payment of fees to Moss & Barnett for legal and consulting services in addition to the \$87,500.00 previously allocated pursuant to Resolution 2006-78.

## **Sample Motion**

Move to approve Resolution 2012-278 which appropriates \$8,584.62 for the payment of legal and consulting fees to the law firm of Moss & Barnett of Minneapolis.

RESOLUTION 2012-276

WHEREAS, on March 7, 2006 the Grand Island City Council approved Resolution 2006-78; and

WHEREAS, that Resolution approved a contract between the City of Grand Island and the law firm of Moss & Barnett of Minneapolis for legal and consulting services related to the renewal of the City's cable franchise agreement with CCVI Operating, LLC d/b/a Charter Communications; and

WHEREAS, the Council appropriated a total of \$87,500.00 in 2006 to pay Moss & Barnett for its services; and

WHEREAS, the total cost of services provided the City by Moss & Barnett are \$96,084.62 or \$8,584.62 in excess of the amount appropriated in 2006; and

WHEREAS, the City Attorney has reviewed the billing statements of Moss & Barnett and determined they are reasonable,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that \$8,584.62 is appropriated to pay Moss & Barnett of Minneapolis for legal and consulting services provided the City related to the renewal of the City's cable franchise agreement with Charter Communications.

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Adopted by the City Council of the City of Grand Island, Nebraska, September 25, 2012.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
September 21, 2012	☐ City Attorney