

RESOLUTION NO. 2019-47

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF HUNTINGTON BEACH APPROVING THE WITHDRAWAL OF THE CITY  
FROM THE PUBLIC CABLE TELEVISION AUTHORITY

WHEREAS, prior to May 1979, the Cities of Huntington Beach, Fountain Valley, Stanton and Westminster entered into a Joint Powers Agreement (the "JPA") creating the Public Cable Television Authority ("PCTA"), pursuant to Government Code Section 6250 *et seq.*; and

WHEREAS, in 1979, the PCTA granted a cable television franchise to Dickinson Pacific Cablesystems to operate within the four Cities. In 1989, both the PCTA and Huntington Beach approved the transfer of the Franchise to KBL Cable, Inc. In 2000, the PCTA approved the transfer of the Franchise to AOL Time Warner, Inc. ("Time Warner"); and

WHEREAS, in 1990, the four Cities entered into a new JPA. On March 14, 2004, the Cities approved the most recent JPA, entitled "Restated and Amended Joint Powers Agreement for the Public Cable Television Authority," dated April 20, 2004; and

WHEREAS, in 2006, the State Legislature adopted the Digital Infrastructure and Video Competition Act ("DIVCA") permitting telecommunications companies to obtain video franchises from the California Public Utilities Commission ("CPUC"). Subsequently, Time Warner accepted a CPUC franchise. Pursuant to DIVCA at Public Utilities Code Section 5840(o)(3), the PCTA's franchise to Time Warner terminated when Time Warner accepted its State franchise; and

WHEREAS, JPA Section 4 provides that "subject to the provisions of Section 11," the PCTA "agreement . . . shall continue in full force . . . until the expiration or termination of any franchise or extension thereof." JPA Section 11 provides that upon expiration of the term of the JPA under Section 4, the Board of Directors "shall liquidate the business and assets and property of PCTA;" and,

WHEREAS, the franchise the PCTA issued Time Warner terminated in 2006 when Time-Warner accepted a Statewide video service franchise; and

By way of a pending legal action entitled, *City of Huntington Beach v. City of Fountain Valley, et al.*, Orange County Case No. 30-2019-01071652 (the "*Action*"), the City seeks to enforce the provision of JPA Section 4 requiring the expiration of the PCTA upon the termination of the Time Warner franchise. Further, because the term of the JPA expired upon the termination of the Time Warner franchise, pursuant to JPA Section 11 and the *Action*, the City seeks to compel the liquidation of the "business and assets and property of PCTA" and the distribution of the net proceeds to the members pro rata according to their contributions; and

WHEREAS, regardless of the result of the *Action*, the City seeks to exit the PCTA; and

WHEREAS, JPA Sections 4 and 13 provide alternative means for a member city to leave the PCTA; and

WHEREAS, pursuant to JPA Section 4, the City may terminate its membership in the PCTA upon six (6) months written notice to the PCTA and its Members; and

WHEREAS, at its January 22, 2019 Council Meeting, the Huntington Beach City Council directed the City Manager to give a six month written Notice of Intent to Terminate Membership in the PCTA. On January 23, 2019, the City Manager notified the PCTA and the other three Cities that the City was withdrawing from the PCTA, effective July 22, 2019.

WHEREAS, pursuant to JPA Section 13.1, the City may withdraw from the PCTA upon filing a certified copy of a City Council Resolution expressing its desire to so withdraw, and making arrangements to pay its pro rata obligations of the PCTA payable from contributions from the City that mature after the date of such filing; and

WHEREAS, the Huntington Beach City Council is willing to pay its pro rata share of PCTA obligations maturing after date of this Resolution, upon receipt of appropriate proof of such obligation; and

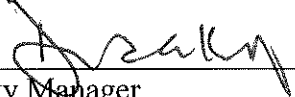
NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

Section 1. The City Council hereby resolves that the City withdraw from the JPA effective July 22, 2019.

Section 2. The City Council directs the City Clerk to deliver immediately a certified copy of this Resolution to the PCTA Board of Directors, by serving it upon the Secretary of the PCTA.

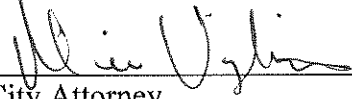
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

REVIEWED AND APPROVED:

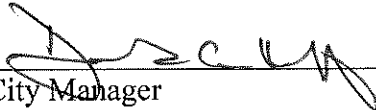
  
\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ca City Attorney

INITIATED AND APPROVED:

  
\_\_\_\_\_  
City Manager