BASE BUDGET KEY ISSUES

During the FY 2018-19 Fall BMP, Council established an ongoing current appropriation level (CAL) for OCT of $1.9 million based on a direct transfer of resources from the Revenue Division in addition to $191,000 of General Fund resources to support a permanent Director position. OCT has also budgeted approximately $1 million in intergovernmental revenues, bringing the total FY 2019-20 resources to $3.3 million.

The establishment of OCT as a stand-alone office was based on the recommendations of an external consultant and policy direction provided by the Mayor's Office.[1] Key findings from that report include the following:

- Regional public communications policy and planning has languished without OCT leadership focus on Community Technology. Many interviewees expressed concern that collaborative regional planning has not been done to prepare for renegotiation of the Comcast franchise (in 2021) to ensure continuation of I-Net on which over 300 public organizations currently rely.
- Due to the perceived lack of OCT leadership, independent planning efforts have been initiated. For example, the Bureau of Technology Services and Multnomah County have begun developing I-Net backup strategies to ensure continuation of broadband Internet access for its schools, libraries and County buildings.
- There has been a convergence of communications technologies, such that the same services (e.g. voice, video, data, broadcast/streaming TV) are now provided over various underlying technologies. Providers are attempting to classify their services as "Information Services", instead of cable or telecom, which are regulated, to avoid franchise fees and local control over content. OCT's role in advocating for the public in franchise/utility agreements is even more important.

The consultant recommendations underscore a certain level of urgency with regard to the Comcast renegotiations and with the need for active advocacy and engagement around preservation of key revenue streams for the City.

However, the top two managerial positions in this 10-person work group are unfilled. The Director position is unfilled, though the executive function is being temporarily supported by a member of the Mayor's Office on an interim basis. The top operational job, OCT Manager, remains vacant. Forward progress on key issues, discussed in greater detail below, is likely to be slow until these positions are filled permanently.

Data Connectivity for Public Institutions

The City owns and manages the Integrated Regional Network Enterprise (IRNE), a fiber optic telecommunications network designed to carry all voice, data and video communications traffic for the City. IRNE then provides high speed data transmission to other state governments and activities that are connected to this fiber network.[2] Comcast, under the City's current cable

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[1] The consultant's final report and recommendations can be found here: https://www.portlandoregon.gov/cbo/article/700380

[2] These include Portland Public Schools, Metro, Port of Portland, and connections between the 911 center and various policing

franchise agreement, owns and maintains a fiber connectivity ring called I-Net. I-Net, which is interconnected with IRNE, provides data access connectivity to over 300 public facilities and agencies in the region.[3] It is a significant concern that Comcast is unlikely to maintain its support of I-Net under any new cable franchise agreement negotiated leading up to 2021.

OCT staff, in conjunction with the Mt. Hood Cable and Regulatory Commission (MHCRC), are leading the negotiations with Comcast. Direct negotiations with Comcast are anticipated to begin in 2020 (the franchise expires December 31, 2021), following the timeline below:

<u>Comcast Franchise Renewal Timeline:</u>

Mar-Dec 2019	County-wide community technology needs & interests ascertainment; I-Net public partners planning
2020-Sept 2021	Negotiations
Sept 2021	MHCRC Public Hearing on proposed public benefits
Oct 2021	MHCRC action on recommendation for renewed franchise
Nov-Dec 2021	Jurisdictions Approval Process

On the assumption that Comcast will not continue its support of I-Net after 2021, the Bureau of Technology Services is working with various stakeholders (i.e. Multnomah County) to determine the best path forward from the City's perspective. Current conversations are focused on building out a larger/replacement fiber network for interested public institutions. However, given the stage of connectivity discussions relative to the 2021 end date of Comcast's current agreement, the low-cost connectivity provided to hundreds of public institutions via I-Net is in jeopardy.

Depending on the outcomes of the Comcast negotiations and the ability of regional partners to come to agreement on a pathway forward, many public institutions relying on I-Net may need to look to alternative providers at a higher cost. This would be a step backward for OCT's mission of expanding access to cost-effective broadband and investing in digital inclusion efforts.

Federal Preemption: Risks to Local Control of the Right-of-Way and of Current Revenue Streams

The Office for Community Technology performs a substantial amount of policy and advocacy work related to maintaining local control of the Right-of-Way (ROW) and defending against federal efforts to preempt revenue streams from ROW franchise and utility agreements. For the last several years, significant policy changes have been proposed or newly adopted by the Federal Communications Commission (FCC) that limit revenues brought in to local jurisdictions from agreements for use of the ROW.

The General Fund resources include approximately $87 million in annual revenue from franchise agreements and utility licensees. Several large entities are responsible for the majority of these payments, over $70 million, including rate-funded City entities that pay for use of the right-of-way. Hundreds of payers contribute the remaining revenue across many smaller accounts.

[3] These agencies include Multnomah County, Tri-Met, Metro, and K-12 schools in Multnomah County, among others.

Approximate FY 17-18 Utility/Franchise Revenue for City of Portland (millions)			
Utility			
	PGE	$	20.4
	Pacificorp	$	9.1
	NW Natural	$	8.5
Cable/Communications			
	Centurylink	$	5.5
	Comcast	$	7.4
Internal			
	Water Bureau	$	7.2
	Bureau of Environmental Services	$	17.0
All other payers			
	Various, including audit recovery	$	11.5
	Total	**$**	**86.6**

In particular, a September 2018 FCC order determined that local jurisdictions may only charge cost recovery for franchise fees[4] and lease fees[5] charged to private companies for installing small wireless sites related to the rollout of 5G wireless service. The FCC provided a presumed "reasonable rate" of $270 in combined fees per small wireless cell, which is well below the rate the City was able to recently negotiate (prior to the effective date of the FCC order) with AT&T of $1,250 per cell for franchise fees. A conservative estimate of forgone revenue to the City due to this FCC preemption is $3.7 million over five years.

While this is forgone revenue, rather than revenue the City currently includes in its revenue forecast, there are FCC preemptions under consideration that could limit current revenues on which the City relies.

For example, proposed FCC rules would allow cable franchisees to deduct the market value of non-fee-based requirements provided under negotiated agreements. For example, Comcast pays 5% of cable revenues per its franchise agreement, but under these proposed rules Comcast could deduct the market value of public access channels, I-Net infrastructure costs, etc. from that 5% payment, reducing overall revenues to the City.

Other concerns are that FCC preemptions around cost recovery will allow other wireless/wireline/cable providers to successfully advocate for application of cost recovery methodology to all franchise fees, not just small wireless site franchise fees. The City's exposure on these potential FCC changes could be as high as $13 million per year. If a cost recovery methodology is applied to all wireless/wireline/cable franchises, it is also possible that other franchised companies will be able to claim disparate treatment and further reduce payments to the City.

The City Economist is not currently downgrading any forecasted revenues due to these potential

[4] For access to the right of way
[5] For use of City-owned structures

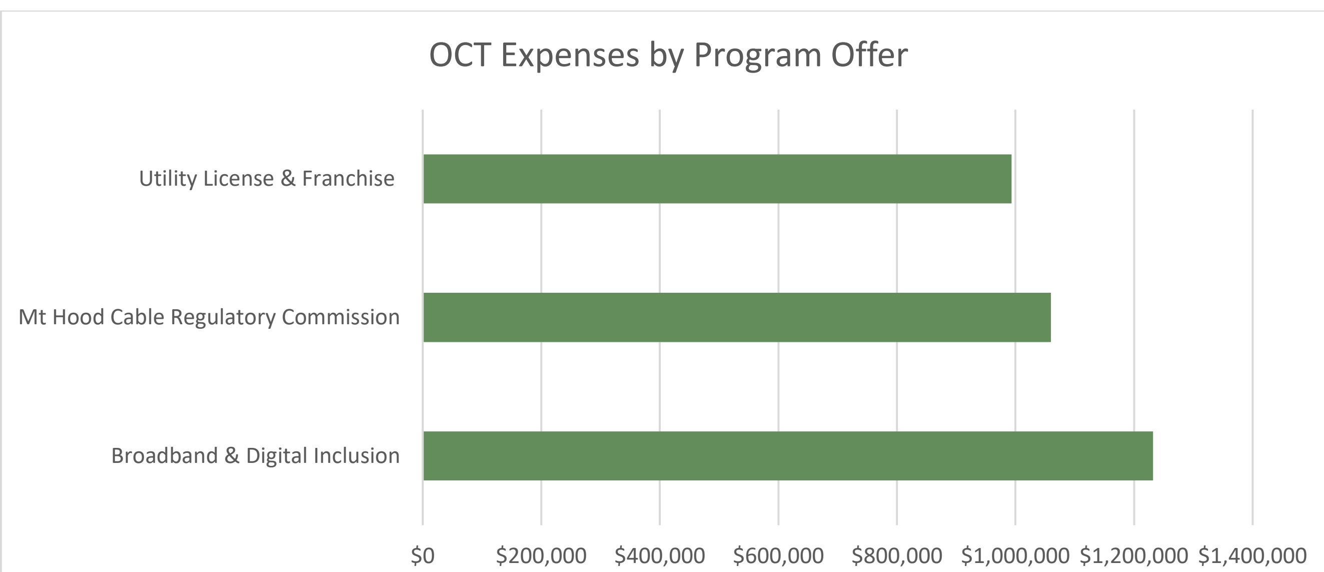
preemptions, but OCT's work around policy advocacy, in conjunction with other jurisdictions, and development of an alternative framework for showing cost recovery are critical efforts to forestall loss of revenue to the City. OCT was allocated $50,000 in the FY 2018-19 Fall BMP to perform this cost study in conjunction with the Bureau of Transportation in an effort to develop an alternative cost recovery framework and defend against FCC preemptions; this study is currently underway.

PROGRAM OFFER REVIEW

Program Overview

OCT has three programs: Broadband & Digital Inclusion, Mt. Hood Regulatory Cable Commission (MHCRC), and Utility License & Franchise. There are now 10.0 FTE in OCT split among these programs[6]. Per the consultant's recommendation and based on agreement from both organizations, one revenue-collection position remained a part of the Revenue Division under the reorganization.

Program	Description	FTE	Expenses
Broadband & Digital Inclusion	Expand access to internet, promote digital literacy	1.38	$1,231,771
Mt. Hood Cable Regulatory Commission (MHCRC)	Staff support for MHCRC, including advocacy and policy	4.04	$1,059,546
Utility License & Franchise	Negotiation and monitoring agreements for use of the Right-of-Way	4.58	$993,319



[6] Prior to the reorganization splitting OCT from the Revenue Division, OCT had 11.0 FTE. 1.0 FTE remained in the Revenue Division, and 1.0 Director position was added to OCT in November 2018.

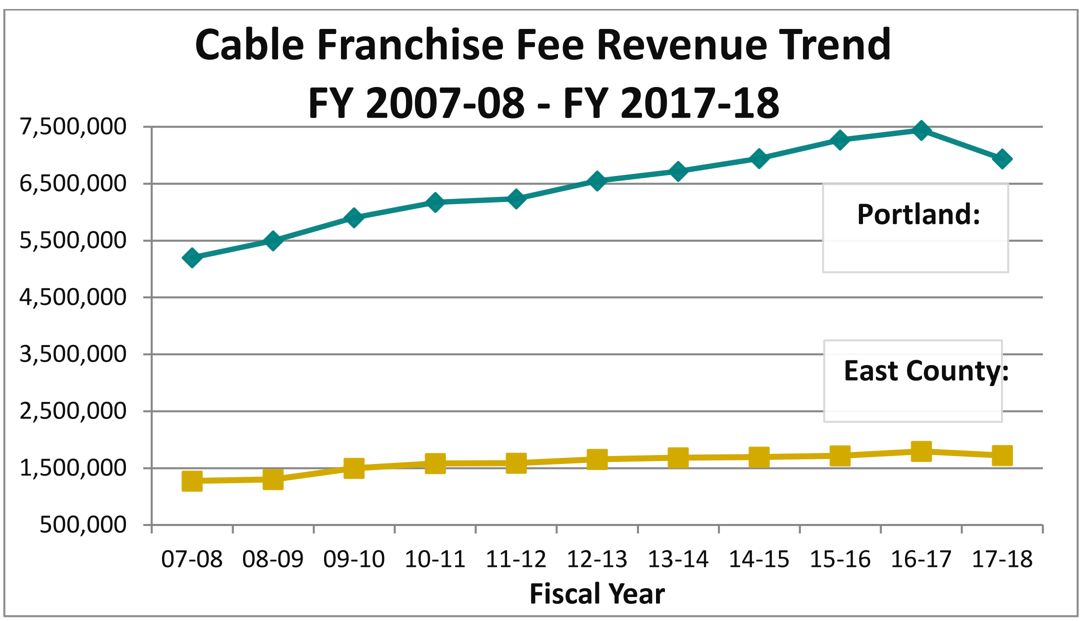
Select Program Offer Analysis

Mt. Hood Cable Regulatory Commission

There are four staff in OCT who provide support to the Mt. Hood Cable Regulatory Commission (MHCRC). The MHCRC is a regulatory and advocacy body that ensures fair use and compensation to the jurisdictions within Multnomah County for use of the public right of way by cable companies. As noted above, the City receives approximately $7 million in annual revenue from cable franchises. OCT employees that staff the MHCRC are supported by intergovernmental revenues from the MHCRC jurisdictions, which includes a proportionate share from the City's General Fund.

MHCRC staff also provide oversight and management of the MHCRC fund, manage grant agreements with Open Signal and Metro East Community Media, manage community technology grants to non-profits, schools, libraries and public agencies, and facilitate the I-Net partnership between Comcast, the Bureau of Technology Services, and various public institutions.

This particular program was selected for deeper analysis because, for the first time, revenues from cable franchises declined in FY 2017-18, portending a shift in the programming and services that this regional resource can support. There was approximately $7.4 million in total revenues to the City from cable franchises in FY 2016-17, but FY 2017-18 revenues declined to $6.9 million and FY 2018-19 revenues are estimated at $6.2 million. This can be directly attributed to a "cord-cutting" trend among consumers; this trend has been in effect for many years, but FY 2017-18 was the first year that increased subscription costs did not outweigh declining subscribership for cable franchise revenues.



This trend is expected to continue; cable franchise fee revenues that feed into the General Fund are expected to decline, as well as public benefit revenues that support capital investments in the community. Over the coming years, the services and programming provided by the MHCRC program can be expected to shift. Capital grants to community media organizations such as Open Signal and MetroEast and to support community technology projects through the MHCRC's Community Technology Grants and TechSmart Initiative are expected to decline, as is capital support to maintain I-Net infrastructure and connect public institutions to the I-Net.

Future negotiations with cable franchises may include non-fee based public benefits, but proposed FCC rules discussed above indicate there may be a trade-off between General Fund revenues and non-fee public benefits derived from these agreements. Proposed FCC rules would allow public benefits (i.e. investments in community media or digital equity) to be deducted from franchise fees, meaning that any public benefit negotiated may result in a direct reduction in General Fund revenue based on the market value of that negotiated public benefit. Digital equity and community media are undoubtedly important investments, but the tension between maximizing revenues and negotiated public benefits from cable franchises will become increasingly clear if proposed FCC changes move forward.

DIRECTIONS TO DEVELOP

Improved Franchise Management

$160,705, 0.00 FTE

Direction Language

The Mayor's Office directed OCT to develop a proposal to improve the tracking, reporting, and compliance of franchise fee payment. Specifically, OCT was directed to request resources to make improvements to the Public Sector Collection and Disbursement (PSCD) module of SAP, which OCT currently uses to monitor and collect franchise agreement payments.

CBO Analysis

OCT is requesting $396,305 over three years to make improvements to PSCD; the first year of this multi-year request is for $160,705. PSCD is a module of SAP, which is a full-cycle accounts receivable system that is geared towards the public sector. OCT uses this module to manage franchise agreements and utility licenses across multiple levels of companies (parent companies and various affiliates in a larger parent corporation). PSCD handles automated reminders of over 300 accounts, including payment requests and calculation of interest for late payments (applying various rates from franchises and code). This project is to expand some functionality within PSCD to better manage accounts, as well as add a portal for customers to access account information, file reports, and pay online.

The stated benefits of this project are 1) greater ability to manage and track existing and new franchise and utility license accounts, 2) revenue generation as a result of more available staff time in OCT to focus on audits and monitoring.

Per OCT, the processing and automating functions of PSCD are sufficient, but research functionality, customer management and reporting functions should be improved. OCT hopes that adding functionality to PSCD will:

- Reduce or eliminate the emailing and mailing of customer filings that require manual processing by providing an on-line customer portal.
- Reduce time spent answering phone calls and emails from customers regarding account balances, address updates, etc., by providing on-line customer portal.
- Reduce the number of forms that must be maintained, which would also reduce the number of incorrect forms filed by customers. Complete automation of other reporting forms (only one form is currently automated).
- Replace check payment receiving and processing with Lockbox functionality.
- Expand the use of correspondence within PSCD to better communicate with our customers.
- Create or expand ability for staff to record notes for specific accounts or transactions.

OCT currently manages over 300 franchise and utility accounts, and OCT expects this number to increase in the near term. There will likely be a proliferation of small cell wireless installations across the city with the advent of 5G wireless. It is not yet clear how many disparate accounts this will add to OCT's workload from a monitoring perspective.

OCT is aware of low compliance rates for wireless carriers, and notes that enforcement and collection of franchise fees is a resource-intensive job. OCT has indicated that, with this new functionality, more staff time can be dedicated to monitoring and auditing accounts and general additional revenue. Specifically, OCT estimates that an additional 10 hours in staff time will be available per week, and they have estimated that this will translate to a 0.5% - 1.5% increase in payment compliance ($410,000 to $1.23 million in new revenues)[7]. Upon further discussion, OCT indicated that new revenues of approximately $400,000 may be more realistic, and that this estimate was based on conversations with other jurisdictions. Increased staff time may lead to greater revenue generation, but OCT has indicated any actual increase in revenues from this project would be difficult to ascertain. The Revenue Division has not vetted or confirmed these revenue-generation estimates.

Per financial policy, revenue-generating activities are given high priority in budget development. One permanent audit-related position has been added in recent years to boost franchise fee revenues, based on proven returns from limited term positions. However, the current estimates for new revenue generation specifically related to the PSCD project are low confidence in the City Budget Office's (CBO's) estimation. CBO is committed to continuing to work with OCT on refining its estimated return on investment for this project, but is hesitant to base recommendations for limited General Fund revenues on low confidence estimates of increased revenue.

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[7] The vast majority of utility license and franchise revenues are from large, regular payers. In order to achieve the new revenues cited by OCT, it would make more sense to gauge the impact of improved compliance on the subset of smaller payers. A 0.5% - 1.5% increase in compliance from small payers (total revenue of about $11.5 million) would translate to $50,000 to $170,000 in additional revenues. In order to achieve increased collections of $400,000 to $1.2 million, increased compliance among this subset of smaller payers would need to increase 4%-11%.

There may well be reasons to move forward with the PSCD improvement project even if the magnitude of revenue generation is unknown, based on the reduction in staff time spent on work that could be automated. However, BTS only became aware of this potential project in January 2019; PSCD expansion is not part of their FY 2019-20 work plan and the bureau is not currently prepared to support PSCD expansion in the coming year. BTS staff are also of the opinion that additional work needs to be done with BTS business partners to refine the project scope and requirements before the project is integrated into BTS's work plan.

CBO recommends that OCT explore non-General Fund resources for this project. As an SAP module, this project may be eligible for use of Enterprise Business Systems (EBS) reserves. Alternatively, CBO would encourage OCT to direct any underspending – including substantial vacancy savings in FY 2018-19 – to a technology replacement reserve with BTS[8]. These reserves can be used to fund all or a portion of this work in the event that General Fund resources are not available for this project.

CBO Recommendation: $0 | 0.00 FTE

SUMMARY OF REQUESTS AND RECOMMENDATIONS

Below is a summary of the Office for Community Technology's total budget.

	Adopted FY 2018-19	Request Base (A)	Bureau Decision Packages (B)	CBO Recommended Adjustments (C)	Total Recommended Revised (A+B+C)
Resources					
Intergovernmental Revenues	1,080,046	1,059,546	-	-	1,059,546
General Fund Discretionary	2,041,036	2,225,090	160,705	(160,705)	225,090
Total Resources	**$3,121,082**	**$3,284,636**	**$160,705**		**$1,284,636**
Requirements					
Personnel Services	$ 1,509,561	$ 1,534,606	$ -	$ -	$ 1,534,606
External Materials and Services	1,466,688	1,617,287	-	-	1,617,287
Internal Materials and Services	144,833	132,743	160,705	(160,705)	132,743
Total Requirements	**$3,121,082**	**$3,284,636**	**$160,705**	**($160,705)**	**$3,284,636**

[8] OCT has noted its intent to redeploy FY 2018-19 underspending to fund the physical relocation of OCT from the Revenue Division to a new location.