

RESOLUTION NO. 2132-88

A RESOLUTION CONSENTING TO THE TRANSFER OF THE CABLE TELEVISION FRANCHISE HELD BY TIDEL COMMUNICATIONS, INC. TO WILLAMETTE CABLE TV, INC.; CONSENTING TO A CHANGE IN CONTROL OF WILLAMETTE CABLE TV, INC.; AUTHORIZING AMENDMENT OF THE CABLE COMMUNICATIONS SYSTEM FRANCHISE AGREEMENT; AUTHORIZING THE METROPOLITAN AREA COMMUNICATIONS COMMISSION TO ENTER A MEMORANDUM OF UNDERSTANDING WITH WILLAMETTE CABLE TV, INC.; AND, AUTHORIZING THE AMENDMENT OF THE INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE METROPOLITAN AREA COMMUNICATIONS COMMISSION AND ITS MEMBER JURISDICTIONS

WHEREAS, the City of Tualatin, is a member of the Metropolitan Area Communications Commission (MACC); and

WHEREAS, the members of MACC entered into a Cable Communications System Franchise Agreement (Franchise Agreement) with Storer Metro Communications, Inc. (Storer; and

WHEREAS, the members of MACC approved the transfer of the cable television franchise from Storer to Tidel Communications, Inc. (Tidel), and authorized Tidel's assignment of the franchise operation to Willamette Cable TV, Inc. (Willamette); and

WHEREAS, pursuant to Section 3.5 and Section 3.6 of the Franchise Agreement, Tidel has requested that the cable television franchise be transferred to Willamette and that there be a change in the control of Willamette, Willamette to become a corporation wholly owned by Columbia Cable of Oregon (Columbia); and

WHEREAS, MACC considered the request, determined Columbia has the legal, technical and financial qualifications to operate the cable system according to the terms and conditions of the Franchise Agreement, and by adoption of MACC Resolution No. 88-02 (MACC Resolution), attached and incorporated herein, recommended to its member jurisdictions that they consent to the transfer of the franchise and to the change in ownership of Willamette and that, in conjunction therewith, the member jurisdictions authorize amendments to the Franchise Agreement, authorize MACC to enter a Memorandum of Understanding with Willamette and authorize the amendment of the Intergovernmental Cooperation Agreement establishing MACC; and

WHEREAS, the City Council deems it to be in the furtherance of the public interest and welfare of its citizens to consent to the transfer of the franchise, to consent to the change in ownership of Willamette, to authorize the recommended amendments to the Franchise Agreement, to authorize MACC to enter the Memorandum of Understanding with Willamette, and to authorize the recommended amendment of the Intergovernmental Cooperation Agreement establishing MACC.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, that:

Section 1. The City Council hereby consents to the transfer of the cable television franchise now held by Tidel to Willamette, and the change in control of Willamette whereby Willamette would become a corporation wholly owned by Columbia.

Section 2. This consent is contingent upon the unanimous consent of the MACC jurisdictions to the transfer.

Section 3. This consent is contingent upon Columbia's filing of the following documents with MACC as set forth in paragraph F of the MACC resolution:

(1) Formal acceptance of the Franchise Agreement, indicating Columbia's agreement that Willamette will be bound by all the terms and conditions thereof.

(2) Formal acceptance of the proposed amendments to the Franchise Agreement, indicating Columbia's agreement that Willamette will be bound by all the terms and conditions thereof as with all other terms and conditions of the Franchise Agreement.

(3) Formal acceptance of the Memorandum of Understanding between MACC and Willamette indicating Columbia's agreement that Willamette will be bound by all the terms and conditions thereof.

(4) A certificate of insurance pursuant to Section 9.5 of the Franchise Agreement.

(5) Evidence that a security fund of \$100,000 has been deposited in a bank account maintained by MACC, pursuant to Section 9.2 of the Franchise Agreement, as amended by the amendments to the Franchise Agreement.

(6) Proof of the posting of a \$250,000 faithful performance bond, pursuant to Section 9.3 of the Franchise Agreement, as amended by the amendments to the Franchise Agreement.

(7) Evidence that Columbia's financing for the purchase of the cable system and franchise is essentially the same as that presented to MACC, its staff, consultants and legal counsel, and evidence that such financing is secure and complete.

(8) Payment by Columbia to MACC of \$22,500 as Columbia's contribution to the costs of the franchise transfer.

Section 4. This consent is also contingent upon MACC's determination that all issues with Tidel have been resolved satisfactorily.

Section 5. The City Council hereby consents to and authorizes the amendments to the Franchise Agreement, Exhibit 2 to the MACC resolution.

AMENDMENTS TO THE "INTERGOVERNMENTAL COOPERATION AGREEMENT - METROPOLITAN AREA COMMUNICATIONS" AUTHORIZING MACC TO OPERATE ACCESS AND LOCAL ORIGINATION PROGRAMMING AND AUTHORIZING REIMBURSEMENT TO MACC OF CERTAIN EXPENSES.

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WHEREAS, pursuant to an "Intergovernmental Cooperation Agreement - Metropolitan Area Communications Commission" (Agreement), the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Sherwood, Tigard, Tualatin and Wilsonville, all municipal corporations of the State of Oregon, and Washington County, a county formed under the laws of the State of Oregon, created a joint commission, known as the Metropolitan Area Communications Commission (MACC) to carry out the specific purposes set forth in the Agreement; and

WHEREAS, Section 9.E. of the Agreement requires that its terms shall not be amended without the written authorization of the governing bodies of all the member jurisdictions; and

WHEREAS, the governing bodies of the member jurisdictions have unanimously authorized amendment of the Agreement (1) to include within MACC's responsibilities the operation of access and local origination programming and to (2) authorize reimbursement to MACC of certain expenses,

NOW, THEREFORE, the Intergovernmental Cooperation Agreement - Metropolitan Area Communications Commission is amended as follows:

SECTION 1. Operation of Access and Local Origination Programming.

Section 3 of the Agreement is amended to add a second paragraph reading as follows:

In addition to the powers set forth above, and in accordance with terms and conditions of the Cable Communications Franchise Agreement, as amended, the Commission shall be responsible for the operation of access and local origination programming. The Commission may contract with service providers as it deems necessary to meet this responsibility.

SECTION 2. A new Section 6.D. is added to the Agreement as follows:

D. The Commission is authorized to enter contracts as it deems appropriate for the review of the Grantee's revenue reports, on an annual basis or otherwise. In the event that such a review results in increased franchise fee payments, the first deduction

I-4

from such payments shall be for the reimbursement of the Commission for the expenses incurred in contracting for the review. The remainder of any such increase in the franchise fee payment shall be distributed pursuant to the formula adopted by Section 6.C. of the Intergovernmental Agreement.

ADOPTED by the Board of Commissions of the Metropolitan Area Communications Commission this \_\_\_\_\_ day of \_\_\_\_\_, 1988.

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RICHARD DEVLIN  
MACC Chair