

RESOLUTION NO. 2357-89

A RESOLUTION PROVIDING THE CITY OF TUALATIN'S AUTHORIZATION FOR THE AMENDMENT OF BOTH THE INTERGOVERNMENTAL AGREEMENT ENTITLED, "INTERGOVERNMENTAL COOPERATION AGREEMENT - METROPOLITAN AREA COMMUNICATIONS COMMISSION; AND THE ADOPTED CABLE COMMUNICATIONS SYSTEM FRANCHISE AGREEMENT TO PERMIT AND AUTHORIZE THE CITY OF GASTON, OREGON TO BECOME A MEMBER OF THE METROPOLITAN AREA COMMUNICATIONS COMMISSION AND A PARTY TO THE FRANCHISE AGREEMENT, AS ADDENDED FOR GASTON

WHEREAS, subsequent to the adoption of the Cable Communications System Franchise Agreement (hereafter Franchise Agreement) between the jurisdictions participating in the Metropolitan Area Communications Commission (hereafter Commission) and Columbia Cable of Oregon (hereafter Grantee), and subsequent to acceptance of the Franchise Agreement by Grantee, the City of Gaston, Oregon, requested that it be permitted to become a member of the Commission by amendment of the Intergovernmental Cooperation Agreement - Metropolitan Area Communications Commission (hereafter Intergovernmental Agreement) and further, by amendment of the adopted Franchise Agreement, that it become a part to the Franchise Agreement with Grantee; and

WHEREAS, Section 9.C. of the Intergovernmental Agreement provides that the Commission may allow other units of local government to enter into the Intergovernmental Agreement, subject to the possible imposition of an entrance fee or cost; and

WHEREAS, it would constitute an amendment of the Intergovernmental Agreement to add the City of Gaston as a member of the Commission and Section 9.E. of the Intergovernmental Agreement requires written authorization by the governing bodies of all members of the Commission for any amendment to the Intergovernmental Agreement subsequent to Commission approval of the Request for Proposal; and

WHEREAS, it would constitute an amendment of the Franchise Agreement adopted by the jurisdictions comprising the Commission to allow the City of Gaston to enter into and become a party to the Franchise Agreement with Grantee, and such amendment requires the written concurrence of the governing body of each member jurisdiction of the Commission; and

WHEREAS, as a condition of approval by Grantee, the Franchise Agreement between the City of Gaston and Grantee shall contain an addendum which establishes a construction completion date in the City of thirty (30) days of grant of Franchise; and

WHEREAS, the Gaston City Council, by resolution will, subsequent to final Commission approval of their Request for Membership, authorize Gaston's entering into the Intergovernmental Agreement, ratify and approve Commission Resolutions No. 81-1 through 81-6; 82-2 through 82-8; 83-1 through 83-9; 84-1 through 84-9; 85-1 through 85-6; 86-1 through 86-9; 87-1 through 87-10; 88-1 through 88-11; and, 89-1 through 89-5, which amended the original Intergovernmental Agreement, and Resolution 82-1, which approved the construction schedule submitted by Grantee and established February 10, 1982, as the effective date of the Franchise and will appoint a Commissioner and an Alternate Commissioner to represent the City; and

WHEREAS, Grantee has agreed in writing to the addition of the City of Gaston to the Commission and as a party to the Franchise Agreement, providing there is an addendum made to the Franchise Agreement between Gaston and Grantee, which establishes a date for completion of system construction in the City of thirty (30) days of grant of Franchise; and

WHEREAS, copies of said Agreement by Grantee and the addendum are attached hereto, marked "Exhibit A," and "Exhibit B," respectively, and by reference incorporated into this Resolution as though fully set forth herein; and

WHEREAS, the Commission has considered the request and tentatively concurred on June 21, 1989, to amend both the Intergovernmental Agreement and the adopted Franchise Agreement, providing the governing bodies of all members of the Commission authorize and concur with such amendments; and

WHEREAS, the City Council having considered the matter and having deemed it to be in the best interest and general welfare to the citizens of the City of Tualatin to authorize the amendments to the Intergovernmental Agreement and the Franchise Agreement by allowing the City of Gaston, Oregon to join the Commission as a full member and become a party to the Franchise Agreement; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF TUALATIN, OREGON, AS FOLLOWS:

Section 1. The Commission is hereby authorized by the City of Tualatin to amend the Intergovernmental Agreement and Franchise Agreement as necessary and as requested by Grantee regarding the construction schedule to allow the City of Gaston, Oregon to enter into the Intergovernmental Agreement and Franchise Agreement, with all the attendant rights, duties and obligations arising from both agreements, such authorization and concurrence being given in accordance with and as required by Section 9.E. of the Intergovernmental Agreement and Section 1.5 of the adopted Franchise Agreement.

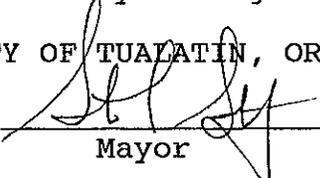
Section 2. The City Council, by this Resolution, understands and agrees that should any subsequent events arise which the Commission deems to be sufficient to preclude such amendments to the Intergovernmental Agreement and Franchise Agreement, the Commission may decide not to amend the Agreements in such a manner.

Section 3. The City Recorder shall deliver forthwith a true copy of this Resolution to the Administrator of the Commission.

INTRODUCED AND ADOPTED this 14th day of August, 1989.

CITY OF TUALATIN, OREGON

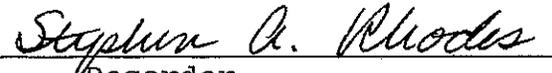
BY



Mayor

ATTEST:

BY



Recorder



14200 SW Brigadoon Court
Beaverton, OR 97005 • (503) 644-3188

July 12, 1989

Bruce Crest
Administrator
Metropolitan Area Communications Commission
1815 NW 169th Place, Suite 6020
Beaverton, Oregon 97006-4886

Dear Bruce:

Columbia Cable of Oregon would like to provide cable television service to the City of Gaston, Oregon. We agree with Gaston joining the Commission for this purpose and becoming a party to our existing Franchise Agreement with MACC.

However, we would propose that the existing construction time lines be amended to provide a 30 day period after the grant of the Franchise for construction and activation of the system within Gaston.

Other Franchise provisions, as amended, would continue to apply.

Thank you for your assistance.


Frank Settle
General Manager

FS:km

EXHIBIT B

"4.21 Addendum to Gaston Franchise Agreement Regarding Construction Schedule. As required by Grantee as a condition of approval to the City of Gaston becoming a member jurisdiction of the Commission, with all attendant powers, rights and responsibilities of membership, the specific requirements of Section 4.2 Construction Schedule, which require completion of system construction within twenty-four months of commencement thereof, shall not apply. Instead, Grantee agrees to complete system construction and have activated within thirty (30) days of grant of Franchise, the residential subscriber network to serve the City of Gaston.

If the City of Gaston expands due to annexation or other means, service shall be made available to the new area(s) upon the same basis as required in Section 4.5 Provision of Residential Service of the Franchise Agreement as amended in 1985.

All public buildings and facilities shall be served by the Institutional Subscriber Network (commonly known as the Public Communications Network) as provided for in the Cable Communications System Franchise Agreement and subsequent 1985 Amendment (Section IV.), between the jurisdictions and Grantee, effective date February 10, 1982.

All other provisions of Section 4. Construction and Service Requirements of the Franchise Agreement, as amended, shall be fully applicable, including relevant provisions of Section 4.2, thereof."