

RESOLUTION NO. 5181-14

A RESOLUTION EXTENDING THE TERM OF THE CABLE TELEVISION SERVICES AGREEMENT WITH COMCAST OF OREGON II, INC. TO ENABLE THE METROPOLITAN AREA COMMUNICATIONS COMMISSION TO COMPLETE THE FORMAL RENEWAL PROCESS

WHEREAS, the Metropolitan Area Communications Commission, hereinafter "MACC," is an intergovernmental cooperation commission formed by Intergovernmental Agreement ("IGA") under ORS Chapter 190, with Washington County and the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard, Tualatin and West Linn as members ("Member Jurisdictions"); and

WHEREAS, the IGA contemplates that MACC and its Member Jurisdictions may grant one or more nonexclusive cable franchise agreements to construct, operate, and maintain a cable service system within the combined boundaries of the Member Jurisdictions; and

WHEREAS, on February 1, 1999, MACC and its Member Jurisdictions at that time, granted nonexclusive cable franchise agreements ("Comcast Franchises") which are now held by Comcast of Oregon II, Inc. ("Comcast"); and

WHEREAS, the Comcast Franchises will expire on January 31, 2014; and

WHEREAS, on March 9, 2011, Comcast requested that the Comcast Franchises be renewed; and

WHEREAS, the IGA authorizes MACC to process Comcast's renewal request on behalf of the Member Jurisdictions, including informal negotiations as set forth in 47 U.S.C. 546 (h) and the formal renewal process set forth in 47 U.S.C. 546 (a)-(g); and

WHEREAS, in its letter of April 5, 2011, MACC properly responded to Comcast's request for renewal of the Comcast Franchises and thereafter commenced the franchise renewal process set forth in federal law at 47 U.S.C. 546; and

WHEREAS, on January 24, 2013, MACC directed staff to begin informal franchise renewal negotiations with Comcast, as set forth in 47 U.S.C. 546 (h), which informal negotiations began in February 2013; and

WHEREAS, on June 5, 2013, the Commission authorized the MACC Executive Committee to invoke the formal renewal process set forth in 47 U.S.C. 546 (a)-(g), if informal renewal negotiations were not successful; and

WHEREAS, on November 22, 2013, the Executive Committee found that further informal renewal negotiations have no reasonable prospect of success and adopted

Resolution 2013-06 directing MACC staff to begin the formal renewal process set forth in 47 U.S.C. 546 (a)-(g); and

WHEREAS, on December 11, 2013, the MACC Commission adopted Resolution 2013-08, ratifying Resolution 2013-06 and recommending that Member Jurisdictions extend the Comcast Franchises to allow MACC to complete the formal renewal process; and

WHEREAS, Comcast has agreed to execute extension agreements with each Member Jurisdiction; and

WHEREAS, the City of Tualatin finds that it is in the best interest of the City and its residents to process Comcast's request for renewal of the Comcast Franchise via the formal renewal process set forth in 47 U.S.C. 546 (a)-(g), and to extend the term of the Comcast Franchise to allow MACC to complete the formal renewal process.

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

Section 1. Comcast's request for renewal of the Comcast Franchise will be processed through the formal renewal process set forth in 47 U.S.C. 546 (a)-(g).

Section 2. The Mayor is hereby authorized to execute the extension agreement with Comcast substantially in the form attached hereto as Exhibit A to allow MACC to complete the formal renewal process set forth in 47 U.S.C. 546 (a)-(g).

Section 3. This resolution shall be effective from and after its adoption.

Adopted by the City Council this 27th Day of January, 2014.

CITY OF TUALATIN, OREGON

BY



Mayor

APPROVED AS TO FORM

BY



City Attorney

ATTEST:

BY



City Recorder

FRANCHISE EXTENSION AGREEMENT

WHEREAS, Comcast of Oregon II, Inc. ("Comcast"), formerly TCI of the Tualatin Valley, Inc., currently holds a cable franchise with Tualatin, Oregon ("City"), with an effective date of February 1, 1999, which will expire on January 31, 2014 ("Franchise"); and

WHEREAS, the City entered into an Intergovernmental Agreement, in accordance with ORS Chapter 190, with the Metropolitan Area Communications Commission ("MACC") for transfer of administration responsibilities associated with the Franchise, including renewal negotiations; and

WHEREAS, MACC, on behalf of the City, has been working to process Comcast's request for renewal of the Franchise in accordance with 47 U.S.C. 546; and

WHEREAS, the parties have agreed to extend the term of the Franchise to allow additional time for the renewal process to conclude.

NOW, THEREFORE, the City and Comcast agree as follows:

1. The Franchise shall be extended to expire on December 31, 2014, unless a renewed franchise agreement takes effect prior to that date, in which case the Franchise shall expire on the effective date of the renewed franchise.
2. All provisions of the Franchise, other than the duration of the Franchise as set forth in Section 2.3, shall remain in full force and effect through the expiration date set forth herein.
3. Neither party waives any right which it enjoys under law as a result of agreeing to this Franchise extension.

ACCEPTED this 27 day of January, 2014.

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

ACCEPTED this _____ day of

Tualatin, Oregon

By: _____

Print Name: Shorilyn Lombas

Title: City manager

, 2014.

Comcast of Oregon II, Inc.

By: _____

Print Name: _____

Title: _____

Sent for Signatures
By: comcast
(Fred Christ)

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