



LEGAL DIVISION
(217) 384-2464
FAX: (217) 384-2460

RONALD D. O'NEAL, JR.
City Attorney
rdoneal@city.urbana.il.us

CURT BORMAN
Assistant City Attorney
E-mail : csborman@city.urbana.il.us

MICHELLE E. BROOKS
Assistant City Attorney
E-mail mebrooks@city.urbana.il.us

JACK WAALER
Special Counsel
jwaaler@city.urbana.il.us

Memorandum

TO: Mayor Laurel Lunt Prussing

Cc:

FROM: Ronald D. O'Neal, Jr.
City Attorney

DATE: December 2, 2012

RE: Resolution to extend cable franchise until 04/30/10

Description

This resolution provides for the continuation of the present franchise agreement between the City and Comcast while a new franchise agreement is negotiated.

Background

Previously, Council passed a Resolution continuing the present franchise agreement to January 1, 2010 in order to facilitate ongoing informal negotiation with Comcast on a renewal franchise agreement. Those negotiations are continuing and have almost concluded. There are only two or three major issues and a few minor details left on the table for the City and Comcast to consider. Although this new Resolution seeks to continue the current franchise until the end of April, it is anticipated that our negotiations will conclude successfully before such time. This Resolution is being offered before the January 1, 2010 expiration of the previous extension, so that there will be less likelihood that there will be a time emergency as the year draws to a close. By its passage now, there will be a seamless transition between the old extension and the one being

contemplated with this Resolution.

Options

If the previous extension were allowed to lapse, technically, we will be without a franchise agreement. The implications could be that Comcast could make a good-faith argument that we should not get any franchise or PEG fees, and the City could make a good-faith argument that they should not be able to operate their cable system. Both options are untenable and, obviously, should be avoided.

Fiscal Impact

There is no fiscal impact in the passage of this Resolution.

Recommendations

The Legal Division recommends that the City Council pass this Resolution to continue the current franchise until April 30, 2010.

RESOLUTION NO. 2009-12-037R

**A RESOLUTUON GRANTING COMCAST OF ILLINOIS/INDIANA/OHIO, LLC,
A FRANCHSIE EXTENSION TO APRIL 1, 2010**

WHEREAS, effective March 1, 1994, the City of Urbana, Illinois ("City") granted a Franchise Agreement for Cable Television Services ("Franchise') to Time Warner Entertainment Company, L.P; and

WHEREAS, the Franchise is currently held by Comcast of Illinois/ Indiana/ Ohio, LLC.("Comcast"); and

WHEREAS, pursuant to Section 47 U.S.C. 546(a) Comcast, or its predecessor in interest, provided notification to the City of Comcast's intent to seek renewal of the Franchise under 47 U.S.C. 546(a-g); and

WHEREAS, pursuant to Section 47 U.S.C. 546(a) the City properly commenced franchise renewal proceedings; and

WHEREAS, the City and Comcast have agreed in writing to extend the deadline for City action on Comcast's formal proposal until APRIL 1,2010; and

WHEREAS, the City and Comcast are also engaged in good faith informal renewal negotiations pursuant to Section 47 U.S.C. 546(h) but have so far been unable to reach agreement on the terms for a renewed franchise; and

WHEREAS, nothing contained herein shall in anyway diminish either party's rights under the formal renewal process 47 U.S.C. 546(a-g) or applicable state law; and

WHEREAS, the Franchise expired on August 31, 2009; and

WHEREAS, the City extended the Franchise to January 1, 2010; and

WHEREAS, the City does not desire a gap in cable service for its residents nor in Comcast's authority to provide cable services in the City; and

WHEREAS, both the City and Comcast desire to expressly reserve all of their respective rights under state and federal law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

1. Pursuant to Section 1.4 of the Franchise, the Franchise is hereby amended by extending the term of the Franchise from January 1, 2010 through and including April 30, 2010 unless and until a Franchise Agreement shall be executed by the City and Comcast prior to the April 30, 2010 date.

2. Except as specifically modified hereby, the Franchise shall remain in full force and effect.

3. The City and Comcast hereby agree that neither waives any rights either may have under the Franchise or applicable law.

4. The City and Comcast have agreed in writing to extend the deadline for City action on Comcast's formal renewal proposal until April 30, 2010.

5. This Resolution shall become effective upon the occurrence of both of the following conditions: (1) The Resolution being passed and adopted by the City Council of the City of Urbana; and (2) Comcast's acceptance of this Resolution within fourteen (14) days from the date this Resolution is passed and adopted.

PASSED by the City Council this _____ day of

_____, _____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of

_____, _____.

Laurel Lunt Prussing, Mayor

ACCEPTANCE

Comcast of Illinois/ Indiana/ Ohio, LLC ("Comcast"), hereby acknowledges the City of Urbana, Illinois Resolution No. _____ attached hereto and hereby accepts the terms, provisions and recitals of the Resolution and agrees to be bound by the Franchise to the extent consistent with applicable laws.

DATED _____, 2009
COMCAST OF ILLINOIS, INDIANA, OHIO, LLC

By: _____

Its: _____

SWORN TO BEFORE ME, this
_____ day of _____, 2009

NOTARY PUBLIC