

REPORT

To the Honorable Mayor and City Council
From the City Manager

November 14, 2005

Subject

Ordinance approving an amendment to extend the Comcast cable television franchise (retroactive to October 31, 2005) for a period not to exceed three months (expiring no later than January 30, 2006) allowing Comcast to continue to operate a cable television system in Redwood City during final franchise renewal negotiations.

Recommendation

Introduce an ordinance approving an amendment to extend the Comcast cable television franchise (retroactive to October 31, 2005) for a period not to exceed three months (expiring no later than January 30, 2006).

Background

In 1991 the City Council approved a Cable TV Franchise Agreement with TCI (which later became AT&T Broadband, and then Comcast) for a period of 12 years. Redwood City has been working with six other cities and the County on a group franchise renewal process, as the San Mateo County Telecommunications Authority (SAMCAT). This process has included a technical audit, legal review, and community needs assessment of cable TV services and needs in Redwood City and the other local governments. This group process continues to be beneficial to Redwood City since it enables us to share resources in hiring contract legal and technical assistance at a fraction of the cost of contracting individually.

The negotiations have taken longer than expected due to both the need to negotiate a settlement on the AT&T/Comcast merger and transfer of operations, and to ongoing negotiations related to contract term, interconnections, and other issues. The Council has granted several extensions to the franchise agreement to accommodate the continuing process (February 10th, 2003; October 27th, 2003; January 12th, 2004; and September 27th, 2004).

Currently, the draft franchise agreement has been accepted in large part by all parties. However, there are several small revisions, corrections, and minor amendments that must be implemented prior to bringing the draft agreement to the City Council for consideration. Since the current extension expired as of October 30, 2005, this final extension is necessary to provide sufficient time to finalize the details of the agreement. It is therefore expected that the final draft franchise agreement will be brought to the Council no later than January 30, 2006.

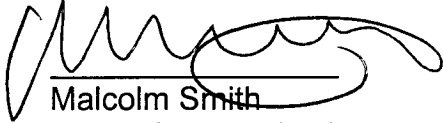
Alternative

The Council could choose not to introduce this ordinance approving an amendment to extend the Comcast cable television franchise; however this would jeopardize the franchise renewal negotiations and potentially impact cable television service in Redwood City.


6.4A-Z

Fiscal Impact

None



Malcolm Smith
Public Communications
Manager



Ed Everett
City Manager

Attachments

Ordinance

Amendment

**AMENDMENT NO. 2 TO EXTEND THE
CABLE TELEVISION FRANCHISE
(Comcast of California IX, Inc.)**

This Amendment No. 2 is entered into and effective as of the ____ day of _____, 2005, extending the Cable Television Franchise (the "Franchise") by and between the City of Redwood City, a charter city and municipal corporation of the State of California ("City"), and Comcast of California IX, Inc. ("Comcast") (collectively, the "Parties").

RECITALS

A. On or about February 20, 1991, City granted the Franchise to TCI Cablevision of California, Inc., thereafter providing services as AT&T Broadband ("AT&T").

B. Pursuant to Section 47 U.S.C. § 546(a), AT&T provided timely notification to the City of AT&T's intent to seek renewal of the Franchise under 47 U.S.C. § 546(a-g).

C. Pursuant to Section 47 U.S.C. § 546(a) the City and AT&T properly commenced franchise renewal proceedings.

D. The Franchise is currently held by Comcast of California IX, Inc. ("Comcast"); and

E. The City adopted Resolution No. 14501 on February 10, 2003 extending the term of the Franchise until August 30, 2003, and subsequently adopted Resolution No. 14559 on October 27, 2003, further extending the term of the Franchise until December 31, 2003, and subsequently adopted Resolution No. 14570 on January 12, 2004, further extending the term of the Franchise until April 30, 2004, and subsequently adopted Ordinance No. 2274 on September 27, 2004, further extending the term of the Franchise until October 30, 2005.

6.4A-A

F. The Parties pursuant to 47 U.S.C. §546(h), are continuing to conduct franchise renewal negotiations informally in an attempt to reach a mutually acceptable franchise.

G. The Parties have not yet reached a mutually acceptable franchise, and are interested in continuing informal discussions and negotiations regarding franchise renewal and desire to further extend the Franchise term from October 30, 2005 to January 30, 2006.

H. The Parties desire to expressly reserve all of their respective rights under state and federal law.

I. The Parties can re-enter the formal renewal process pursuant to 47 U.S.C. § 546 (a-g) at any time upon written notice to the other party.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, the Parties agree as follows:

1. That Section 2.3 of the Franchise is hereby amended to extend the term of the Franchise through and including January 30, 2006.

2. That all other provisions of the Franchise, as may have been amended from time to time, shall remain in full force and effect.

3. All requisite insurance policies to be maintained by Comcast pursuant to the Franchise, as may have been amended from time to time, shall include coverage for this Amendment.

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4. The individuals executing this Amendment and the instruments referenced on behalf of the Parties each represent and warrant that they have the legal power, right and actual authority to bind the respective Party to the terms and conditions hereof of this Amendment.

COMCAST

CITY OF REDWOOD CITY, a charter city and municipal corporation of the State of California

*By:

By:

(sign here)

Ed Everett, City Manager

(print name/title)

ATTEST:

**By:

Patricia Howe, City Clerk

(sign here)

(print name/title)

If required by City, proper notarial acknowledgment of execution must be attached. If a Corporation, Agreement must be signed by one corporate officer from each of the following two groups.

***Group A.**

- Chairman,
- President, **or**
- Vice-President

****Group B.**

- Secretary,
- Assistant Secretary,
- CFO **or** Assistant Treasurer

Otherwise, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

6.4A-6

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWOOD CITY APPROVING AN AMENDMENT OF THE FRANCHISE BETWEEN THE CITY OF REDWOOD CITY AND COMCAST OF CALIFORNIA IX, INC., TO EXTEND THE FRANCHISE TERM TO JANUARY 30, 2006, AND RATIFYING ALL PRIOR EXTENSIONS

WHEREAS, on or about February 20, 1991, the City of Redwood City, California ("City") granted a Cable Television Franchise ("Franchise") to TCI Cablevision of California, Inc., thereafter providing services as AT&T Broadband ("AT&T"); and

WHEREAS, pursuant to Section 47 U.S.C. § 546(a), AT&T provided timely notification to the City of AT&T'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 and AT&T properly commenced franchise renewal proceedings; and

WHEREAS, the Franchise is currently held by Comcast of California IX, Inc. ("Comcast"); and

WHEREAS, the City adopted Resolution No. 14501 on February 10, 2003, extending the term of the Franchise until August 30, 2003, and subsequently adopted Resolution No. 14559 on October 27, 2003, further extending the term of the Franchise until December 31, 2003, and subsequently adopted Resolution No. 14570 on January 12, 2004, further extending the term of the Franchise until April 30, 2004, and subsequently adopted Ordinance No. 2274 on September 27, 2004, further extending the term of the Franchise until October 30, 2005; and

WHEREAS, the City and Comcast pursuant to 47 U.S.C. §546(h), are continuing to conduct franchise renewal negotiations informally in an attempt to reach a mutually acceptable franchise agreement; and

WHEREAS, the City and Comcast have not yet reached a mutually acceptable franchise agreement, and are both interested in continuing informal discussions and negotiations regarding franchise renewal and desire to further extend the Franchise term from October 30, 2005 to January 30, 2006; and

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

WHEREAS, the City and Comcast can re-enter the formal renewal process pursuant to 47 U.S.C. § 546 (a-g) at any time upon written notice to the other party.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF REDWOOD CITY HEREBY ORDAINS:

1. That the amendment to the Franchise, attached as Exhibit A and incorporated by this reference, is hereby approved and the City Manager is authorized to execute same.
2. That all prior extensions of the Franchise adopted by resolution of this City Council are hereby ratified.
3. That this ordinance will be effective thirty (30) days after adoption.

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