

## City of Alexandria, Virginia

## MEMORANDUM

DATE: NOVEMBER 30, 2009

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: RESOLUTION PROVIDING FOR A 10-MONTH EXTENSION OF THE CITY'S CABLE TELEVISION FRANCHISE AGREEMENT WITH COMCAST OF VIRGINIA, INC. FROM DECEMBER 31, 2009 TO OCTOBER 30, 2010

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**ISSUE:** Request to extend the expiration dates, based on the same terms and conditions, of the City's cable television franchise agreement with Comcast for 10 additional months so that staff can complete the negotiations and franchise renewal process.

**RECOMMENDATION:** That City Council approve the request and adopt the attached resolution (Attachment 1) which extends the expiration date of the cable television franchise agreement with Comcast of Virginia, Inc. from December 31, 2009 to October 30, 2010.

**DISCUSSION:** The City Council approved the terms and conditions of the cable television franchise between the City of Alexandria and Comcast of Virginia, Inc. on June 18, 1994. The 15-year franchise was scheduled to expire on June 17. Council granted a six-month extension on June 3 to allow time for staff to finalize the negotiations and complete the process for renewing the cable television franchise. Negotiations have been ongoing and productive since that initial extension was granted. However, it has take longer than staff and Comcast representatives anticipated to resolve the major issues in the negotiations. Staff believes that the negotiations and renewal process will be completed before October 30, 2010.

The basis for denying a franchise renewal for an incumbent cable television franchisee is set by federal statute. Since the franchise was awarded to Comcast in 1994, there have been changes in Virginia state communications law. Only the following four factors under law may be considered in deciding whether to deny a request for renewal:

1. Whether the operator has failed to substantially comply with the material terms of the existing franchise and applicable law;
2. Whether the quality of the operator's service has been reasonable in light of community needs;
3. Whether the operator has the financial, legal and technical ability to comply with its proposed terms; and

4. Whether the proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting those needs and interests.

Comcast has reviewed the attached resolution and by letter (Attachment 2) consents to the extension of the expiration date of the franchise agreement to October 30 with the same terms and conditions, without waiving any of its rights under federal or Virginia state law. I recommend that Council approve the proposed resolution extending the expiration date of the Comcast cable television franchise to October 30, 2010.

**ATTACHMENTS:**

Attachment 1. Proposed Resolution

Attachment 2. Letter from Robert S. Jacobs to Rose Williams Boyd

**STAFF:**

Rose Williams Boyd, Director of Citizen Assistance

Karen Snow, Assistant City Attorney

RESOLUTION NO. \_\_\_\_\_

Resolution to extend the term of the cable television franchise held by Comcast of Virginia, Inc., until October 31, 2010, for the purpose of permitting the City of Alexandria and the Franchisee to complete renewal discussions

**WHEREAS**, on June 18, 1994, the City of Alexandria, Virginia (the "City"), granted a cable television franchise (the "Franchise") to Jones Intercable of Alexandria, Inc.; and

**WHEREAS**, in or about December 1999, Jones Intercable of Alexandria, transferred the Franchise to Comcast of Virginia, Inc., (the "Franchisee") who currently holds the Franchise; and

**WHEREAS**, the Franchise expired on June 17, 2009; and

**WHEREAS**, on June 9, 2009, by Resolution 2346, City Council approved the joint request of the City and Comcast to extend the franchise until December 31, 2009; and

**WHEREAS**, the City and the Franchisee are engaged in discussions concerning the renewal of the Franchise and those discussions have not been completed; and

**WHEREAS**, the City wishes to extend the term of the Franchise to allow time for the parties to complete negotiations; and

**WHEREAS**, the Franchisee has provided its consent to the proposed extension of the Franchise, in the form of the attached letter; and

**WHEREAS**, the City and the Franchisee both desire to reserve their respective rights under state and federal law, including, without limitation, 47 U.S.C. § 546.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Alexandria, Virginia:

1. That the term of the Franchise is hereby extended until October 31, 2010; and
2. That this Resolution shall be effective immediately upon passage.

ADOPTED: \_\_\_\_\_

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WILLIAM D. EUILLE, MAYOR

ATTEST:

Jacqueline M. Henderson, CMC, City Clerk

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Comcast Cable  
1301 McCormick Drive  
Largo, MD 20774

November 24, 2009

Ms. Rose Boyd  
Director of Citizen Assistance  
City of Alexandria  
301 King Street, Room 1900  
Alexandria, VA 22314

RE: City of Alexandria, VA – Franchise Extension

Dear Ms. Boyd:

I am writing in regard to the City's proposal to extend through October 30, 2010 the franchise agreement currently held by Comcast of Virginia, Inc. that is currently scheduled to expire on December 31, 2009, in order to accommodate further renewal discussions between Comcast and the City, which are ongoing and active. Assuming that the extension resolution would be substantially in the form of the previous resolution adopted by the City Council, a copy of which is enclosed, Comcast by this letter consents to extending the expiration date of the franchise agreement to October 30, 2010, without waiving any of its rights under federal or Virginia state law.

Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,

COMCAST OF VIRGINIA, INC.

By:

A handwritten signature in black ink, appearing to read "Robert S. Jacobs", with a long horizontal flourish extending to the right.

Robert S. Jacobs  
Vice President, Franchising and Government Affairs  
Beltway Region

cc: Matthew C. Ames, Esq.  
Donna Rattley-Washington  
Marie Schuler

**RESOLUTION NO. 2374**

Resolution to extend the term of the cable television franchise held by Comcast of Virginia, Inc., until October 30, 2010, for the purpose of permitting the City of Alexandria and the Franchisee to complete renewal discussions

**WHEREAS**, on June 18, 1994, the City of Alexandria, Virginia (the "City"), granted a cable television franchise (the "Franchise") to Jones Intercable of Alexandria, Inc.; and

**WHEREAS**, in or about December 1999, Jones Intercable of Alexandria, transferred the Franchise to Comcast of Virginia, Inc., (the "Franchisee") who currently holds the Franchise; and

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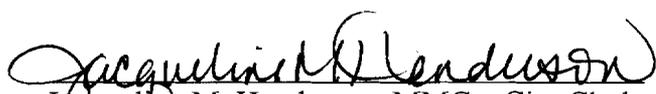
**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Alexandria, Virginia:

1. That the term of the Franchise is hereby extended until October 30, 2010; and
2. That this Resolution shall be effective immediately upon passage.

ADOPTED: December 8, 2009

  
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**WILLIAM D. EULLE    MAYOR**

ATTEST:

  
Jacqueline M. Henderson, MMC    City Clerk