# Legislation Details (With Text)

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| **File #:** | 16-5600 | **Name:** | Comcast Franchise Extension |
| **Type:** | Resolution | **Status:** | Agenda Ready |
| **File created:** | 8/9/2016 | **In control:** | City Council Legislative Meeting |
| **On agenda:** | 9/27/2016 | **Final action:** | |
| **Title:** | Consideration of a Resolution to Initiate the First Five-Year Extended Term of the Comcast Cable Television Franchise Agreement. [ROLL-CALL VOTE] | | |
| **Sponsors:** | | | |
| **Indexes:** | | | |
| **Code sections:** | | | |
| **Attachments:** | 1. 16-5600_Attachment 1 - Resolution to Initiate Extended Term, 2. 16-5600_Attachment 2 - Franchise Agreement Amendment, 3. 16-5600_After Items | | |

| Date | Ver. | Action By | Action | Result |
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# City of Alexandria, Virginia

## MEMORANDUM

**DATE:** SEPTEMBER 21, 2016

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** MARK B. JINKS, CITY MANAGER /s/

**DOCKET TITLE**:
Consideration of a Resolution to Initiate the First Five-Year Extended Term of the Comcast Cable Television Franchise Agreement. [ROLL-CALL VOTE]

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**ISSUE**: Consideration of the proposed cable television franchise extension for Comcast of Virginia, Inc. to continue to provide cable television services in the City of Alexandria.

**RECOMMENDATION**: That City Council:

1. Approve a resolution (Attachment 1) that initiates the first five-year Extended Term of the Comcast cable television franchise agreement ("Franchise Agreement"); and

2. Authorize the City Manager to execute all necessary documents to implement the first five-year Extended Term of the Franchise Agreement with Comcast of Virginia, Inc.

**BACKGROUND**: In October 2011, the City approved a Franchise Agreement for Comcast of Virginia, Inc. to provide cable television services to approximately 50,000 households and businesses in Alexandria. The 2011 Franchise Agreement consists of an initial term of five years (“Initial Term”) with provisions for two extensions of five years each (“Extended Terms”). The maximum term of the franchise is 15 years. Approval of the Extended Terms of the franchise is to be based on the results of franchise compliance reviews that are conducted by City staff. These compliance reviews consider the degree to which the Franchisee has complied with the terms of the Franchise Agreement. Under the state and federal laws governing cable television franchises, general consumer dissatisfaction with an incumbent provider’s service delivery does not provide the City with sufficient cause to withhold approval of this Extended Term.

The City also executed in 2011 a separate but related five-year fiber use agreement that runs concurrent to the Initial Term of the Franchise Agreement. The fiber use agreement outlines the lease agreement with Comcast for the City’s Institutional Network (I-Net), which serves over 75 City and Alexandria City Public School (ACPS) sites with fiber optic connections.

**DISCUSSION**: In accordance with the Franchise Agreement, the City conducted a compliance review in late 2015. The review identified a single area of non-compliance relating to the assessment methodology for the 3% Public, Educational, and Governmental Access (“PEG”) Access fee. Upon identification of this deficiency, Comcast adjusted their assessment methodology and put in place a solution to remediate any previous over-assessments.

The compliance review found that Comcast is substantially in compliance with the terms and conditions of the Franchise Agreement. As such, it is proposed that the first Extended Term of the franchise with two amendments (Attachment 2) be approved:

1. Comcast agrees to provide an HD (high definition) channel to be used at the discretion of the City for non-commercial Public, Educational and Governmental (PEG) programming.

2. The parties agree to explicit competitive equity language (i.e., “level playing field” language) that states that the City will treat wireline competitors, such as Comcast or other cable television providers who may seek a cable television franchise in the City, in a non-discriminatory manner in keeping with federal law. This language includes assessing a PEG fee equitably and allowing the current franchisee to petition the City for the adoption of favorable language (if any) given to any future cable television competitor.

The City is likewise poised to execute a five-year extension to the fiber use agreement that is currently set to expire in October. The agreement will be executed administratively by the City Manager. The terms of the extension will remain largely unchanged from the current agreement, with the following exceptions:

1. The pricing structure of the agreement on a per Building basis is to nominally increase 10 percent in the first year of the proposed agreement and shall increase annually by 2.5 percent for years two through five of the agreement; and

2. The City may terminate the fiber use agreement in its entirety with at least 180 days written notice to Comcast; and

3. The City may terminate its use of the I-Net serving any individual Building or Buildings upon at least 90 days’ written notice to Comcast.

These last two amendments are aimed at transitioning the City completely off of the Comcast I-Net to a City-owned broadband fiber network if and when the City has such a broadband network in place.

**FISCAL IMPACT**: The City will continue to receive recurring capital grants from Comcast on a quarterly basis for PEG and I-Net equipment equal to three percent of Comcast's gross revenues from the Alexandria system. These revenues derive from the 3% customer paid PEG fees. These grants currently equal approximately $1.7 million annually.

The City will continue to make lease payments to Comcast for the use of the I-Net on a monthly basis. The new pricing structure will increase the annual lease costs from approximately $450,000 to approximately $500,000. These lease costs are expected to be reduced in future years as the City completes the planned build out of a City-owned fiber network and transitions City and ACPS sites over to this new network.

**ATTACHMENTS**:
1. Resolution initiating the first Extended Term of the Comcast cable television franchise
2. Proposed amendment to the Franchise Agreement

**STAFF**:
Laura Triggs, Deputy City Manager
Michael Stewart, Deputy Finance Director/Cable Television Administrator
Karen Snow, Assistant City Attorney