



Legislation Text

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City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 13, 2021

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK B. JINKS, CITY MANAGER

DOCKET TITLE:

Consideration of a Resolution to make a recommendation to the City Council whether to initiate a six-month Extended Term of the Comcast Cable Television Franchise Agreement. [ROLL-CALL VOTE]

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

RECOMMENDATION: That City Council:

1. Consider a Resolution (Attachment 1) that initiates a six-month Extended Term of the Comcast Cable Television Franchise Agreement ("Franchise Agreement"),
2. Authorize the City manager to implement the renewal and extension of the Franchise Agreement and Fiber Use Agreement with Comcast of Virginia, Inc upon resolution of PEG grant payment and fiber use settlements.

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"). Approval of the Extended Terms of the franchise must be based on the results of franchise compliance reviews that are conducted by City staff. These compliance reviews consider the degree to which Comcast 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 enough cause to withhold approval of this second Extended Term.

The City also executed a separate but related five-year fiber use agreement that outlines the lease agreement

with Comcast for the City's Institutional Network (I-Net), which serves nearly 90 City and Alexandria City Public School (ACPS) sites with fiber optic connections.

The City is now considering the second five-year extended term of the cable franchise agreement and fiber use agreement in accordance with the terms of the current agreement. The City's compliance review is narrowly defined and requires Comcast to be in significant breach of their cable operations in order for the City to refuse to renew the agreement under the five-year renewal term. The next significant agreement and negotiation would occur in 2026. The conditions the City could and did review include specific system complies with FCC standards. The standards primarily relate to speed and quality of technical specifications and an audit of fees. The City is currently negotiating with Comcast regarding some of these audits and expects these negotiations to be completed in the next few weeks. In order to continue these negotiations, the franchise agreements need to be extended by City Council. Other than the resolution of the accounting issue mentioned below, the compliance review found that Comcast was substantially in compliance with the terms and conditions of the current Franchise Agreement.

The City also executed a five-year extension to the fiber use agreement at the same time. The fiber use agreement allows the City to maintain fiber at City sites while also providing the City to transition City sites off the Comcast I-Net to the City-owned broadband fiber network when constructed. Comcast has been working to resolve the City's requests related to this agreement, and we anticipate completion of these negotiations in the next few months as well.

DISCUSSION:

I. The Fiber Use Agreement

In reviewing the City's fiber use agreement, staff's primary concerns related to having better information about locations of Comcast fiber, response and notifications times for Comcast fiber. As part of the staff review of the fiber use agreement with Comcast, Comcast has agreed to provide additional documentation of these assets. Once staff can review and approve these documents, it is anticipated that the fiber use agreement will be ready for approval in the next few weeks.

II. The Franchise Agreement

The City also arranged for an industry specific financial review of the fees the City receives from Comcast. While most issues were resolved, the City's financial consultant and Comcast had some difference in interpretation of certain accounting standards and revenue for some streaming services. Since these standards will continue to evolve and be refined, the City and Comcast are negotiating a settlement of these differences in accounting interpretations and comparable settlements negotiated by other local governments. .

The City procured the services of another outside firm to test and inspect the Comcast cable system serving the City's franchise area. to determine whether the Comcast system meets the terms of the technical performance requirements based on FCC requirements and the City's agreement. cable television franchise agreement and the firm found that the Comcast system is generally in compliance with the current franchise agreement's technical requirements. All digital signal tests met the relevant standards. The compliance review conducted by the City found that Comcast will be substantially in compliance with the terms and conditions of the Franchise Agreement once Comcast and the City came to agreement about the fiber use agreement and accounting for fees.

FISCAL IMPACT: The City will receive additional PEG fees as part of the settlement agreement. The City continues 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 cable TV revenues from the Alexandria system, or approximately \$1 million annually.

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

ATTACHMENTS: Resolution initiating the Second Extended Term of the Comcast cable television franchise.

STAFF:

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Vanetta Pledger, Chief Information Officer