

COUNCIL

Agenda # _____

MEETING OF September 28, 2004



STAFF REPORT

UPDATE ON STATUS OF NEGOTIATIONS WITH COMCAST, AND CONSIDERATION OF A RESOLUTION GRANTING COMCAST OF CALIFORNIA IX, INC. A FRANCHISE AGREEMENT EXTENSION TO MARCH 31, 2005.

Mayor and City Council of the City of Belmont

Summary

On July 27, 2004, Council approved an extension with Comcast. Staff recommends Council adoption of the attached Resolution, which will extend the cable television franchise agreement with Comcast for an additional 4 months, to allow additional time for negotiations.

Background and Discussion

The current extension will expire September 30, 2004. Throughout the negotiations with Comcast, periodic extensions to the cable television franchise agreement have been approved by the City Council to allow for continued negotiations with Comcast. Since July, several scheduled meetings have taken place. Our advisor believes the discussions have been productive and the issues in the franchise negotiations have narrowed since the last extension. Nonetheless, additional time is required to conclude negotiations.

The City and Comcast are interested in continuing “informal” discussions and negotiations regarding franchise renewal and desire to further extend the current franchise term. The extensions of the other cities have ranged from 2 extending to December 31, 2004 and the remaining 5 cities extending to March or June of 2005.

A City Council resolution is attached which would grant another franchise extension allowing additional time for continuing franchise negotiations.

Fiscal Impact

Comcast will continue to operate per the terms of the original Franchise Agreement during the renewal negotiation period if the City Council approves the attached resolution.

Recommendation

City Council approval of the additional extension to Comcast until March 31, 2005.

Alternatives

1. Refer matter back to staff for more information.

Attachments

1. Resolution

Respectfully submitted,

Valerie Harnish
Information Services Manager

Daniel Rich
Interim City Manager

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT GRANTING
COMCAST OF CALIFORNIA IX, INC. A FRANCHISE EXTENSION TO MARCH 31, 2005**

WHEREAS, on or about February 12, 1991, the City of Belmont, California (“City”) granted a Cable Television Franchise (“Franchise”) to TCI Cablevision of California, Inc., thereafter providing services as AT&T Broadband (“AT&T”).

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

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

WHEREAS, the City adopted Resolution No. 9263 on June 25, 2002 approving the change of control of AT&T to Comcast Corporation.

WHEREAS, the Franchise is currently held by Comcast of California IX, Inc. (“Comcast”).

WHEREAS, the City adopted Resolution No.9359 on February 11, 2003 extending the term of the Franchise until August 30, 2003.

WHEREAS, Comcast executed said Resolution No. 9359 and agreed to continue complying with the Franchise, as amended by the Resolution.

WHEREAS, the City adopted Resolution No.9461 on August 31, 2003 extending the term of the Franchise until December 31, 2003.

WHEREAS, Comcast executed said Resolution No. 9461 and agreed to continue complying with the Franchise, as amended by the Resolution.

WHEREAS, the City adopted Resolution No.9494 on December 31, 2003 extending the term of the Franchise until March 31, 2004.

WHEREAS, Comcast executed said Resolution No. 9494 and agreed to continue complying with the Franchise, as amended by the Resolution.

WHEREAS, the City adopted Resolution No.9517 on March 23, 2004 extending the term of the Franchise until April 30, 2004.

WHEREAS, Comcast executed said Resolution No. 9517 and agreed to continue complying with the Franchise, as amended by the Resolution.

WHEREAS, the City adopted Resolution No.9530 on April 27, 2004 extending the term of the Franchise until May 31, 2004.

WHEREAS, Comcast executed said Resolution No. 9530 and agreed to continue complying with the Franchise, as amended by the Resolution.

WHEREAS, the City adopted Resolution No.9537 on May 25, 2004 extending the term of the Franchise until July 31, 2004.

WHEREAS, Comcast executed said Resolution No. 9537 and agreed to continue complying with the Franchise, as amended by the Resolution.

WHEREAS, the City adopted Resolution No.9572 on July 27, 2004 extending the term of the Franchise until September 30, 2004.

WHEREAS, Comcast executed said Resolution No. 9572 and agreed to continue complying with the Franchise, as amended by the Resolution.

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

WHEREAS, the City and Comcast are interested in continuing informal discussions and negotiations regarding franchise renewal and desire to further extend the current franchise term from September 30, 2004 to March 31, 2005.

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

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, by the City Council of the City of Belmont, California hereby resolve as follows:

1. Pursuant to Section 2.3 of the Franchise, the Franchise is hereby amended by extending the term of the Franchise from September 30, 2004 through and including March 31, 2005.
2. Except as specifically modified hereby, the Franchise shall remain in full force and effect.
3. 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 Belmont and (2) Comcast's acceptance of this Resolution and the Franchise for the term specified in paragraph (1) above, provided Comcast accepts and agrees to each and every term of this Resolution and the Franchise within fourteen (14) days from the date this Resolution is passed and adopted.

Adopted by the City Council of _____, California, this ____ day of September, 2004.

CITY OF _____, CALIFORNIA

ATTEST:

By: _____

City Clerk

Its: _____

CERTIFICATION

I, _____, City _____ of the City of _____, California, the custodian of its records, do hereby certify the above is a true and exact copy of a Resolution passed, adopted and approved by the City Council of said City on September _____, 2004.

DATED: September____, 2004

By: _____
Its: _____

ACCEPTANCE

Comcast of California IX, Inc., (“Comcast”), hereby acknowledges the City of _____, California Resolution No. _____ (“Resolution”), attached hereto and referenced in the Resolution and hereby accepts each and every term, provisions and recital of the Resolution and agrees to be bound by the terms and provisions of the Franchise in accordance with the Resolution.

DATED: _____, 2004

COMCAST OF CALIFORNIA IX, INC.

By: _____

Its: _____

SWORN TO BEFORE ME this _____ day of _____, 2004

NOTARY PUBLIC