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Title: A Resolution Setting a Public Hearing to Receive Public Comment Concerning the City of Colorado Springs' Future Cable-Related Community Needs and Interests and Concerning Past Performance of Comcast of Colorado/Pennsylvania/ West Virginia, LLC (Locally Known as Comcast) Under the Existing Franchise.

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A Resolution Setting a Public Hearing to Receive Public Comment Concerning the City of Colorado Springs' Future Cable-Related Community Needs and Interests and Concerning Past Performance of Comcast of Colorado/Pennsylvania/ West Virginia, LLC (Locally Known as Comcast) Under the Existing Franchise.

From:

Tom Florczak, Deputy City Attorney

Summary:

The City of Colorado Springs granted a cable television franchise to the predecessor of Comcast of Colorado/Pennsylvania/West Virginia, LLC (locally known as Comcast) ("Comcast") on November 7, 2000 by the electors of Colorado Springs voting to approve Ordinance No. 00-119. The franchise is due to expire on November 7, 2015 and Comcast has requested commencement of the franchise renewal procedures under Section 626 of the Cable Communications Policy Act of 1984 (the "Cable Act"), 47 U.S.C. § 546. Cable television franchises are subject to the requirements contained in the Cable Act. At the May 11, 2015 Council work session, members of City Council asked staff to create a plan to obtain public input on the franchise renewal.

City Council will hold a public hearing to receive public input on the renewal of its franchise with Comcast of Colorado/Pennsylvania/West Virginia, LLC (locally known as Comcast) ("Comcast") on August 10, 2015. Staff will advise Council and seek Council's direction on the procedure of the upcoming hearing.

Previous Council Action:

On March 24, 2014, in closed executive session, Council met with the City's Director of Information Technology, the Chief Financial Officer, and the Deputy City Attorney to discuss the expiration of the current franchise and the process for renewing the franchise with Comcast. On June 9, 2014, in a Council work session, Council considered a resolution to initiate the formal renewal process including an ascertainment phase. Subsequent to the June 9th meeting, the administration directed the City Attorney's Office to engage outside counsel, Ken Fellman. Ken Fellman recommended that the City follow an informal renewal process that did not include an ascertainment phase. Ken Fellman provided an update to Council at its May 11, 2015, work session. At the May 11, 2015 work session members of Council indicated that they would like to provide the public with the opportunity to comment on Comcast's performance under the franchise and the community's future cable-related needs and interests. Staff presented a proposed plan to receive public input to Council at the July 13, 2015 Council work session, and is requesting that Council set a public hearing by resolution for August 10, 2015.

Background:

Pursuant to Colorado law, the City Charter and ordinance, and federal law, including the Cable Act, the City is authorized to grant or renew franchises to construct, operate and maintain cable television systems utilizing public rights-of-way and properties within the City's jurisdiction. In 2000, by Ordinance No. 00-119 which was approved by City Council and a vote of a majority of the Colorado Springs electors, the City of Colorado Springs entered into an agreement (the "Franchise Agreement") with Century Colorado Springs Partnership, d/b/a Adelphia Cable Communications ("Adelphia") whereby the City granted a revocable, non-exclusive cable television franchise to Adelphia. Adelphia's successor-in-interest under the Franchise Agreement is Comcast.

Pursuant to the terms of the Franchise Agreement, the City's grant of franchise to Comcast expires on November 7, 2015. The Cable Act includes the procedures for renewing a franchise agreement. In accordance with the Cable Act, Comcast has notified the City of its intent to reserve the right to commence the formal renewal process under the Cable Act.

The formal renewal process under the Cable Act includes three phases. The first phase is the Ascertainment Phase. During the Ascertainment Phase, the franchising authority is required to identify the future cable-related needs and interests of the community and review the performance of the cable operator under the current agreement. In order to do this, the franchising authority must seek and obtain public input. If the first phase is initiated, the franchising authority must "commence a proceeding which affords the public in the franchise area appropriate notice and participation..." 47 U.S.C. § 546(a).

City staff, under the direction of the former administration, had started an informal renewal process with Comcast, and as such, a formal ascertainment phase is not required at this time. However, City Council has requested that the public be given an opportunity to provide comment on the cable operator's performance under the franchise and the community's future cable-related needs and interests. Staff has created a proposed plan for collecting public comments and public hearing.

Staff recommends that the public comment process be managed by the City's Information Technology Department and the City Clerk's office. The proposed plan includes having the City Clerk's office publish notice soliciting public comment regarding the community's future cable television-related needs and interests and Comcast's past performance. Pursuant to the proposed notice, all written public comments would be filed by email or by mail or in person in the City Clerk's office. The City's Information Technology Department is prepared to collect information through a

survey website, which is also described in the notice. In addition, the notice advertises a public hearing before City Council on August 10, 2015, to receive public comment on the same topics. The proposed resolution, to be adopted at Council's regular meeting on July 28, 2015, sets the public hearing for August 10, 2015.

Financial Implications:

The City's annual gross revenue from the Franchise Agreement is \$1,070,681.

Board/Commission Recommendation:

N/A

Stakeholder Process:

Internal stakeholders, such as the City's communication department, Colorado Springs Fire Department, and the Southern Colorado Educational Television Consortium have provided comments and feedback. Commencing the proposed public process will start the community stakeholder process.

Alternatives:

N/A

Proposed Motion:

Approval of the proposed resolution.

N/A