

ORDINANCE NO. 405

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, AMENDING ORDINANCE NO. 191, AS PREVIOUSLY AMENDED BY SUBSEQUENT ENACTMENTS; EXTENDING FOR TWO YEARS A NON-EXCLUSIVE CABLE TELEVISION FRANCHISE GRANTED TO COMCAST OF WASHINGTON, II, INC., PURSUANT TO CHAPTER 5.50 OF THE WOODINVILLE MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, all codified in Title 47 of the United States Code, authorize local governments to grant franchises for the provision of cable television service within their corporate boundaries, and

WHEREAS, Ordinance No. 190, codified as Chapter 5.50 of the Woodinville Municipal Code, sets forth comprehensive requirements for the provision of cable television service within the City, and

WHEREAS, the City, through Ordinance No. 191 (the "Franchise"), granted a five (5) year franchise for the construction, maintenance, and operation of a cable television system to Vista Television Cable, Inc. ("Vista") which became effective on November 22, 1997, and

WHEREAS, the term of the Franchise was extended by Ordinance No. 327 for five (5) years in accordance with the terms and conditions of Ordinance No. 191, and

WHEREAS, on November 18, 2002 the merger of AT&T Corp. with Comcast was completed, and the name of Vista Television Cable's ultimate parent changed from AT&T Comcast Corporation to Comcast Corporation, and

WHEREAS, Vista Television Cable, Inc. subsequently changed its name to Comcast of Washington II, Inc., and"

WHEREAS, the conditions resulting from the extension of the Franchise have been considered by the City, and

WHEREAS, the City Council has determined that it is in the best interest of the City to grant a two (2) year extension of the Franchise;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Amendment of Section 2(A) of Ordinance No. 191. Section 2(A) of Ordinance No. 191, as amended by subsequent enactments, is hereby amended to provide in its entirety as follows:

A. Term. This Franchise, which commenced on November 23, 1997 (for an initial five (5) year term), and which was extended by Ordinance No. 327 (for an additional five (5) year term) and Ordinance No. 405 (for a further two (2) year term), shall expire on November 22, 2009.

Amendment of Section 2(C) of Ordinance No. 191. Section 2(C) of Ordinance No. 191 is hereby amended and renumbered as Section 2(B) to provide in its entirety as follows:

B. Renewal. The term of this Franchise may be renewed for successive terms pursuant to WMC Section 5.50.050 and 47 USC Section 546.

Amendment of Section 14 of Ordinance No. 191. Section 14 of Ordinance 191, as amended by subsequent enactments, is hereby amended to provide in its entirety as follows:

Section 14. Customer Service. The Franchisee shall at all times be in compliance with applicable FCC Customer Service obligations, including 47 CFR Section 76.309, as now existing or

hereafter amended, which standards are incorporated into this Franchise by reference. The City reserves the right to enact or enforce any customer protection law containing more stringent standards, to the extent not specifically preempted by federal statutes or regulations.

The City acknowledges that the Franchisee has, for many years, voluntarily offered a discount of thirty percent (30%) from its published rate card rate to low-income senior and low-income disabled Subscribers (provided they are not already receiving a package discount). The Franchisee agrees to continue to provide, as a voluntary initiative, this discount to Subscribers who are aged 65 years or older or disabled, provided that such individual(s) are the legal owner or lessees/tenants of their residence and that their disposable income from all sources does not exceed the Housing and Urban Development Standards for the Seattle/Everett Area for the current and preceding calendar year.

Amendment of Section 35(I) of Ordinance No. 191. Section 35(I) of Ordinance

No. 191, as amended by subsequent enactments, is hereby amended to provide in its entirety as follows:

- I. Notices. Any notices required to be given shall be delivered to the parties at the following addresses:

Franchisee:
Comcast of Washington, II, Inc.
14870 NE 95th St.
Redmond, WA 98052

City:
City of Woodinville, City Manager
17301 – 133rd Avenue NE
Woodinville, WA 98072

With a copy to:

Comcast of Washington, II, Inc.
19909 120th Ave. NE, #200
Bothell, WA 98011

Notices may be delivered personally to the addressee or deposited in the United States mail, postage prepaid, to the address set forth herein, unless otherwise provided herein. Notice deposited in the United States mail shall be deemed received three (3) days after the date of mailing or upon actual receipt, whichever occurs earlier.

Acceptance. The Franchisee shall not exercise any of the rights or privileges granted pursuant to the Franchise Extension authorized hereunder until its terms and conditions are formally accepted by the Franchisee. Acceptance shall be accomplished by submission of a written instrument, executed and sworn to by a corporate officer of the Franchisee before a Notary Public, and filed with the City within sixty (60) days after the effective date of this Franchise Extension. Such instrument shall evidence the Franchisee's unconditional acceptance of this Franchise Extension and the Franchisee's promise to comply with and abide by all its provisions, terms and conditions. The Franchisee shall not exercise any of the rights or privileges granted pursuant to this Franchise Extension until its terms and conditions are accepted by the Franchisee.

Severability. If any section, sentence, clause or phrase of this ordinance should be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five days after passage and publication of an approved summary thereof consisting of the title.

APPROVED BY THE CITY COUNCIL AT ITS REGULAR MEETING OF DECEMBER 5, 2005.

APPROVED:



MAYOR DON BROCHA

ATTEST/AUTHENTICATED:



CITY CLERK SANDRA PARKER

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By 

CITY ATTORNEY J. ZACHARY LELL

FILED WITH THE CITY CLERK: 11-23-2005
PASSED BY THE CITY COUNCIL: 12-5-2005
PUBLISHED: 12-12-2005
EFFECTIVE DATE: 12-17-2005
ORDINANCE NO. 402