



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2023-2124, **Version:** 1

An ordinance amending Ordinance No. BL2013-395, and approving an extension of one year to the initial term of the cable television franchise of Comcast of Nashville I, LLC, pending completion of the franchise renewal process.

WHEREAS, in 2013 the Metropolitan Government of Nashville and Davidson County (the Metropolitan Government) and Comcast of Nashville I, LLC (Comcast) entered into a Cable Television Franchise Agreement, pursuant to Chapter 6.08 of the Metropolitan Code, approved by BL2013-395 (the 2013 Franchise Agreement); and,

WHEREAS, the 2013 Franchise Agreement approved by Ordinance No. BL2013-395 commenced on or about May 5, 2013, and under the terms of the 2013 Franchise Agreement, the franchise of Comcast would have expired on or about May 5, 2023; and,

WHEREAS, the 2013 Franchise Agreement provided in Section 14.6 that it could be modified as follows:

14.6 Modification. No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by Metropolitan Government and the Grantee, which amendment shall be authorized on behalf of Metropolitan Government through the adoption of an appropriate resolution or order by Metropolitan Government, as required by applicable law. . . ;

and,

WHEREAS, it is stipulated by the parties to the Franchise Extension Agreement attached hereto as Exhibit A, that this Franchise Extension Agreement (once approved by Council) accomplishes such a modification, consistent with Section 14.6 of the Franchise Agreement; and,

WHEREAS, pursuant to authority granted by Section 6.08.030 and 6.08.080 of the Metropolitan Code and under procedures established by Title VI of the Communications Act of 1934, as amended, 47 U.S.C. §§ 521 et seq., the CATV Special Committee is engaged in the franchise renewal process with Comcast regarding whether to renew Comcast's franchise and, if so, the content and term of a new franchise agreement for construction, maintenance, and operation of a cable television system; and,

WHEREAS, the CATV Special Committee is in the process of reviewing the performance of Comcast under the 2013 Franchise Agreement, including the quality of service provided by Comcast, and is in the process of assessing the community's cable-related needs and interests, as called for in 47 U.S.C. § 546; and,

WHEREAS, the CATV Special Committee also wishes to continue to carry out negotiations with Comcast and to explore the possibility of informal franchise renewal under 47 U.S.C. § 546(h), whereby if a new franchise agreement is reached, it must be submitted to the Metropolitan Council for approval by ordinance; and,

WHEREAS, it now appears unlikely that the franchise renewal process, including a new franchise agreement and an ordinance, can be completed before May 5, 2023; and,

WHEREAS, it is in the best interests of the Metropolitan Government that the cable television service provided by Comcast continue uninterrupted, subject to the terms of the 1995 Franchise Agreement, should the

franchise renewal process not be completed by May 5, 2012; and,

WHEREAS, Comcast, based on the understandings and commitments contained herein, has agreed to the terms set forth in the Franchise Extension Agreement; and

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the term of the 2013 Franchise Agreement approved by Ordinance No. BL2013-395 is hereby extended through May 5, 2024.

Section 2. That, consistent with Section 11.8 of the 2013 Franchise Agreement, Comcast shall, on or before February 15, 2024, provide an additional PEG access support grant to the Metropolitan Government of Two Hundred Thousand Dollars (\$200,000.00) to be used by Metropolitan Government, in its sole discretion, for public, educational and governmental access equipment, facilities and support.

Section 3. That all other terms, conditions, and stipulations of the 2013 Franchise Agreement approved by Ordinance No. BL2013-395, shall remain unchanged and in full force and effect.

Section 4. That the Metropolitan Mayor is hereby authorized to execute the Cable Television Franchise Extension Agreement by and between The Metropolitan Government of Nashville and Davidson County and Comcast of Nashville I, LLC attached hereto as Exhibit A (the "Franchise Extension Agreement").

Section 5. That this extension of the 2013 Franchise Agreement is made without prejudice to or waiver of any rights that the Metropolitan Government of Nashville and Davidson County or Comcast may have under Title VI of the federal Communications Act of 1934, as amended, 47 U.S.C. §§ 521 et seq., the Competitive Cable and Video Services Act, Tenn. Code Ann. §§ 7-59-301 et seq., or other applicable law.

Section 6. That the Franchise Extension Agreement attached hereto as Exhibit A is entered into for the sole purpose of allowing the parties adequate time to complete the franchise renewal process and other necessary ancillary processes, and shall not be construed as a new franchise agreement or a franchise extension under Section 6.08.030 of the Metropolitan Code to which the application provisions and other requirements of Section 6.08.040 of the Metropolitan Code would apply.

Section 7. That any provision of any ordinance of the Metropolitan Council and any provision of the Metropolitan Code of Laws which is in conflict with any provision of this Ordinance, is hereby repealed to the extent, but only to the extent, necessary to be consistent with this Ordinance.

Section 8. That this Ordinance shall take affect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance approves a one-year extension of a cable television franchise agreement with Comcast of Nashville I, LLC through May 5, 2024. The agreement, originally approved by Ordinance No. BL2013-395, commenced on or about May 5, 2013 and was set to expire on or about May 5, 2023. The agreement may be modified following an appropriate resolution or order by the Metropolitan Government, and both Comcast and the Metropolitan Government stipulate that this extension serves as an appropriate modification.

Currently, the CATV Special Committee is engaged in a franchise renewal process with Comcast, including

whether to renew Comcast's franchise and what the content and term of a new franchise agreement may include. The CATV Special Committee wishes to continue to review Comcast's performance of the 2013 agreement, negotiate with Comcast, and explore the possibility of an informal franchise renewal between the parties.

For these reasons, Comcast and the Metropolitan Government agree to extend its franchise for 12 additional months through May 5, 2024. Within 30 days of the effective date approving this Franchise Extension Agreement, Comcast will provide a \$200,000 access support grant to the Metropolitan Government for public, educational, and governmental access equipment, facilities, and support. All other terms of the agreement would remain in full force and effect as a result of the extension.

If approved, the agreement shall be deemed retroactively effective on May 5, 2023. The agreement shall not be construed as a new franchise extension under Section 6.08.030 of the Metropolitan Code.

Fiscal Note: Comcast will provide an additional Public, Education, and Government (PEG) access support grant in the amount of \$200,000 payment to Metro to be used for public, educational, and governmental access equipment, facilities, and support.