

ORDINANCE NO. 742

AN ORDINANCE EXTENDING THE TERMS OF THE NON-EXCLUSIVE FRANCHISE FOR THE OPERATION, BY NORTHLAND CABLE PROPERTIES EIGHT, LTD., OF A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF STAYTON; PROVIDING THAT FURTHER AMENDMENTS, AS REQUIRED, MAY BE MADE BY COUNCIL RESOLUTION; AND AMENDING ORDINANCE NO. 533 AS AMENDED BY ORDINANCE NO. 643.

WHEREAS, the terms of Ordinance No. 533 (as amended by Ordinance No. 643) grants to Northland Cable Properties Eight, Ltd. a non-exclusive franchise for the operation of a cable communications system within the City of Stayton; and

WHEREAS, the duration of the franchise is 15 years plus 30 days of the date Ordinance No. 533 was passed by the city, or until 9 May 1995; and

WHEREAS, because of staffing changes in the City of Stayton, negotiations for renewal of the franchise have not been undertaken in time for a new franchise to take effect when Ordinance No. 533 expires; and

WHEREAS, the Stayton City Council has directed that all terms of Ordinance No. 533 be extended for a period of six months from the expiration date; and

WHEREAS, in the event the Stayton City Council deems a further extension appropriate, such action may, for convenience, be taken through adoption of a resolution accordingly;

NOW, THEREFORE, the Stayton City Council hereby ordains as follows:

SECTION 1: That Section 16. of Ordinance No. 533 (as amended by Ordinance No. 643) is hereby amended to read:

SECTION 16 DURATION, RENEWAL, EXTENSION, AND RENEGOTIATION

- DURATION AND RENEWAL:** This franchise and the rights and privileges granted herein shall take effect thirty (30) days after the date this ordinance is passed by the CITY and shall remain in effect for fifteen (15) years from that date unless terminated sooner under provisions of subsection 4. of this section, provided, however, the terms of the franchise must be unconditionally accepted by the COMPANY in writing, signed by an officer of the COMPANY, within thirty (3) days after the date this ordinance is passed by the CITY. At the end of the initial 15-year term, at the discretion of the CITY, this franchise may be renewed for an additional ten (1) year term upon a showing by the COMPANY that it is in substantial compliance the terms and conditions of the franchise and is rendering service commensurate with standards generally adhered to in the cable television industry.

2. **EXTENSION:** The term of this franchise and the rights and privileges granted herein are hereby extended for a period of six months from May 9, 1995 to November 9, 1995. The Stayton City Council, in its discretion, may further and otherwise extend the term of this franchise and the rights and privileges granted hereby by resolution without the necessity of an amending ordinance.

3. **FRANCHISE REVIEW**

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- a. As need arises, and at least at the end of the third, sixth, ninth, and twelfth years of the term of the franchise, the Commission shall meet to review the franchise performance generally, and in particular the following matters:
 - i. Use of channel space, including public access channels and programming, the need for activation of additional channels as set forth in Section 5.4;
 - ii. Service extension policies set forth in Section 6., including but not limited to changes in urban service boundaries affecting areas to be served by the COMPANY;
 - iii. Technical adequacy of the system, including but not limited to picture quality, two-way transmission capacity, and compliance with standards set forth in Section 7.;
 - iv. New technological, regulatory, or legal developments affecting the franchise, COMPANY operation, or CITY's regulatory authority hereunder, including changes in FCC authority, rules, or regulations; and
 - v. The franchise fee set forth in Section 10.
 - b. The COMPANY shall be represented at these meetings by a representative of the COMPANY authorized to speak on behalf of the COMPANY on questions of COMPANY practice, policy, plans, or other matters concerning the cable communications system in the franchise territory.
 - c. Any matters within the categories enumerated in subsection 2.a. above, on which agreement is not reached after good faith negotiation in the course of these review proceedings, shall be submitted to binding arbitration pursuant to Section 15. herein, without need of further agreement to arbitrate, as otherwise required in Section 15.4. Upon decision of the arbitrator(s), this ordinance shall be amended to the extent necessary to implement said decision.

4. **ADDITIONAL PROPOSALS:** In the event that this franchise is terminated or the CITY and the COMPANY are unable to reach an accord on the terms of renewal or extension of this franchise, the CITY may elect to invite proposals from other prospective for the operation of the entire system as it is exists on the date of termination or expiration.

5. **TERMINATION**

- a. The CITY reserves the right to terminate this franchise, and all rights and privileges pertaining thereto, in the event that:
 - i. The COMPANY violates any material provision of this franchise, except where such violation is without fault or occurs by reason of excusable neglect; or
 - ii. The COMPANY deliberately fails to operate the system without prior approval of the Commission without just cause; or
 - iii. The COMPANY intentionally evades any of the provisions of this franchise, or is found to have practiced any fraud or deceit upon the CITY.
- b. Prior to any termination proceedings under this section, the COMPANY shall be given sixty (60) days' notice in writing, which notice shall state with particularity the grounds upon which the CITY relies. If, at the end of the sixty day period, the COMPANY has not cured the matter which provides grounds for termination, the franchise shall be subject to termination.
- c. Termination under this subsection shall be accomplished only by the passage of an ordinance after proceedings affording the COMPANY due process of law and full opportunity to be heard consistent with the hearing procedures set forth in the Stayton Code as such procedures exist at the time this ordinance adopted. Any such ordinance shall not take effect sooner than thirty (30) days after passage and shall be subject to judicial review (Ord. 553).

SECTION 2. Except to the renumbering of Ordinance No. 533 to accommodate this added Section 2. within Section 16., Ordinance No. 533 shall remain unchanged.

APPROVED BY THE STAYTON CITY COUNCIL this 6th day of March 1995.

Date: 3-8-95 By: Willmer Van Vleet
WILLMER VAN VLEET, Mayor

Date: 3/7/95 Attest: Thomas L. Barthel
THOMAS L. BARTHEL, City Administrator

APPROVED AS TO FORM

Date: FEB 24 1995 David A. Rhoten
DAVID A. RHOTEN, City Attorney