

ORIGINAL

RESOLUTION NO. 00-271

A RESOLUTION OF THE CITY OF DELTA, UTAH AMENDING RESOLUTION NO. 00-269 AND NO. 00-270 WHICH CONDITIONALLY APPROVED THE TRANSFER OF AN EXISTING CABLE TELEVISION FRANCHISE, "FRANCHISE", HERETOFORE GRANTED BY DELTA CITY TO TCI OF INDIANA, INC., AND SETTING FORTH TERMS AND CONDITIONS FOR APPROVING SUCH TRANSFER OF SAID FRANCHISE FROM TCI OF INDIANA, INC. TO MALLARD CABLEVISION, L.L.C., BY AMENDING SECTION 2 OF RESOLUTION NO. 00-269, AS AMENDED BY RESOLUTION NO. 00-270, EXTENDING THE PERIOD OF TIME IN WHICH MALLARD CABLEVISION, L.L.C. MUST COMPLY WITH THE CONDITIONAL PROVISIONS CONTAINED THEREIN TO MARCH 31, 2001.

RECITALS

The City Council of the City of Delta, Utah, referred to herein as the "City Council," hereby recites the following as the basis for adopting this resolution:

WHEREAS, the City Council has heretofore adopted resolutions (Resolutions No. 00-269 and 00-270) conditionally approving transfer of an existing cable television franchise, from TCI of Indiana, Inc. to Mallard Cablevision, L.L.C., and setting forth terms and conditions for approving such transfer of said franchise; and

WHEREAS, the City Council has determined that it is in the best interests of the residence of Delta City to amend Resolution 00-269 and 00-270 by extending the period of time in which Mallard Cablevision, L.L.C. must comply with the conditional provisions of Section 1 thereof.

THEREFORE, BE IT RESOLVED by the City Council of the City of Delta, Utah:

1. Amendment to Section 2 of Resolution 00-269, as amended by Resolution No. 00-270, Extending the Time in Which to Comply With Conditional Provisions. Section 2 of Resolution No. 00-269 shall be amended by addition of the shaded material and deletion of the material marked with an overstrike; said Section 2 of Resolution 00-269, as amended by Resolution No. 00270, to read, in its entirety, as follows:

2. Approval of Transfer. The City Council's approval of said transfer shall become effective upon compliance by MALLARD, by ~~December 31, 2000~~ March 31, 2001, of all of the

following conditions:

(a) All franchise fees due and owing as of the date of approving said transfer shall be paid in full;

(b) Filing with the City Recorder a copy of the Certificate of Insurance required by said franchise, which specifically names Delta City as an additional insured on MALLARD's insurance policy, as of the effective date of the transfer between TCI and MALLARD. Provided, however, that TCI's insurance policy shall remain in full force and effect up to and including the date of the transfer. In addition, MALLARD's Certificate of Insurance shall provide that Delta City shall be notified in writing, not less than ten (10) days in advance of any contemplated action to cancel said insurance policy or amend any of the terms or provisions thereof.

(c) Filing with the City Recorder a copy of the franchise bond, with corporate surety, in an amount required by Section 11 of the Franchise.

(d) TCI shall indemnify and defend Delta City against any liability, claim or cause of action arising from the construction, operation or maintenance of TCI's system within Delta City, until the time at which the franchise transfer approved under this resolution becomes effective. From the effective date of such transfer, MALLARD shall indemnify and defend Delta City from any liabilities, claims or causes of action pursuant to section 16 of the Franchise.

(e) MALLARD shall file with the City Recorder, no later than ~~December 30, 2000~~ March 31, 2001, an instrument addressed to the City of Delta in a form acceptable to the City Mayor and City Attorney, accepting the franchise and agreeing to comply with each and all of the terms and provisions set forth in said franchise. If such acceptance has not been filed within the time specified, the resolution approving the transfer of this franchise shall be voidable by the City.

(f) Upon completion of each of the forgoing provisions of this paragraph by MALLARD, the Delta City

Mayor shall immediately prepare and file with the City Recorder a certificate stating that each of the foregoing provisions of paragraph 2 has been completed.

2. Effect of Resolution 00-269. This resolution only amends Section 2 of Resolution 00-269, as amended by Resolution No. 00-270, and all other terms and conditions set forth in Resolution 00-269 shall remain in full force and effect.

3. Effective Date. This resolution shall become effective upon adoption. The franchise transfer approved hereby shall become effective upon compliance with the provisions of subsection 2 of this resolution.

4. Severability. In the event that any provision of this resolution less than the entire resolution is held invalid by a court of competent jurisdiction, this resolution shall be deemed severable and such finding of invalidity shall not affect the remaining portions of this resolution.

5. Repeal of Conflicting Resolutions. To the extent that any resolutions or policies of the City of Delta conflict with the provisions of this resolution, they are hereby amended to be in accordance with the provisions hereof.

PASSED AND APPROVED this 11 day of December, 2000.

Attest:


Gregory Jay Schaffer
GREGORY JAY SCHAFER
City Recorder

R. Dale Roper
R. DALE ROPER
Mayor