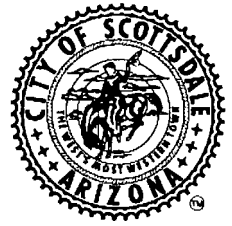


# CITY COUNCIL REPORT



Meeting Date: May 22, 2018  
 General Plan Element: *Public Services and Facilities*  
 General Plan Goal: *Encourage provision of power and communication systems that match the character of Scottsdale and provide reliable, efficient service for Scottsdale citizens, visitors and businesses.*

## ACTION

### Cable Television License Agreement Term Extension

1. Adopt Resolution No. 11098, authorizing a second amendment to cable television license agreement contract number 2007-004-COS with Cox Communications Arizona, LLC to extend the term of the cable television license agreement until October 31, 2018.

## PURPOSE

The current cable television license agreement (contract number 2007-004-COS) was approved by the City Council on June 5, 2007 and is set to expire on June 30, 2018. Senate Bill 1140 is currently through the Arizona State Legislature and has been sent to the Governor for signature. If signed into law, this bill will create uniform statewide regulations and licensing requirements for video service providers that all local governments shall follow. This extension will also allow Cox to continue to provide cable service to City of Scottsdale customers through the existing license while City Staff and Cox work on a new license. This fall, City Staff will bring forward a license renewal with Cox Communications that will reflect the anticipated new state requirements from Senate Bill 1140.

## BACKGROUND

### History of Cable Television Code and Licenses in Scottsdale

#### Cable Television Code

December 15, 1980 – Ordinance 1343: Adopted the original cable television ordinance

The ordinance was later updated on February 1, 1990 with Ordinance 2276 and on April 6, 1992 with Ordinance 2442.

#### Cable Television Licenses

April 6, 1982 – Ordinance 1461: Adopted the City's first cable television license to United Cable Television for the areas south of Deer Valley Road.

August 18, 1986 – Ordinance 1911: Adopted a second cable television license to United Cable Television for the areas north of Deer Valley Road.

April 6, 1992 – Ordinances 2443 and 2444: Amended existing cable television licenses (Ordinances 1461 and 1911) to reflect the purchase of United Cable Television by Telecommunications, Inc. (TCI), and to extend the license term until June 18, 2007. The legal title of the licensee was changed to United Cable Television of Scottsdale dba TCI Cable of Scottsdale. Ordinance 2443 was for the service area south of Deer Valley Road. Ordinance 2444 was for the service area north of Deer Valley Road.

November 18, 1996 – Ordinances 4651 and 4652: Transferred ownership of the cable television system in in Ordinances 1461 and 1911 from United Cable Television of Scottsdale dba TCI Cable of Scottsdale to CoxCom, Inc.

June 5, 2007 – Resolution 7110 – Contract No. 2007-004-COS: Cable television license renewal for Cox Communication that combined the two existing cable licenses owned by CoxCom, Inc. resulting in a single citywide cable television license for cable television service in Scottsdale. At that time, there were 83,048 cable television customers out of 130,400 serviceable homes in Scottsdale.

June 2, 2015 – Resolution 10149 – Contract No. 2007-004-COS-A1: First amendment to the Cox Communications cable television license agreement to allow Cox Communications to have WiFi nodes within the public rights-of-ways on aerial cables and inside ground-mounted pedestals to provide Cox customers with wireless access to the internet.

Cox currently has 65,377 video subscribers out of 166,671 serviceable homes. The current version of Cable Television License Agreement with Cox Communications is set to expire on June 30, 2018. This extension will provide extra time for the City and Cox Communication to bring forward a license renewal that will reflect any new state requirements.

## **OPTIONS & STAFF RECOMMENDATION**

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### **Recommended Approach**

Approve Resolution 11098, authorizing the Mayor to execute contract number 2007-004-COS-A2, a second amendment to cable television license agreement contract number 2007-004-COS with Cox Communications Arizona, LLC to extend the term of the cable television license agreement until October 31, 2018.

## **RESPONSIBLE DEPARTMENT**

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Planning and Development Services

**STAFF CONTACT**

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Keith Niederer  
Telecom Policy Coordinator  
480-312-2953  
kniederer@scottsdaleaz.gov

**APPROVED BY**

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\_\_\_\_\_  
Keith Niederer, Telecom Policy Coordinator  
480-312-2953  
kniederer@scottsdaleaz.gov

5-4-2018  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Tim Curtis, AICP, Current Planning Director  
480-312-4210  
tcurtis@scottsdaleaz.gov

5/4/2018  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Randy Grant, Planning & Development Director  
480-312-2664  
rgrant@scottsdaleaz.gov

5/8/18  
\_\_\_\_\_  
Date

**ATTACHMENTS**

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- 1: Resolution 11098
- 2: Contract No. 2007-004-COS-A2

**RESOLUTION NO. 11098**

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING A SECOND AMENDMENT TO CABLE TELEVISION LICENSE AGREEMENT NO. 2007-004-COS WITH COX COMMUNICATIONS ARIZONA, LLC IN ORDER TO EXTEND THE TERM OF THE CABLE LICENSE AGREEMENT

WHEREAS, the City and CoxCom, Inc., a Delaware corporation ("Original Licensee"), executed that certain Cable Television License Agreement being City of Scottsdale Contract No. 2007-004-COS (the "Original Agreement") dated June 5, 2007 whereby, among other things, City granted to Original Licensee a license for operation of a cable television system upon City's public right-of-way; and

WHEREAS, the City and Original Licensee executed the First Amendment to Cable Television License Agreement being City of Scottsdale Contract No. 2007-004-COS-A1 dated May 15, 2015 (the "First Amendment"), whereby, among other things, the Original Licensee assigned all of its rights in the Cable Television License Agreement to Cox Communications Arizona, LLC, a Delaware limited liability company ("Licensee"); and

WHEREAS, City and Licensee desire to amend the Original Agreement and the First Amendment to extend the term of the Agreement which is set to expire on June 30, 2018.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Mayor is authorized and directed to execute on behalf of the City of Scottsdale Contract No. 2007-004-COS-A2, the second amendment to the Original Agreement for the purpose of extending the term of the Amended Agreement for an additional 123 days to October 31, 2018.

PASSED AND ADOPTED by the Council of the City of Scottsdale this \_\_\_\_ day of May, 2018.

CITY OF SCOTTSDALE, an Arizona  
municipal Corporation

ATTEST:

\_\_\_\_\_  
W. J. "Jim" Lane, Mayor

By:

\_\_\_\_\_  
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
~~Bruce Washburn, City Attorney~~

By: Eric C. Anderson, Senior Assistant City Attorney

16469339v1

**ATTACHMENT 1**

SECOND AMENDMENT TO CABLE TELEVISION LICENSE AGREEMENT

THIS SECOND AMENDMENT TO CABLE TELEVISION LICENSE AGREEMENT (the "Amendment") is made this \_\_\_\_ day of \_\_\_\_\_, 2018 by City of Scottsdale, an Arizona municipal corporation ("City"), and by Cox Communications Arizona, LLC, a Delaware limited liability company ("Licensee").

RECITALS

A. City and CoxCom, Inc., a Delaware corporation ("Original Licensee"), executed that certain Cable Television License Agreement being City of Scottsdale Contract No. 2007-004-COS (the "Original Agreement") dated June 5, 2007 whereby, among other things, City granted to Original Licensee a license for operation of a cable television system upon City's public Right-of-way.

B. Original Licensee assigned all of its rights in the Original Agreement to Licensee. Neither City nor Licensee has otherwise assigned any rights under the Original Agreement.

C. The Original Agreement has been amended once when City and Licensee executed the First Amendment to Cable Television License Agreement being City of Scottsdale Contract No. 2007-004-COS-A1 dated May 15, 2015 (the "First Amendment"), whereby, among other things, Licensee assumed the Original Agreement. (Collectively the Original Agreement and the First Amendment are the "Amended Agreement.")

D. City and Licensee desire to amend the Amended Agreement to extend the term of the Amended Agreement under the same terms and conditions.

E. References to the Amended Agreement (or any of its paragraphs or subparagraphs) refer to the Original Agreement (or such paragraph or subparagraph), as amended by the First Amendment. Undefined terms capitalized in this Amendment have the meanings assigned in the Amended Agreement. Unless otherwise specified, exhibit references refer to the exhibits attached to the Original Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained herein, Licensee and City agree as follows:

1. Original Term Expiration. Delete Paragraph 2.2 and replace as follows:

The original term of this Agreement shall terminate at 11:59 p.m. October 31, 2018, unless sooner terminated as set forth in this Agreement.

2. Notice Addresses. City and Licensee confirm the following addresses for notice under Paragraph 17.9:

If to Licensor: City Manager  
City of Scottsdale  
3939 North Drinkwater Boulevard  
Scottsdale, AZ 85251

Copy to: Planning and Development/Telecommunications Policy Coordinator  
City of Scottsdale  
7447 E. Indian School Rd., Ste. 105  
Scottsdale, AZ 85251

Copy to: City Attorney  
City of Scottsdale  
3939 N. Drinkwater Blvd.  
Scottsdale, AZ 85251

If to Licensee: Senior Vice President and Southwest Region Manager  
Cox Communications Arizona, LLC  
Building C  
1550 W. Deer Valley Road  
Phoenix, AZ 85027

Copy to: Vice President Government Affairs  
Cox Communications, Inc.  
6205-B Peachtree-Dunwoody Rd  
Atlanta, GA 30328

3. Miscellaneous Provisions Regarding this Amendment. The parties also agree as follows:

3.1 Effective Date. This Amendment applies as of the date of this Amendment.

3.2 Recording. This Amendment and the Amended Agreement shall not be recorded.

3.3 No Further Amendment. Except as amended by operation of law and by specific provisions of this Amendment, the Original Agreement and the First Amendment and the parties' respective rights and obligations related thereto are not affected by this Amendment.

3.4 Integration. The First Amendment and this Amendment constitute the entire agreement between the parties with respect to amending the Original Agreement and supersede any prior agreement, understanding, negotiation, draft agreements, discussion outlines, correspondence and memoranda or representation regarding amending the Original Agreement.

3.5 Licensee's Prior Assignees. Licensee warrants and represents that Licensee has not assigned to anyone any rights under the Original Agreement and is the sole holder of all rights of Licensee under the Amended Agreement.

3.6 Third Party Beneficiaries. There are no third party beneficiaries to this Amendment or the Amended Agreement.

MADE AS OF THE DATE FIRST GIVEN ABOVE.

**LICENSEE:** COX COMMUNICATIONS ARIZONA, LLC, a Delaware limited liability company

By:   
John L. Wolfe, Senior Vice President and Region Manager-Southwest

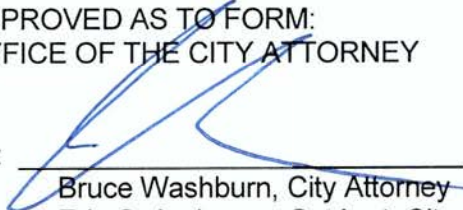
**CITY:** CITY OF SCOTTSDALE, an Arizona municipal corporation

By: \_\_\_\_\_  
W. J. "Jim" Lane, Mayor

ATTEST:

\_\_\_\_\_  
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By:   
Bruce Washburn, City Attorney  
Eric C. Anderson, Sr. Asst. City Attorney

  
Keith Niederer, Telecommunications Policy Coordinator

