

RESOLUTION NO. 1669

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLDEN APPROVING THE JOINT AND COOPERATIVE INTERGOVERNMENTAL AGREEMENT FOR A GREATER METRO TELECOMMUNICATIONS CONSORTIUM

WHEREAS, the Greater Metro Telecommunication Consortium (GMTC) is an organization composed of metro area cities and counties which shares resources and information regarding the operation of local cable systems and coordinates the administration, monitoring and renewal of cable franchises and addresses common telecommunication issues; and

WHEREAS, the GMTC is of particular benefit to the City in its establishment and operation of its local cable channel and resolution of cable franchise issues: and

WHEREAS, to join the GMTC the City must approve the GMTC joint and cooperative intergovernmental agreement; and

WHEREAS, Section 15.6 of the City's Home Rule Charter permits City Council, by resolution, to enter into intergovernmental agreements for the furnishing or providing of services; and


WHEREAS, City Council finds that the proposed intergovernmental agreement serves a public purpose and benefits the general welfare of the citizens of Golden.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

The Joint and Cooperative Intergovernmental Agreement for a Greater Metro Telecommunications Consortium is approved in substantially the same form as the copy attached hereto and made a part of this resolution.

Adopted on the 11th day of May, 2006.

ATTEST:


Dominique Sample, Deputy
Susan M. Brodks, MMC
City Clerk

C. J. Baroch

Charles J. Baroch
Mayor

APPROVED AS TO FORM:

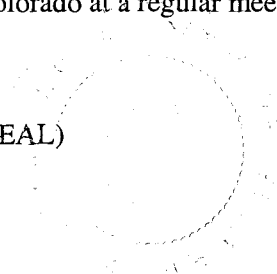
James A. Windholz

James A. Windholz
City Attorney

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I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a regular meeting thereof held on the 11th day of May, A.D., 2006.

(SEAL)



ATTEST:

Dominique Fausch, Deputy
Susan M. Brooks, City Clerk of the City of
Golden, Colorado

JOINT AND COOPERATIVE
INTERGOVERNMENTAL AGREEMENT
for a
GREATER METRO TELECOMMUNICATIONS CONSORTIUM

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THIS AGREEMENT, dated and effective as of this 11th day of May, 2006, is entered into by and between the undersigned municipal corporations, cities and counties, counties and political subdivisions of the State of Colorado, (hereinafter collectively called "Members" or the "parties").

WHEREAS, the parties share similar concerns and objectives with regard to ensuring the provision of high-quality cable television, data and communications service, and the safe and efficient use of public rights-of-way, within their respective jurisdictions; and

WHEREAS, the parties confront many of the same challenges in the allocation of scarce resources to the monitoring and administration of cable communications franchises and other telecommunications issues within their respective jurisdictions; and

WHEREAS, the sharing of resources and information, and the cooperation in the operation of cable systems and public, educational and governmental ("PEG") facilities would benefit the citizenry of each of the parties; and

WHEREAS, the parties desire to coordinate and cooperate in the administration, monitoring and renewal of cable franchises; to collectively research cable-related issues and telecommunications matters; and to address common concerns, investigate mutual solutions to challenges, and new means of achieving common objectives pertaining to cable franchising, so as to increase efficiency in the management of telecommunications issues, and the franchising of cable systems and to ensure the best possible cable and telecommunications services to all subscribers within their respective jurisdictions; and

WHEREAS, the Federal Cable Communications Policy Act of 1984, 47 U.S.C. Sections 521-559 (Supp. 1985), and the Colorado Constitution, Article XX, Section 4 (1991 Cum. Supp.), authorize local governmental entities to grant franchises in accordance with the terms therein; and

WHEREAS, Sections 29-1-203 and 29-1-401 of the Colorado Revised Statutes authorize political subdivisions of the State of Colorado to cooperate or contract to provide any lawfully authorized function, service or facility or to form and maintain associations to promote, through cooperative effort, the interest and welfare of each.

NOW THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the parties agree as follows:

1. PURPOSE. The purpose of this Agreement is to share information and resources pertaining to cable communications franchising, to coordinate and cooperate in the administration, monitoring and renewal of cable franchises, to cooperate in the operation of public, educational and governmental channels and services, to jointly and more efficiently monitor cable franchises and cable-related legislation and issues, to collectively research cable-related and telecommunications matters, to address

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Intergovernmental Agreement

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common concerns, to investigate mutual solutions to challenges pertain to cable franchising, telecommunications regulation and administration, and new means of achieving common objectives with regard to cable franchising, and to coordinate and interconnect metro area cable communications and telecommunications systems, within the framework of an informal confederation of political subdivisions of the State of Colorado in a common geographical area.

2. ESTABLISHMENT OF THE GREATER METRO TELECOMMUNICATIONS CONSORTIUM. The parties hereby create an agency to known as the "Greater Metro Telecommunications Consortium", or the "Consortium". The Consortium shall be separate from its Members and the parties, but governed by the parties according to the terms hereof. The central communications address and headquarters of Aurora, Colorado, 80014, initially, although the Members of the Consortium may vote following execution to rotate said address among parties, establish an independent headquarters, or adopt such other practices or procedures in this regard as they deem fit.

3. DEFINITIONS.

For the purposes of this Agreement the following words, terms and phrases shall have the following meanings.

"Director" shall mean the individual appointed by a Member to be its representative in the Consortium.

"Franchise" (and its gerund, "franchising") shall mean the same in this Agreement as in the Cable Communications Policy Act of 1984, 47 U.S.C. Section 522(8).

"Member" shall mean a political subdivision of the State of Colorado which has entered into and formally executed this Agreement with proper legislative approval, and is, at the time in question, current with all costs of participation. Members shall be divided into two categories, Voting Members and Associate Members, as defined in the Bylaws.

"Subscriber" shall mean any person, association, governmental unit, company or partnership receiving cable television, communication or data services from a cable system in a Member's jurisdiction, and, unless the context clearly indicates otherwise, may be used hereinafter synonymously with "customer" or "consumer".

4. BOARD OF DIRECTORS. Each Member shall appoint one Director to serve on a Board of Directors of the Consortium (the "Board") for a 3-year term, and, at its option, up to two alternates, to attend meetings in place of the Director in case the Director is unavailable. The election and qualifications of each Director shall be within the discretion of each Member; however notice of the initial selection, and any changes or substitutions shall be sent promptly to the Consortium at the communications address. Directors shall serve without compensation from the consortium. The Consortium shall act through the Board, although the Board may vote to delegate specific authority to the officers of the Consortium, or to any executive committee or any special committees the Board may constitute.

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5. OFFICERS. The officers of the Consortium shall include a president, a vice president, a treasurer, and a secretary, each of whom shall be elected at the annual meeting of the Consortium in odd years. New officers shall take office at the adjournment of the annual meeting at which they are elected.

A. President/Vice President. The president shall preside at all meetings of the Consortium and shall perform all duties incident to the office of president, and such other duties as may be prescribed by the Consortium. The vice president shall act as president in the absence of the president.

B. Secretary. The secretary shall be responsible for keeping a record of all of the proceedings of the Consortium, preparing and circulating minutes and agenda, facilitating communications, and giving notice of the meetings, or arranging therefor.

C. Treasurer. The treasurer shall have custody of the Consortium funds, pay its bills, keep its financial records and generally conduct its financial affairs. The qualifications of the treasurer and other requirements shall be as prescribed by the Consortium.

6. VOTING. Each Voting Member in good standing shall have one vote. There shall be no voting by proxy; all votes must be cast in person at Consortium meetings by a Director from a Voting Member, or a Voting Member's alternate, except as otherwise provided in the Bylaws. Directors shall not be eligible to vote on behalf of any Member during the time that the Member is in default on any contribution or payment to the Consortium. A quorum of no less than one-half plus one of the Voting Members currently in good standing shall be necessary for the conduct of Consortium business. Decisions of the Consortium shall be by a majority vote of those Voting Member Directors present at a duly called meeting, which shall require at least one week's notice. Upon the request of any Voting Member, a "weighted voting system" shall be utilized, in which each Voting Member represented at the meeting shall have one vote for each subscriber in that Member's jurisdiction. A simple majority of the votes cast in any weighted voting system vote shall decide any issue for which the weighted voting system is requested. The number of subscribers, and hence the weighted vote, for each Member is shown in Exhibit A, and each party to this Agreement agrees to its weighted vote as shown.

7. BYLAWS. The Consortium shall have the authority to adopt bylaws governing the conduct of the Consortium, its meetings, and communications and interaction among the Members. Where such bylaws are not adopted or are incomplete, Robert's Rules of Order shall be used for the conduct of the Consortium meetings.

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8. FINANCES.

A. Operating Budget. Drawing upon such assistance from the members as shall reasonably be required based upon such direction as the Board provides, the Treasurer shall prepare an operating budget (the "Operating Budget") by April 1st of each year this Agreement is in effect. The Operating Budget shall set forth anticipated expenses, financing sources, and proposed service levels necessary to carry out the purpose of this Agreement. Said Operating Budget shall take effect this following fiscal year, beginning on January 1st. Directors shall vote to approve any Operating Budget according to the voting procedures set forth in Section 6, above, but each Member shall have the right to refuse to pay that member's assessment and withdraw from the consortium by giving notice of withdrawal as provided in Section 12.

B. Special Budgets. Upon direction by the Board of Directors, the treasurer shall prepare a special budget for particular projects that involve more than the ongoing research, information sharing, communication, and PEG interconnection functions of the Consortium, such as franchise renewals. Those Members desiring to participate in such special projects shall authorize their Directors to vote to approve or reject such budget according to the procedures set forth in Section 6, above, except that the quorum requirements for the purpose of approving a special budget shall only apply to the total number of Members who have indicated their intent to participate in said specially-budgeted project, rather than the entire membership of the Consortium.

C. Contribution. Regardless of which voting procedure is used, Member contributions both with regard to the Operating Budget, and any special budgets, shall be apportioned and required in direct proportion to each Member's proportionate share of the total subscribership within the jurisdiction of all Members of the Consortium, as set forth with regard to the weighted voting system in Exhibit A. With the approval of the Board, Members may be credited for the monetary value of any personnel time, equipment or facilities used by the Consortium, or for other non-cash contributions that benefit the Consortium as a whole. Failure by any Member to pay its contribution to the approved Operating Budget by January 31st of the applicable fiscal year shall be considered a default for the purposes of this Agreement, and such Members shall be considered no longer in good standing for all the purposes of this Agreement until paid in full. Failure by any Member to timely pay its share of any duly approved special budget shall result in the termination of the Member's right to participate in, or authorize its director to vote on any issues pertaining to, the projects or matters for which that special budget was prepared.

9. POWERS. The Consortium shall have the power to conduct research, communicate with individual Members, submit comments and statements on behalf of the Consortium to legislative bodies or executive agencies, cooperate in the operation and administration of PEG communications, and to take whatever measures the Board deems necessary to accomplish the Consortium's purposes as set forth in Section 1, above. The Consortium shall further have the power to maintain and utilize assets purchased

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with Member contributions, and funds contributed to the Consortium according to the terms of this Agreement. The Consortium is hereby authorized by the Members to do all that is necessary for the exercise of said powers within the constraints of the approved Operating Budget or special budgets, including, but not limited to any or all of the following: hiring employees or consultants, entering into contracts, acquiring, holding or disposing of property, incurring debts, liabilities or obligations within the limits of any applicable law required by the exercise of these powers, authorizing and approving budgets and financial expenditures, and such other powers as are prescribed by the Members hereof.

10. MEETINGS.

A. Regular Meetings. Regular meetings of the Consortium shall be held quarterly, or as otherwise determined by a majority vote of the Directors appointed by Voting Members.

B. Special Meetings. Special meetings of the Consortium may be called by (1) the president, or (2) the secretary upon the written request of a majority of the Directors. One week's written notice of a special meeting, and the subject matter of that meeting, shall be given to the registered Directors.

C. Notice. Notice of meetings of the Consortium shall be given to the Directors by the Secretary at least one week in advance, and when feasible, the agenda for such meetings, and the minutes of the previous meeting, shall accompany such notice. Notice of such meetings shall also be given at a minimum in accordance with the provisions of applicable law, and additionally as directed by the Members. Discussion at regular meetings of the Consortium need not be limited to matters set forth in the agenda.

D. Executive Sessions. All meetings shall be open to the public as provided in the Colorado Open Meetings Law, C.R.S. 24-6-401 et seq, or any successor statute thereto, unless two thirds (2/3) of the quorum present votes to hold a closed executive session for the purposes, and in accordance with the procedures, set forth in the Open Meetings Law or any successor statute thereto.

11. NEW MEMBERS. After the effective date of this Agreement, additional governmental entities may become Members of the Consortium upon application to, and approval by, the Board of Directors. Approval by the Board of additional members shall be conditioned upon the following:

A. Reimbursement. Reimbursement by the new Members of the Consortium for the expenses of the Consortium resulting from addition of the new Member, including, but not limited to, reasonable attorneys' fees, consultants' fees, accountants' fees, engineering fees and all other such reasonable out-of-pocket expenses as may be incurred.

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B. Adoption. Adoption by the duly elected governing body of the new Member of this Agreement, and such resolutions and ordinances as shall be appropriate to permit the new Member to participate in the Consortium, and the Consortium to operate, in a manner that is consistent with the existing operation of the Consortium.

C. Compliance. Compliance by the new Member with such other conditions as may be determined appropriate by the Board of Directors before such new member is admitted as a Member of the Consortium.

D. Eligibility. Other governmental units with authority to grant franchises or interest in communications franchising within the greater Denver metropolitan area shall be eligible to become Members in the Consortium.

12. WITHDRAWAL. Any Member may withdraw from this Agreement by filing written notice of its intention to do so with the central communications address of the Consortium and each of the other Members. Termination will take effect for the purposes of contributions on January 1st of any year, provided there is at least three weeks advance notice. The withdrawal of any Member from this Agreement shall in no way affect the rights and obligations of the remaining Members, except as agreed upon between the remaining Members. Members withdrawing from this Agreement are not entitled to the return of any funds contributed to the Consortium for the Operating Budget, nor to the return of any materials or supplies contributed to the Consortium. Members shall be entitled to the return of a pro rata share of the unexpended and uncommitted portions of any special budgets within three weeks after the effective date of termination. Members are free to enter into negotiations with their cable system operator(s) independently of the Consortium and this shall not be considered withdrawal so long as such negotiations do not prejudice or compromise the negotiations of the Consortium.

13. TERMINATION AND DISPOSITION OF PROPERTY. This Agreement shall be deemed terminated when only one Member continues to participate in the Consortium, or when all participating Members choose to terminate it. Upon termination, all assets and the remainder of the Operating Budget shall be distributed to the Members still active at the time of termination or continuing to participate on a pro rata basis and in proportion to each Member's financial participation during the prior fiscal year. The remainder of any special budgets shall be distributed to those Members who contributed to the special budget in proportion to their contribution.

14. COOPERATION AND PUBLIC CHARGE. The parties hereby agree that they shall cooperate so far as possible within the constraints of applicable law to effectuate the intent of this Agreement. Members are encouraged but shall not be required to contribute available personnel or employee time, and other available resources without cost to the Consortium. The Consortium shall at all times act within conformity with all applicable laws, statutes and regulations, including equal opportunity

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provisions, and Members and their Directors agree that they will make decisions and act in accordance with the public interest, so as to best benefit their citizens and subscribers.

15. EFFECTIVE DATE AND TERM. This Agreement shall become effective when it has been duly authorized by at least three of the parties and executed originals of this Agreement and other appropriate documents evidencing such approval, have been filed at the central communications address of the Consortium with copies to the other Members as provided above. This Agreement shall continue in effect through the month of June following the effective date and thereafter from year-to-year, or until termination in accordance with the terms hereof.

16. INSURANCE AND HOLD HARMLESS. The Consortium shall be responsible for any insurance necessary for its operation. No Member, and no Director, shall be liable for claims because of participation in, or as the result of any action or omission by, the Consortium. Without waiving the protection of the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq, the Consortium shall, at its sole expense, defend and indemnify Members and Directors against any and all claims, judgments, losses, demands, and costs in any way arising out of this Agreement to the extent such claims, judgments, losses, demands and costs are not barred by the Colorado Governmental Immunity Act.

17. SEVERABILITY. Should any part, term, or provision of this Agreement by any agency or court of competent jurisdiction declared to be illegal or in conflict with any law whatsoever, or otherwise rendered unenforceable or ineffectual, the remaining portions of this Agreement shall nonetheless remain in effect and the Members each agree that they would have entered into each provision of this Agreement separately even if none of the other provisions had been included.

18. AMENDMENT. This Agreement may be amended by the two-thirds majority vote of the entire membership, based upon each Member being entitled to one vote.

19. REPORTING AND RECORD KEEPING. The Consortium shall report all proposed amendments of this Agreement or any bylaws promulgated pursuant to this Agreement, any Meeting changes, changes in budget, and any information important to the operation of this Agreement to the Directors of each Member promptly. All documents required to be made available under any local, state, or federal law or regulation shall be deposited at the central communications address as set forth in Section 2, above. Once annually, the Board shall engage an independent accounting firm to perform an audit of the budget of the Consortium, which audit shall be distributed to each Member in summary form. All such documents and any and all documents maintained by, or pertaining to, the Consortium shall be available upon reasonable notice for inspection by any Member.

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IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement below on the date first above written.

COUNTY OF Jefferson, COLORADO



By: C. J. Barock
Title: Mayor

Dominique Kausle, Deputy City Clerk

APPROVED AS TO FORM:

[Signature]