

Consent Agenda

Agenda Item #	1A
Meeting Date	March 18, 2013
Prepared By	Suzanne Ludlow Acting City Manager

Discussion Item	Resolution Retaining Suellen Ferguson to Represent the City in Cable Franchise Negotiations and Related Matters
Background	<p>The City of Takoma Park has franchise agreements with three cable companies. Negotiations with Comcast are underway as the franchise agreement with that company expires June 30, 2013. Negotiations are done as a group with Montgomery County and several other Montgomery County municipalities, with Montgomery County taking the lead. However, there are aspects of the negotiations for which the City of Takoma Park must protect its own interests separate from the County and other municipalities.</p> <p>When the negotiations were begun, the City of Takoma Park had partnered with other municipalities to retain David Podolsky of Stein, Sperling, Bennett, DeJong, Driscoll & Greenfeig, P.C. to help protect municipal interests. In past negotiations, the cable franchiser paid for the municipal legal representation needed during negotiations as part of the franchise agreement. David Podolsky agreed to keep track of the legal costs (billed at \$175.00 per hour plus expenses) but hold off on billing the municipalities until the end of the process when it would be determined if Comcast would pay the bill. If Comcast did not agree to pay the legal costs, the municipalities would divide the legal bill equally and pay Mr. Podolsky.</p> <p>Mr. Podolsky has retired and no other attorney in the firm is knowledgeable about the franchise issues. Suellen Ferguson, of Council, Baradel, Kosmerl & Nolan, P.A., is experienced in cable franchise matters and represents municipalities in Montgomery and Prince George's County on this and other topics. Staff recommends that the City of Takoma Park retain her for the duration of the Comcast negotiations and related discussions with Montgomery County.</p> <p>Ms. Ferguson's firm has agreed to the same terms as those the municipalities had with Mr. Podolsky, although it is possible that there may be fewer municipalities splitting the legal costs if Comcast does not agree to pay the legal bill. Originally it was estimated that the total cost to Takoma Park could be about \$4,000 if the municipalities were to pay the legal costs. Since it is unclear how many municipalities may be sharing Ms. Ferguson's services at this time, an estimate is not available, but the total should be less than \$10,000.</p> <p>Although the Comcast franchise expires June 30, 2013, it appears unlikely that negotiations will be concluded by that date, so an extension is likely to be requested while negotiations continue.</p> <p>Montgomery County's agreement with the municipalities in sharing the franchise-related fees is likely to be negotiated during this time period as well. Having experienced legal assistance in this negotiation is also needed. Ms. Ferguson is knowledgeable about the current agreement between the County and the</p>

	municipalities and has been learning about the various needs of the municipalities so as to be effective in these negotiations as well.
Policy	<p>Use and maintain appropriate and varied modes of communication – online, print and TV media – to reach effectively and efficiently target audiences.</p> <p>(From the Engaged, Responsive, and Service-Oriented Government goal, <i>Takoma Park Strategic Plan</i>)</p>
Fiscal Impact	It is likely that there will be no cost to the City of the legal representation related to the Comcast franchise negotiations. Effective representation of the City in these negotiations and the related agreement with Montgomery County could result in hundreds of thousands of dollars in revenue for the City on an annual basis for the duration of the 15-year franchise agreement.
Attachments	Draft resolution.
Recommendation	Approve resolution.
Special Consideration	

Introduced by:

**CITY OF TAKOMA PARK, MARYLAND
RESOLUTION NO. 2013-**

RETAINING SUELLEN FERGUSON TO REPRESENT THE CITY IN CABLE FRANCHISE NEGOTIATIONS

WHEREAS, the City of Takoma Park has franchise agreements with three cable companies and the franchise agreement with Comcast is to expire June 30, 2013; and

WHEREAS, although Montgomery County, on behalf of itself and most Montgomery County municipalities, takes the lead in the franchise negotiation process, the City of Takoma Park has some interests that are different than those of the County and the other municipalities; and

WHEREAS, an agreement to be represented in the Comcast franchise renewal negotiations by David Podolsky of Stein, Sperlin, Bennett, DeJong, Driscoll & Greenfeig, P.C. has ended due to Mr. Podolsky's retirement; and

WHEREAS, Suellen Ferguson of Council, Baradel, Kosmerl & Nolan, P.A. has agreed to represent the City of Takoma Park and several other municipalities under the same terms as those arranged with Mr. Podolsky; and

WHEREAS, Ms. Ferguson has the needed experience with cable franchise negotiation in Montgomery and Prince George's Counties to serve as the City's legal representative in the Comcast franchise renewal negotiations and related negotiations on the division of franchise-related revenue with Montgomery County; and

WHEREAS, the cost for the legal services is to be \$175 per hour plus expenses and such costs are likely to be paid by Comcast as part of the franchise agreement; and

WHEREAS, if Comcast does not pay the legal costs of the City for the negotiations, the legal costs charged by Ms. Ferguson will be divided equally by the municipalities represented by her in the negotiations and paid to her firm when the negotiation process has concluded.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the Acting City Manager is authorized to enter into a contract with Suellen Ferguson of Council, Baradel, Kosmerl & Nolan, P.A. for legal representation in the franchise renewal negotiations with Comcast and for related negotiations with Montgomery County on the division of franchise-related revenue.

Adopted this ____ day of ____, 2013