

Ordinance No. 2683

AN ORDINANCE TO EXTEND THE EXPIRATION OF THE CITY'S GRANT OF FRANCHISE TO USE THE PUBLIC RIGHTS OF WAY IN THE CITY TO INTERSTATE FIBERNET, INC. AND TO APPROVE THE MERGER OF ITC^DELTACOM, INC, PARENT COMPANY OF INTERSTATE FIBERNET, WITH EARTHLINK, INC.

Be it ordained by the City Council of the City of Auburn, Alabama, as follows:

Whereas, the City Council of the City of Auburn (the "City") approved Ordinance 1910 which granted a franchise to Interstate FiberNet to use the public rights of way in the City of Auburn; and

Whereas, the franchise so granted by Ordinance 1910 expired on April 18, 2010 and Interstate FiberNet has requested a renewal of the franchise; and

Whereas, Interstate FiberNet has made all required franchise fee payments required by Ordinance 1910; and

Whereas, Interstate FiberNet has requested that, in accordance with the terms of the franchise granted by Ordinance 1910, the City Council approve the merger of ITC^DeltaCom, Inc., parent company of Interstate FiberNet, with Earthlink, Inc.,

Now, therefore, be it ordained as follows:

Section 1. Franchise term extension. The franchise term granted by Ordinance 1910 shall be extended to expire on April 18, 2015 (the first five years); and will be automatically renewed for another five (5) years (expiring on April 18, 2020), providing that all fee payments during the first five (5) years have been timely paid and that at the expiration of the first five years, Interstate FiberNet is not in default with any of the terms of this Ordinance or Ordinance 1910.

Section 2. Interstate FiberNet facilities in the City. Interstate FiberNet has stated to the City that the following documents are an accurate statement of its facilities within the City of Auburn as of September 30, 2010:

Exhibit A Route Diagram

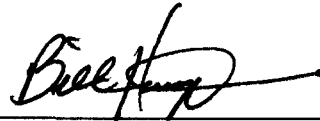
Exhibit B Description of all Facilities and Appliances, and
Location and Construction Requirements as of
September 30, 2010

Section 3. All other franchise terms continued. All other terms, conditions and provisions of Ordinance 1910 shall continue to be in full force and effect following the adoption of this ordinance.

Section 4. Approval of franchisee's ownership change. As provided in Section 5. of Ordinance 1910, Interstate FiberNet has requested written approval of the City Council of the City of Auburn of the merger of Interstate FiberNet's parent company, ITC^DeltaCom, Inc. with Earthlink, Inc; by adoption of this Ordinance, the City Council of the City of Auburn approves the merger.

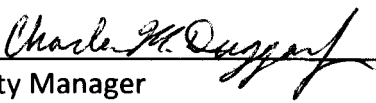
Section 5. Acceptance. The rights and privileges granted by this Ordinance shall not be effective until an unconditional written acceptance by Interstate FiberNet, which acceptance shall be provided to the City within thirty (30) days after adoption of this Ordinance by the City Council. Interstate FiberNet's acceptance shall be by delivery of the written acceptance in the form provided in Exhibit C hereto.

Adopted and approved by the City Council of the City of Auburn, Alabama, this the 2nd day of November, 2010.



Mayor

ATTEST:



City Manager