

CITY OF AURORA

RESOLUTION NO. 07-540

A RESOLUTION OF THE AURORA CITY COUNCIL GRANTING CONSENT AND APPROVAL TO ASSIGNMENT OF CABLE FRANCHISE FROM WILLAMETTE BROADBAND, L.L.C. TO WAVE DIVISION VII, L.L.C.

WHEREAS, Wave Division VI, L.L.C. and Willamette Broadband, L.L.C. have requested that the franchise currently held by Willamette Broadband, L.L.C. be transferred to Wave Division VI, L.L.C, and

WHEREAS, the Aurora City Council has reviewed the documents relating to the transfer of the franchise from Willamette Broadband to Wave Division VI, L.L.C. and has applied the criteria listed in Aurora City Code section 5.16.480 pertaining to assignments or transfers of franchises and finds that all the criteria listed in said code section have been satisfied and that the transfer of the franchise from Willamette Broadband L.L.C. to Wave Division VI, L.L.C. is acceptable;

NOW, THEREFORE, BE IT RESOLVED that the Aurora City Council hereby approves of the transfer of franchise as stated above and does hereby execute the attached Consent and Approval to Assignment of Cable Franchise.

ADOPTED this 14th day of August, 2007, by the Aurora City Council.

By: _____

Jennifer Strutz, Mayor

Attest: _____

Laurie Boyce, City Recorder

EXHIBIT D
TO
ASSET PURCHASE AGREEMENT
FORM OF CONSENT AND APPROVAL TO ASSIGNMENT OF CABLE FRANCHISE

CONSENT AND APPROVAL TO ASSIGNMENT OF CABLE FRANCHISE

WHEREAS, the City of Aurora (“Grantor”) granted to Willamette Broadband, L.L.C. (“Grantee”), a franchise as set forth in Ordinance No. 444 dated April 11, 2006, to own and operate a cable television system in The City of Aurora (the “Franchise”);

WHEREAS, on June 22, 2007, Grantee and WaveDivision VII, LLC (“Assignee”) entered into an Asset Purchase Agreement (the “Purchase Agreement”) for the sale of the assets of Grantee, including the Franchise, to Assignee (the “Transaction”); and

WHEREAS, Grantee and Assignee filed an FCC Form 394 Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise with Grantor on or about July 10, 2007 (the “Application”); and

WHEREAS, Grantor has duly conducted a thorough review and investigation into the legal, technical and financial qualifications of Assignee to own and operate the cable television system in light of the Application; and

WHEREAS, all written comments and staff reports have been received, and made a part of the record; and

WHEREAS, following review and investigation, Grantor has approved the Application and Grantor has concluded Assignee has established it meets the legal, technical and financial criteria to operate the cable television system and has satisfied all necessary criteria set forth in and/or under all applicable local, state and federal laws, rules and regulations.

NOW, THEREFORE, BE IT RESOLVED, that in consideration of the foregoing, Grantor consents to the transactions contemplated by the Purchase Agreement and further resolves as follows:

1. Grantor hereby approves the Application and consents to the assignment of the Franchise from Grantee to Assignee effective upon the closing of the Transaction.
2. Grantor confirms that: (a) the Franchise was duly issued or assigned to Grantee, is valid and enforceable in accordance with its terms, and is in full force and effect; (b) other than as set forth in this Consent and Approval, there have been no amendments or modifications to the Franchise; (c) to Grantor’s knowledge, there are no defaults under the Franchise, and no event has occurred and is continuing which, with the giving of notice or passage of time, or both, could constitute a default thereunder; and (d) upon the closing of the Transaction, the duly authorized franchisee under the Franchise will be Assignee.

3. Assignee may, without obtaining prior consent of Grantor, from time to time (a) assign or transfer its assets, including the Franchise, provided however, that such assignment or transfer is to a parent or subsidiary of Assignee or another entity under direct or indirect control of the parent of Assignee; (b) restructure its debt or change the ownership interests among its equity participants, and/or its affiliates; (c) pledge or grant a security interest in its assets, including but not limited to the Franchise, or of interest in Assignee, to any lender(s) for purposes of securing indebtedness.

4. The Franchise and this Consent and Approval were and are made, passed and adopted in accordance with all applicable notice and procedure requirements under all laws applicable to Grantor, and with all applicable notice and procedure requirements, and do not conflict with the laws, ordinances, resolutions and other regulations of Grantor, as presently in effect or as the same were in effect at the time the particular action was taken.

5. Grantor's approval of the Application and its consent to the assignment of the Franchise to Assignee shall be effective immediately, and Assignee shall notify the Grantor upon the closing of the Transaction (the "Closing Date").

6. Grantor releases Grantee, effective upon the Closing Date, from all obligations and liabilities (including any guarantee or surety) under the Franchise related to the period on and after the Closing Date; and Assignee shall be responsible for any obligations and liabilities under the Franchise related to the period on and after the Closing Date.

7. This Consent and Approval shall take effect immediately and shall remain in effect through the remainder of the term of the Franchise and shall have the force of a continuing agreement with Grantee and Assignee, and Grantor shall not revoke, amend or otherwise alter this Consent and Approval without the consent of the Grantee and Assignee.

ADOPTED AND APPROVED THIS 14th day of August, 2007.

CITY OF AURORA

By: _____

Name: Jennifer Strutz

Title: Mayor

ATTEST:

Kelley Richardson
City Recorder

Acting