

RESOLUTION NO. ____

RESOLUTION OF THE CITY OF GALVESTON AUTHORIZING ENGAGEMENT OF THE FIRM OF LLOYD GOSSELINK ROCHELLE AND TOWNSEND P.C. OF AUSTIN TEXAS TO PURSUE A CLAIM OF OUTSTANDING FRANCHISE FEES OWED BY COMCAST TO THE CITY OF GALVESTON AND OTHER MUNICIPALITIES, AUTHORIZING THE INITIATION OF LITIGATION AGAINST THE COMCAST CORPORATION TO COLLECT SUCH FEES IN CONJUNCTION WITH OTHER MUNICIPALITIES WHICH HAVE CHOSEN TO PARTICIPATE IN THE LITIGATION; AND AUTHORIZING THE CITY ATTORNEY TO EXECUTE AN AGREEMENT TO FINALIZE SUCH REPRESENTATION IN ACCORDANCE WITH THE TERMS AND CONDITIONS SET FORTH HEREIN.

WHEREAS, the City of Galveston has previously entered into an franchise agreement with the Time Warner Company to provide cable communication services within the City of Galveston; and

WHEREAS, the City of Galveston subsequently entered into an agreement with the Time Warner Company and the Comcast Corporation to allow the Comcast Corporation to be assigned and perform all the duties and obligations imposed upon Time Warner; and

WHEREAS, at all time relevant to this Resolution the Comcast Corporation has been responsible for the performance of the terms and conditions of the agreement with the City, including the payment of franchise fees to the City of Galveston; and

WHEREAS, the firm of Lloyd Gosselink Rochelle, and Townsend, P.C. (“the firm”), on behalf of the City of Galveston and a number of other municipalities, has had conducted an audit of the franchise fees paid to the municipalities and is of the opinion that such fees have been underpaid and have recommended the initiation of a collection case to recover the fees claimed; and

WHEREAS, the firm has provided a litigation budget to be shared by the participating cities in a pro rata share of the amounts asserted to be due to each City; and

WHEREAS, the share of fees to be paid by the City of Galveston is estimated to be in the amount of \$29,740.55 subject to the participation of other municipalities in the litigation; and

WHEREAS, it appears that participation in the litigation is in the best interest of the City of Galveston and should be undertaken.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. That the findings and recitations set out in the preamble of this Resolution are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. The City hereby hires and authorizes Thomas Brocato of Lloyd, Gosselink, Rochelle, and Townsend, P.C. (“the firm”) initiate litigation against Comcast Corporation to recover franchise fees due and owing to the City of Galveston in conjunction with other participating municipalities; and

SECTION 3. That the City acknowledges that the estimated litigation budget as detailed above and that the actual share of the City of Galveston may vary depending on the course of the litigation, and the firm will provide periodic cost statements to the Galveston City Attorney; and

SECTION 4. The City reserves the right to withdraw from the litigation at any time it deems to be in its interest and its liability for costs and expenses will not extend for any such items expended after the date of such notice of termination.

SECTION 5. The City Attorney for the City of Galveston is authorized to sign an agreement with the firm to provide for the representation as set forth in this Resolution

SECTION 6. That this Resolution shall be and become effective from and after its adoption.

APPROVED AS TO FORM:

DONALD S. GLYWASKY
CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, Texas, do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the City Council of the City of Galveston, Texas, at its Regular Meeting held on the ____th day of January, 2018, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this ____th day of January, 2018.

Secretary for the City Council
of the City of Galveston, Texas