

RESOLUTION NO. 02- 17862

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA,  
AUTHORIZING THE TRANSFER OF THE CITY'S CABLE  
FRANCHISE FROM AT&T BROADBAND TO BRESNAN  
COMMUNICATIONS, LLC.

WHEREAS, the City of Billings (City) authorizes the use and occupation of its right-of-way for the provision of cable television services through an ordinance codified in Sections 7-901 through 7-909, Billings Montana City Code; and

WHEREAS, the present franchisee of the City's cable television services is AT&T Broadband (AT&T) who has previously agreed by separate document to sell its assets to Bresnan Communications, LLC (Bresnan); and

WHEREAS, the transfer of cable television franchise agreements are extensively regulated by federal statutes and administrative decisions of the Federal Communications Commission; and

WHEREAS, Bresnan has submitted it's application and supporting exhibits for cable television franchise transfer (FCC Form 394) on April 17, 2002; and

WHEREAS, pursuant to federal regulations, the City has 120 days from receipt of a transfer application to either deny or grant such transfer and failure to act within the 120 days is deemed consent to the transfer; and

WHEREAS, Billings Montana City Code Section 7-904(e) requires prior approval by the Mayor and City Council prior to the final transfer of the Cable Television Franchise Agreement from AT&T to Bresnan; and

WHEREAS, AT&T and Bresnan have represented to the City that the proposed transfer will result in no change in local management or operations and has further represented that Bresnan is technically, financially and legally qualified to assume all franchise agreement obligations as successor to AT&T; and

WHEREAS, the City has carefully and thoroughly examined the entire transfer application and all exhibits contained therein, including the Asset Purchase Agreement between AT&T and Bresnan and has extensively inquired and discussed with Bresnan specific areas of concern to the City which have been expeditiously and comprehensively addressed by Bresnan; and

WHEREAS, Bresnan and AT&T have confirmed AT&T's practice of including broadband (internet) service revenues within gross revenues for the calculation of the appropriate franchise fee due to the City under the franchise; and

WHEREAS, Bresnan has confirmed its commitment to make no significant changes in service or operations of the cable television system in Billings and has further confirmed that it will retain existing AT&T personnel to continue operation of the cable television system in Billings; and

WHEREAS, Bresnan has recognized the importance of continued internet service to the City and has committed to the City its intent to negotiate with AT&T in order to continue such internet service with as little disruption to current customers as possible and therefore, has unequivocally committed to continue providing quality internet service to it's customers in the City; and

WHEREAS, Bresnan has agreed to comply with all provisions of the cable television franchise ordinance, BMCC Sections 7-901 through 7-909 and all applicable laws from and after the approval of the franchise transfer; and

WHEREAS, the Cable Franchise Agreement is presently scheduled to expire on October 3, 2007; and

WHEREAS, relying on the representations of AT&T and Bresnan and its own due diligence investigation of the proposed franchise transfer, the City is willing to grant its consent to the proposed transfer subject to the terms and conditions in the existing franchise agreement, BMCC Sections 7-901 through 7-909.

NOW, THEREFORE, BE IT RESOLVED, in consideration of the Franchise Transfer Application (FCC Form 394), and all exhibits to such and additional, clarifying communications between the City, Bresnan and AT&T, and representations of Bresnan, the City hereby accepts and approves the application for transfer of the existing Cable Television Franchise Agreement from AT&T to Bresnan subject to all terms and conditions of the current Franchise Agreement contained within BMCC Sections 7-901 through 7-909.

APPROVED AND PASSED by the City Council of the City of Billings, this 8th day of July, 2002.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley                      MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC      CITY CLERK