

RESOLUTION NO. 2019-34

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELENSBURG, WASHINGTON consenting to the transfer of control of the telecommunications franchise granted in Ordinance No. 4704.

WHEREAS, on July 6, 2015, the City Council adopted Ordinance No. 4704, granting a telecommunications franchise to Noel Communications, Inc. ("Noel"), effective for five years from the date of acceptance, or until July 16, 2020; and

WHEREAS, on August 13, 2019, Noel notified the City of Ellensburg ("City") that it intended to enter into an agreement to sell certain of its assets and related business operations (collectively, the "Business") to Wholesail Networks LLC, a Washington limited liability company ("Wholesail"); and

WHEREAS, in connection with the consummation of the sale of the Business to Wholesail, Noel plans to assign its rights and delegate its obligations under the Agreement to Wholesail, including Noel's franchise with the City pursuant to Ordinance No. 4704; and

WHEREAS, the City Council considered the Application for Franchise Transfer and all applicable and relevant factors, and deems it to be in furtherance of the public interest and welfare of its citizens to consent to the transfer request, subject to appropriate conditions;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ellensburg, Washington, as follows:

**Section 1. Consent Approved; Effective Date; Notice.**

1.1 The City of Ellensburg, as the franchise authority, consents to the transfer of control from Noel Communications, Inc. to Wholesail Networks LLC as set forth in the Application for Franchise Transfer.

1.2 Upon transfer, Wholesail Networks LLC shall comply with all of the terms and conditions of the Franchise granted by Ordinance No. 4704.

1.3 The City of Ellensburg's consent shall not take effect until such time as Noel and Wholesail complete the proposed transaction described in the Application for Franchise Transfer. Noel or Wholesail shall notify the City by sending written notice to the City Clerk within thirty (30) days of the closing of the transaction.

**Section 2. Franchise in Full Force and Effect.** The City of Ellensburg confirms the Franchise granted by Ordinance No. 4704 is in full force and effect, and expires on July 16, 2020.

**Section 3. Representations of the City.** With passage of this Resolution, the City of Ellensburg makes no representations concerning whether any violations or non-compliance exist with respect to the Franchise. Nothing in this Resolution shall be construed by Noel or Wholesail

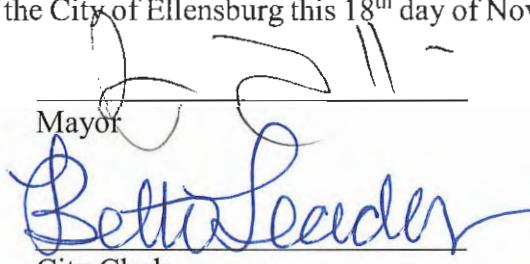
as precluding the City from addressing any prior acts of noncompliance by Wholesail, pursuant to the terms and conditions of the Franchise.

**Section 4. Severability.** If any one or more sections, subsections, or sentences of this Resolution are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Resolution and the same shall remain in full force and effect.

**Section 5. Effective Date of Resolution.** This Resolution shall take effect and be in full force immediately upon passage by the City Council.

ADOPTED by the City Council of the City of Ellensburg this 18<sup>th</sup> day of November, 2019.

Attest:

  
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Mayor  
Betty Leeder  
City Clerk