

RESOLUTION NO. 12-20

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, AUTHORIZING THE TRANSFER OF CONTROL OF CABLE TELEVISION FRANCHISE FROM ORBITEL HOLDINGS, LLC TO SCHURZ COMMUNICATIONS, INC.

WHEREAS, Orbitel Communications, L.L.C. (“Orbitel Communications”) currently owns and operates a cable television system (the “System”) in the City of Maricopa, Arizona (the “City”) pursuant to a License Agreement dated October 19, 2004 (“Orbitel License”); and

WHEREAS, pursuant to Resolution 11-16, the City authorized the assignment of a License Agreement dated October 19, 2004 between the City and Maricopa Broadband, LLC (“MBB License”) to Orbitel Communications and merged the MBB License with the Orbitel License (the Orbitel License and MBB License are collectively referred to herein as the “Franchise”); and

WHEREAS, the City of Maricopa Cable Television Code (“Cable Code”) requires any request for transfer of control to be accompanied by a non-refundable transfer fee and requires the prior written consent of the City; and

WHEREAS, pursuant to the terms of an agreement entered into by Orbitel Services, LLC, Orbitel Communications, L.L.C., Orbitel Holdings, LLC (“Transferor”), IH Orbitel, Inc. (“Holdings”) and Schurz Communications, Inc. (“Schurz”), Schurz will acquire control of Holdings and, indirectly, the System (the “Transfer of Control”); and

WHEREAS, Orbitel Communications is a wholly owned subsidiary of Holdings and will continue to hold the Franchise and operate the System in the City subsequent to the Transfer of Control; and

WHEREAS, Orbitel Holdings, LLC and Schurz have jointly submitted to the City Council (the “Council”) an application on Federal Communications Commission (“FCC”) Form 394 requesting consent for the Transfer of Control and have submitted such other information concerning the Transfer of Control and Schurz as required by law, including the transfer fee, and the Franchise and as requested by the Council (collectively, the “Transfer of Control Application”); and

WHEREAS, the Council has reviewed the Transfer of Control Application, examined the legal, financial and technical qualifications of Schurz, followed all required procedures to consider and to act upon the Transfer of Control Application, and has considered the comments of all interested parties; and

WHEREAS, the Council believes it is in the best interest of the City and its residents to approve the Transfer of Control Application, the Transfer of Control of Orbitel Communications’ Franchise and the System to Schurz, as described in the

Transfer of Control Application and the other information submitted concerning the Transfer of Control.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. The Council hereby approves the Transfer of Control to Schurz as described in the Transfer of Control Application and related information. From and after the closing of the transactions described in the Stock Purchase Agreement, the Franchise, as in effect immediately prior to such closing, shall be the governing instrument between the City and Orbitel Communications with respect to the Franchise and the System.
2. The foregoing recitals are approved and incorporated herein by reference.
3. The Council's grant of the Transfer of Control Application and its consent to the Transfer of Control shall be effective thirty (30) days after its adoption, and Schurz shall notify the Council promptly upon the closing of the transactions described in the Stock Purchase Agreement.
4. This Resolution shall have the force of a continuing agreement and the City shall not amend or otherwise alter this Resolution without the consent of Schurz.

PASSED AND ADOPTED by the Mayor and Council of the City of Maricopa, Arizona, this 15th day of May, 2012.

APPROVED:

Anthony Smith
Mayor

ATTEST:

LeeAnne Schirato, CMC
Deputy City Clerk

APPROVED AS TO FORM:

Denis Fitzgibbons
City Attorney