

MEMORANDUM

To: Mayor and Village Council, Village of Key Biscayne

From: Gary I. Resnick, Village Attorney
Scott Robin, Village Attorney

cc: Jacqueline Menendez, Village Manager
Stephen Helfman, Village Attorney

Date: October 5, 2005

RE: Resolution Approving Transfer of Cable License from Adelphia to Comcast

This Memorandum summarizes the proposed Village of Key Biscayne (“Village”) Resolution, which approves the assignment and transfer of control of the cable television license from a subsidiary of Adelphia Communication Corporation (“Adelphia”) to Time Warner Cable, Inc., (“Time Warner”) and then to a subsidiary of Comcast Corporation (“Comcast”) (hereinafter referred to as “Transaction”). Adelphia currently owns, operates, and maintains a cable television system and holds a cable television license (“License”) in the Village. In these Transactions, Comcast will be acquiring all of Adelphia’s cable systems in Miami-Dade County, as well as numerous systems throughout the country. The parties anticipate closing the Transactions no later than October 1, 2006.

Background

On June 13, 2005, Adelphia, Comcast and Time Warner submitted the Federal Communications Commission Form 394, Application for consent to assign its License to Comcast. The Village’s License incorporates the requirements of the Miami-Dade County Cable Ordinance (“County Code”) with respect to licensing procedures and operation of the cable system. We have reviewed the Application and examined Comcast’s technical, legal and financial qualifications pursuant to the License and County Code. We have also worked with the Village Manager and staff to determine whether there were any outstanding issues involving Adelphia that should be resolved as part of the Transaction.

Summary of Proposed Resolution

Pursuant to applicable law, the Village Council may impose conditions on its approval of the transfer that relate to the transferee’s legal, technical and financial qualifications or to resolving outstanding issues. The significant terms of the Resolution include the following:

- Notification: The parties must notify the Village regarding the closing of the Transaction.
- Contact Information: Comcast shall provide the Village Manager with the names and complete contact information (including business and emergency telephone numbers, facsimile number, and email address) for appropriate persons with responsibility for the operations of the cable system serving the Village.
- Operational Changes: During the first three years of operating, Comcast must provide the Village with 30-days advance notice prior to making any operational changes that significantly affect service to the residents.
- Compliance with License and County Code: Comcast shall comply with all requirements set forth in the License and County Code.
- Performance Bond & Insurance: Comcast will provide the Village with a performance bond and proof of liability insurance in accordance with the License.
- Acceptance: Comcast shall comply with the terms of the License, the Village Code, and the County Code, and submit its written acceptance of the Resolution within twenty (20) calendar days of the Village Council's approval of the Resolution.
- Service to Community Center: While not expressly set forth in the License, Adelphia and Comcast have agreed in separate letters to provide a free cable modem with free access to the Internet in the Community Center. This will enable Village Staff and residents to have high speed access to the Internet at no charge from the Community Center. They also agreed to cooperate with the Village to enable the inserting of live or taped programming on the access channel from the Community Center through a connection back to Village Hall.

If you have any questions, please do not hesitate to contact us.

RESOLUTION NO. 2005-

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAZYNE, FLORIDA APPROVING THE ASSIGNMENT AND TRANSFER OF CONTROL OF CABLE TELEVISION LICENSE FROM ADELPHIA COMMUNICATIONS CORPORATION TO TIME WARNER CABLE, INC., AND THEN TO COMCAST CORPORATION, OR THEIR RESPECTIVE SUBSIDIARIES, SUBJECT TO CERTAIN CONDITIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Adelphia Communications Corporation through its subsidiary Key Biscayne Cablevision (“Adelphia”), currently owns, operates, and maintains a cable television system and provides cable service to the residents of the Village of Key Biscayne (“Village”), pursuant to a License Agreement entered on November 14, 2001, with the Village (“License”); and

WHEREAS, Chapter 8AA, Article I of the Miami-Dade County Code (“County Cable Ordinance”), provides for the issuance and regulation of cable television licenses for, and the installation, construction and operation of, cable television systems within the Village; and

WHEREAS, Adelphia is currently in Chapter 11 Bankruptcy proceedings; and

WHEREAS, pursuant to an Asset Purchase Agreement dated April 20, 2005, between Adelphia and Time Warner NY Cable LLC (“TWNKY”), the right to purchase Adelphia’s cable systems will be assigned by TWNY to a wholly owned subsidiary of TWNY, Cable Holdco Exchange IV, LLC, which will purchase the cable systems and the Adelphia License (the “Adelphia Transaction”); and

WHEREAS, pursuant to an Exchange Agreement dated April 20, 2005, between Time Warner Cable, Inc. (“Time Warner”) and Comcast Corporation (“Comcast”), 100% of the equity

securities in the indirect Comcast subsidiaries of C-Native Exchange IIA, LP and Cap Exchange I, LLC will be exchanged for 100% of the equity securities of Cable Holdco Exchange IV LLC whereby that entity will become a 100% indirect subsidiary of Comcast (the “Exchange Transaction”); and

WHEREAS, Adelphia, Comcast and Time Warner submitted the Federal Communications Commission Form 394, Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television License (“Application”) on June 14, 2005, seeking the Village’s consent to the assignment and transfer of control of the License, as a result of the Adelphia Transaction and Exchange Transaction (collectively referred to herein as the “Transactions”) in accordance with the requirements of the License and County Cable Ordinance; and

WHEREAS, the Village has several concerns related to the License, cable services in the Village and the Transactions, including, but not limited to, (a) responsiveness to customer service issues, and (b) Comcast represented in the Application that it does not intend to make operational changes affecting cable services in the Village but reserved the right to do so; and

WHEREAS, based on the representations of Adelphia, Time Warner, Comcast, and the recommendations of Village staff, the Village Council of the Village of Key Biscayne, Florida finds that it is in the best interests of the Village to approve the assignment of transfer of control of the License to Time Warner and then to Comcast subject to certain conditions;

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1: The foregoing “Whereas” clauses are hereby ratified and confirmed and being true and correct and are hereby made a specific part of this Resolution upon its adoption.

Section 2. The Village Council of the Village of Key Biscayne, Florida hereby consents to the assignment and transfer of control of the License from Adelphia Communications Corporation and its subsidiary to a subsidiary of Time Warner Cable, Inc., and then to a subsidiary of Comcast Corporation, pursuant to the terms and conditions described herein. The Village Council's consent is conditioned upon the closing of the Transactions in substantially the same form as the Transactions described in the Application no later than October 1, 2006, and the outcome of the federal Bankruptcy Court presiding over the Adelphia bankruptcy proceedings. In the event that this condition is not met, the consent granted herein shall be voidable at the sole option of the Village. The Village Council's consent is further conditioned expressly upon the following:

- a. Comcast shall use its best efforts to notify the Village of the closing the Transactions or Adelphia shall notify the Village in the event the Transactions does not close by October 1, 2006.
- b. Commensurate with the closing of the Transactions, Comcast shall ensure that the Village Manager, or designee, has the names and complete contact information (including business and emergency telephone numbers, facsimile number, and email address) for appropriate persons with responsibility for the operational management of the cable system serving the Village.
- c. Operational Changes. Upon the closing of the Transactions, Comcast shall comply with all notice requirements associated with service and operations changes set forth in the License and the County Cable Ordinance as it may be lawfully amended. Prior to making major operational changes affecting cable services in the Village, including but not limited to, closing or significantly altering hours of operation of any

business offices within the Village, closing any call centers servicing Village residents, changing procedures for installation and service, or closing or relocating headends serving the Village, Comcast shall provide the Village thirty (30) days prior written notice and shall respond to any concerns with respect to service as a result of such major operational changes.

- d. Performance Bond & Insurance. Time Warner, Adelphia and Comcast agree that there shall be no gap in any such coverages or obligations as required by the License and the County Cable Ordinance as it may be lawfully amended. Copies of the form of any such new Performance Bonds and proof of insurance shall be provided by Comcast to the Village in advance of the transfer and the new Performance Bonds and proof of insurance shall be provided within thirty (30) business days of the close of the Transactions.
- e. Comcast shall comply with all terms of the License, this Resolution, the Village Code, and the Miami-Dade County Code, as they may be lawfully amended.
- f. Within thirty (30) calendar days of the Village Council's approval of this Resolution, Adelphia, Comcast and Time Warner shall submit their written acceptances that they are in agreement with all the provisions of this Resolution.

Section 3. In the event Adelphia, Time Warner and Comcast fail to submit the required acceptance pursuant to Section 2(f) above, or Comcast fails to provide the required bonds and insurance required pursuant to Section 2(d), the Village's consent shall be voidable at the Village's option.

Section 4. The Village may consider a violation of this Resolution as a violation of the License and may enforce the provisions of this Resolution pursuant to Section 8AA-69 of the County Cable Ordinance.

Section 5. The Village hereby consents to and approves the assignment, mortgage, pledge, or other encumbrance, if any, of the License, the Cable System, or assets relating thereto, as collateral for a loan.

Section 6. All ordinances and resolutions or parts of ordinances and resolutions and all sections and parts of sections in conflict herewith shall be and hereby are repealed.

Section 7. All rates, fees, charges and financial obligations previously accrued by Adelphia or Comcast, or any of its predecessors, to the Village pursuant to any prior or current ordinances or resolutions shall continue and remain due and owing until paid, consistent with applicable state and federal law.

Section 8. If any clause, section, or part of this Resolution shall be held by any Court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

Section 9. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this ___ day of _____, 2005.

MAYOR ROBERT OLDAKOWSKI

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY