AN ORDINANCE relating to an extension of the term of cable television franchise 12132 and cable television franchise 11680 for an additional five years.

PREAMBLE:

King County is granted authority under federal, state and county law and the terms of existing cable television franchises to grant an extension to the term of Franchise 12132 and Franchise 11680 as well as other amendments to the cable television franchise agreements held by Comcast of Washington, Inc. IV (formerly TCI Cablevision of Washington, Inc.), holder of Franchise 12132 with TCI West, Inc., as guarantor and Comcast of California/Colorado/Texas/Washington, Inc. (formerly Tele-Vue Systems, Inc.), holder of Franchise 11680 with TCI Pacific, Inc., as guarantor. For the reasons set forth in this ordinance the proposed franchise agreement and lease amendments are in the public interest if the conditions set forth in this ordinance are fully satisfied.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. **Findings:** The council hereby finds the following facts:

A. Comcast of Washington IV, Inc., and Comcast of California/Colorado/Texas/Washington, Inc. (together, for the purposes of this ordinance, "franchisees"), subsidiary corporations of Comcast, Inc. (for the purposes of this ordinance, "Comcast"), provide cable television service in unincorporated King County under cable television Franchise 12132 and Franchise 11680, as amended (for the purposes of this ordinance, "franchise agreements").

B. Franchise 12132 and Franchise 11680 currently remain in effect until February 16, 2005.

C. K.C.C. 6.27A.020 provides for franchise terms of no more than fifteen years. Franchise 12132 and Franchise 11680 presently have been granted a ten-year term.

SECTION 2. The county has received public comment and public testimony regarding the proposed extension of five additional years.

SECTION 3. King County hereby grants an extension to the term of Franchise 12132 and Franchise 11680 and the accompanying lease for an additional five years, subject to the following conditions as set forth and agreed to by the county and the franchisees in franchise agreement 12132 and franchise agreement 11680, as amended:

A. Franchisees shall confirm in writing that approval by the county of the five-year extension of the franchise terms shall not constitute a waiver or release of any rights of the county under the franchise agreements, prior transfer ordinances, this ordinance or applicable law, before or after the effective date of the five-year extension of the franchise terms;

B. TCI West, Inc., and TCI Pacific, Inc., shall confirm in writing that the performance guarantees on behalf of Comcast of Washington IV, Inc., and Comcast of California/Colorado/Texas/Washington, Inc., shall remain in full force and effect before and after the effective date of the five-year extension;

D. Franchisee shall contribute the sum of one million two hundred thousand dollars, payable within one hundred twenty calendar days of execution of the franchise amendments, in consideration of the benefits received by this franchise extension and amendments, and for the purpose of maintaining the mix, level and quality of the cable services provided under franchise agreements 12132 and 11680, as amended, throughout the term of the extension. The parties agree further that such payment is not a franchise fee and franchisees waive any claims otherwise. Upon approval of this ordinance, the executive is authorized to enter into franchise amendments to extend Franchise 12132 and Franchise 11680 and the lease for an additional five years, to February 16, 2010.

SECTION 4. Where this ordinance requires submittal of written confirmations by the franchisees, the

confirmation shall be filed with the clerk of the council, with a copy also filed with the office of cable communications within sixty days after approval. Where this ordinance requires payment of funds, such payment shall be made within one hundred twenty days after approval of this ordinance. If these conditions for the extension of five additional years are not satisfied, the extension shall be deemed to have been denied and Franchise 12132 and Franchise 11680 shall terminate on February 16, 2005.

SECTION 5. Ordinance 13409, Section 4, as amended, is hereby amended to read as follows:

King County hereby approves the transfer of control of TCI to AT&T, subject to the following conditions:

A. AT&T and TCI shall confirm in writing that they shall cause the franchisees to comply, and that franchisees agree to comply, fully with K.C.C. chapter 6.27A and rules promulgated thereunder, and with all the franchisees' franchise agreement provisions and other contractual obligations with the county, including without limitation the lease agreement between the county and the franchisees, as amended, the construction and performance bonds and the payment bond related thereto and all other applicable laws.

B. AT&T, TCI and franchisees shall confirm in writing that the franchisees shall remain responsible for the obligations and liabilities of the franchisees, known or unknown, under their respective franchise agreements and contracts with the county and under applicable law, before and after the effective date of the change of control.

C. AT&T, TCI, franchisees and the applicable bonding company shall confirm in writing that the construction and performance bonds and the payment bond presently filed with the county in connection with the franchisees' franchise agreements and contractual obligations shall remain in full force and effect before and after the effective date of the change of control.

D. AT&T, TCI and franchisees shall confirm in writing that approval by the county of the transfer shall not constitute a waiver or release of any rights of the county under the franchise agreements or applicable law, before or after the effective date of the change of control.

E. AT&T, TCI and franchisees, directly or indirectly through one or more affiliates, shall not engage in unfair methods of competition in connection with the operation of the cable system, or the delivery of services over that system, in violation of K.C.C. 6.27A.035.

F. AT&T, TCI and franchisees shall confirm in writing that they and their affiliates have not since ((~~the effective date of Ordinance 13409~~)) February 16, 1999, and shall not during the term of this conditional transfer of control agreement, enter into any agreement(((~~s) which~~)) or agreements that would inhibit or preclude them from offering, after June 5, 2002, nondiscriminatory access, as defined in ((~~section 3Q of this o~~))Ordinance 13855, Section 3.Q, including unbundled transport and ISP services unincorporated King County.

G. AT&T, TCI and franchisees shall confirm in writing that they shall cause franchisees to interconnect the county I-Net to the public switched telephone network to enable the county to offer I-Net participants the telephone services offered to cable subscribers and trunk service connections for PBX and NBX-based lines. The establishment and maintenance of the facilities needed to provide this interconnection will be provided at no cost to the county. The interconnection shall be capable of ensuring quality of service between networks and will be made available no later than six months after such telephone services are made available to five percent of the cable subscribers within any franchise area in the incorporated or unincorporated county. This interconnection will also be enabled to freely exchange Internet traffic through such network, and the county will thereby be able to use this interconnection to provide Internet services. The county may purchase, in the mix and quantities it desires, and AT&T, TCI and franchisees shall provide telephone, Internet, or other services that it provides anywhere in the incorporated or unincorporated county. The county shall pay for these services at the lowest rate charged to similarly situated customers. At such time as the County contracts for the provision of such services, the County may review the rates for the services every twenty-four months. The county I-Net shall only utilize the preceding interconnection and services for noncommercial purposes such as public agencies or not-for-profit organizations, although costs of the county may be recovered from I-Net users. The county shall not use these connections to offer commercial, for-profit services to the general public.

((~~H. AT&T, TCI and franchisees shall confirm in writing that the interconnection facility at the Westin Carrier Hotel has been upgraded to OC 48 capability as of April 30, 2000. AT&T, TCI and franchisees shall continue to meet the local peering protocols recommended by the expert review panel which requires the Excite@Home service interconnection to be available to all Internet service providers (ISPs) and online service providers (OSPs) through a local interconnection point such as is currently provided at the Westin Carrier Hotel. AT&T, TCI and the franchisees shall confirm in writing that the Excite@Home service will continue to be interoperable with all generally available Internet protocol applications and will not restrict services that can be provided by online service providers. AT&T, TCI, and the franchisees shall confirm in writing that customers of the Excite@Home service will continue to be able to access other ISPs or OSPs on the Internet without having to view content provided by Excite@Home, if a customer so chooses.~~

~~I. AT&T, TCI and the franchisees shall confirm in writing that, for a period of twenty-four months, commencing with ((the effective date of this ordinance))~~ June 3, 2000, ~~Excite@Home subscribers in the unincorporated area will be charged no more than the lower of: (i) $39.95 per month or (((ii))) the lowest price per month for which equivalent Excite@Home service is offered to residential customers in any other AT&T or TCI cable system in the United States, subject only to exceptions for temporary promotional offers in AT&T or TCI cable systems.~~

~~J. AT&T, TCI and the franchisees have orally indicated to the Council that it intends to deploy the Excite@Home cable service in unincorporated King County and shall confirm in writing the commitment of the franchisees to deploy Excite@Home throughout the franchise areas and indicate when full deployment will be realized.~~

~~K.~~)) H. In addition to the other provisions of ((~~this o~~))Ordinance 13855, AT&T, TCI and franchisees shall confirm in writing that if at any time during the term of the franchise agreement there is a controlling federal judicial ruling or federal regulatory action confirming the power of local franchising authorities to require open and nondiscriminatory access to Internet services over cable modem networks, or on such

networks, then the county, by enactment of a subsequent ordinance amending the franchise agreements, may immediately require AT&T, TCI and franchisees to promptly comply with such conditions consistent with K.C.C. 6.27A.020E and Section 1 of the franchise agreements. The executive shall transmit a proposed ordinance to amend franchise agreements 11680 and 12132, to require nondiscriminatory access, as defined in ((~~section 3Q of this o~~))Ordinance 13855, Section 3.Q, including unbundled transport and ISP services. If such an ordinance is transmitted to the council for its consideration, the EMP shall immediately review the executive proposal and forward its recommendations on the proposal to the utilities and technology committee, or its successor.

((~~L.~~)) I. In the event that nondiscriminatory open access, including unbundled transport and ISP services, is provided pursuant to an agreement with a local franchising authority, on other than a temporary test or promotional basis not to exceed twelve months, by any cable system owned or operated by AT&T, TCI or the franchisees or any affiliate that is owned or operated by AT&T, TCI or franchisees or successors in interest, then AT&T, TCI and franchisees shall provide the same type of access on comparable terms and conditions to cable subscribers in he unincorporated areas of King County.

SECTION 6. The executive is hereby authorized to execute written amendments to the franchise agreements in substantially the same form as attached to this ordinance.