

CITY OF COSTA MESA

COUNTY OF ORANGE, CALIFORNIA

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA CONDITIONALLY AUTHORIZING THE ASSIGNMENT AND ULTIMATE TRANSFER OF CONTROL OF A CABLE TELEVISION FRANCHISE BY COMCAST CORPORATION TO C-NATIVE EXCHANGE I, LLC, A WHOLLY-OWNED SUBSIDIARY OF TIME WARNER NY CABLE LLC

RECITALS:

A. Comcast of Costa Mesa, Inc. ("Franchisee") is the authorized holder of a franchise ("Franchise") that authorizes the construction, operation, and maintenance of a cable television system within the City of Costa Mesa ("Franchise Authority"). Comcast of Georgia, Inc., is an intermediate subsidiary of Comcast Corporation, and Comcast of Georgia, Inc., has the requisite corporate authority to effectuate a change in ownership and control of the Franchise and the Franchisee.

B. On April 20, 2005, Time Warner NY Cable, LLC ("TWNy"), an indirect subsidiary of Time Warner Cable Inc., and Comcast Corporation ("Comcast"), the ultimate parent company of Franchisee, each entered into separate definitive agreements to acquire, collectively, substantially all of the assets of Adelpia Communications Corporation ("Adelpia") for a total of \$12.7 billion in cash (of which TWNY will pay \$9.2 billion and Comcast will pay the remaining \$3.5 billion) and 16% of the common stock of Time Warner Cable Inc. At the same time that Comcast and TWNY entered into the agreements to purchase Adelpia's assets, Time Warner Cable Inc., Comcast, and their respective subsidiaries also agreed to swap certain cable systems to enhance their respective geographic clusters of subscribers ("Cable Swaps"). The cable system now owned and operated by Franchisee in the City of Costa Mesa is one of many cable systems in Southern California involved in the Cable Swaps.

C. On June 15, 2005, the Franchise Authority received from Comcast of Georgia, Inc. ("Transferor") an intermediate subsidiary wholly-owned by Comcast Corporation, and from Time Warner Cable Inc. ("Transferee"), an application for the assignment and ultimate transfer of control of the existing Franchise. This application included FCC Form 394 titled "Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise." Supplemental information was provided to the Franchise Authority by the Transferee on July 25, 2005.

D. In accordance with paragraph (F) of Section 19-05 of Chapter 1, Title 19 of the Costa Mesa Municipal Code, the Franchise Authority has the right to review and to approve the financial, technical, and legal qualifications of the Transferee in connection with the proposed assignment and ultimate transfer of control of the Franchise.

E. The staff of the Franchise Authority has reviewed the documentation that accompanied FCC Form 394 and, based upon the representations set forth in that documentation, has concluded that the proposed Transferee has the requisite financial, technical, and legal qualifications to adequately perform, or to ensure the performance of, all obligations required of the Franchisee under the Franchise, and that C-Native Exchange I, LLC will be bound by all existing terms, conditions, and obligations of the Franchise as it currently exists or as it may be modified or superseded prior to the closing of the transaction involving the Cable Swaps.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA RESOLVES AS FOLLOWS:

Section 1. In accordance with paragraph (F) of Section 19-05 of Chapter 1, Title 19 of the Costa Mesa Municipal Code, the Franchise Authority consents to and approves the proposed assignment of the Franchise from Franchisee to C-Native Exchange I, LLC, a wholly-owned subsidiary of Comcast of Georgia, Inc., and the subsequent transfer of control of C-Native Exchange I, LLC to Time Warner Cable Inc., which, upon the closing of the Cable Swaps transaction, will be the indirect parent and owner of C-Native Exchange I, LLC.

Section 2. The authorization, consent and approval of the Franchise Authority to the proposed assignment and ultimate transfer of control of the Franchise is conditioned upon compliance by the Transferor or the Transferee with the following requirements, for which they are jointly and severally responsible:

(a) Within 60 days after the adoption of this resolution, the Transferor and the Transferee will execute and file in the office of the City Clerk an "Assignment and Assumption Agreement" in substantially the form attached to this resolution as Exhibit A. The Mayor is authorized to execute that document and thereby evidence the written consent of the Franchise Authority to the assignment and assumption of all rights and obligations under the Franchise.

(b) An original or conformed copy of the written instrument evidencing the closing and consummation of the ultimate transfer of control of the Franchise to the Transferee must be filed in the office of the City Clerk within 60 days after that closing and consummation.

(c) Regardless of whether the transaction described in the FCC Form 394 actually closes, the Franchise Authority will be reimbursed for all costs and expenses reasonably incurred by the Franchise Authority in processing and evaluating the information relating to the proposed assignment and ultimate transfer of control of the Franchise; provided, however, that those costs and expenses will not exceed the sum of \$2500 and will be set forth in an itemized statement transmitted by the City Manager, or the City Manager's designee, to the Transferor and the Transferee within 45 days after the effective date of this resolution. The Transferor or the Transferee must pay to the Franchise Authority the total amount set forth in the statement within 30 days after the date of the statement.

Section 3. If the conditions set forth above in paragraphs (a) and (c) of Section 2 are not satisfied within the period of time specified in each of those paragraphs, then the

authorization and consent of the Franchise Authority to the proposed assignment and ultimate transfer of control as provided for in this resolution will be revoked and rescinded without further action by the Franchise Authority, and the FCC Form 394 application will be denied in all respects. In such event, the City Manager is authorized and directed to give written notice to all affected parties of that revocation and rescission, which will be deemed to be without prejudice to the right of those parties to submit a new FCC Form 394 to the Franchise Authority if required by the Franchise or local ordinance.

Section 4. The City Clerk is directed to transmit a certified copy of this resolution to the following persons:

Mr. Roger Keating, President
Los Angeles Division
Time Warner Cable Inc.
959 South Coast Drive
Suite 300
Costa Mesa, CA 92626

Ms. Sheila R. Willard
Senior Vice President, Government Affairs
Comcast of Georgia, Inc.
1500 Market Street
Philadelphia, PA 19102-2148

Section 5. The City Clerk is directed to certify to the passage and adoption of this resolution.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2005.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT A
ASSIGNMENT AND ASSUMPTION AGREEMENT
AND
GUARANTEE OF ASSIGNEE'S OBLIGATIONS
(CABLE TELEVISION FRANCHISE AGREEMENT)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") is entered into this _____ day of _____, 2005, by and between Comcast of Costa Mesa, Inc., ("Assignor"), C-Native Exchange I, LLC, a Delaware limited liability company ("Assignee"), and the City of Costa Mesa, a California municipal corporation ("Franchise Authority").

RECITALS:

A. Assignor is the authorized holder of a franchise that authorizes the construction, operation, and maintenance of a cable television system within the City of Costa Mesa, California.

B. Subject to the prior consent of the Franchise Authority, Assignor desires to assign and transfer to Assignee, and Assignee desires to assume, all rights, duties, and obligations under the cable television franchise agreement between the Franchise Authority and Comcast of Costa Mesa, Inc. ("Franchise Agreement") as it currently exists or as it may be modified or superseded by the parties prior to the closing of the transaction described in Assignor's FCC Form 394.

THE PARTIES AGREE AS FOLLOWS:

1. Assignor assigns and transfers to Assignee all of Assignor's rights, duties, and obligations under the Franchise Agreement.

2. Effective upon the closing of the transaction described in the FCC Form 394 as filed with the Franchise Authority on June 15, 2005, Assignee covenants and agrees with Assignor and with the Franchise Authority to assume all rights and to assume and perform all duties and obligations of the Assignor under the Franchise Agreement.

3. Franchise Authority consents to the assignment and transfer by Assignor to Assignee of all rights, duties, and obligations specified in the Franchise Agreement, contingent upon the execution by Time Warner Cable Inc., as guarantor, of the "Guarantee of Assignee's Obligations" that is attached as Schedule 1 to this Agreement.

4. This Agreement will become operative and enforceable upon the closing of the transaction described in the FCC Form 394 as filed with the Franchise Authority on June 15, 2005.

TO EFFECTUATE THIS AGREEMENT, the parties have caused this Assignment and Assumption Agreement to be executed by their authorized representatives as of the date set forth below the authorized signature.

“ASSIGNOR”

COMCAST OF COSTA MESA, INC.
a _____ corporation

By: _____
(Authorized Corporate Officer)

Title: _____
Date: _____

APPROVED AS TO FORM:

LEGAL COUNSEL

“ASSIGNEE”

C-NATIVE EXCHANGE I, LLC,
a Delaware limited liability company

By: _____
(Authorized Officer)

Title: _____
Date: _____

APPROVED AS TO FORM:

LEGAL COUNSEL

“FRANCHISE AUTHORITY”

CITY OF COSTA MESA

By: _____
Mayor

Date: _____

APPROVED AS TO FORM:

CITY ATTORNEY

ATTEST:

CITY CLERK

SCHEDULE 1
to
ASSIGNMENT AND ASSUMPTION AGREEMENT
AND
GUARANTEE OF ASSIGNEE'S OBLIGATIONS

GUARANTEE

GUARANTEE, dated as of _____, 2005, made by TIME WARNER CABLE INC., a Delaware corporation ("Guarantor"), in favor of the City of Costa Mesa, California, ("Beneficiary").

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce Beneficiary to timely consent to the transfer of the cable television franchise issued by Beneficiary and currently held by Comcast of Costa Mesa, Inc. (the "Franchise") to C-Native Exchange I, LLC ("Transferee") in accordance with the Federal Communications Commission Form 394 filed by Transferee, Guarantor agrees as follows:

I. Interpretive Provisions.

- A. The words "hereof," "herein" and "hereunder" and words of similar import, when used in this Guarantee, shall refer to this Guarantee as a whole and not to any particular provision of this Guarantee, and section and paragraph references are to this Guarantee unless otherwise specified.
- B. The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

II. Guarantee.

- A. Effective upon the close of the Cable Swaps transaction, Guarantor unconditionally and irrevocably guarantees to Beneficiary the timely and complete performance of all Transferee obligations under the Franchise (the "Guaranteed Obligations"). The Guarantee is an irrevocable, absolute, continuing guarantee of payment and performance, and not a guarantee of collection. If Transferee fails to pay any of its monetary Guaranteed Obligations in full when due in accordance with the terms of the Franchise, Guarantor will promptly pay the same to Beneficiary or procure payment of same to Beneficiary. Anything herein to the contrary notwithstanding, Guarantor shall be entitled to assert as a defense hereunder any defense that is or would be available to Transferee under the Franchise or otherwise.

- B. This Guarantee shall remain in full force and effect until the earliest to occur of: (i) performance in full of all Guaranteed Obligations at a time when no additional Guaranteed Obligations remain outstanding or will accrue to Transferee under the Franchise; and (ii) subject to any required consent of the Beneficiary, any direct or indirect transfer of the Franchise from Transferee to (or direct or indirect acquisition of Transferee or any successor thereto by (whether pursuant to a sale of assets or stock or other equity interests, merger or otherwise)) any other person or entity a majority of whose equity and voting interests are not beneficially owned and controlled, directly or indirectly, by Guarantor. Upon termination of this Guarantee in accordance with this Section II(B), all contingent liability of Guarantor in respect hereof shall cease, and Guarantor shall remain liable solely for Guaranteed Obligations accrued prior to the date of such termination.

III. Waiver. Guarantor waives any and all notice of the creation, renewal, extension or accrual of any of the Guaranteed Obligations and notice of or proof of reliance by Beneficiary upon this Guarantee or acceptance of this Guarantee. Guarantor waives diligence, presentment, protest and demand for payment to Transferee or Guarantor with respect to the Guaranteed Obligations; provided, however, that Guarantor shall be furnished with a copy of any notice of or relating to default under the Franchise to which Transferee is entitled or which is served upon Transferee at the same time such notice is sent to or served upon Transferee.

IV. Representations and Warranties. Each of Guarantor and Beneficiary represents and warrants that: (i) the execution, delivery and performance by it of this Guarantee are within its corporate, limited liability company or other powers, have been duly authorized by all necessary corporate, limited liability company or other action, and do not contravene any law, order, decree or other governmental restriction binding on or affecting it; and (ii) no authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by it of this Guarantee, except as may have been obtained or made, other than, in the case of clauses (i) and (ii), contraventions or lack of authorization, approval, notice, filing or other action that would not, individually or in the aggregate, impair or delay in any material respect such party's ability to perform its obligations hereunder.

V. Binding Effect. This Guarantee, when executed and delivered by Beneficiary, will constitute a valid and legally binding obligation of Guarantor, enforceable against it in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency or other similar laws applicable to creditors' rights generally and by equitable principles (whether enforcement is sought in equity or at law).

VI. Notices. All notices, requests, demands, approvals, consents and other communications hereunder shall be in writing and shall be deemed to have been duly given and made if served by personal delivery upon the party for whom it is intended or delivered by registered or certified mail, return receipt requested, or if sent by Telecopier, provided that the telecopy is promptly confirmed by telephone confirmation thereof, to the party at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such party:

To Guarantor and Transferee:

Time Warner Cable Inc.
290 Harbor Drive
Stamford, CT 06902-6732
Telephone: (203) 328-0631
Telecopy: (203) 328-4094
Attention: General Counsel

To Beneficiary:

City of Costa Mesa

Telephone: _____
Telecopy: _____
Attention: _____

VII. Integration. This Guarantee represents the agreement of Guarantor with respect to the subject matter hereof and there are no promises or representations by Guarantor or Beneficiary relative to the subject matter hereof other than those expressly set forth herein.

VIII. Amendments in Writing. None of the terms or provisions of this Guarantee may be waived, amended, supplemented or otherwise modified except by a written instrument executed by Guarantor and Beneficiary, provided that any right, power or privilege of Beneficiary arising under this Guarantee may be waived by Beneficiary in a letter or agreement executed by Beneficiary.

IX. Section Headings. The section headings used in this Guarantee are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

X. No Assignment or Benefit to Third Parties. This Agreement shall be binding upon and inure to the benefit of the parties hereto. Nothing in this Agreement, express or implied, is intended to confer upon anyone other than Guarantor and Beneficiary and their respective permitted assigns, any rights or remedies under or by reason of this Guarantee.

XI. Expenses. All costs and expenses incurred in connection with this Guarantee and the transactions contemplated hereby shall be borne by the party incurring such costs and expenses.

XII. Counterparts. This Guarantee may be executed by Guarantor and Beneficiary on separate counterparts (including by facsimile transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

XIII. **Governing Law.** This guarantee shall be governed by and construed and interpreted in accordance with the laws of the state of California without regard to principles of conflicts of law.

XIV. **Waiver of Jury Trial.** Each party hereto hereby irrevocably and unconditionally waives trial by jury in any legal action or proceeding relating to this guarantee and for any counterclaim therein.

TO EFFECTUATE THIS GUARANTEE, each of the undersigned has caused this Guarantee to be duly executed and delivered by its duly authorized officer on the date set forth below the authorized signature.

“GUARANTOR”

TIME WARNER CABLE INC.

By: _____
Name: _____
Title: _____
Date: _____

“BENEFICIARY”

CITY OF COSTA MESA

By: _____
Name: _____
Title: _____
Date: _____