

FILE NO. 990375

RESOLUTION NO. 717-99

1 [APPROVING TRANSFER OF CONTROL OVER CABLE FRANCHISEE]
2 APPROVING TRANSFER OF CONTROL OVER TELEVISION SIGNAL CORPORATION,
3 SAN FRANCISCO CABLE TELEVISION FRANCHISE GRANTEE, FROM TELE-
4 COMMUNICATIONS, INC. TO AT&T CORP. UPON CERTAIN CONDITIONS.

5 WHEREAS, Television Signal Corporation operates as the Grantee of the Cable
6 Television Franchise granted and approved by the Board of Supervisors and the Mayor of the
7 City and County of San Francisco on April 22, 1964 pursuant to ordinance number 104-65, as
8 it has been amended from time to time (the "Cable Television Franchise"); and,

9 WHEREAS, Television Signal Corporation is an indirect wholly-owned subsidiary of
10 Tele-Communications, Inc.; and,

11 WHEREAS, Pursuant to the transaction (the "Transaction") contemplated by certain
12 agreements including the Agreement and Plan of Restructuring and Merger, dated as of June
13 23, 1998, Among AT&T Corp., Italy Merger Corp. and Tele-Communications, Inc., Tele-
14 Communications, Inc. has become a wholly-owned subsidiary of AT&T Corp., and AT&T
15 Corp. has thereby acquired control over Television Signal Corporation and the Cable
16 Television Franchise; and,

17 WHEREAS, Section 6 of the Cable Television Franchise provides that Grantee shall
18 not "assign or otherwise transfer in any manner whatever this Franchise, or sell, lease, license
19 or permit others to use, transfer in any manner whatever, or convey any interest in, all or any
20 part of its facilities which are installed or operated hereunder, except upon the prior written
21 approval by ordinance of the Board of Supervisor of the City"; and,

22 WHEREAS, The City and County of San Francisco has advised AT&T Corp., Tele-
23 Communications, Inc. and Television Signal Corporation that the Transaction requires the
24 consent of the Board of Supervisors pursuant to Section 6 of the Cable Television Franchise;
25 and,

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1 WHEREAS, Television Signal Corporation, Tele-Communications, Inc. and AT&T Corp.
2 have asserted that the Transaction does not require the consent of the Board of Supervisors
3 pursuant to Section 6 of the Cable Television Franchise and, accordingly, have declined to
4 request the consent of the Board of Supervisors or to formally submit to the City and County
5 of San Francisco documents required by federal law (Federal Communications Commission
6 Form 394) necessary to invoke the 120-day timeline for local review of a franchise transfer
7 pursuant to Title 47 Code of Federal Regulations 76.502(h); and,

8 WHEREAS, The City wishes to assure that the intangible costs of the Transaction, if
9 any, shall not be imposed upon subscribers in the City and County of San Francisco by
10 obtaining the agreement of Television Signal Corporation not to include in any Federal
11 Communications Commission Form 1220 (or any other applicable form) cost-of-service
12 showing with respect to rates to be charged to San Francisco subscribers any amount for
13 intangibles or goodwill that is greater than the amount that could have been included under
14 the rules and regulations of the Federal Communications Commission applicable at the time
15 of the filing if the Transaction had not occurred; and,

16 WHEREAS, Television Signal Corporation has agreed to enter into certain
17 amendments to the Cable Television Franchise described below (the "Rebuild Ordinance");
18 and,

19 WHEREAS, Tele-Vue Systems, Inc., a subsidiary under majority control by Tele-
20 Communications, Inc., and parent of Television Signal Corporation, has previously
21 guaranteed the performance by Television Signal Corporation of the obligations of the Cable
22 Television Franchise pursuant to the terms of the Guaranty (the "Guaranty") attached as
23 Exhibit A to Resolution numbered 107-97; and,

24 WHEREAS, The City and County of San Francisco desires to ensure that Tele-
25 Communications, Inc. consents to the Rebuild Ordinance and that the Guaranty remains in full

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1 force and effect with respect to the obligations under the Cable Television Franchise, as
2 amended by the Rebuild Ordinance; and,

3 WHEREAS, as a condition precedent to each party's agreement to the terms and
4 conditions contained herein, Television Signal Corporation and the City and County of San
5 Francisco shall enter into the Mutual Release described below (the "Mutual Release"); and

6 WHEREAS, as a further condition precedent to each party's agreement to the terms
7 and conditions contained herein, Television Signal Corporation and the City and County of
8 San Francisco shall enter into the Agreement described below (the "Agreement"); now,
9 therefore, be it

10 RESOLVED, That the Board of Supervisors of the City and County of San Francisco,
11 pursuant to Section 6 of the Cable Television Franchise and Section 617 of the Cable
12 Television and Consumer Protection Act of 1992, hereby approves the transfer of control over
13 Television Signal Corporation and the Cable Television Franchise to AT&T Corp. pursuant to
14 the Transaction, subject to each of the following conditions precedent:

15 CONDITION 1. That Television Signal Corporation duly executes and delivers
16 to the City and County of San Francisco the Rebuild Ordinance, in the form attached as
17 Exhibit A hereto;

18 CONDITION 2. That Television Signal Corporation and the City and County of
19 San Francisco each duly execute and deliver to the other the Mutual Release, in the
20 form attached as Exhibit B hereto;

21 CONDITION 3. That Television Signal Corporation agrees, by countersigning
22 below, that it will not include in any Federal Communications Commission Form 1220
23 (or any other applicable form) cost-of-service showing with respect to rates to be
24 charged to San Francisco subscribers any amount for intangibles or goodwill that is
25 greater than the amount which could have been included under the rules and

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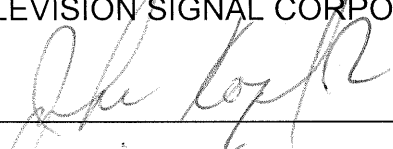
1 regulations of the Federal Communications Commission applicable immediately prior to
2 the closing of the Transaction;

3 CONDITION 4. That Tele-Vue Systems, Inc. agrees, by countersigning below,
4 that (i) it consents to the terms of the Rebuild Ordinance; (ii) that the obligations
5 guaranteed under the Guaranty shall include all of the obligations of Television Signal
6 Corporation under the Rebuild Ordinance; and (iii) that the terms of the Guaranty shall
7 otherwise remain unchanged and in full force and effect.

8 CONDITION 5. That Television Signal Corporation agrees that if the City and
9 County of San Francisco is the prevailing party in the action filed by Television Signal
10 Corporation and the California Cable Television Association in the United States
11 District Court for the Northern District of California entitled California Cable Television
12 Association and Television Signal Corporation v. City and County of San Francisco,
13 Television Signal Corporation will pay the City and County of San Francisco's actual
14 attorney's fees and costs, up to a maximum of \$250,000, as set forth in the Agreement
15 attached as Exhibit C hereto.

16
17 **ACCEPTED AND AGREED:**

TELEVISION SIGNAL CORPORATION

18 By: 

19 Name: John Kopchik

20 Title: PRESIDENT

21
22 TELE-VUE SYSTEMS, INC.

23 By: 


24 Name: Se VP John Kopchik

25
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Title: Senior Vice President

TELE-COMMUNICATIONS, INC.

By: 

Name: Derek Chang

Title: Executive Vice President

Date: June 21, 1999

Approved by resolution of the Board of Supervisors
of the City and County of San Francisco
on this date, _____, 1999.

Clerk of the Board of Supervisors

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

By: 
Deputy City Attorney

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EXHIBIT A

CABLE TELEVISION REBUILD ORDINANCE

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1 **EXHIBIT B**

2 **MUTUAL RELEASE AND WAIVER**

3 This Mutual Release by and between Television Signal Corporation and the City and
4 County of San Francisco is dated as of _____, 1999.

5 WHEREAS, Tele-Communications Inc. is owned and/or controlled, directly or indirectly,
6 Television Signal Corporation, grantee of that certain cable television franchise granted by the
7 City and County of San Francisco dated and approved April 22, 1965 pursuant to ordinance
8 number 104-65 as amended from time to time (the "Cable Television Franchise"); and,

9 WHEREAS, AT&T Corp. has acquired control of Tele-Communications, Inc. and its
10 wholly-owned subsidiary, Television Signal Corporation, pursuant to those certain agreements
11 including Agreement and Plan of Restructuring and Merger Among AT&T Corp., Italy Merger
12 Corp. and Tele-Communications, Inc., dated as of June 23, 1998; and,

13 WHEREAS, Television Signal Corporation has agreed to enter into certain
14 amendments to the Cable Television Franchise, which amendments are attached hereto as
15 Exhibit A; and,

16 WHEREAS, Television Signal Corporation has consented to waive and to release the
17 City and County of San Francisco from any claims, liability or obligations arising from or
18 related to the Cable Television Franchise, except those asserted in the action filed by
19 Television Signal Corporation and the California Cable Television Association in the United
20 States District Court for the Northern District of California entitled California Cable Television
21 Association and Television Signal Corporation v. City and County of San Francisco ; and,

22 WHEREAS, The City and County of San Francisco has consented to waive and to
23 release Television Signal Corporation from any claims or allegations for any claims, or
24 allegations for any breach or alleged breach solely arising from the obligations imposed by
25 Section 6 of the Cable Television Franchise;

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1 NOW THEREFORE:

2 THE PARTIES TO THIS AGREEMENT DO HEREBY AGREE AS FOLLOWS:

- 3 1. In consideration for the mutual obligations and covenants contained herein, Television
4 Signal Corporation hereby waives and releases the City and County of San Francisco
5 and any of its agents or employees from any liability or obligations arising from the
6 Cable Television Franchise, except those asserted in the action filed by Television
7 Signal Corporation and the California Cable Television Association in the United States
8 District Court for the Northern District of California entitled California Cable Television
9 Association and Television Signal Corporation v. City and County of San Francisco, or
10 the assessment, imposition or collection of any fees or obligations arising from the
11 Cable Television Franchise prior to the date of this Mutual Release.
- 12 2. In consideration for the mutual obligations and covenants contained here and subject
13 to the conditions set forth below, the City and County of San Francisco hereby does
14 waive and release Television Signal Corporation from any claims, demands, liabilities
15 or causes of action solely arising from any breach or alleged breach of the obligations
16 imposed by Section 6 of the Cable Television Franchise which act, omission or breach
17 occurred prior to the date of this Mutual Release.
- 18 3. Nothing in this Mutual Release shall affect nor be construed to affect in any way the
19 rights or obligations of any party pursuant to any other law, regulation, contract,
20 agreement or lawful order, or the claims, liabilities, defenses, or causes of action of any
21 party to this Mutual Release arising from any source (including any code, regulation, or
22 order relating to the construction or installation of facilities) other than Section 6 of the
23 Cable Television Franchise.
- 24 4. Nothing in this Mutual Release shall affect nor be construed to affect in any way any
25 claim or defense of any party for or based upon any act, omission or breach, or any

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1 continuing act, omission or breach, of Television Signal Corporation or its affiliates
2 arising from any source other than Section 6 of the Cable Television Franchise, or
3 occurring after the effective date of the ordinance numbered __.99.__ in a file
4 maintained by the Board of Supervisors. This Mutual Release expressly does not
5 affect any claim or defense relating to the lease or sublease to, or use by third-parties
6 of, or continued lease or sublease to or continued use after the date of the Franchise
7 Amendments by third-parties of any of the facilities installed by Television Signal
8 Corporation pursuant to the Cable Television Franchise.

9 5. This Mutual Release expressly shall not affect nor be construed to affect in any way
10 any claim or defense relating to the calculation, assessment, imposition or collection of
11 any past, present or future tax, or the right of any third party with regard to the
12 proceeds of any tax, or the proceeds of any tax refund, reduction, rebate, diminution or
13 change in assessment at any time.

14 6. This Mutual Release shall not be effective unless and until it is executed by all parties
15 hereto, and approved by resolution of the Board of Supervisors of the City and County
16 of San Francisco, and all conditions of such resolution (including the final execution
17 and receipt of the Rebuild Ordinance) are tendered to and received by the Clerk of the
18 Board of Supervisors of the City and County of San Francisco in the form and manner
19 prescribed in such resolution.

20 The parties to this Agreement warrant that they have read and understood this
21 agreement and each of the conditions thereof with the assistance and advice of counsel, and
22 that by signing hereinbelow do undertake to accept and undertake the obligations and rights
23 set forth herein.

24
25
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1 Approved by resolution of the Board of Supervisors
2 of the City and County of San Francisco
3 on this date, _____, 1999.

Clerk of the Board of Supervisors

TELEVISION SIGNAL CORPORATION

[Handwritten Signature]

Signature

Name: *Jonathan Kaprielian*

Title: *PRODUCER*

13 APPROVED AS TO FORM:
14 LOUISE H. RENNE, City Attorney

17 By: *Christine E. Egan*
18 Deputy City Attorney

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1 action if the action is limited to challenging amendments to the City's Excavation Code
2 enacted after June 1, 1999.

3 5. This Agreement constitutes the entire agreement between TSC and the City
4 relating to the Action. Any amendments must be in writing and executed by both parties.
5 Both TSC and the City participated in the drafting of this Agreement, with the participation of
6 counsel, and the Agreement should not be construed more strictly against either party.

7 6. This Agreement may be enforced in an action brought in the San Francisco
8 Superior Court. It shall be construed in accordance with the laws of the State of California.

9 Approved by resolution of the Board of Supervisors
10 of the City and County of San Francisco
11 on this date, _____, 1999.

12
13 _____
14 Clerk of the Board of Supervisors

15
16 TELEVISION SIGNAL CORPORATION

17 _____
18 Signature

19 Name: Joseph Kapetan

20 Title: President

21 APPROVED AS TO FORM:

22 LOUISE H. RENNE, City Attorney

23
24 By: Christine Eferari
25 Deputy City Attorney

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Resolution

File Number: 990375

Date Passed:

Resolution approving transfer of control over Television Signal Corporation, San Francisco cable television franchise grantee, from Telecommunications, Inc. to AT&T Corporation upon certain conditions.

July 12, 1999 Board of Supervisors — CALLED FROM COMMITTEE: Board of Supervisors

July 26, 1999 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

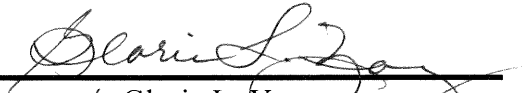
Ayes: 9 - Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki
Noes: 2 - Ammiano, Yee

July 26, 1999 Board of Supervisors — ADOPTED AS AMENDED

Ayes: 9 - Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki
Noes: 2 - Ammiano, Yee

File No. 990375


I hereby certify that the foregoing Resolution was **ADOPTED AS AMENDED** on July 26, 1999 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

AUG - 6 1999

Date Approved



Mayor Willie L. Brown Jr.