



## City Ordinances Archive

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**ORDINANCE NO. 16-1001**

AN ORDINANCE of the City Council of the City of SeaTac, Washington, acknowledging the merger of tw telecom inc., and WilTel Communications Group, LLC with Level 3 Communications, Inc., and approving the resulting indirect change of control of the tw telecom of Washington LLC, telecommunications franchise with conditions.

**WHEREAS**, tw telecom of Washington LLC (“Franchisee”) obtained a nonexclusive telecommunications franchise through Ordinance No. 14-1011 (the “TWTC Franchise”); and

**WHEREAS**, WilTel Communications Group, LLC, (“WilTel”) formerly known as Williams Communications, Inc., obtained a nonexclusive telecommunications franchise through Ordinance No. 00-1024, which is now expired (the “WilTel Franchise”); and

**WHEREAS**, Level 3 Communications, Inc. (“Level 3”) acquired direct ownership of tw telecom (“TWTC), the Franchisee’s indirect parent company, on October 28, 2014 through a Merger Agreement (“Merger Agreement”), and indirect control of the Franchisee; and

**WHEREAS**, Level 3 acquired WilTel on December 23, 2005;

**WHEREAS**, Section 9 of the TWTC Franchise requires that Level 3 and TWTC receive consent of the City for the indirect transfer of control of the Franchisee to Level 3;

**WHEREAS**, Level 3 and TWTC have requested that the City consent to the indirect change of control; and

**WHEREAS**, the consent of the City to indirect change on control shall not constitute a waiver or release of any rights the City may have under the Franchise;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:**

**Section 1.** The City hereby consents to the indirect change of control of the Franchisee to Level 3 in accordance with the terms of applicable law, subject to and contingent upon the conditions set forth in Section 3 of this Ordinance.

**Section 2.** The WilTel Franchise Agreement has expired. However, the City agrees that the telecommunications facilities and operations previously covered by the WilTel franchise will be governed by the TWTC franchise subject to and contingent upon the conditions set forth in Section 3 of this Ordinance.

**Section 3.** Section 1 and Section 2 of this Ordinance is contingent upon the following conditions:

1. The City's consent to the indirect change of control of the Franchisee by Level 3 shall not be construed to constitute a waiver or release of any rights the City may have now or in the future under federal, state or local law, the TWTC Franchise, or any separate written agreements with the Franchisee that relate to the TWTC Franchise. Level 3 shall acknowledge in writing that the Franchisee remains responsible for any and all non-compliance issues, if any, that may have arisen prior to and after the effective date of the TWTC Merger Agreement and any and all obligations under the TWTC Franchise that existed prior to and after the effective date of the TWTC Merger Agreement.

2. Level 3 has represented that substantially all of the tangible and intangible assets of the Franchisee acquired by Level 3 as a consequence of the TWTC Merger Agreement remain in the Franchisee.

3. Following the indirect change of control and receipt of written acknowledgement of the Franchise from Level 3, the TWTC Franchise shall remain in full effect through the date specified in the TWTC franchise.

4. By consenting to indirect change of control of the Franchisee, the City does not waive or release any rights of the City in and to the rights-of-way as provided by state law and the SeaTac Municipal Code, nor does the City waive or release any claim or issue of non-compliance it may have, known or unknown, now or in the future related to the TWTC Franchise.

5. Written acknowledgement in a form agreeable with the City Attorney shall be filed by Level 3 with the City Clerk, and with copies to the City Attorney, within sixty (60) days after the adoption of this Ordinance. Such written acceptance shall be accompanied by construction and completion bonds, security funds, and evidence of insurance all as may be required pursuant to the TWTC Franchise, if any such construction and completion bonds, security funds or insurance change as a result of this indirect change of control.

6. The following addresses shall replace the Franchisee notice addresses in Section 11.1 of the TWTC Franchise:

Level 3 Communications, LLC  
Attn: NIS Department

1025 Eldorado Boulevard  
Broomfield, CO 80021

*With a copy to:*

Level 3 Communications, LLC  
Attn: General Counsel  
1025 Eldorado Boulevard  
Broomfield, CO 80021

**Section 4.** To the best of the City's knowledge and belief, there are no existing facts or circumstances that with or without the giving of notice or the passage of time, or both, would constitute a default of any term or condition of the Franchise.


**Section 5.** This Ordinance shall be in full force and effect five (5) days after and publication as required by law.

ADOPTED this 26<sup>th</sup> day of January, 2016, and signed in authentication thereof on this 26<sup>th</sup> day of January, 2016.

CITY OF SEATAC

  
\_\_\_\_\_  
Rick Forschler, Mayor

ATTEST:

  
\_\_\_\_\_  
Kristina Gregg, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Mark S. Johnsen, Senior Assistant City Attorney

[Effective Date: 2-6-16 ]