

8/23/99	Introduced By:	Greg Nickels Jane Hague
Sub pj 09/15/99	Proposed No.:	<u>1999-0492</u>

ORDINANCE NO. 13637

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AN ORDINANCE approving, subject to conditions, the transfer of Franchise No. 5602 held by Summit Communications, Inc. to Summit Cablevision L.P. and to Millennium Digital Media Systems, L.L.C., the sole general partner and the owner of all partnership interests in Summit Cablevision L.P., as Guarantor; and renewing Franchise No. 5602 for a ten year term, subject to an extension of up to a fifteen year term, as further described in the Franchise Agreement, Attachment A.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. King County has authority under federal, state and county law to grant a transfer of Franchise No. 5602 held by Summit Communications, Inc. ("Summit") to Summit Cablevision L.P. ("Summit LP") and to Millennium Digital Media Systems L.L.C. (Millennium"), the sole general partner of Summit LP and the owner of all partnership interests in Summit L.P., as guarantor, and to renew Franchise No. 5602.

SECTION 2. For the reasons set forth in this ordinance the proposed transfer and renewal is in the public interest if the conditions set forth in this ordinance are fully satisfied.

SECTION 3. Findings of Fact:

1 A. King County ("county") granted Summit an eleven (11) year franchise to
2 construct, maintain and operate a cable system within certain unincorporated areas of the
3 county pursuant to Franchise No. 5602 (the "Franchise") , dated November 24, 1982, as
4 amended by Motion No. 7825, passed February 12, 1990.,

5 B. Summit requested renewal of the Franchise on April 17, 1991. On July 7,
6 1995, the county, pursuant to Ordinance 11830, granted Summit an extension of the
7 Franchise to December 31, 1995 for the orderly review of franchise renewals and Summit
8 engaged in negotiations to renew the Franchise, but a renewal was not granted or denied.

9 C. Summit entered into a Purchase and Sale Agreement with Millennium
10 Digital Media Systems, L.L.C. ("Millennium"), dated July 2, 1998, providing for the
11 transfer, sale and assignment of all of the assets of the cable system, including all rights
12 and obligations under the Franchise, to Summit LP and further provided for the subsequent
13 acquisition of all of Summit's interest in Summit LP by Millennium (collectively the
14 "transfer").

15 D. Summit, Summit LP and Millennium requested the county's consent to the
16 transfer in a letter to Councilmember Nickels dated September 8, 1998 which was
17 subsequently filed with the Clerk of the Council on September 15, 1998.

18 E. The county determined the transfer application was incomplete, and notified
19 Summit on December 9, 1998. The Executive determined that the application was
20 complete on December 15, 1998.

21 F. Summit, Summit LP and Millennium have supplied information to the
22 county pursuant to 47 USC § 537 and 47 CFR Part 76 and FCC Form 394 as well as KCC

1 6.27A, which information has enabled the county to evaluate the transfer and renewal
2 request and make a determination regarding the transfer and renewal.

3 G. On August 27, 1999, Summit, Summit LP and Millennium executed a
4 "Third Amendment to Consent to Extension of Time" allowing the county time to process
5 the transfer request, through October 29, 1999.

6 H. The county negotiated the attached renewal Franchise Agreement to provide
7 cable services county-wide to unincorporated King County and to provide for the
8 construction of five (5) additional Institutional Network (I-Net) sites for public, educational
9 and governmental use for transmission and reception of voice, video and data signals.

10 I. The county provided public notice of the proposed franchise transfer and
11 renewal and has solicited public comment on it.

12 J. The county concludes that the transfer of Franchise No. 5602 to Summit LP
13 and to Millennium, as guarantor, and the renewal of Franchise No. 5602 are appropriate so
14 that Summit LP may provide cable services county-wide in the unincorporated areas of
15 King County subject to the terms and conditions contained in this ordinance and applicable
16 law. The proposed Franchise Agreement, which is attached as Attachment A, and
17 appendices to the proposed Franchise Agreement which are attached as part of Attachment
18 A include a metes and bounds description of the franchise territory (Appendix A); the
19 system design specifications (Appendix B); the description of the Institutional Network
20 Sites (Appendix C); and the form Franchise Bond (Appendix D). Attachment A, together
21 with its appendices, is fully incorporated herein by reference.

22 SECTION 4. King County hereby approves the transfer of Franchise No. 5602
23 from Summit to Summit LP and Millennium, as guarantor, and hereby renews Franchise

1 No. 5602 for a ten year term, with a potential extension of up to five years for a total term
2 of fifteen years as provided in the Franchise Agreement, subject to the following
3 conditions:

4 A. Summit shall cause Summit LP and Millennium to comply, and Summit,
5 Summit LP and Millennium agree to comply fully with King County Code 6.27A and rules
6 promulgated thereunder, and all the Franchise Agreement provisions and other contractual
7 obligations with the county, and all other applicable laws.

8 B. Summit LP and Millennium and Summit shall confirm in writing that
9 Summit, Summit LP and Millennium shall remain responsible for the obligations and
10 liabilities of Summit, known or unknown, under the Franchise and contracts with the
11 county and under applicable law, before and after the effective date of the transfer.

12 C. Summit LP, Millennium and Summit shall confirm in writing that approval
13 by the county of any transfer to Summit LP and Millennium shall not constitute a waiver or
14 release of any rights of the county under the Franchise or applicable law, before or after the
15 effective date of the transfer.

16 D. Neither Summit, Summit LP or Millennium, directly or indirectly through
17 one or more Affiliates, as that term is defined in the Franchise Agreement, shall engage in
18 unfair methods of competition in connection with the operation of the cable system, or the
19 delivery of services over that system. Summit LP and Millennium and Summit shall cause
20 itself and its Affiliates, as that term is defined in the Franchise Agreement, to comply with
21 KCC 6.27A.035.

22 E. On June 21, 1999, the county appointed an Expert Review Panel ("ERP")
23 to review for the county the issue of cable operators' high speed internet access service on

1 (1) consumer choice of internet and online services and (2) of the competitive impact on
2 other providers of online services in the county. The ERP is scheduled to report findings to
3 the King County Council by October 8, 1999 addressing any anti competitive implications
4 of rolling out bundled high speed cable modem internet services, including legal, technical,
5 and financial considerations for cable operators as well as subscriber privacy issues. After
6 completion of the study by the ERP, the county may impose additional or different
7 conditions on cable operators regarding "non-discriminatory access" and "subscriber
8 privacy." County, Summit LP and Millennium confirm that such additional or different
9 conditions shall be subject to a standstill and tolling agreement to include the following:

10 1. Any additional or different conditions concerning open access to high speed
11 Internet services shall be considered as if imposed on the date of enactment of this
12 ordinance.

13 2. Summit LP, Millennium and King County shall not be deemed to have
14 waived any rights, obligations, claims, defenses or remedies regarding the county's
15 authority to impose such conditions.

16 Summit LP and Millennium shall not be obligated to comply with any conditions
17 concerning "non-discriminatory" access to its Cable System by internet service providers
18 ("ISPs") or others or concerning "subscriber privacy" until it is determined by a
19 controlling federal judicial ruling or federal regulatory action that King County has the
20 lawful authority to impose such conditions on cable operators.

21 To the extent that King County does not require any other cable operator to comply
22 with such conditions due to a judicial order or a standstill or tolling agreement, Summit LP

1 and Millennium shall be treated by King County as if they were parties to such agreement
2 or order.

3 F. In addition to the other provisions of this ordinance, Summit LP and
4 Millennium shall confirm in writing that if at any time during the term of the franchise
5 there is a controlling federal judicial ruling or federal regulatory action confirming the
6 power of local franchising authorities to require open and nondiscriminatory access to
7 Internet services over cable modem networks, then the county may immediately require the
8 Summit LP and Millennium to promptly comply with such conditions consistent with
9 K.C.C. 6.27A.020E.

10 G. Summit LP and Millennium shall confirm in writing that the purchase and sale
11 among Summit, Summit LP and Millennium closed on terms substantially and materially
12 the same as the terms described in the FCC Form 394 and in subsequent information
13 provided by them to the county.

14 SECTION 5. The county hereby consents to and approves the transfer and the
15 renewal of Franchise No 5602. The county also consents to the granting by Summit LP
16 and Millennium of security interests and liens in their tangible and intangible property, for
17 the purpose of financing the acquisition of equipment and the acquisition, construction,
18 operation and maintenance of the cable system, subject to the terms and conditions of the
19 Franchise Agreement.

20 SECTION 6. If any of the conditions for transfer and renewal approval are not
21 satisfied, approval shall be deemed to have been denied as of the date of this ordinance.

22 SECTION 7. Notwithstanding any other provisions of this ordinance, in the event
23 that the county has not received the written confirmations required by this ordinance by

1 November 30, 1999, then the approval granted herein shall expire, and the request for
2 approval of the transfer and renewal transfer shall be deemed to have been denied as of the
3 date of this ordinance.

4 SECTION 8. In the event that the transaction which is the subject of this ordinance
5 is not consummated or does not reach final closure for any reason, or in the event such
6 closure is reached on terms substantially and materially different from the terms described
7 in the FCC Form 394 including subsequent information provided by Summit LP,
8 Millennium or Summit and relied upon the county, then the approval granted in this
9 ordinance shall be null and void and the approval of the transaction shall be deemed to
10 have been denied as of the date of this ordinance.

11 SECTION 9. If the purchase and sale among Summit LP, Millennium and Summit,
12 is upon terms which are substantially and materially different from the terms described in
13 the FCC Form 394 including subsequent information provided by Summit LP, Millennium
14 and Summit, then Summit LP, Millennium and Summit shall resubmit a request for a
15 transfer in order to comply with County transfer requirements.

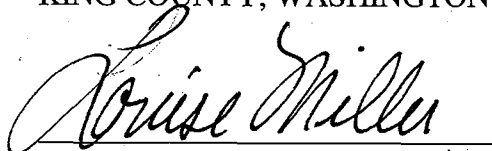
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SECTION 10. The executive is hereby authorized to approve the transfer and the renewal of Franchise No. 5602 and to execute the Franchise Agreement on behalf of the county.

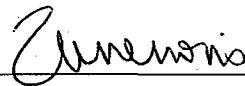
INTRODUCED AND READ for the first time 7th day of September 1999.

PASSED by a vote of 13 to 0 this 20th day of September, 1999.

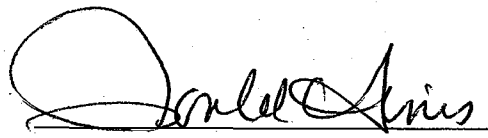
KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Chair

ATTEST:


Clerk of the Council

APPROVED this 1 day of October, 1999


King County Executive

- Attachment: Attachment A, including:
- Appendix A (Description of Franchise Territory)
 - Appendix B (System Design Specifications)
 - Appendix C (Institutional Network Sites)
 - Appendix D (Form Franchise Bond)

13637 .

FRANCHISE AGREEMENT

BETWEEN

SUMMIT CABLEVISION L.P.

AND

KING COUNTY, WASHINGTON

1999

RECEIVED

99 OCT 25 AM 10: 57

CLERK
KING COUNTY COUNCIL

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CABLE SYSTEMS

FRANCHISE NO. 5602

In the matter of the application of Summit Communication, Inc., to transfer to Summit Cablevision L.P. a Franchise to construct, operate, maintain and repair a Cable System in, over, along and under County streets, alleys, roads and compatible utility easement Rights-of-Way in King County, Washington for the purpose of transmitting cable television services, with Millennium Digital Media Systems LLC as guarantor.

On September 15, 1998

Summit Communications, Inc., filed a request for transfer of a Franchise to Summit Cablevision L.P., of which Millennium Digital Media Systems LLC is the general partner, to construct, operate, maintain and repair a Cable System in, over, along and under County roads and appropriate Rights-of-Way within the unincorporated portion of the area described in Appendix A for the purpose of providing cable television services.

The King County Council held a public hearing on the Application on the 20th day of September, 1999.

Legal notice of the Application and of the hearing were given as required by law.

September 13, 1999

The King County Council having considered the interests proposed and advanced, has found that the grant of a Franchise, subject to conditions, is in the public interest. It hereby ORDERS, pursuant to Ordinance No. 13637, that a county-wide Cable

System Franchise is granted to Summit Cablevision L.P. (the "Franchisee") subject to the conditions set forth in the amended Franchise Agreement attached hereto, this Franchise and Ordinance No. 13637. This Franchise grants the right, subject to conditions, to construct, operate, maintain and repair a Cable System in, over, along and under County roads and appropriate Rights-of-Way within the unincorporated portions of the area described in Appendix A to the Franchise Agreement, for the purpose of transmitting Cable Services commencing on the Effective Date of the Franchise, which is October 11, 1999 through and including October 11, 2009, plus extensions as permitted by the Franchise Agreement, not to exceed five (5) years. The Franchise shall become effective when the Franchisee has:

- I. Signed the Franchise Agreement;
- II. Signed an unconditional acceptance of this as described in Ordinance No. 13637; and
- III. Made all payments, posted all securities and supplied all information that it is required to supply prior to or upon the Effective Date of the Franchise; and
- IV. Provided all certificates and endorsements as required in Section 8 of the Franchise Agreement.
- V. Provided that, all these actions must be completed within thirty (30) days of the Effective Date of Ordinance No. 13637, or the Franchise shall be null and void and without effect.

CABLE TELEVISION FRANCHISE AGREEMENT

BETWEEN KING COUNTY, WASHINGTON

AND

SUMMIT CABLEVISION L.P.

FOR

FRANCHISE No. 5602
(Amended)

WHEREAS, Summit Communications, Inc. ("SCI"), a Washington State Corporation, has asked King County, Washington to renew the nonexclusive Franchise it holds (No. 5602) to provide cable television and other services within the unincorporated part of the County and to transfer it to Summit Cablevision L.P., ("Summit LP"), a Washington State Limited Partnership, with Millennium Digital Media Systems L.L.C. as guarantor ("Millennium"); and

WHEREAS, the County has conducted proceedings in which SCI, and Summit LP and Millennium have participated, to identify the future cable-related needs and interests of the community; to consider the financial, technical, and legal qualifications of Summit LP; to review the past performance of SCI; and to determine Summit LP's plans for constructing, operating, maintaining, and repairing its Cable System are reasonable; and

WHEREAS, based in part upon Summit LP's representations and information, the County has determined that, subject to the terms and conditions set forth herein, granting a nonexclusive, countywide Franchise to Summit LP is consistent with the public interest; and

WHEREAS, the County is willing to issue such a Franchise, conditioned on Summit LP's acceptance of the terms and conditions thereof; and

WHEREAS, Summit LP is willing to accept the Franchise subject to such terms and conditions, and to abide by those terms and conditions:

NOW, THEREFORE, in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and the adequacy of which is hereby acknowledged, THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

1. Definitions. Except as otherwise provided herein, the definitions and provisions governing the interpretation of terms set forth in King County Code ("K.C.C.") Sections 6.27A.010 et seq. shall govern this Franchise Agreement. References to any County official or office also refer to any official or office that succeeds to any or all of the responsibilities of the named official or office. References to laws or "applicable laws" include federal, state and local laws and regulations adopted pursuant to those laws; unless otherwise stated, references to laws includes laws now in effect, as the same may be amended from time to time, and new laws. In addition, the following definitions shall apply:

(a) Affiliate. As used in Section 5, means any partner of the Franchisee directly involved in the offering of Cable Services in the Franchise Territory, or directly

involved in the management or operation of the Cable System in the Franchise Territory, but does not include lessees of Franchisee.

(b) Books and Records. Means any recorded information relating to the Cable System or its management, including but not limited to information regarding its construction, operation, maintenance or repair, in whatever form stored, including, but not limited to computerized records and programs, paper records, and video or audio-taped records.

(c) Cable Ordinance. Chapter 6.27A, Sections 010 et seq., of the King County Code, as amended from time to time.

(d) Cable Services. As used in this Franchise Agreement, the term "Cable Services" or "Cable Television Services" means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service;

(e) Cable System. Is defined as in the Cable Ordinance and 47 U.S.C. § 522, except that as used herein, it specifically refers to the Franchisee's Cable System. The term is used to refer to the Cable System as a whole, or to any part of the Cable System, including equipment or facilities appurtenant thereto.

(f) Construction, Operation or Repair. These and similar formulations of those terms refer to the named actions interpreted broadly, encompassing, among other things, installation, extension, maintenance, replacement of components, relocation, undergrounding, grading, site preparation, adjusting, testing, make-ready, excavation and tree trimming.

(g) Dispute Resolution Process. Means the procedure set out in Section 24 (a).

(h) Effective Date. The Effective Date this Franchise, No. 5602, is October 11, 1999.

(i) Franchise Agreement. This contract and any amendments, exhibits, or appendices hereto.

(j) Franchise Fee. The term, "Franchise Fee," shall mean an amount equal to five percent (5%) of the Gross Revenues.

(k) Franchise Territory. Means the unincorporated areas of King County as more completely described in Appendix A to this Franchise Agreement.

(l) Franchisee. Refers to Summit Cablevision L.P. ("Summit LP") and its lawful and permitted successors and assigns.

(m) Gross Revenues. Means the annual gross revenue of the Franchisee or its Affiliates from all sources derived from the operation of the Cable System in providing Cable Services, excluding any bad debt, sales tax, excise tax, or other taxes collected for direct pass-through to local, state or federal government; provided, however, that any portion of Franchise Fees and the Capital Grant in Sec. 17 (b) which Franchisee passes through or would be allowed to pass through to subscribers as external costs, as that term is defined by the FCC at 47 C.F.R. 76.922(d)(3), as amended, shall not be included in the term Gross Revenues.

(n) I-NET means the "Institutional Network" described in Section 16 (d) to link the five (5) sites specifically identified therein.

(o) Rights-of-Way. The term "right(s)-of-way" refers to County streets, alleys, roads and compatible utility easements. It does not include recreational and nature trails.

2. Grant of Authority; Limits and Reservations.

(a) Grant of Authority. The Franchisee is hereby granted, subject to the terms and conditions of this Franchise Agreement, the right, privilege, and authority to construct, operate, maintain and repair a Cable System within the Franchise Territory defined in this Franchise Agreement to provide Cable Services and to provide a related Institutional Network ("I-Net") for Public, Educational and Governmental use for voice, video and data subject to Section 17 (a)(8). The Franchise issued to the Franchisee is subject to the terms and conditions of this Franchise Agreement. It shall remain in effect for a period of ten (10) years from the Effective Date, unless otherwise revoked, by action of the County or unless the Franchise expires in accordance with the provisions of this Franchise Agreement, the King County Code or other applicable law. The period of ten (10) years from the Effective Date shall automatically be extended if Franchisee completes the System Upgrade required by Section 16 (a) and the I-Net required by Section 16 (d), to the extent the County has I-Net sites identified therein ready for linking with the I-Net, as follows:

<u>By Completion Date</u>	<u>Length of Extension</u>
January 1, 2002	Five (5) years
July 1, 2002	Four (4) years
January 1, 2003	Three (3) years
July 1, 2003	One (1) year

(b) Scope of Franchise.

(1) The Franchise is intended to convey limited rights and interests only as to those County streets, alleys, roads and compatible utility easement Rights-of-Way in which the County has an actual interest. It is not a warranty of title or interest in any Rights-of-Way; it does not provide the Franchisee any interest in any particular location within the Rights-of-Way; and it does not confer rights other than as expressly provided in the grant. The Franchise does not deprive the County of any powers, rights or privileges it now has or may later acquire in the future to use, perform work on or to regulate the use of and to control the County's Rights-of-Way covered by the Franchise, including without limitation the right to perform work on its roadways, Rights-of-Way or appurtenant drainage facilities, including by constructing, altering, renewing, paving, widening, grading, blasting or excavating. Except in an emergency, the County will give the Franchisee at least forty-eight (48) hours notice of any blasting or excavating which is likely to damage the Franchisee's lines and appurtenances so that the Franchisee may protect its lines and appurtenances from any County work.

(2) Whenever any of the County Rights-of-Way as designated in this Franchise, by reason of the subsequent incorporation of any town or city, or extension of the limits of any town or city, shall fall within town or city limits, this Franchise shall continue in full force and effect until such time as the incorporation and/or annexation is complete according to applicable state law, after which time the County shall no longer have any responsibility for maintenance of such roads, Rights-of-Way or other County property within the area of the annexation and/or incorporation. The County retains the inherent right to maintain and repair I-Net fiber optic lines and related equipment

installed under the terms of this Franchise Agreement wherever they may exist, except that only the Franchisee, or persons operating under the Franchisee's direction and authority, shall have the authority to maintain and repair I-Net fiber optic lines and related equipment where the Franchisee's Cable System and the County's I-Net are co-located.

(3) Nothing in this Franchise Agreement shall obligate the Franchisee to operate as a common carrier and no application of Franchisee's facilities as utilized by the County will place the Franchisee within the regulation of a public utility by reason of such use.

(c) Exercise of Authority under Franchise. This Franchise only authorizes Franchisee to engage in Cable Service, as that term is defined on the Effective Date in the Federal Cable Act, 47 U.S.C. Sec. 521, et seq.

(d) Activities of Affiliates. Franchisee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Franchisee directly involved in the offering of Cable Services in King County, or directly involved in the management or operation of the Cable System in King County will comply with the terms and conditions of this Franchise.

(e) Franchise Not Exclusive. The right to use and occupy the public Rights-of-Way is not exclusive and does not explicitly or implicitly preclude the issuance of other Franchises to construct, operate or repair Cable Systems within the County; or affect the County's right to use or authorize the use of any of its public Rights-of-Way or other property by other persons as it determines appropriate.

(f) Construction of Agreement. The provisions of this Franchise Agreement shall be liberally construed to promote the public interest.

(g) Relation to Cable Ordinance. The provisions of the Cable Ordinance as amended over the term of this Franchise shall apply to the Franchise Agreement as if fully set forth in the Franchise Agreement, and the express terms of the Cable Ordinance will prevail over conflicting or inconsistent provisions in the Franchise Agreement unless the Franchise Agreement expresses an explicit intent to waive a requirement of the Cable Ordinance. However, the express provisions of this Franchise Agreement constitute a valid and enforceable contract between the parties. Neither party may take any unilateral action which materially changes the explicit performance promised in this Franchise Agreement.

(h) Relation to Other Provisions of Law. This Franchise Agreement and all rights and privileges granted under the Franchise are subject to the County's police and other powers and other applicable law. The Franchise issued and the Franchise Fee paid hereunder are not in lieu of any other required permit, authorization, fee, charge or tax, unless expressly stated herein.

(i) Relation to Prior Franchise. As of the Effective Date of this Franchise, all of the obligations of Franchise No. 5602 previously held by Summit Communications, Inc. are accepted and assumed by Franchisee. Franchisee promises to pay all amounts owed the County and subscribers under Franchise No. 5602 held by Summit Communications, Inc. for which claims are made within three (3) years of the Effective Date of this Franchise. Franchisee hereby indemnifies and insures the County against the acts and omissions of Summit Communications, Inc. which occurred when Summit

Communications, Inc. held Franchise No. 5602, to the extent any claims related to such acts and omissions are not barred by an applicable statute of limitations.

(j) Effect of Grant. By granting this Franchise, the County acknowledges and agrees that it has the authority to issue this Franchise and did so pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

(k) Effect of Acceptance. By accepting the Franchise, the Franchisee:
(1) acknowledges and accepts the County's legal right to issue and enforce the Franchise; (2) agrees that it will not oppose the County intervening in any proceeding affecting its Cable System; (3) accepts and agrees to comply with each and every provision of this Franchise Agreement; and (4) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary..

(l) Franchisee Bears Its Own Costs. Unless otherwise expressly provided in this Agreement, all acts that the Franchisee is required to perform must be performed at the Franchisee's own expense.

(m) No Waiver. The failure of the County or the Franchisee on one or more occasions to exercise a right or to require compliance or performance under this Agreement, the Cable Ordinance, or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing. Any waiver of a breach is not a waiver of any other breach, whether similar or different from that waived.

(n) No Recourse. To the extent permitted by law, the Franchisee shall have no recourse whatsoever against the County or its officials, boards, commissions, agents or employees for any loss, costs, expenses, or damages arising out of any provision or requirement of the Franchise, Franchise Agreement, or Cable Ordinance because of the enforcement of the Franchise, Franchise Agreement or Cable Ordinance, except if such loss, costs, expenses, or damages are the result of the sole negligence or misconduct on the part of the County or its agents. The rights of the County under this provision are in addition to, and shall not be read to limit, any immunities the County may enjoy or rights which the Franchisee may enjoy under federal or state law.

(o) Itemization of External Costs. Franchisee agrees to not itemize on subscriber bills Franchisee's cost to construct the I-Net.

3. Effect of Changes in Law.

(a) Severability. In the event that a court or agency or legislature of competent and controlling jurisdiction acts or declares any nonmaterial provision of this Franchise Agreement is unenforceable according to its terms, or otherwise void, said provision shall be considered a separate, distinct, and independent part of this Franchise Agreement, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that a court or agency or legislature of jurisdiction acts or declares that any material provision of this Franchise Agreement is unenforceable according to its terms, or is otherwise void, the parties agree to immediately enter into negotiations in good faith to restore to the injured party the benefits or equivalent consideration which the injured party agrees is a reasonable substitute for the benefits the injured party expected to receive from the provision which

was declared unenforceable. If the parties are unable to agree to a modification to this Franchise Agreement within sixty (60) days of the date the decree became final, either party may at any time thereafter invoke the Dispute Resolution Process contained in this Franchise Agreement to modify the terms of this Franchise Agreement in a manner which is equitable to both parties with respect to the full value of the consideration promised in this Franchise Agreement. By way of illustration and not limitation, the following provisions shall be considered material: Sections 2 (a) (Grant of Authority); 2 (b) (Scope of the Franchise); 2 (c) (Exercise of Authority under Franchise); 2 (h) (Relation to other Provisions of Law); 2 (i) (Relation to Prior Franchise); 5 (Franchise Fee); 16 (System Facilities, Equipment and Services); 17 (Channels, Facilities, Equipment and Services for Public, Educational, and Governmental Use); and 19 (Conditions on Use of Rights-of-Way: Specific Practices).

(b) Effect of Change in Law.

(1) Preemption. In the event that state or federal laws, rules, or regulations preempt a provision or limit the enforceability of a provision of this Franchise Agreement, then, subject to the parties' rights under Section 3 (a) of this section, the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required by law. In the event such state or federal law, rule, or regulation is subsequently repealed, rescinded, amended, voided, or otherwise changed, so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of either party.

(2) Other Changes in Law. In the event that state or federal laws, rules, or regulations changes a provision or limits the enforceability of a provision of this Franchise Agreement, then, subject to the parties' rights under Section 3 (a) of this section, the changed provision shall become a part of this contract, but only to the extent and for the time required by law. In the event such state or federal law, rule, or regulation is subsequently repealed, rescinded, amended, voided, or otherwise changed, so that the provision hereof that had been changed is no longer changed, such provision shall thereupon return to full force and effect and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of either party.

4. Transfers.

All rights granted under the Franchise are for personal services. Therefore, the rights granted under the Franchise may not be transferred, assigned, sublet or subdivided in any way or through any mechanism, including a sale or lease of all or substantially all of the Cable System , or a sale that results in a change in control or a change in control of the Franchisee (all referred to below as "transfers"), without the express prior permission of the County by Ordinance, except as otherwise provided under the Cable Ordinance, the Cable Rules, or federal law.

(a) Control. The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. A change in control includes any of the following:

(1) If Franchisee is a publicly traded partnership or corporation, the sale or transfer of five percent (5%) of the Franchisee's stock or general partnership interest;

(2) If Franchisee is a closely held partnership or corporation or an individual, transfer of twenty-five percent (25%) of the ownership interest or the voting stock interest in Franchisee or transfer of fifty percent (50%) or more of the ownership interest or the voting stock interest in any legal parent or entity directly or indirectly controlling or managing Franchisee; or,

(3) Any other transaction which has the practical consequence of transferring to a new entity or legal person the actual working control of the Franchisee, the Franchise or all or substantially all of the Cable System.

(b) Application for Transfer. An entity which seeks approval of a proposed transfer (hereafter, the "Applicant") shall file an application for approval of that transfer no later than one hundred twenty (120) days prior to the proposed effective date of the transfer. The application shall meet the requirements of the Cable Ordinance and applicable law.

(c) Notice of Transfer. The Franchisee shall notify the Cable Office in writing as soon as any agreement or contract is executed for a transfer that is subject to the approval of the County.

(d) Review of Transfer. In determining whether to grant an application submitted under this Section 4, the County shall apply the standards set forth in the Cable Ordinance. In agreeing to this Section 4, the Franchisee does not waive any rights it may have under applicable law. As it determines necessary in evaluating the

application, the County may require the Franchisee and Applicant to submit information in addition to that provided as part of the application.

(e) Mandatory Conditions.

(1) No application shall be granted unless the Applicant agrees in writing that it will:

(i) Abide by and accept the terms of the Cable Ordinance, Cable Rules, this Franchise Agreement and any additional terms and conditions that the County reasonably determines are needed to protect the public interest; however, except as the County reasonably determines the proposed transfer increases the risk of nonperformance or partial performance of any Franchise obligation, the County agrees that it will not seek modifications to the terms of this Franchise Agreement as a condition of approval of a transfer which occurs within two (2) years of the Effective Date of this Franchise Agreement; and

(ii) Assume and be responsible for the obligations and liabilities of the Franchisee, known and unknown, under this Franchise Agreement and applicable law; and

(iii) Provide performance guarantees to the County that the County considers sufficient and adequate to guarantee the full and faithful performance of all franchise obligations by the Franchisee.

(2) No application shall be granted unless the Applicant agrees that approval by the County of the transfer shall not constitute a waiver or release of any rights of the County under this Franchise Agreement or applicable law, whether arising before or after the effective date of the transfer.

(3) No application shall be granted unless the Applicant posts all required bonds, securities, and the like in its own name at least thirty (30) days prior to the closing date of the transfer.

(f) Other Changes in Ownership. Franchisee shall notify the County of any substantial changes in ownership in Franchisee or in any entity which directly or indirectly controls Franchisee at least one hundred twenty (120) days prior to the proposed effective date of the change. If the County concludes the proposed change is a transfer as defined in this Franchise Agreement, Franchisee shall immediately comply with the requirements of this Section 4 and agrees not to complete the proposed change without prior County approval. This provision shall not apply to publicly traded stock transactions of which the Securities and Exchange Commission does not require notice.

5. Franchise Fee.

(a) Payment to County. As financial compensation for use of Public Rights-of-Way for the offering of Cable Services, the Franchisee and its Affiliates shall pay the County a Franchise Fee.

(b) Not in Lieu of Any Other Assessments, Tax or Fee. The Franchise Fee is in addition to all other fees, assessments, taxes or payments that the Franchisee may be required to pay under any federal, state, or local law, subject to any limitations set forth in 47 U.S.C. § 542.

(c) Payments. Franchise Fees shall be paid in accordance with the schedule set forth in the Cable Ordinance. In the event that a Franchise Fee payment or other sum due is not received by the Cable Office on or before the date due, or is underpaid,

the Franchisee shall pay in addition to the payment, or sum due, interest from the due date at a rate equal to the maximum rate permitted under Washington State law, compounded daily.

(d) No Accord or Satisfaction. No acceptance of any payment by the County shall be construed as a release or an accord and satisfaction of any claim the County may have for further or additional sums payable as a Franchise Fee under the Cable Ordinance or for the performance of any other obligation of the Franchisee. The Franchisee shall be released of further responsibility for any unclaimed past or overdue Franchise Fees for a particular calendar year six (6) months following the resolution of a County financial audit or financial review of Franchisee's Books and Records related to payments for that year or years.

(e) Payment on Termination. If the Franchise terminates for any reason, the Franchisee shall file with the Cable Office within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Franchisee since the end of the previous fiscal year. The County reserves the right to satisfy any remaining financial obligations of the Franchisee to the County by utilizing the funds available in a security fund, letter of credit, and/or other security provided by the Franchisee.

(f) Limit on Certain Payments.

(1) In the event that an entity other than an Affiliate of Franchisee, including a cable operator serving more than ten thousand (10,000) subscribers, competes with the Franchisee in Cable Services or services equivalent to Cable Services, and

(i) such communications provider is subject to the County's jurisdiction and control, the obligations imposed upon such provider by the County shall not be substantially less burdensome than those imposed upon the Franchisee; or

(ii) such communications provider is not subject to the County's jurisdiction and control, the County shall have no obligation to equalize burdens imposed upon such provider and the Franchisee; or

(iii) such communications provider is partially subject to the County's jurisdiction and control, or the County's jurisdiction and control is unclear, the County shall use best efforts to impose obligations upon such provider which are not substantially less burdensome than those imposed upon the Franchisee.

Notwithstanding, the County has no obligation to undertake any action which could be challenged as unlawful or *ultra vires*, unless Franchisee agrees in writing to indemnify the County against all costs and liability claims related to such actions.

(2) In the event a cable operator that serves less than ten thousand (10,000) subscribers competes with the Franchisee in Cable Services or services equivalent to Cable Services, and such communications provider is subject to the County's jurisdiction and control, the obligations imposed upon such provider by the County with respect to franchise fees and capital grants to support PEG and I-Net services shall be substantially the same as those imposed upon the Franchisee as measured on a per subscriber basis.

(3) Franchisee agrees that, when no other King County franchise agreement contains a provision or provisions substantially to the same effect as

Sections 5 (f)(1) and 5 (f)(2) of this Franchise Agreement, then Sections 5 (f)(1) and 5 (f)(2) herein shall no longer be of any effect or force.

(g) Utility Tax Offset. If and when the County receives legal authority to impose a utility tax on Gross Revenues of franchises operating within the County, and the County does impose such a tax on Franchisee, the Franchise Fee amount paid and the capital grant amount paid pursuant to Section 17 (b) in a tax year will create credit against the utility tax due that same tax year of \$1 for each \$1 paid on the Franchise Fee and capital grant, up to but not exceeding the total annual amount of the utility tax.

6. Notices.

All notices to Franchisee shall be mailed to:

Summit Cablevision L.P.
3633 136th Place SE
Suite 107
Bellevue, WA 98006
Attn: Steven Weed, Senior Vice President

And to:

Millennium Digital Media Systems, LLC
120 South Central Avenue
Suite 150
St. Louis, MO 63105-1705
Attn: Chief Operating Officer

until Franchisee changes either address by making an appropriate filing with the Cable Office, as contemplated by K.C.C. § 6.27A.070. A notice may be "mailed" to Franchisee by depositing it in the U.S. Mail, first class postage prepaid, or by providing the notice to Franchisee by overnight delivery service. Notwithstanding any other provision of the Cable Ordinance, notice also may be provided to the Franchisee by facsimile at the following numbers: (425) 644-4621 and (314) 802-2300. The

Franchisee may change this number by providing written notice of a substitute number to the Cable Office.

7. Insurance Requirements.

(a) General requirement. Franchisee must have adequate insurance during the entire term of the Franchise against claims for injuries to persons or damages to property which in any way relate to, arise from, or are connected with the holding of the Franchise by the Franchisee, its agents, representatives, contractors, subcontractors and employees. As of the Effective Date of the Franchise, the Franchisee must have insurance coverage in place in the amounts and the form specified in (b) - (c) of this section; it shall maintain at least that coverage throughout the Franchise term.

(b) Scope of Insurance. Franchisee must keep insurance in effect in accordance with the minimum insurance scope the County Risk Manager may set from time to time after consulting with the Cable Officer. The initial minimum insurance coverage shall be at least as broad as:

(1) Insurance Services Office form number CG-00-01 (Ed. 11-88) covering commercial general liability;

(2) Insurance Services Office form number CA-00-01 (Ed. 12-90), covering automobile liability symbol (1), "any auto"; and

(3) Industrial insurance as required by applicable federal, state, and local laws, and stop gap or employer's liability insurance.

(c) Initial Insurance Limits. Franchisee must keep insurance in effect in accordance with the minimum insurance limits the County Risk Manager may set from

time to time. The Franchisee shall obtain policies for the following initial minimum insurance limits:

(1) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage; and for those policies with aggregate limits, a \$2,000,000 aggregate limit;

(2) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and

(3) Stop Gap or Employer's Liability: \$1,000,000.

8. Deductibles and Self-insured Retentions. If Franchisee changes its policy to include a self-insured retention, the Franchisee shall give written notice of such change to the County. If any such self-insured retention creates any obligation or liability for the County, such self-insured retention shall be subject to the approval of the County Risk Manager. Such approval will be given if the self-insured retention is consistent with standard industry practices. Any deductible and/or self-insured retentions of the policies shall not in any way limit or apply to the Franchisee's liability to the County and shall be the sole responsibility of the Franchisee.

(a) Endorsements.

(1) General liability and automobile liability policies shall contain, or shall be endorsed so that:

(i) King County, its officers, officials, employees, and agents are to be covered as and have the rights of additional insureds with respect to liability arising out of activities performed by or on behalf of Franchisee under this Franchise

Agreement or applicable law, or in the construction, operation, maintenance or repair, or ownership of its Cable System;

(ii) To the extent of Franchisee's negligence, the Franchisee's insurance coverage shall be primary insurance with respect to the County, its officers, officials, employees, and agents. Any insurance or self-insurance maintained by the County, its officers, officials, employees, and agents shall be in excess of the Franchisee's insurance and shall not contribute with it; and

(iii) Franchisee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

(2) All policies shall contain, or shall be endorsed so that:

The Policy shall not be suspended, voided, canceled, or reduced in coverage or in limits, nor shall the intention not to renew be stated by the insurance company, except after forty-five (45) calendar days prior written notice, return receipt requested, has been given to King County's Office of Cable Communications and Office of Risk Management.

(b) Acceptability of Insurers. The insurance obtained by Franchisee shall be placed with insurers with a Bests' rating of no less than A:VIII, or if not rated by Bests', with surpluses equivalent to Bests' A:VIII rating.

(c) Verification of Coverage. The Franchisee shall furnish the County with certificates of insurance required by this Agreement and endorsements or a copy of the page of the policy reflecting blanket additional insured status, if required by written contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard ACORD forms or

such forms as are consistent with standard industry practices and are to be received and approved by the County prior to the commencement of activities associated with the Franchise. The Franchisee hereby warrants that its insurance policies satisfy the requirements of this Franchise Agreement and County law.

9. Indemnification.

(a) Scope of Indemnity. To the extent permitted by law, and except for matters arising out of the County's sole negligence, Franchisee shall, at its sole cost and expense, indemnify, hold harmless, and defend the County, and its officers, boards, commissions, agents, and employees, against any and all claims, including but not limited to third party claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, operation, maintenance or repair of its Cable System, or in any way arising out of the Franchisee's enjoyment or exercise of its Franchise, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by the Cable Ordinance or this Franchise Agreement. Without limiting in any way the Franchisee's obligation to indemnify the County and its officers, boards, commissions, agents, and employees as set forth above, this indemnity provision applies to, but is not limited to, expenses for reasonable legal fees and for disbursements incurred by the County and liabilities as follows:

(1) To persons or property, in any way arising out of or through the acts or omissions of the Franchisee, its officers, employees, or agents, or to which the Franchisee's negligence shall in any way contribute;

(2) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm or corporation, for the violation or infringement of any

copyright, trademark, trade name, service mark, or patent, for a failure by the Franchisee to secure consents from the owners or authorized distributors of programs to be delivered by the Cable System, or for violation of any other right of any person, excluding claims arising out of or relating to programming provided by the County; and

(3) Arising out of Franchisee's failure to comply with the provisions of any federal, state or local statute, ordinance, rule or regulation applicable to the Franchisee with respect to any aspect of its business to which the Cable Ordinance and/or this Agreement apply.

(b) Duty to Give Notice and Tender Defense. The County shall give the Franchisee timely written notice of the making of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this section. In the event any such claim arises, the County or any other indemnified party shall tender the defense thereof to the Franchisee and the Franchisee shall have the right and duty to defend, settle or compromise any claims arising hereunder and the County shall cooperate fully therein.

(c) Exception to Duty to Tender Defense. Notwithstanding the above, and provided that the County has given the Franchisee timely written notice and an explanation of why it is not tendering defense, the County shall have no obligation to tender a defense as a condition of the indemnity where there is a material conflict between the interests of the Franchisee and the County.

(d) Additional Indemnifications. The County may require Franchisee to execute specific and additional indemnifications in connection with issuing any permits related to performance under this Franchise Agreement.

10. Security Fund, Performance Bond and Letter of Credit.

(a) Amount. Prior to the Effective Date of this Franchise Agreement, Franchisee shall establish and provide to the County a security fund, as security for the faithful performance by the Franchisee of certain material provisions of this Franchise Agreement ("Security Fund"). The Security Fund shall be in the amount of Twenty-Five Thousand Dollars (\$25,000) and may be in the form of either a cash security or an irrevocable letter of credit upon which the County may draw in accordance with K.C.C. 6.27A.100.

(b) Use. The County may draw on the Security Fund to ensure the Franchisee's faithful performance of and compliance with this Agreement, applicable law, and all orders and permits of the County. This may include, without limitation, if Franchisee fails to pay the County any fees or taxes due, liquidated damages, damages, costs or expenses incurred by the County by reason of any act or default of the Franchisee, or if Franchisee fails to comply with any provisions of this Franchise Agreement, applicable law or with any order or permit of the County, which failure the County determines can be remedied by an expenditure from the Security Fund. The County shall notify the Franchisee of the amount and date of the withdrawal. The County shall comply with Section 6.27A.230 of the Cable Ordinance, as amended. Franchisee's recourse, in the event Franchisee believes any taking of security funds is improper, shall be through the Dispute Resolution Process or legal action after the security has been drawn upon. If County's action or taking is found to be improper by any arbitrator, court or agency of competent jurisdiction, Franchisee shall be entitled to

a refund of the funds plus interest and/or any other specific performance which such arbitrator, court or agency shall order.

(c) Restoration of Fund. Within thirty (30) calendar days after the County gives Franchisee written notice that an amount has been withdrawn from the Security Fund, the Franchisee must deposit a sum of money sufficient to restore the Security Fund to the original amount.

(d) Effect of Assessment Exhausting Fund. If the Security Fund is assessed by County for an amount exceeding Twenty-Five Thousand Dollars (\$25,000) for violations relating to the Liquidated Damages provision of this Franchise Agreement, and Franchisee believes that such assessment is improper, County and Franchisee may mutually agree that the assessment shall be subject to mediation or arbitration, in accordance with the Dispute Resolution Process described in Section 24 and the laws of the State of Washington. If either party does not agree to mediation or arbitration, either party may pursue any legal remedies otherwise available.

(e) Return of Fund. If the Franchise terminates for any reason, and the Franchisee has ceased to provide service in the County, the balance of the Security Fund that remains following termination of the Franchise and satisfaction of all of its obligations which are secured by the Security Fund shall be returned to the Franchisee. Funds shall not be returned until the County has determined that the Franchisee does not owe funds to the County and is not in default.

(f) Performance Bond. Within thirty (30) days of the Effective Date of this Franchise Agreement, Franchisee shall post a performance bond substantially in the Form attached as Appendix D in connection with its system upgrade in the amount of

fifty thousand dollars (\$50,000) to ensure performance under this Franchise. The bond shall be on a form acceptable to the County. Such bond must be executed by a duly licensed surety which is registered with the Washington State Insurance Commissioner, and the surety's name shall appear in the current Authorized Insurance Company List in the State of Washington published by the Office of the Insurance Commissioner. The surety shall designate an attorney-in-fact of the State of Washington. The scope of the performance bond or the form herein prescribed shall in no way affect or alter the liabilities of the Franchisee to King County under the terms of the Franchise Documents. King County may require the surety to appear and qualify upon the bond. Upon final acceptance by the County of satisfactory completion of the upgrade and rebuild of the SCI area, the bond amount shall be released and exonerated.

(g) Letter of Credit. Any letter of credit used to satisfy any portion of the Security Fund requirement must:

- (1) Be issued by a bank licensed to do and doing business in Washington State;
- (2) Be irrevocable;
- (3) Provide for automatic renewal of the letter unless the bank has given the Cable Office written notice by certified mail at least thirty (30) days prior to expiration of the letter;
- (4) Provide that the County may draw against the letter for any reason and at any time prior to expiration of the letter;
- (5) Provide that the County may draw against the letter and hold the funds in escrow after termination of the Franchise:

- (i) If the County has filed an action; or
 - (ii) If the County has issued a notice and order or sought to draw against the letter prior to termination and Franchisee has contested the action or appealed the notice and order; or
 - (iii) If the bank or the Franchisee has challenged or appealed the draw; and
- (6) Be in a form acceptable to the County.

11. Liquidated Damages.

(a) Amounts. Because the Franchisee's failure to comply with certain provisions of the Franchise Agreement will result in injury to the County, and because it will be difficult to estimate the extent of such injury, the County and the Franchisee agree to the following liquidated damages for the following violations. These damages represent both parties' best estimate of the damages resulting from the specified injury. The liquidated damage amounts are in 1999 dollars and shall be increased each year by the increase in the U.S. Consumer Price Index for the Seattle Metropolitan Region.

- (1) For failure to complete construction by January 1, 2004 in accordance with the Franchise: \$1.00/day for each affected subscriber for each day the violation continues;
- (2) For failure to extend a service line as required: \$1.00 /day for each affected subscriber for each day the violation continues;
- (3) For failure within the Franchisee's control to provide any capability for public, educational, and governmental use of the Cable System required in this Franchise: \$10 for each violation for each day the violation continues;

(4) Except as provided in (5) - (6) below, for material violations of applicable customer service standards: \$10 per violation multiplied by the number of affected subscribers. The County hereby elects to have those damages credited to the affected subscribers, and Franchisee agrees to do so;

(5) For failure to maintain a local office as required in Section 16 (j) below: \$500.00 per month;

(6) For violating any performance standard under Section 16 other than those described in paragraphs (1) to (5), where the Franchisee fails to meet such performance standard, which affects fifty (50) subscribers on the same distribution line simultaneously: \$1.00/per day/per customer/per violation but in no event more than \$1,000 per violation; if the Franchisee later violates the same standard, \$2.00/per day/per customer/per violation but in no event more than \$2,000 per violation for the second violation, \$3.00/per day/per customer/per violation but in no event more than \$3,000 per violation for the third violation, and \$4.00/per day/per customer/per violation but in no event more than \$5,000 per violation for the fourth and each subsequent violation during the term of this Franchise Agreement; and,

(7) For all other intentional material violations of this Franchise Agreement for which actual damages may not be ascertainable: \$50/per day for each violation for each day the violation continues.

(b) Date of Violation, Notice and Opportunity to Cure. The date of violation will be the date of the event and not the date the Franchisee receives notice of the violation. The County must provide written notice of a violation. Upon receipt of notice, the Franchisee will have a period of thirty (30) days to cure the violation or to present to

the County a reasonable remedial plan. The County, in its sole discretion, shall decide whether to accept or reject the remedial plan presented by the Franchisee. Liquidated Damages occur only in the event either cure has not occurred within thirty (30) days or the County rejects the plan. Damages will be retroactive to the date of violation.

(c) Effect on Duty to Comply. The collection of liquidated damages by the County shall in no respect affect:

- (1) Compensation owed to subscribers; or
- (2) The Franchisee's obligation to comply with the provisions of this

Agreement or applicable law.

(d) Accrual. Liquidated damages accrue from the date the violation occurs pursuant to 11 (b), and not from the date the County determines there has been a violation.

12. Relationship of Remedies.

(a) Remedies are Non-exclusive. The remedies provided for in this Franchise Agreement and the Cable Ordinance are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another, or any rights of the County at law or equity; provided however, cumulative remedies may not exceed the total wrong involved.

(b) No Election of Remedies. Without limitation, the withdrawal of amounts from the Security Fund, or the recovery of amounts under the insurance or indemnity provisions of this Franchise Agreement shall not be construed as the following: an election of remedies; a limit on the liability of the Franchisee under the Franchise for damages or otherwise; or to excuse or excusing faithful performance by the Franchisee;

provided, however, the recovery of amounts under the liquidated damages provisions of this Agreement shall constitute an election of remedies and a limitation on Franchisee's liability for those particular failures or violations for which liquidated damages amounts are recovered.

13. Civil Rights Compliance

(a) General Policy Requirements

(1) The Franchisee must comply with all applicable local, state and federal laws and regulations prohibiting discrimination, including without limitation, laws and regulations prohibiting discrimination in the provision of cable service or employment.

(2) The Franchisee is specifically prohibited from discriminating among persons or taking any retaliatory action against a person because of that person's exercise of any right it may have under federal, state, or local law, nor may the Franchisee require a person to waive such rights as a condition of taking service.

(3) The Franchisee is specifically prohibited from denying access or levying different rates and charges on any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.

(4) To the extent the County under applicable law may enforce such a requirement, the Franchisee is specifically prohibited from discriminating in its rates or charges or from granting undue preferences to any subscriber, potential subscriber, or group of subscribers or potential subscribers. The Franchisee may, however, offer temporary, bona fide promotional discounts in order to attract or maintain subscribers,

so long as such discounts are offered on a non-discriminatory basis to similar classes of subscribers throughout the Franchise Territory; and the Franchisee may offer special discounted rates for the basic and other regulated service tiers to economically disadvantaged subscribers who receive federal SSI assistance, and such other discounts as it is expressly entitled to provide under federal law, if such discounts are applied in a uniform and consistent manner.

(5) If the Franchisee's rates are regulated, then the Franchisee may request in writing, and the County may grant, temporary authority to the Franchisee for periods not to exceed twenty-four (24) months to offer specifically identified services, packages and combinations of services to selected groups of subscribers at terms and conditions not generally available to all subscribers. To the extent the County under applicable law may enforce such a requirement, the County may refuse to grant this waiver unless it is persuaded upon sufficient showing by the Franchisee that the temporary authority will be used solely to offer services on an experimental or test market basis, and that the services will either be withdrawn at the conclusion of the test or will be made generally available to all subscribers in a uniform, consistent and nondiscriminatory manner.

(b) Equal Employment Plan. The Franchisee must adopt and follow an equal employment opportunity plan that complies with all applicable provisions of federal, state and local laws and regulations (which requirement includes the obligation to amend that plan to bring it into compliance with those laws and regulations, as hereafter amended or interpreted)

(c) Equal Opportunity - Employment Practices

(1) Franchisee shall fully comply with all applicable federal, state and local laws, ordinance, executive orders and regulations which prohibit discrimination. These laws include, but are not limited to, Titles VI and VII of the Civil Rights Act of 1964, as amended, Chapter 49.60 of the Revised Code of Washington, as amended, and Chapters 12.16 and 12.18 of the King County Code, as amended.

(2) During the performance of this Franchise Agreement, neither Franchisee nor any party performing work or providing supplies under the authority of this Franchise Agreement shall discriminate on the basis of age, ancestry, creed, color, marital status, national origin, race, religion, sex, sexual orientation, or presence of any mental, physical or sensory handicap against any employee or applicant for employment, unless based on a bona fide occupational qualification, or in the administration or delivery of services or any other benefit under this Franchise Agreement.

(d) Equal opportunity - Subcontracting Practices

(1) Small businesses including Minority/Women/Disadvantaged Business Enterprises (M/W/DBEs) shall have equitable opportunities to participate by providing materials and supplies and performing services related to this Franchise Agreement. The Franchisee shall afford equal opportunity in selecting contractors to provide materials and supplies and consulting or construction services related to this Franchise Agreement. During the term of this Franchise Agreement, the Franchisee shall not create barriers to open and fair opportunities to provide materials and supplies and consulting or construction services. In considering offers from and doing business with contractors and suppliers, the Franchisee shall not discriminate against any person

on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.

(e) Reporting and Record-Keeping Requirements

(1) Franchisee shall complete and submit all forms required by King County Code Chapter 12.16, as amended.

(2) Franchisee shall maintain records and information necessary to document compliance with the equal opportunity requirements of this Franchise Agreement, the franchisee's Equal Employment Plan, and King County Code Chapter 4.18, as amended. The County shall have the right to inspect such records.

Franchisee shall submit such documents and information as may be requested by the Administrator of the King County Civil Rights and Compliance Office or such other person designated by the King County Executive as manager of the County's M/WBE program.

(3) Franchisee shall provide King County a copy of its equal employment opportunity plan filed with or submitted to the FCC, and any changes to the employment opportunity plan made in the last year, and a copy of its most recent FCC Form 395A. If the FCC replaces Form 395A, the Franchisee shall file the succeeding forms, which contain any of the information previously required in Form 395A. If the FCC no longer requires the filing of equal employment opportunity information, the Franchisee shall file with the County the information it would have been required to file with the County on the date the Franchise was signed, including the information which would have been included on Form 395A.

(4) If an agreement is reached regarding an apprenticeship and/or internship program, a report on the apprenticeship/internship program established by Franchisee shall be included in the annual report and shall contain information including the following: number of apprentices/interns hired; number of journey-persons; percentage of minorities, women and disabled persons included in the program; total hours worked by all participants in the program; percentage of hours worked by minorities, women and persons with disabilities.

(5) King County may at any time visit the site of the work and the Franchisee office to review records related to the equal opportunity requirements of this Agreement, the franchisee's Equal Employment Plan, and King County Code Chapter 4.18. The Franchisee shall provide every assistance requested by King County during such visits.

(f) Section 504 AND AMERICANS WITH DISABILITIES ACT

(1) The County shall provide and the Franchisee shall complete a Disability Self-Evaluation Questionnaire for all programs and services offered by the Franchisee (including any services not subject to this Franchise Agreement) and shall evaluate its services, programs and employment practices for compliance with Section 504 of the Rehabilitation Act of 1973, as amended ("504"), and the Americans with Disabilities Act of 1990 ("ADA"). The County shall provide and the Franchisee shall complete a 504/ADA Disability Assurance of Compliance and shall submit it to the County on or before the Effective Date of this Franchise Agreement. Such Assurance of Compliance will be incorporated herein by this reference.

(2) If the Franchisee has previously submitted the Disability Assurance

of Compliance form to the County, it is exempt from filing the Disability Assurance form for two (2) years from date of County receipt, provided that the Franchisee is in the same location. In this instance, the Franchisee will attach a copy of the original signed Assurance of Compliance form affirming continued efforts to comply with Section 504 and the ADA.

14. Rates.

(a) Rates and Charges Regulated. The County may regulate the Franchisee's rates and charges except to the extent it is prohibited from doing so by applicable law. The term "regulate" means the County may take any step it is not prohibited from taking under applicable law in order to protect the public from unreasonable or discriminatory rates and charges, including but not limited to ordering refunds for overcharges and adopting regulations as appropriate to further implement its authority to regulate rates.

(b) Manner of Regulation. Without limiting the foregoing, and except as inconsistent with applicable law:

(1) The County may require the Franchisee to submit to the County for review and approval the rates in effect on the date the Franchise issued.

(2) The Franchisee may not change a rate or charge that is subject to the County's regulation without the County's prior approval, except as federal law otherwise provides.

(c) Rate Schedules. The Franchisee must provide a complete list of all its rates and charges (including bulk rates and charges and unregulated rates and charges) to the Cable Office on the Effective Date of the Franchise. The Franchisee

must update that list so that the schedule of rates and charges is current. The Franchisee must give a minimum of thirty (30) calendar days prior notice before changing any rate or charge, except as federal law otherwise provides.

(d) Experimental Services. Subject to Section 13 (a), the Franchisee may conduct experimental services and service offerings to particular regions of the County without making the service generally available throughout the County. The Franchisee must pay Franchise Fees on any revenues received.

15. Customer Service.

The Franchisee shall meet or exceed any customer service standards adopted by the Federal Communications Commission, and, to the extent the same are stricter or address different matters, customer service standards set forth in the Cable Ordinance and Cable Rules. Nothing in this Franchise Agreement limits any rights the County may have under 47 U.S.C. § 552; CFR § 76.309 and KCC 6.27A.150, or as later amended.

16. System Facilities, Equipment and Services.

(a) System Upgrade. The Franchisee's Cable System shall be upgraded, rebuilt, activated, and programmed by January 1, 2004, so that, at all times thereafter, the System meets or exceeds the following requirements:

(1) The Cable System shall have a rating of at least 750 MHz on all active components and at least 1 GHz for all passive components, and shall be activated for and carry at least 70 6-Mhz analog channels, downstream to all Subscribers.

(2) Sufficient fiber to the node shall be constructed to allow segmentation of the node with no additional construction when demand for two-way

services reaches the following criteria. The Franchisee shall warrant contention rates of six percent or less and utilization rates of 65 percent or less for 99.9 percent of the time as measured on a quarterly basis. Should this parameter be exceeded, the Franchisee shall remedy the non-compliance situation using means available up to and including segmentation of the fiber nodes in the field. In order to address subscriber demand for interactive services, the Franchisee shall provide a minimum of 200 kbps per subscriber of interactive services in the downstream direction and 64 kbps per subscriber of interactive services in the upstream direction to all subscribers to interactive services. Additional fibers shall be provided based on County I-Net and Franchisee subscriber system designs.

(3) The rebuilt Cable System shall provide redundancy between hubs, if any, located in both the incorporated and unincorporated areas of King County through the use of diverse fiber routing or other technology approved by the County.

(4) The Cable System shall meet the technical specifications for end-of-line performance as described in Appendix B for all areas served unless otherwise approved by the County.

(5) Each optical transfer node site shall be located and designed to allow adequate space for several fiber receivers and transmitters, and standby power.

(6) The Cable System shall be capable of continuous twenty-four (24) hour daily operations without severe material degradation of signal except during extremely inclement weather or immediately following extraordinary storms that adversely affect utility services or damage major system components.

(7) The Cable System shall be capable of operating over an outdoor temperature range of -20 degrees F to +120 degrees F and over variation in supply voltages from 105 to 130 volts AC without catastrophic failure or irreversible performance changes.

(8) The Cable System shall meet all specifications as set forth herein or in the Ordinance over an outdoor temperature range of 0 degrees F to 100 degrees F and over variation in supply voltages from 105 to 130 volts AC.

(9) The Cable System shall be operated in such a manner as to avoid causing interference with the reception of over-the-air signals by a subscriber.

(10) The upstream capacity of the Cable System shall be such that there is no significant deterioration in the signal quality from the point of origin through the headend; and so that from the headend, there is no more deterioration in the signal quality on PEG channels than on any other channel. Deterioration refers to any signal problem, including but not limited to ghost images and other interference and distortions.

(11) The Cable System shall use equipment generally used in high-quality, reliable, modern systems of similar design.

(b) An Open Cable System. The Cable System including headend, distributive network, and customer premises equipment shall be an "open" network. The Franchisee must take affirmative steps, including in its design, research, procurement and contracting practices so that the Cable System operates as an "open" network as far as reasonably possible initially and so that openness is maintained and enhanced throughout the Franchise term. An "open" system shall have at least the

following characteristics: the standards for the hardware interfaces and software protocols used by the system, other than those required to maintain network integrity and security, the protection of copyrighted information or those protocols utilized to bill subscribers or programmers of the network for network usage -- including at the node, headend and at customer premises -- shall be published and generally available.

(c) Other System Design Requirements.

(1) The Cable System must have back-up power supplies capable of providing power to the System and related facilities, including the I-Net, continuously at all headends and hubs and for at least three hours at all optical transfer nodes and nodes in the event of an electrical outage. In addition, the design and construction of the Cable System shall include modulators, antennae, amplifiers and other electronics that permit and are capable of passing through the signals received at the headend without substantial alteration or deterioration (thus, for example, the Cable System shall include components so that a signal received at the headend in color may be received by the subscriber in color, and a stereo signal in stereo).

(2) The master headend shall have adequate ventilation and space reserved such that the headend could provide at least 120-plus channels in full configuration and shall develop signals of high quality throughout the service area (including on channels retransmitting upstream signals received through the headend), and the headend shall have adequate ventilation and space to be able to meet or exceed applicable design and technical requirements and in order to reasonably accommodate equipment for the County.

(3) The Cable System shall allow all unscrambled analog channels on all Service Tiers to be received by cable-ready television sets without the aid of a converter, and shall minimize, to the maximum extent feasible, interference with consumer electronic equipment. Franchisee may choose to trap signals not authorized for reception.

(4) As part of the Cable System, the Franchisee shall offer every subscriber, at the same price and regardless of the level of service taken, the opportunity to obtain converters from Franchisee that utilize wireless remote controls and that contain bypass or similar technologies that allow Subscribers to view a program on one channel while taping a program on another channel.

(5) Subscribers must be able to block out all premium and pay-per-view channels, and video on any channel.

(6) The Cable System shall include equipment so that pay-per-view programming can only be activated by authorized subscribers.

(7) The Franchisee shall design the Cable System so that channel capacity may be readily expanded through digital video compression or similar appropriate technology without compromising service quality or requiring significant alterations, upgrading or reconstruction.

(8) The Franchisee shall make available to all existing one-way converter subscribers some form of interactive technology within four (4) years of the Effective Date of the Franchise.

(9) The rebuilt subscriber network will be two-way active on completion of the rebuild. Final tuning and sweeping of the upstream system will not occur until

Franchisee chooses to provide a specific two-way service. The County may waive this requirement of two-way activation upon a showing by Franchisee that two-way services are commercially impracticable. In the event that the County waives the requirement, the waiver shall apply for one calendar year only, and a new showing must be made each year or the requirement must be met.

(10) All closed-caption programming retransmitted by the Cable System shall include the closed-caption signal. It shall provide a remote control device to those subscribers who are mobility limited, or where a member of the subscriber's household is mobility limited. For hearing impaired customers, the Franchisee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, the Franchisee must have TDD/TTY (or equivalent) equipment at the company office, and a telephone number listed on subscriber bills, in local telephone directories and with directory assistance for such equipment, that will allow hearing impaired customers to contact the Franchisee.

(11) Except as agreed between the County and the Franchisee through the Upgrade Design Review process described in Section 16 (e)(2), all County subscribers will be served with the same Cable System distribution facilities and offered the same Cable Services after completion of the rebuild.

(12) Status Monitoring. Franchisee shall provide system status monitoring upon completion of the rebuild and after the Cable System becomes two-way active pursuant to Section 16 (c)(9) in accordance with a plan presented to and approved by the Cable Office. At minimum, the plan shall include equipment to monitor the status of the signal quality, signal level, back-up power supply conditions and optical

conversion equipment throughout the Cable System as that equipment becomes reasonably available.

(d) Institutional Network.

(1) Franchisee shall design, construct, and maintain a fiber optic Institutional Network (I-Net) for the exclusive use of the County or its designated users to link the five (5) facilities listed in subsection (d)(2) below and shall be for voice, video and data use by public, educational and governmental users.

(2) The I-Net shall link the following facilities using the architecture described in Appendix C. The Franchisee may propose and the county may accept an alternative architecture providing equivalent service to sites at a reduced cost to the Franchisee or providing improved service to sites without additional cost, including the cost of both construction and operation, to the County. The sites are:

(a) King County Ring Hill EMS at 22905 Old Woodinville-Duvall Road, Woodinville;

(b) East Ridge Elementary at 22150 NE 156th Place, Woodinville;

(c) Duvall Library at 15619 NE Main Street, Duvall;

(d) Stillwater Elementary at 11530 320th Avenue NE, Duvall;

and

(e) Carnation Elementary at 4950 Tolt Avenue, Carnation.

(3) The Franchisee shall submit a detailed I-Net design plan to the County for review and approval no later than one hundred eighty (180) days from the Effective Date of the Franchise. This plan shall include the route for the cable, the build

schedule, the brand, model number, and number of fibers proposed for installation, whether the County's fibers will be co-located with the Franchisee's fiber, and how the Franchisee proposes to terminate the fibers. All I-Net construction, including successful completion of acceptance testing, shall be completed as follows:

<u>Site</u>	<u>Completion Date</u>
East Ridge Elementary	3/1/2001
Duvall Library	3/1/2001
Stillwater Elementary	3/1/2001
Carnation Elementary	1/1/2004
King County Ring Hill EMS	1/1/2004

(4) The Franchisee shall perform all construction necessary to provide the complete links required by the County, including, but not limited to splicing and terminating the fibers in the manner as designated by the County.

(5) The Franchisee shall conduct tests and submit results from those tests to the County in writing demonstrating the compliance of the fiber optic links with specifications set forth in Appendix B whenever it installs, repairs, maintains, or relocates I-Net fiber. No fiber construction, repair, maintenance, or relocation shall be deemed to be complete unless it is tested according to the procedure described in this section and meets the requirements of Appendix B. The County has the right to observe all tests on work undertaken for it, and to conduct its own tests on that work. To facilitate this, the Franchisee shall give the County advanced notice in writing, by email, or by facsimile of the time and place for Franchisee's testing. Except for emergency repairs, acceptance testing shall be conducted no sooner than seven days after the County has received

notice of the testing unless the Franchisee and County agree to an earlier test date.

When the Franchisee performs an emergency repair of the I-Net fiber, the Franchisee shall test it immediately after completion of the repair to determine whether the fiber, as repaired, meets the specifications and shall send a copy of the test results to the County as soon as practicable.

(6) Franchisee shall install at each site and at a location therein designated by the County termination block hardware including standard connectors to be designated by County, so that County can connect to the fiber optic cable.

(7) Maintenance and Repairs. Franchisee shall maintain and repair the I-Net at no cost to the County.

(a) Timing of Repairs. The Franchisee shall have qualified staff available twenty-four (24) hours a day, seven (7) days a week, every day of the year to repair the I-Net fiber. In the event any fiber installed as part of the I-Net is damaged or cut, or there is a service disruption or other condition which causes such fiber to not meet the required specifications, qualified repair staff engaged by the Franchisee shall commence work on site to restore the fiber and I-Net operations within two (2) hours after the sooner of the time the Franchisee becomes aware of the problem and notification by the County between the hours of 8 a.m. and 6 p.m. weekdays, and within four (4) hours after the sooner of the time the Franchisee becomes aware of the problem and notification by the County during any other period. Such restoration be done at a speed or diligence that is at least as great as the Franchisee uses in restoring fibers or other plant for its own use. Within one hundred eighty (180) days of the Effective Date of this Franchise, the Franchisee shall develop a Rapid Response Plan to implement

this provision, and shall submit the Plan to the County for its approval

(b) I-Net Network Maintenance Program. Franchisee shall conduct a preventive maintenance program to ensure that all fiber in the I-Net is maintained in good condition and that it continues to meet all clearance and cable support requirements to guard against physical damage to the network. This program shall provide preventive maintenance to I-Net fibers that is at least as great as the Franchisee provides for the Subscriber Network. I-Net availability shall not fall below 99.9% in any year during the term of the Franchise. Within one hundred eighty (180) days of the Effective Date of this Franchise Agreement, the Franchisee shall develop a Routine Maintenance Plan to implement this provision, and shall submit the Plan to the County for its approval.

(c) Notice of Interruptions. The Franchisee agrees to not take any preventive maintenance that is likely to result in an interruption of service over the I-Net fibers without the prior consent of the County. Whenever the Franchisee plans to take any preventive maintenance that will interrupt service over any of the I-Net fibers, it shall notify the County in writing, by e-mail or by facsimile at least forty-five (45) days prior to commencing such action. Such notice shall include the date, nature, and location of the proposed preventive maintenance action, and the beginning and ending date and time proposed for the interruption. If the County objects to any part of the proposed action or interruption, it shall so notify the Franchisee in writing, by e-mail or by facsimile within fifteen (15) days of receipt of the notice. No preventive maintenance that will result in an interruption of service shall be taken until the Franchisee and County have first agreed to the date, nature, and location of the proposed action, and

the beginning and ending date and time for the proposed for the interruption.

(d) Cost of the I-Net. The planning, construction, repair, and maintenance of the I-Net, and all of the Franchisee's costs arising therefrom, shall be provided at no cost to the County during the term of this Franchise Agreement. The parties agree that the County shall be a perpetual lessee of the I-Net at no cost to the County, and the Franchisee is promising to construct, maintain, and repair the I-Net for the County in lieu of and as a credit against the payment that it would otherwise owe for a capital grant. The County further agrees that it will not collect and the Franchisee is not required to make a capital grant payment.

(e) System Upgrade and Institutional Network Schedule.

(1) The Franchisee shall complete all construction for the upgrade to the Existing System (that is, the Cable System as it exists on the Effective Date in the former SCI franchise area), including the construction, activation and programming of the subscriber portion of the system and the deployment and testing of all I-Net fiber, no later than January 1, 2004. Construction of the upgrade shall commence no later than one year (365 days) from the Effective Date of this Franchise.

(2) Upgrade Design Review No later than one hundred eighty (180) days from the Franchise Effective Date, the Franchisee shall deliver to the County a detailed architectural upgrade design plan, which shall include at least the following elements:

(a) Upgrade schedule indicating details regarding the plan for the upgrade including, but not limited to, commencement and completion milestones for:

- (i) Headend and hub facilities;
 - (ii) Fiber optic design;
 - (iii) Fiber optic construction;
 - (iv) Distribution system design;
 - (v) Distribution system construction; and
 - (vi) New system activation by node area.
- (b) Location of headend and all hub sites; and
- (c) Technical description of equipment at headend, hubs, nodes; and
- (d) Technical analysis of coaxial cable design or nodal service areas including, for example, specifications for amplifiers, active and passive devices, fiber coupling equipment and power supplies; and
- (e) Detailed information on the fiber counts, routes to and locations of the nodes and the number of homes and subscribers passed by each node to allow the County to evaluate whether sufficient fiber to the node is planned for construction to allow segmentation of the node with no additional construction when demand for two-way services reaches the criteria established in Section 16 (a)(2); and
- (f) General plans and estimated timelines to complete segmentation of nodes when the criteria established in Section 16 (a)(2) is met; and
- (g) Two-way service implementation plans including proposed number of users per Cable Modem Termination System (CMTS) unit as well as a verification plan to insure compliance with the criteria set forth in Section 16 (a)(2); and
- (h) Detailed design plans and specifications for any areas in

which the Franchisee proposes to provide service that complies with FCC requirements yet will not meet the design specifications included in Appendix B.

The architectural design shall be shown on maps of industry standard scale using standard symbology, and shall depict all electronic and physical features of the cable plant. The County may review the plan and, within forty-five (45) days of the date the plan is made available for County review, submit comments to the Franchisee. Within fifteen (15) days of receipt of the comments, the Franchisee shall submit a revised plan to the County, either incorporating the comments or explaining why the comments were not included. The County may take any appropriate action it is entitled to take under this Franchise Agreement, or applicable law if it believes the design plan fails to satisfy or is likely to fail to satisfy the Franchisee's obligations. The County's review shall not operate to excuse any non-performance under this Franchise Agreement, or other applicable law.

(3) Following the commencement of construction of the Cable System Upgrade until the upgraded Cable System is completed, the Franchisee shall provide detailed written reports to the County in a format acceptable to the County on the Franchisee's progress in constructing the rebuilt Cable System at each point construction passes seven thousand (7,000) additional homes and shall meet with the County to discuss such progress.

(f) Tests. The County has the right to conduct tests and to observe when Franchisee conducts tests, as consistent with federal law. The Franchisee shall perform all tests necessary to demonstrate compliance with the performance standards of a fully activated system it must satisfy under its Franchise Agreement or applicable

law. All tests shall be conducted in accordance with federal rules and in accordance with the most recent edition of NCTA "Recommended Practices for Measurements on Cable Television Systems," or if no recent edition exists, such other appropriate manual as the parties may designate. The Franchisee shall perform at least the following tests:

(1) Preactivation Tests. The Franchisee shall assure that preactivation quality control is performed on cable and equipment. In the case of passive components, this will include testing to verify compliance with manufacturer's specifications. All trunk and distribution cable and active equipment shall be inspected and sample tested to verify compliance with manufacturer's specifications for frequency response and structural loss. No component should be used in the Cable System which fails to meet manufacturer's specifications. The manufacturer's specifications should meet or exceed industry standards.

(2) Acceptance Tests. The Franchisee shall perform acceptance tests on each construction area segment. The tests should demonstrate that the system components are operating as expected. The Franchisee shall have the obligation, without further notice from County, to take corrective action if any segment is not operating as expected.

(3) Test Locations. The System shall have a minimum of six (6) permanent test points, with an additional test point for every additional 12,500 subscribers or fraction thereof, as required by FCC regulations. The location of the test points will be balanced to represent all geographic areas covered by the Cable System. The Franchisee and the County will jointly agree on the appropriate locations for the test points. The test points shall be installed in locked enclosures so as to be

accessible from ground level.

(4) Other Tests. If based on subscriber complaints, or based on its own investigation, the County believes that the Cable System may not be operating in compliance with the Franchise Agreement or applicable law, it may itself in consultation with the Franchisee conduct tests at the permanent test points or require the Franchisee to perform tests and to prepare a report to the County on the results of those tests, including a report identifying any problem found and steps taken to correct the problem.

(5) Proof of Performance Tests. Every six (6) months or as required by FCC rules, the Franchisee shall conduct proof of performance tests pursuant to the Cable Ordinance, designed to demonstrate compliance with the Ordinance, this Franchise Agreement and FCC requirements, and shall provide to the County a written report showing the results of such tests. If the tests reveal that the Franchisee is not in compliance with all applicable requirements, the Franchisee shall immediately take whatever steps are necessary to achieve compliance. Not later than thirty (30) days following completion of the tests which revealed non-compliance, the Franchisee shall conduct additional proof of performance tests to determine whether it has corrected its non-compliance; provided that the County may extend this thirty (30) day requirement as it deems necessary. Franchisee must correct and retest the system until either the system passes the test or obtains a waiver.

(6) Notification. The Franchisee shall notify the County at least one week in advance of any of the tests described above, except the County shall receive thirty (30) days advance notice of proof of performance tests required by Section

16(f)(4). The County shall have the option of witnessing the tests. Written test results should be submitted to the County within thirty (30) days of completion of the testing. Franchisee may perform routine testing without notifying the County.

(7) If the Franchisee fails timely to perform such tests, then the County may conduct inspections and, after notice to Franchisee, test the Cable System. The County shall not interrupt service while conducting such tests without prior written notice to the Franchisee and such interruptions shall be limited to the hours between 2 a.m. and 6 a.m. Franchisee shall have the right to be present at such tests. Tests and inspections may include determining whether the Cable System is being constructed in accordance with the system construction plan. Inspection does not relieve the Franchisee of its obligation to comply with all provisions of its Franchise Agreement and applicable law.

(g) Cable Drops and Service to Certain County Facilities. Subject to the terms and conditions of this section, and upon the request of and timely payment when due by the County, the Franchisee agrees to provide cable drops and basic and satellite tier Cable Service (including all open and closed PEG channels activated on the Cable System) to the County facilities designated below at the charges and rates set forth herein when such facilities are located within the Franchise Territory and, except for public schools and public school facilities, when they are located in other jurisdictions within King County where the Franchisee has a franchise to provide Cable Services. Franchisee shall provide the equivalent service if Franchisee discontinues such tiers of service in the current form. The amount charged to and payable by the County for construction of the cable drops at each facility shall be: (i) no charge for

drops that are less than seven and one-half (7.5) feet underground or fifteen (15) feet aerial, and (ii) Franchisee's costs, including labor and materials, for any drops beyond these distances. The rates charged to and payable by the County for each outlet for Cable Services at the facilities shall be the then-applicable rates charged by the Franchisee for such services, less a discount of ten percent (10%). The facilities are: (1) the five (5) I-Net sites listed in Section 16 (d); (2) public schools and public school administration facilities located in unincorporated King County; (3) each King County Library System facility; (4) each fire station; (5) any County office and agency; and (6) each County-owned and County-leased facility. Inside wiring will not be the Franchisee's responsibility and is not covered by this Section. Franchisee agrees to provide the County with five (5) standard amplifiers at Franchisee's cost, less a discount of ten percent (10%), for locations specified by the County. Additional amplifiers may be obtained by the County at an at-cost basis from the Franchisee. Cable drops and Cable Service authorized by this Section will not be provided to any entity not affiliated with the County or any private or for-profit concessionaire or tenant using County facilities.

(h) Leased Access Channels. The Franchisee shall provide leased access channels as required by federal law.

(i) Customer Service Monitoring. The Franchisee shall install such devices as are required to enable it to determine whether it is complying with all telephone answering standards required by applicable customer service regulations, as amended from time to time.

(j) Local Office. Throughout the Franchise term, the Franchisee must maintain, at a minimum, one (1) customer service center conveniently located to unincorporated King County subscribers. This center will provide subscribers the opportunity for the receipt and pick-up of subscriber equipment and for the receipt of subscriber payments and complaints. Franchisee shall install telephones and other equipment so that customer complaints and service requests can be received by Franchisee on a 24-hour basis on a local, toll-free telephone number.

(k) Emergency Broadcasts. Franchisee shall install emergency broadcast devices and equipment in compliance with 47 C.F.R. Part 11, Emergency Alert System (EAS). The equipment must permit the County to override the audio and video on all channels on the Cable System without the assistance of the Franchisee for emergency broadcasts from a location designated by the County. This obligation shall be effective only upon notice by the County that it has entered into a master agreement with other jurisdictions. Notwithstanding, Franchisee shall use best efforts to coordinate with other jurisdictions.

(l) Interconnection. The Franchisee shall interconnect the Cable System with other cable systems operated in the County and in the greater Seattle area, to the extent the subscriber and I-Net system signals of the other systems are available to Franchisee, and consistent with Franchisee's obligations as specified in 18 (a). The Franchisee shall construct and maintain a transmission path to an agreed upon location coordinated with other cable system operators for the purpose of transmitting video signals from one system to the other. The video signals shall be transmitted such that

there is no significant degradation to the signal greater than any other channel transmitted over the Cable System.

(m) Uses of System. Franchisee agrees to advise the County of all active uses of the Cable System, for both entertainment and other purposes, such as data transmission, local area networks, and voice transmission, and the County shall have the right to conduct audits of such usage.

(n) Additional Capacity. Franchisee shall notify the County at least sixty (60) days in advance of the installation of any fiber optic capacity not contemplated by the initial design of the Cable System in order to provide an opportunity for the coordination of the installation of fiber for the County at the incremental cost of construction of the additional fiber.

(o) Programming. Franchisee shall provide broad categories of video programming, which categories shall include but not be limited to general entertainment programming, programming primarily directed at children, public affairs, education, minority, 24-hour news, local news, foreign language, cultural and performing arts, and sports programming.

17. Channels, Facilities, Equipment and Services for Public, Educational and Governmental Use.

(a) Access Channel.

(1) The Franchisee shall activate and, subject to federal rate regulations applicable to the adding of PEG channels, make available free of charge to the County public, educational and governmental channels as specified in this paragraph.

- (i) Initially, the Franchisee shall maintain its current number of public, educational and governmental channels as activated on the date of this Franchise.
- (ii) Upon completion of the rebuild, the Franchisee shall provide within the rebuilt areas a minimum of ten (10) and a maximum of twenty five (25) video channels for Public, Educational and Governmental programming on the subscriber network throughout the remaining term of this Franchise. No fewer than ten (10) and no more than thirteen (13) of those channels may be analog format channels. There shall be no more than thirteen (13) PEG channels until the subscriber network begins to carry digitally transmitted video channels. At that time, and when additional channels are required as described in this section, the Franchisee shall make available to subscribers the equipment required to receive the Public, Educational and Governmental digital channels. If permitted by applicable law, this equipment shall be available at cost to subscribers who take only the digital PEG channels and no other digital services.
- (iii) The County will initially allocate the first ten (10) available channels as follows: two (2) Public, six (6) Educational and two (2) Governmental. After that allocation, additional channels will be made available by the Franchisee in accordance with the following criteria.
- (iv) Public Access: Franchisee shall provide an additional channel whenever the channels set aside by the County for public access programming are programmed with qualified programming at least eighty (80%) of the cumulative time between the test hours of 9:00 a.m. to 11:00 p.m. Monday through Friday, over a

consecutive sixteen (16) week period. All qualified programming shall count in this measurement for the actual running time shown. Repeat Programs as defined in Section 17 (a)(2)(i) are qualified programming only to a maximum of fifteen percent (15%) of total qualified programming. Programs which are neither locally produced programming nor programming related to the County may be qualified programming only to a maximum of fifty percent (50%) of total qualified programming.

(v) Educational Access: Franchisee shall provide an additional channel whenever the channels set aside by the County for educational access programming are programmed with qualified programming at least eighty percent (80%) of the cumulative time of sixty (60) hours per week over a consecutive sixteen (16) week period. All qualified programming shall count in this measurement for the actual running time shown. Repeat Programs as defined in Section 17 (a)(2)(i) are qualified programming only to a maximum of twenty-five percent (25%) of total qualified programming. Programs which are neither locally produced programming nor programming related to the Puget Sound Region may be qualified programming only to a maximum of fifty percent (50%) of total qualified programming. Any program broadcast locally within three (3) years of the measurement period is not qualified programming. Notwithstanding, the Franchisee may, in its sole discretion, permit the program to be qualified programming upon written request by the County. The County and the Franchisee agree to meet within four (4) years of the Effective Date of this Franchise to discuss amending the treatment of programs broadcast locally as qualified programming. For purposes of this subparagraph, "broadcast locally" means transmitted on the signal of a local commercial television station or a qualified local

noncommercial educational television station with signal carriage rights on the Cable System pursuant to 47 U.S.C. Sec. 535, as in effect on the Effective Date of this Franchise.

(vi) Governmental Access: Franchisee shall provide an additional channel whenever the channels set aside by the County for governmental access programming are programmed with qualified programming at least eighty percent (80%) of the cumulative time of sixty (60) hours per week over a consecutive sixteen (16) week period. All qualified programming shall count in this measurement for the actual running time shown. Repeat Programs as defined in Section 17 (a)(2)(i) are qualified programming only to a maximum of fifty percent (50%) of total qualified programming.

(2) As used in Section 17 (a)(1)(i) - (vi),

(i) "Repeat Program" means the running time of any program only to the extent it is shown more than four (4) times during the test hours over the ten (10) week measurement period.

(ii) "Locally Produced Programming" means programming (a) produced within the County, or (b) produced by any County resident or any agency, public or private, which provides services to County residents within the County, regardless of the location at which the programming was produced.

(iii) "Programming Related to the County" and "Programming Related to the Puget Sound Region" means programming which addresses the educational, political, social or cultural interests of any segment of the residents of the

County or of the Puget Sound Region. For public access programming, the programming must also relate to the County or the Region.

(iv) "Qualified Programming" includes video bulletin board material if the material consists of multiple and different text (or video and text) screens transmitted to different subscribers simultaneously. The term includes video bulletin board material where the content of the video bulletin board can be selected by a viewer, even if the resulting message is then available to all viewers of the channel. No more than two (2) additional channels may be triggered by such interactive bulletin board material. Subject to the two foregoing sentences, qualified programming does not include material such as character generated material to the extent the same text (or video and text) screen is sent simultaneously without variation to all system subscribers.

(3) The operator may convert the analog PEG channels to digital format when all subscribers have the necessary equipment to receive the channels. The bandwidth for individual digital PEG video channels shall equal or exceed the bandwidth and transmission quality of standard commercial digital video channels on the system.

(4) The County shall administer the use and allocate responsibility for the operation of all public, educational and governmental channels. The County shall have the right to allocate the channels to any entity responsible for managing access channels, or to maintain them as separate channels under the County's own control.

(5) In the event Franchisee offers commercial interactive services on the subscriber network, the County shall have the right to require equivalent interactivity

on one governmental and one educational access channel when thirty percent (30%) of Franchisee's subscribers subscribe to such services. Any subscriber equipment necessary to use interactive features on such access channels may be made available to subscribers on the same terms as for commercial uses. For purposes of this paragraph, "interactive services" means two-way communication over the Cable System in which the subscriber interacts with the program being viewed, and does not include merely ordering and receiving pay-per-view or video game services or use of Internet access services.

Within the designated access channel, the County may manage the interactivity function or designate one or more nonprofit access management corporations, schools, school districts or any other qualified entities to manage or share the responsibility for managing the interactive use. Any entity responsible for management of the interactive use may establish and enforce (1) the interactive uses within the designated access channel to particular services and (2) rules for use of the interactive uses, so long as those rules are consistent with this Franchise and applicable law. The Franchisee shall not take any action which causes material degradation to information transmitted over the interactive use.

The bi-directional interactive PEG function shall be activated from all Cable System subscribers to the Franchisee's headend, and to the switcher of the County or other managing entity if the switching capacity is not located at the headend.

Except as expressly permitted by federal law, the Franchisee agrees it will not exercise any editorial control over information created by others and transmitted using this capacity.

Except as otherwise specified in this Franchise Agreement, PEG interactive use shall be available free of charge by the Franchisee to users, including the entity that manages the use of the interactive functions, and to the County.

(6) When the Franchisee leases, purchases or otherwise obtains or increases electronic memory storage capacity for its own use in support of bi-directional data and interactive services or Video-on-Demand, it shall offer to the County and the designated PEG management entities the ability to use such capacity for public, educational and governmental video on demand, data transmission and other interactive applications. The County or the affected management entity would pay the cost of the capacity used. The cost of the capacity would be determined by the ratio of stored memory capacity devoted to PEG material to the total memory capacity multiplied by the cost of the hardware for the memory storage complex. The County or the affected management entity would be responsible for digitization and compression required to use the capacity.

(7) The County agrees that it will use its designated access channels or other facilities, its I-Net facilities or other designated Franchisee subscriber network facilities solely for educational, public access, and County and government communication purposes and not for any for-profit commercial purposes by the County or third parties. Franchisee shall have the right to audit the County's use of such facilities to ensure compliance with this paragraph. However, the County may authorize charges to pay the direct costs of the non-commercial services, such as fees for video class instruction or charges to recover the cost of special use equipment.

(8) Any reference to an analog channel for PEG use refers to a 6 MHz channel. When the Cable System activates digital capacity and is delivering digital signals to customers, the County may elect, or the Franchisee may request to have some or all of the channels authorized in this Section transmitted in digital format, subject to the channel limit set forth in 17 (a). Any such digital PEG channels shall have the same bandwidth and transmission quality as the standard commercial digital video channels on the system.

(9) If Franchisee is required to add the signals of qualified local noncommercial educational television stations pursuant to 47 U.S.C. Section 535, then the Franchisee has the County's approval to place such additional stations on PEG channels not in use for their designated purposes.

(b) Capital Grant for Access Equipment and Facilities.

(1) In exchange for planning, constructing, repairing and maintaining the I-Net at no cost to the County pursuant to Section 16 (d), the Franchisee shall be deemed to have satisfied in full any and all obligations for capital grants, including annual capital grants for cable related and I-Net related purposes. For purposes of a credit against any Utility Tax pursuant to Section 5 (g), Franchisee shall be deemed to be providing the equivalent of 4.2% of Gross Revenues per year in capital grants. Franchisee, however, shall neither itemize such amounts nor the cost of planning, constructing, repairing and maintaining the I-Net on subscribers bills.

(c) Return Feed from Facilities.

(1) The Cable System, if commercially practicable, shall be designed and built to include all equipment, including but not limited to laser transmitters,

modulators, and processors, drops and wiring, so that the PEG access centers within the Franchise Territory can send signals to the headend on the I-Net constructed by Franchisee and those signals can be distributed downstream on the subscriber network; and so that the PEG access centers within the Franchise Territory can each remotely and without assistance from the Franchisee or access to its headend (i) receive signals from the Institutional Network; (ii) switch signals originated at an access center or on the Institutional Network onto any of the access channels on the regular subscriber network; and (iii) otherwise control the signals to allow for smooth breaks, transitions, insertion of station IDs and other material. However, the County remains responsible for PEG switching and decoding costs.

(2) For the purposes of sending video signals from remote locations and routing these signals onto access channels on the Subscriber network, the Franchisee, at its cost, will provide facilities and equipment to the extent required to receive and retransmit the signals to provide coverage of substantially all its Subscribers in the County covered by this Franchise Agreement.

(3) The County may collocate I-Net and access network equipment as reasonably necessary, in Franchisee's buildings and structures without charge. Franchisee may, at its option, provide for placement of the equipment in the buildings in convenient areas discrete from Franchisee's equipment and solely for County use.

(d) Management of Channels. The County may designate one (1) or more entities, including a non-profit access management corporation, to manage the use of all or part of the I-Net and the public, educational, and governmental access channels and two-way capacity dedicated under Sections 16 (d) and 17 (a)(5), respectively. Until

such an entity has been designated, the County shall perform all functions assigned to the entity in this Agreement.

(e) Program Guide. The County shall make the schedule of public, educational, and governmental programming available to Franchisee as required to meet Franchisee's publication deadline. Franchisee shall cooperate with the County in making the schedule available to all subscribers and to appropriate news sources, in the same manner as it does all other programming on the System. Franchisee is not responsible for any decision by an independent news source to not publish the schedule.

(f) Costs and Payments not Franchise Fees. The parties agree that any capital costs to the Franchisee associated with the provision of support for public, educational or governmental access pursuant to this Franchise Agreement, and any capital grant payments made to the County pursuant to Section 17 (b)(1) of this Franchise Agreement, do not constitute and are not part of a Franchise Fee, and fall within one or more of the exceptions to 47 U.S.C. § 542.

(g) Editorial Control. Except as expressly permitted by federal law, the Franchisee shall not exercise any editorial control over the content of programming on the designated access channels (except for such programming the Franchisee may produce and cablecast on those channels).

18. Timing and Planning of Construction; Extension.

(a) Interconnection. The Franchisee shall interconnect the system upon rebuild with all other willing Cable Systems in immediately adjoining areas, whether in the County or not. A "willing Cable System" means any Cable System operator who

pays its own cost of installation to the interconnection point and operation of facilities located within its own territory which are required for the interconnection, or an operator which enters into an interconnection agreement with Franchisee on any other mutually agreed terms. Interconnection is required only if technically feasible. Such operators must meet the Franchisee at or within the Franchise Territory at the point closest to Franchisee's Fiber or as mutually agreed, and provide signals of industry standard quality. The Franchisee shall provide signals to and receive signals from all interconnected operators so as to provide real time carriage of public, educational and governmental programming and I-Net services that are comparable to services carried on Franchisee's King County Network. Nothing in this paragraph alters Franchisee's channel obligations for public, educational and governmental programming as described in Section 17 (a). Any proposed interconnection that affects I-Net or PEG services shall be subject to the approval of the County, which may establish requirements to and from the point of interconnection to allow the I-Net to operate without disruption across the Franchise Territory and for signals intended for Public, Educational and Governmental access channels on the subscriber network to flow without disruption across the Franchise Territory.

(b) Line Extensions and Upgrades. The Franchisee must make (i) Cable Service available for the standard installation charge to all persons within its Franchise Territory who request Cable Service and agree to subscribe for a minimum period of one (1) year, and (ii) the upgrade available to existing Subscribers, if: using the most direct route, the distance the distribution line would be extended to provide service or the upgrade, as the case may be, divided by the number of people requesting service

or the upgrade, is not more than three hundred (300) feet from the Cable System, and the drop distance is not more than one hundred fifty (150) feet from the Cable System. Cable Service or the upgrade, as the case may be, shall be provided to all persons who are not within these distances if the person agrees to pay the full cost to provide cable service beyond these distances. In addition, Franchisee promises to enter all joint utility trenches and conduit whenever available upon reasonable notice within its franchise area at no charge to new subscribers. If Franchisee fails, after notice, to enter a conduit or joint trench, any later construction to reach locations that would otherwise have been served from the conduit or trench shall be at Franchisee's sole expense.

(c) Permit Fees.

The County shall waive Rights-of-Way Construction Permit fees required by the County in connection with any construction by Franchisee which is solely for the I-Net or other Facilities described in Section 16 (g).

19. Conditions on Use of Rights-of-Way: Specific Practices.

As provided in Sections 2 (g) and 2 (h), the construction, operation, maintenance and repair of the Cable System must be performed in compliance with this Franchise Agreement and all applicable laws regarding use of the Rights-of-Way. The Franchisee's obligations and the County's rights under that Section include, but are not limited to the following:

(a) Use of Public and Private Property; Generally.

(1) The Cable System shall be constructed, operated, maintained and repaired so as to cause minimum interference with the rights and reasonable convenience of property owners (including the County) and users of the Rights-of-Way

and other public property. The County may from time to time issue reasonable rules, regulations and permit requirements concerning the construction, operation and repair of the Cable System as appropriate to ensure compliance with this Section 19.

Applications for work permits shall be presented to the County's Property Services Division which may require copies of plans, blueprints, cross-sections, or further detailing of work to be done. Any work done, whether by Franchisee, its contractors, or third parties will include necessary paving, patching, grading, and any other reasonably necessary repair or restoration to the County Rights-of-Way. All work shall be done to the satisfaction of the County's Director of Transportation.

(2) All equipment, lines, and appurtenances which are used in the operation, maintenance, repair or construction of the Franchisee's system, except for those pieces specifically noted in this Franchise, and which are located within the County's Rights-of-Way shall be considered to be part of Franchisee's Cable System and shall be the Franchisee's responsibility. All permits for the operation, maintenance, repair or construction of said Cable System shall be applied for and given in the name of the Franchisee, who shall be responsible for all work done under the permit regardless of whether the work is done by the Franchisee, its employees or contractors, or by third parties. Except as contained in Section 18 (c), to the extent that permit conditions are more stringent than the provision of this Franchise, the permit conditions shall govern.

(3) Franchisee shall obtain all required permits or easements before commencing any construction, reconstruction, repair, maintenance, or other work or

property use. Permits for emergency work shall be obtained as soon as possible, but in no event later than one (1) working day after the work is begun.

(4) All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner and may be subject to the supervision, inspection, approval and direction of the County Engineer. The Franchisee must comply with all safety requirements, rules, and practices and employ all necessary devices as required by applicable law and permits during construction, operation, maintenance and repair of its Cable System. By way of illustration and not limitation, the Franchisee must comply with the then current edition of the County Road Standards, National Electric Code published by the National Fire Protection Association (currently ANSI/NFPA 70-1990, and replaced by subsequently adopted additions); National Electrical Safety Code published by the Institute of Electrical and Electronics Engineers, Inc. (currently ANSI C2-1990 and replaced by subsequently adopted additions); and Occupational Safety and Health Administration (OSHA) Safety and Health Standards. In addition, all work shall be performed in accordance with the National Cable Television Association Standards of Good Engineering Practices, except to the extent the practices described therein are inconsistent with applicable law. All traffic control shall be done in compliance with the then current edition of Manual on Uniform Traffic Control Devices, Part VI, as amended.

(5) Inspection fees shall be charged and billed monthly in accordance with administrative procedures developed by the County's Department of Transportation.

(b) Use of Poles and Conduits.

(1) Where electrical and telephone utility wiring is installed underground at the time of initial Cable System construction, or when such wiring is subsequently placed underground, all Cable System lines or wiring and equipment shall also be placed underground on a nondiscriminatory basis with other wire line services at no additional expense to the County or subscribers. Related Cable System equipment such as pedestals must be placed in accordance with County code requirements and underground utility rules as interpreted by the County Road Engineer. This requirement does not prohibit Franchisee from receiving its pro rata share when costs of undergrounding are reimbursed to utilities from LID financing or other funding mechanisms. In areas where both electric and telephone utility wiring is aerial, the Franchisee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(2) The Franchisee shall utilize existing poles and conduit wherever possible.

(3) The Franchise does not grant, give or convey to the Franchisee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the County or any other person without permission. Copies of agreements for use of poles, conduits or other utility facilities must be provided upon request by the Cable Office upon demonstrated need and subject to protecting Franchisee's proprietary information from disclosure to third parties.

(4) In any case where the Franchisee is or has been authorized to erect a pole, the Franchisee shall extend the right to use its poles upon reasonable terms and conditions to other persons having a franchise or permit to maintain lines and facilities upon the same road or right of way (a "franchise holder"). The County shall have the right to install and maintain free of charge upon the poles owned by the Franchisee any facilities that do not unreasonably interfere with the Franchisee's Cable System.

(c) Repair and Restoration of Property.

(1) The Franchisee shall protect public and private property from damage. If damage occurs, the Franchisee shall promptly notify the property owner.

(2) If public or private property is disturbed or damaged, the Franchisee shall restore the property to its former condition including necessary paving, patching, grading and other necessary repair or restoration, normal wear and tear excepted. Public Rights-of-Way or other County property shall be restored to its former condition, normal wear and tear excepted, in a manner and within a time approved by the County Road Engineer or custodial agency. If restoration of public Rights-of-Way or other County property is not satisfactorily performed within a reasonable time, the County Road Engineer or custodial agency may, after prior notice to the Franchisee, or without notice where the disturbance or damage may create a risk to public health or safety, or cause delay or added expense to a public project or activity, cause the repairs to be made at the Franchisee's expense and recover the cost of those repairs from the Franchisee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Franchisee shall pay the County.

Consistent with Section 11 (a), if suit is brought upon Franchisee's failure to pay for repair and restoration, and if judgment in such a suit is entered in favor of the County, then the Franchisee shall pay all of the County's actual costs resulting from the non-payment, including interest from the date the bill was presented, disbursements, attorney's fees and litigation-related costs. Private property must be restored promptly, considering the nature of the work that must be performed.

(3) Prior to commencing any construction or upgrade, Franchisee shall provide a restoration bond in the amount set by the County Road Engineer. As construction of the initial or upgraded Cable System is completed, the amount of the bond may be reduced and/or released by the County. The bond required by this Section 19 shall be governed by the requirements of K.C.C. Section 14.44.080.

(4) The County may require an additional restoration bond, pursuant to K.C.C. § 14.44.080, to be posted by Franchisee prior to any construction, operation, maintenance or repair in the County's Rights-of-Way occurring subsequent to the completion of the upgrade of the Cable System, in a reasonable amount and upon such terms as determined by the County Road Engineer. The Franchisee may obtain one bond to meet the requirements of both Section 19 (c)(3) and Section 19 (c)(4) if the combined bond meets the requirements and has the approval of both the County's Property Services Division and the Director of Transportation.

(5) Prior to entering onto private property to construct, operate or repair its Cable System, Franchisee shall give the person residing on or using the property adequate notice that it intends to work on the property, a description of the work it intends to perform and a name and phone number the person can call to protest

or seek modification of the work. Work shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners, residents and users.

(d) Movement of Cable System For and By County. The County may remove, replace, modify or disconnect Franchisee's facilities and equipment located in the public Rights-of-Way or on any other County property in the case of fire, disaster, or other emergency, or when a County project or activity makes the removal, replacement, modification or disconnection necessary or less expensive for the County. Except during an emergency, the County shall provide reasonable notice to the Franchisee prior to taking such action and shall, when feasible, provide Franchisee with the opportunity to perform such action. Following notice by the County, Franchisee shall remove, replace, modify or disconnect any of its facilities or equipment within any public Rights-of-Way, or on any other County property, except that the County shall provide at least one hundred eighty (180) days written notice of any major capital improvement project which would require the removal, replacement, modification or disconnection of Franchisee's facilities or equipment. If the Franchisee fails to complete this work within the time prescribed and to the County's satisfaction, the County may cause such work to be done and bill the cost of the work to the Franchisee. Within thirty (30) days of receipt of an itemized list of those costs, the Franchisee shall pay the County. Notwithstanding the provisions of Section 2 (n), the County, its officials, officers employees and agents shall not be liable to the Franchisee for any damage caused as a result of action taken under this Section 19 (d).

(e) Movement for Other Franchise Holders. If any removal, replacement, modification or disconnection is required to accommodate the construction, operation, or repair of the facilities or equipment of another franchise holder, Franchisee shall, after at least thirty (30) days advance written notice, take action to effect the necessary changes requested by the responsible entity. The parties shall determine how costs associated with the removal, relaying or relocation shall be allocated.

(f) Movement for Other Permittees. At the request of any person holding a valid oversize load or similar permit and upon reasonable advance notice, Franchisee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes, including standby time, must be paid by the permit holder, and Franchisee may require a reasonable deposit of the estimated payment in advance.

(g) Tree Trimming and Excavation. The Franchisee shall have the authority to trim trees that overhang a public Rights-of-Way of the County so as to prevent the branches of such trees from coming in contact with its Cable System, in accordance with applicable County Codes and regulations. At the option of the County, such trimming to the extent reasonable to satisfy the purpose of this Section 19 (g) may be done at Franchisee's expense by the County or under its direct supervision.

(h) Decisions of County Road Engineer. Whenever the decision, requirement or approval is by this Franchise Agreement to be a determination of the County Road Engineer, that determination shall be conclusive upon the parties hereto, except in that instance where the determination is arbitrary, made in bad faith or to defraud the parties hereto.

(i) Road Vacations. If, at any time, the County vacates any County Rights-of-Way covered by this limited Franchise, the County shall not be held liable for any damages or loss to the Franchisee by reason of such vacation.

20. Operation and Reporting Provisions.

(a) Books and Records.

(1) The County and its representatives shall have the right to inspect and to have copied any and all Books and Records of the Franchisee and its affiliates which the County reasonably deems necessary in order to monitor compliance with the terms of the Cable Ordinance, this Franchise Agreement, or applicable law. The County may conduct its inspection and copying at any time during normal business hours upon reasonable notice.

(2) The Franchisee shall maintain throughout the franchise term, at a location approved by the County, all records and information necessary to document its compliance with this Franchise Agreement, the Cable Ordinance, including those respecting its equal employment opportunity plan and its utilization of minority and women's businesses in its overall public and private business activities. The County shall have the right, on reasonable prior notice to Franchisee, to inspect and have copied all such records and information on demand. If the Books and Records are made available at a location other than within the County, the Franchisee must pay all reasonable expenses of the County or its representatives associated with traveling to inspect, audit or copy the books or records.

(3) The County shall have the right to have copied any documents it reasonably requires to carry out its responsibilities under this Franchise Agreement or

the Cable Ordinance. Franchisee may mark documents the County has copied as "proprietary." The County will notify Franchisee if any third party seeks release of any document so marked and the County will withhold release for the maximum period permitted by law to provide Franchisee the opportunity to seek court protection against release of the requested documents.

(4) To the extent the Books and Records the County deems relevant are held by the Franchisee or its Affiliates, the Franchisee is responsible for collecting those Books and Records and producing them at the location specified above.

(5) After the County has carried out its responsibilities which involve any copied records of the Franchisee, it shall, at Franchisee's option, either destroy such copies or return them to Franchisee to the extent permitted by law.

(b) Reports. Upon request from the County, the Franchisee shall provide the reports specified below, and such other reports as may be required.

(1) Within three (3) months of the close of its fiscal year, the Franchisee shall provide the Cable Office with the following:

(i) A company annual report certified by an appropriate partnership representative.

(ii) A copy of updated maps depicting the location of all cable plant. On these maps, one (1) inch shall represent no more than 800'. These maps shall be accompanied by a digital copy in a standard format and medium agreed upon by the County and the Franchisee. The maps must include at least two tick marks representing Public Land Survey System section corners.

(iii) A report detailing whether each applicable customer service standard as defined by FCC Rules, Cable Ordinance, and required by the Franchise were met. For each standard not met, the report will explain the cause, and corrections taken for each.

(iv) An estimate of the number of disabled, elderly and low-income subscribers receiving any rate discounts, and the amount of the discounts.

(2) Within one (1) month of the end of each quarter, which shall end on March 31, June 30, September 30, and December 31 of every year, the Franchisee shall provide the Cable Office with the following information:

(i) A statement, in a form specified by the County showing the number of subscribers served in the entire system and in the Franchise Territory; and the number of channels on the basic tier, on the expanded tier, and from satellite; and any annexations or incorporations that occurred since the previous reporting period. In addition, the statement shall separately list revenues for each source of revenue which is included within the definition of Gross Revenues in the County Cable Ordinance.

(ii) A quarterly report summarizing Cable System outages in the County franchise area. An outage includes any loss of one or more video or audio channels that affects 50 or more subscribers on the same distribution line simultaneously, but does not include instances where the sound or video is lost prior to its receipt by the Cable System.

(iii) For each month during the quarter, a subscriber bill showing all categories used by the system but with zero dollar amounts will be addressed to the

County Cable Office, together with copies of all other information, offers and notices sent to subscribers as a group.

(3) Franchisee shall provide the Cable Office the following:

(i) A statement of the resolution of complaints referred to it by the Cable Office. Notwithstanding any provision of the Cable Ordinance that could be read to require a more formal response, such notice shall be by telephone unless the Cable Office requests written notice, and shall be given as soon as practicable.

(ii) Franchisee shall provide all reports as required under Section 13 of this Franchise Agreement.

(iii) Franchisee shall provide the Cable Office with reasonable notice via facsimile or telephone within four (4) hours of any unanticipated or unplanned complete or partial loss of service affecting 500 or more subscribers on the same distribution line or fiber node within the Franchise Territory, including the date, time, cause, location by street, and expected time of repair. As soon as possible after completion of the repair work, the Franchisee shall notify the Cable Office of the actual date and time of completion of the repair.

(iv) Franchisee shall provide the Cable Office within a 24-hour period advance notice of any planned outages affecting 500 or more subscribers on the same distribution line or fiber node within the Franchise Territory.

(c) Books and Records Must Be Maintained. Franchisee must maintain a complete set of Books and Records available for inspection, audit and copying by the County for purposes of ascertaining compliance with requirements of this Franchise Agreement and applicable law and regulations. Books and Records must be retained

for a period of at least five (5) years. The County shall conduct inspections and audits no more frequently than annually unless the County has reasonable cause to believe the Franchisee is in material violation of this Franchise Agreement or the Cable Ordinance. The Franchisee shall be given reasonable notice prior to any inspection, audit or copying of Books and Records; the inspection shall be conducted during normal business hours. The Books and Records must either be made available in the County at a local office of the Cable System, or the Franchisee must pay all reasonable expenses of the County or its representatives associated with traveling to inspect, audit or copy the books or records. Nothing in this Section 20 waives FCC open records provisions.

(d) Retention of Records; Relation to Privacy Rights. The Franchisee shall take all steps required, if any, to ensure that it is able to provide the County all information which must be provided or may be requested under the Cable Ordinance or this Franchise Agreement, including by providing appropriate subscriber privacy notices. Nothing in this Section 20 shall be read to require the Franchisee to violate 47 U.S.C. § 551. The Franchisee shall be responsible for redacting any data that federal law prevents it from providing to the County.

(e) Charges for Inspection, Audits or Tests. In addition to any expenses the Franchisee must bear under Section 20 (c), if an inspection, audit or test determines that Franchisee has not materially complied with applicable FCC technical standards, the Franchisee shall reimburse the County for all reasonable costs including expert fees arising from the inspection, audit or test. In addition, if it is determined that Franchisee has underpaid amounts due the County by more than four percent (4%) of the amount

owing, or the Franchisee has not materially complied with FCC technical standards, the County shall have the right to conduct additional inspections, audits or tests, and to charge all costs arising from these inspections, audits or tests to the Franchisee until it is determined that the Franchisee is in full compliance. These charges are incidental to the enforcement of the Franchise; they do not limit any right the County may have to exercise any other remedy. To the extent this paragraph conflicts with the County Cable Ordinance, this paragraph will prevail.

21. Remedies.

(a) Rights of County. In addition to exercising any of the other remedies provided in this Franchise Agreement, or the remedies available under applicable law, the County may revoke the Franchise and void the Franchise Agreement if:

- (1) Franchisee attempts to or does practice any fraud or deceit in its conduct or relations under this Franchise Agreement or in the process of being granted the rights, authority, power, privileges and permission herein; or
- (2) Franchisee attempts deliberately to evade any material provision of this Franchise Agreement, the Cable Ordinance or the Cable Rules; or
- (3) Franchisee fails to correct any material breach of this Franchise Agreement, the Cable Ordinance or the Cable Rules after notice and opportunity to cure; or
- (4) Franchisee repeatedly violates this Franchise Agreement, the Cable Ordinance, or the Cable Rules regardless of whether any single provision violated is deemed immaterial; or
- (5) Franchisee abandons its Franchise.

Without limitation, the failure of Franchisee to comply with the deadlines established herein, its failure to provide or maintain the required reports and records or its failure to comply with applicable law shall be deemed a material violation of this Franchise Agreement.

(b) Rights of Franchisee. Notwithstanding any provision of the Cable Ordinance to the contrary that could be read to limit the Franchisee's rights, before the County revokes the Franchise, it shall:

- (1) Provide notice to the Franchisee of the violation;
- (2) Permit the Franchisee to request an opportunity to be heard on the issue; and
- (3) If the Franchisee timely requests an opportunity to be heard, allow the Franchisee to appear and present information relevant to determining whether the violation occurred, and the appropriate remedy for the violation, if any. The parties agree that K.C.C. § 6.27A.240 satisfies the requirements of this Section 21 (b).

(c) Procedures Prior to Revocation.

(1) Notice of Violation. County shall provide Franchisee with a detailed written notice of any franchise violation upon which it proposes to take revocation action, and a ninety (90) day period within which Franchisee may demonstrate that a violation does not exist or cure the alleged violation.

(2) Default. If Franchisee fails to disprove or cure the violation within ninety (90) days, then County may declare the Franchisee in default, which declaration must be in writing.

(3) Hearing Available to Franchisee. Within fifteen (15) days after receipt of a written declaration of default from the County, Franchisee may request, in writing, a hearing before the County or its agent, in a public proceeding. Such hearing shall be held within forty-five (45) days of the receipt of the request therefor and a decision rendered within thirty (30) days after the conclusion of the hearing. Any decision shall be in writing and shall be based upon written findings of fact.

(d) Duty to Exhaust Remedies. In the event of any dispute between the Franchisee and the County arising out of this Franchise Agreement, the Cable Ordinance or the Cable Rules, the Franchisee agrees to pursue and exhaust all administrative remedies pursuant to law prior to pursuing any legal or equitable remedy.

(e) Effect of Revocation or Forfeiture. The revocation or forfeiture of the Franchisee's rights under the Franchise Agreement shall not affect any of the County's rights under the Franchise Agreement or applicable law. The Franchisee shall continue to be bound, for example, by any duties it may have under the Cable Ordinance to continue to provide service.

22. Abandonment.

(a) Effect of Abandonment. If the Franchisee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the County, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Franchisee restores service under conditions acceptable to the County or until the Franchise is revoked and a new Franchisee selected by the County is providing service; or obtain an injunction requiring the Franchisee to continue operations. If the County is

required to operate or designate another entity to operate the Cable System, the Franchisee shall reimburse the County or its designee for all reasonable costs and damages incurred that are in excess of the revenues from the Cable System.

(b) What Constitutes Abandonment. The County shall be entitled to exercise its option if the Franchisee fails to operate the entire Cable System for ten (10) consecutive days without just cause, unless the County authorizes a longer interruption of service.

(c) Injunctive Relief. The County shall be entitled to obtain any required injunctive relief if the Franchisee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise Agreement.

23. Exercise of Right to Purchase.

(a) Option to Purchase. The County shall have the option to purchase the Cable System as provided in this Franchise Agreement, to the extent consistent with federal law.

(b) Arbitration.

(1) If the County exercises a right to purchase the Cable System pursuant to the Franchise Agreement and the parties are unable to agree on a price for the purchase of the system, or the terms and conditions of the sale, the price of the Cable System may be determined by arbitration as set forth in the Dispute Resolution Process paragraph of this Franchise Agreement.

(2) The arbitration procedure employed shall be consistent with the Dispute Resolution Process of this Franchise Agreement.

(3) Notwithstanding the above, nothing shall require the County to submit the matter to arbitration should it purchase the Cable System through an exercise of the right of eminent domain.

(c) Rights Not Waived. The purchase option provided under Section 23 (a) does not waive any rights the Franchisee may have under applicable law.

24. Miscellaneous Provisions.

(a) Dispute Resolution Process. When this Franchise Agreement authorizes the use of the Dispute Resolution Process, the parties agree to follow the following procedure to utilize a mediator or arbitrator for resolving contractual disputes:

(1) Mediation. Either party may request that a dispute be submitted to mediation. The parties will attempt to agree on a mediator. If they are unable to do so within seven (7) days, the mediation will be referred to the Seattle office of the American Arbitration Association, which will appoint a qualified mediator to serve. The mediation shall take place in Seattle, Washington, within a reasonable period of time after a mediator is selected or appointed. The mediation shall continue until the Dispute is resolved or until such time as the mediator or any of the parties makes a good faith determination that the likelihood of resolution is sufficiently remote that continuation of the mediation is not warranted.

(2) Arbitration. If a determination is made that continuation of the mediation process is not warranted, a dispute may be resolved by arbitration by a single arbitrator in accordance with the Commercial Rules of the American Arbitration Association, but without a requirement that the parties utilize an arbitrator from the American Arbitration Association. Either party may demand such arbitration in

accordance with the procedures set out in those rules. The parties will attempt to agree on an arbitrator without American Arbitration Association intervention. If they are unable to do so within seven (7) days, the arbitration will be referred to the Seattle, Washington office of the American Arbitration Association to conduct the arbitration. The arbitration shall be held in Seattle, Washington unless another location is mutually agreed upon by the parties. The arbitrator shall control the scheduling so as to process the matter expeditiously. The award may be entered in any court of competent jurisdiction in the United States.

(3) Fees and Expenses. Each party shall be responsible for its own expenses of mediation and arbitration, except that the fees of the mediator and the arbitrator shall be borne equally by the parties.

(4) Injunctive Relief. Either party may seek from a court of competent jurisdiction in Seattle, Washington any interim, provisional or injunctive relief that may be necessary to protect the rights or property of any party or maintain the status quo before, during or after the pendency of the mediation or the arbitration proceedings. The institution and maintenance of any judicial action or proceeding for such interim, provisional or injunctive relief shall not constitute a waiver of the right or obligation of either party to submit to mediation and arbitration, including any claims or disputes arising from the exercise of such interim, provisional or injunctive relief.

(5) In cases where the value of the claim or the amount at issue, exceeds one hundred thousand dollars (\$100,000), exclusive of interest, costs and attorneys' fees, based upon a good faith calculation, either party may seek relief in a court of competent jurisdiction in Seattle, Washington without utilizing the Dispute

Resolution Process in this paragraph.

(b) Governing Law. This Franchise Agreement shall be governed in all respects by the laws of the State of Washington. All actions brought by the Franchisee against the County, whether brought in state or federal court, shall be brought in a court located in King County, Washington, unless prohibited by law.

(c) Force Majeure. The Franchisee shall not be deemed in default with provisions of its Franchise where performance was rendered impossible by war or riots, civil disturbances, labor strikes or similar work force walkout by non-union employees, floods, or other circumstances beyond the Franchisee's control, and the Franchise shall not be revoked or the Franchisee penalized for such noncompliance, provided that the Franchisee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with its Franchise without unduly endangering the health or safety of the Franchisee's employees or the integrity of its property, or the health or safety of the public, or the integrity of public Rights-of-Way, public property, or private property. Franchisee shall notify the County in writing of the reason for the upon the Franchisee's discovery of the reason.

(d) Connections to System; Use of Antennae.

(1) Subscribers shall have the right to attach devices to the Franchisee's System to allow them to retransmit signals or services when authorized by the Franchisee. Subject to reasonable provisions to prevent signal and service theft, subscribers also shall have the right to use their own remote control devices and converters, and other similar equipment and, if possible, the Franchisee shall provide

information to consumers which will allow them to adjust such devices so that they may be used with the Franchisee's System.

(2) The Franchisee shall not, as a condition of providing service, require a subscriber or potential subscriber to remove any existing antenna, or disconnect an antenna except at the express direction of the subscriber or potential subscriber, or prohibit or discourage a subscriber from installing an antenna switch, provided that such equipment and installations are consistent with applicable law.

(e) Calculation of Time. Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time. For example, if on January 1, the Franchisee is directed to file action within ten (10) calendar days, the action must be completed no later than midnight January 11.

(f) Time of Essence; Maintenance of Records of Essence. In determining whether the Franchisee has substantially complied with its Franchise, the parties agree that time is of the essence to this Franchise Agreement. As a result, the Franchisee's failure to complete construction, extend service, seek approval of transfers, or provide information in a timely manner may constitute material breaches. The maintenance of records and provision of reports in accordance with the Franchise is also of the essence to this Franchise Agreement.

(g) Guarantee. The performance of the Franchisee shall be guaranteed in all respects by Millennium Digital Media Systems L.L.C. A signed guarantee, in a form

acceptable to the County shall be filed with the Cable Office prior to the Effective Date hereof.

(h) Captions. The captions and headings of this Franchise Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Franchise Agreement.

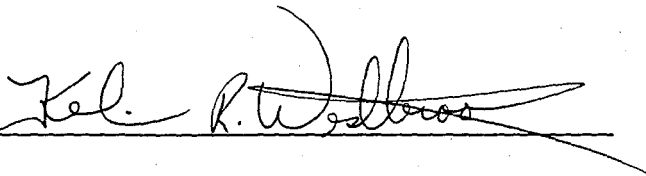
(i) Counterparts. This Franchise Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

AGREED TO AS OF THE

11th DAY OF October, 1999.

SUMMIT CABLEVISION L.P.

By Millennium Digital Media Systems L.L.C., Its General Partner

By: 

Name: Kelvin R. Westbrook

Title: President + CEO

KING COUNTY, WASHINGTON

13637

By: Donald Sims

Name: Ronald C Sims

Title: King County Executive

Appendix A

Franchise Territory

All King County Roads Rights-of-Way existing now or in the future shall be subject to the terms and conditions of the Franchise Agreement within the following described boundaries:

All those portions of unincorporated King County excluding all incorporated Cities located in the following Townships and Ranges: Township 26, Ranges 4,5,6,7,8,9,10,11,12, and 13, Township, 25, Ranges 5,6,7,8,9,10,11,12 and 13, Township 24, Ranges 6,7,8,9,10,11,12 and 13, Township 23, Ranges 3,4,5,6,7,8,9,10,11, and 12, Township 22, Ranges 5,6,7,8,9,10, and 11, Township 21, Ranges 4,5,6,7,8,9,10,11, and 12, Township 20, Ranges 6,7,8,9,10,11, and 12, Township 19, Ranges 6,7,8,9,10, and 11.

Note: this includes all sections within the described townships and ranges.

Appendix B

System Design Specifications

The rebuilt system and all new construction will be capable of meeting or exceeding the following requirements:

Bandwidth	54 to 750 MHz downstream 5 to 40 MHz upstream
Aural Center Frequency	4.5Mhz +/- 5 kHz above visual carrier
Video Carrier Level	Signal at tap Highest Analog Channel +12db to +19db Lowest Analog Channel +10db to +19db <i>(FCC requirements: Shall not be less than 0dbmv at the subscriber terminal Shall not be less than 3dbmv at the end of a 100-foot drop)</i>
Video to Audio Carrier Level	The level of the Aural Carrier must be maintained 10 to 17 dB below the associated video carrier or as otherwise specified by the FCC and shall not interfere with the upper adjacent channel as measured at the subscriber terminal.
In Channel Frequency Response	Must be +/- 2 dB from 0.75 to 5.0 above the lower channel boundary as measured at the subscriber terminal
Signal/Noise Ratio	Minimum 46 dB across 4mHz dB as measured at the subscriber terminal. <i>(FCC requirement is 43db)</i>
Carrier/Interference	Includes coherent disturbances such as Intermodulation, Second and Third order distortions, must be a minimum of 52 dB <i>(FCC requirement is a minimum 51dB for standard channel allocation and a minimum 47 dB for HRC as measured at the subscriber terminal)</i>
Terminal Isolation	Minimum of 18dB
Hum or Repetitive Transients	Must not exceed 3% of the visual signal level, as measured at the subscriber terminal
Chrominance-Luminance Delay	Less than +/- 100 nanoseconds <i>(FCC requirement is +/-170 nanoseconds)</i>
Differential Gain	Shall not exceed +/- 20%

Differential Phase

Shall not exceed +/- 10 degrees

CLI

The system will comply with Sec. 76-614 pertaining to the monitoring, logging, and leakage repair requirements related to signal leakage and/or ingress of the network.

Appendix C

Institutional Network Sites

(1) The Franchisee shall design, construct and maintain the Institutional Network to the sites identified in Section 16 (d) of the Franchise Agreement according to the following:

(a) Route 1: East Ridge Elementary to Duvall Library

Construct a 12-strand single mode fiber connection between East Ridge Elementary and Duvall Library. The cable route distance is approximately 30600 ft.

(b) Route 2: Duvall Library to Stillwater Elementary

Construct a 12-strand single mode fiber connection between Duvall Library and Stillwater Elementary. The cable route distance is approximately 35400 ft.

(c) Route 3: Stillwater Elementary to Carnation – Duvall Road

Construct a 12-strand single mode fiber connection between Stillwater Elementary and the intersection of NE Stillwater Hill Rd. and Carnation - Duvall Rd. NE. The cable route distance is approximately 14300 ft.

(d) Route 4: Carnation – Duvall Road to Carnation Elementary

Construct a 12-strand single mode fiber connection between the intersection of NE Stillwater Hill Rd. and Carnation - Duvall Rd. NE. and Carnation Elementary. The cable route distance is approximately 14400 ft.

(e) Route 5: Ring Hill EMS to East Ridge Elementary

Construct a 12-strand single mode fiber connection between King County's Ring Hill EMS site and East Ridge Elementary with a portion of the route shared with Route 1. The cable route distance for the new construction portion is approximately 8300 ft. and the distance of the shared cable route with Route 1 cable is approximately 8400 ft.

(2) The fiber optic cable shall be constructed to exceed the following standards:

(a) The fiber shall be single mode fiber capable of operating at both 1310 nm and 1550 nm.

(b) The fiber must meet or exceed specifications outlined in AT&T Practice 626 108 001, Issue 2, "Generic Specification for Fiber Optic Outside Plant Cable".

(c) The fiber shall introduce a loss of no more than .35 db/km at 1310 nm. and .25 dB/km at 1550 nm. The fiber shall be depressed clad.

(d) The fiber shall not be dispersion shifted.

(3) The fiber optic terminations shall meet the following specifications:

(a) Type. All fiber shall be terminated with SC Angled Polished connectors.

(b) Terminations. All terminations to SC connectors shall have a loss no greater than .3 db per termination.

(c) Fusion Splices. All fusion splices shall have a loss of no greater than 0.1 dB per splice. Average loss numbers should be significantly less than this.

Appendix D

Bond _____

GL Code: _____

Risk File: _____

FRANCHISE BOND

Location: Seattle, Washington

KNOW ALL MEN BY THESE PRESENTS, That, Summit Cablevision L.P., as

Principal, and _____, a corporation of the State of

_____, as Surety, are held and firmly bound unto **County of King, Seattle,** as

Obligee, in the sum of **Fifty Thousand & No/100** Dollars (\$50,000.00), lawful money of

the United States of America, to be paid unto said Obligee, its successors and assigns,

jointly and severally, firmly by these presents.

WHEREAS, the above bound Principal has entered into a written agreement dated

_____, with the Obligee which grants a Franchise to the

Principal to use obligee's public streets and places to transmit and distribute electrical

impulses through fiber optical cable and open line-coaxial antenna system located

therein. Principal has agreed to faithfully perform and observe and fulfill all terms and

conditions of said Franchise agreement referred to above and said agreement is hereby

made a part of this bond with like force and effect as if herein set forth in length.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the

above named Principal, its successors or assigns, does and shall well and truly

observe, perform and fulfill its obligation as set forth in the above mentioned Franchise agreement, for which a bond must be posted, then the above obligation to be void; otherwise to remain in full force and effect.

The bond is subject, however, to the following express conditions:

FIRST: That in the event of a default on the part of the Principal, its successors or assigns, a written statement of such default with full details thereof shall be given to Surety promptly, and in any event, within thirty (30) days after the Obligee shall learn of such default, such notice to be delivered to Surety at its Home Office in _____, _____ by registered mail.

SECOND: That no claim, suit or action under this bond by reason of any such default shall be brought against Surety unless asserted or commenced within twelve (12) months after the effective date of any termination or cancellation of this bond.

THIRD: That this bond may be terminated or canceled by Surety by thirty (30) days prior notice in writing to Principal and to Obligee, such notice to be given by certified mail. Such termination or cancellation shall not affect any liability incurred or accrued under this bond prior to the effective date of such termination or cancellation. The liability of the Surety shall be limited to the amount set forth above and is not cumulative.

FOURTH: That no right of action shall accrue under this bond to or for the use of any person other than the Obligee, and its successors and assigns.

IN WITNESS WHEREOF, THE ABOVE BOUND PRINCIPAL AND THE ABOVE BOUND SURETY HAVE HEREUNTO SET THEIR HANDS AND SEALS ON THE _____ DAY OF _____, 19__.

SUMMIT CABLEVISION L.P.

By: _____

By: _____

Attorney-in-fact