

SECTION 4

Sec. 25.183(b) Revocation of Permits is hereby amended to read:.

In the event a visitor permit is being used in a manner which violates this article, the Traffic Engineer may cancel the permit by issuing notice to the holder of the permit. In addition to cancelling any visitor permit used in violation of this article, the Traffic Engineer may deny any further application for a visitor permit by any person who has used a visitor permit in violation of this article or any application for a visitor permit by any person for the residence in which such person resides as long as that person who used a visitor permit resides there. Any person aggrieved by such a determination made by the Traffic Engineer shall have the right to appeal to the City Council within ten (10) days of such determination.


DATE PASSED FOR PUBLICATION: July 26, 1983

DATE ENACTED: August 2, 1983

DATE EFFECTIVE: September 1, 1983

  
MAYOR

ATTEST:

  
Assistant CITY CLERK

ORDINANCE No. 83-032

AUG 2 1983

ORDINANCE NO. **83-093**

AN ORDINANCE AMENDING CHAPTER 20 OF THE  
SACRAMENTO CITY CODE RELATING TO CABLE TELEVISION

**AUG 9 1983**

The Council of the City of Sacramento, State  
of California, do ordain as follows:

SECTION 1. Section 20.112 contained in Sub-Chapter 1 of  
Chapter 20 of the Sacramento City Code is hereby amended to  
read as follows:

20.112 AGREEMENT OF FORMATION. The Cable Television  
Commission shall be deemed to be created upon execution by each  
member thereof of an agreement of formation. Enactment of this  
Chapter constitutes approval by the Governing Bodies of the  
County and Cities of the terms of the agreement of formation.

The Chairperson of the Governing Body of the County and Mayor  
of the Municipality of Sacramento shall execute the following  
agreement of formation on the date of selection of the Franchisee  
for the Initial CATV Franchise pursuant to the provisions of  
Section 20.210 in Sub-Chapter 3. The Mayors of any of the  
Municipalities of Folsom, Isleton or Galt which have enacted this  
Chapter, shall execute the agreement of formation thirty-one (31)  
calendar days following the date of selection of the Franchisee  
for the Initial CATV Franchise pursuant to the provisions of  
Section 20.210 in Sub-Chapter 3, unless the Governing Body  
of the Municipality has adopted a resolution making the selection  
inapplicable to that Municipality pursuant to the provisions of  
Section 20.212 in Sub-Chapter 3.

AGREEMENT OF FORMATION  
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

THIS AGREEMENT is made and entered into pursuant to  
the provisions of Section 6500 et seq. of the Government  
Code of the State of California by and between the County  
of Sacramento, herein referred to as "County"; and the City  
of Sacramento and municipalities of Folsom, Isleton and Galt,  
herein referred to as "Cities"; who do hereby mutually agree  
as follows:

1. Establishment. There is hereby created an organization known and denominated as the Sacramento Metropolitan Cable Television Commission, which shall be a public entity, separate and apart from the County and Cities. The Sacramento Metropolitan Cable Television Commission (hereinafter referred to as "Commission") shall be governed by the terms of this Agreement, the terms of an ordinance enacted by each agency which enters into this Agreement which is entitled "Cable Television Ordinance", and is hereinafter referred to as the "Ordinance", and by such rules as are duly passed and adopted by the Board of Directors of the Commission.

Notwithstanding the provisions of the introductory paragraph of this Agreement, it is specifically contemplated that each of the Municipalities of Folsom, Isleton and Galt may or may not execute this Agreement and participate in the formation of and become members of the Commission. Therefore, the Commission shall be formed by, as members, the County, the Municipality of Sacramento, and so many of the other Municipalities as approve and execute this Agreement. If neither Folsom, Isleton nor Galt approve and execute this Agreement, the Agreement shall be deemed to have been entered into and the Commission formed by, as members, the County and Municipality of Sacramento.

2. Board of Directors. The Commission shall be governed by and the powers of the Commission vested in a Board of Directors. The number of members of the Board of Directors, composition thereof, and tenure of Directors shall be prescribed by Sub-Chapter 2 of the Ordinance.

- a. Meetings of the Board of Directors and of such advisory or other committee as the Board may appoint, shall be governed by the provisions of the Ralph M. Brown Act (Government Code Sec. 54950 et seq.). The Board of Directors shall establish a time and place for its regular meetings, which shall be held not less frequently than every three (3) months.
- b. A majority of the members of the Board of Directors shall constitute a quorum for the purpose of transacting business.
- c. No action taken by the Board of Directors shall be effective except by duly adopted motion receiving the votes of a majority of the Directors of the Board.
- d. The Board of Directors shall annually elect its Chairperson.

- e. The Clerk of the Board of Supervisors of the County shall serve as Secretary to the Board of Directors, shall be responsible for recordation of the official actions by the Board, and shall be the official custodian of all records of the Board of Directors.

The County may determine reasonable charges to be made against the Commission for the services of the Clerk and the Commission shall pay such charges.

3. Powers. The Board of Directors of the Commission shall be vested with the following powers:

- a. To employ in the name of the Commission an Executive Director and such other personnel as the Board of Directors deems appropriate. The Executive Director shall be appointed by and serve at the pleasure of the Board of Directors.
- b. To make and enter into contracts in the name of the Commission as authorized by or in order to carry out the objects or purposes of this Agreement or the Ordinance, including, but not limited to, contracts with the County providing for provision by County personnel of services for the Commission and reimbursement of the County by the Commission of the costs thereof.
- c. To acquire in the name of the Commission take title to, hold and dispose of real and personal property.
- d. To incur in the name of the Commission debts, liabilities and obligations, which shall not constitute debts, obligations or liabilities of any of the member agencies.
- e. To accept in the name of the Commission grants, gifts and donations in the public interest to carry out the purposes and functions of the Commission;
- f. To establish and provide for the payment of reasonable compensation to its members or their personal representatives for performance of the duties of office; and
- g. To exercise such other powers as are expressly conferred by the provisions of this Agreement or the Ordinance.

The Board of Directors shall also be authorized to sue in the name of the Commission. The Commission shall be subject to suit in its name.

4. Limitations. Pursuant to the provisions of Government Code Section 6509, the powers of the Commission are subject to the restrictions upon the manner of exercising such powers of one (1) of the designated member agencies. For such purposes, the Municipality of Sacramento is hereby designated.

5. Budget. Prior to July 1st of each fiscal year, the Board of Directors shall adopt a preliminary budget. Prior to September 1st of each fiscal year, said Board shall adopt a final budget.

6. Payments. Not later than the first day of October of each year during the term of this Agreement, the Commission shall distribute to the County and Cities who are members of the Commission the difference between: (i) the revenue required to finance the costs to be incurred in accordance with the Commission's Budget (including a reserve for contingencies) for the fiscal year commencing on the preceding first day of August for the preceding fiscal year ending June 30. Notwithstanding the foregoing, the Commission shall distribute to said County and Cities not later than the first day of each October not less than twenty (20%) percent of the revenue from such franchise fees.

The franchise fees shall be paid to the County and Cities who are members of the Commission in the same proportion as the ratios which the population of the unincorporated area of the County and incorporated area of the Cities bear to the total population of the Sacramento Community, as disclosed by the Federal Decennial Census for 1980 during the period ending June 30, 1991, the Federal Decennial Census for 1990 during the Federal Decennial Census for 2000 during any period succeeding June 30, 2001.

Each distribution shall be accompanied by a statement by the Auditor of the Commission stating the amounts of all franchise fees received by the Commission for the distribution period, the dates of receipt, the amount of revenue required to finance the Commission Budget, and the population ratios upon which apportionment of the distribution is being made.

7. Treasurer. The Treasurer of the County shall be the depository of funds of the Commission, and said Treasurer shall be the ex officio Treasurer of the Commission.

The Treasurer shall receive and have custody of and disburse Commission funds on the warrant of the Auditor and shall make disbursements authorized by this Agreement. The Treasurer shall invest Commission funds in accordance with the general law. All interest collected on Commission funds shall be accounted for and posted to the account of said funds.

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The County may determine reasonable charges to be made against the Commission for the Services of the Treasurer, and the Commission shall pay such charges.

8. Auditing. The Auditor of the County shall be the ex officio Auditor of the Commission, and shall draw warrants against the funds of the Commission when the demands are approved by the Executive Director or his designee. At the close of each fiscal year, as provided in Government Code Section 6505, the Directors may contract with a public accountant or certified public accountant to make an audit of the accounts and report of the Commission.

The Auditor shall establish and maintain such funds and accounts as are deemed necessary to account for and report on receipts and disbursements. The Commission shall keep such additional records and accounts which are deemed necessary to account for and report on sources of funds, expenditures, grants and programs as may be required by good accounting practices. The books and records of the Commission shall be open to inspection at all reasonable times by representatives of the member agencies.

The County may determine reasonable charges to be made against the Commission for the services of the Auditor, and the Commission shall pay such charges.

9. Term. Except as hereinafter provided, this Agreement shall terminate and the Commission shall be deemed dissolved on December 31, 2007.

In the event the Initial CATV Franchise is not renewed at the expiration of its term and at the expiration of said term there is no other franchise issued pursuant to the provisions of this Chapter to operate a Cable Television System in effect within the Sacramento Community, the Agreement shall be deemed terminated and the Commission shall be deemed dissolved on the date of expiration of the Initial CATV Franchise.

10. Disposition of Assets. Upon dissolution of the Commission, its assets shall be distributed to member agencies in the same proportion as distributions to member agencies have most recently been made pursuant to the provisions of Paragraph 6, above. Any real property owned by the Commission shall, in advance of dissolution, be conveyed by the Board of Directors to member agencies as tenants in common with proportional interests equal to the proportion of distributions most recently made pursuant to the provisions of said Paragraph 6.

11. Debts. The debts, liabilities and obligations of the Commission shall not constitute any debts, liabilities or obligations either jointly or severally of the County of Sacramento, City of Sacramento or municipalities of Folsom, Isleton or Galt.

12. Amendment. This Agreement may be amended by written contract approved by and executed in behalf of the Governing Bodies of each member agency. No Franchisee shall be deemed to either expressly or impliedly be a party to this Agreement, a third party beneficiary thereof, or to have any interest which precludes amendment of the terms of this Agreement in any manner in which the Governing Bodies of the member agencies, in their discretion, may mutually agree.

IN WITNESS HEREOF the parties have approved and executed this agreement as follows.

SECTION 2. Section 20.214 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.214 | TENTATIVE AND FINAL SELECTION PROCEDURES. The Board of Directors of the Cable Television Commission shall tentatively select all Franchisees for franchises issued pursuant to the provisions of this Chapter, except the Franchisee for the Initial CATV Franchise. Prior to tentative selection the Board shall conduct a public hearing for the purpose of receiving presentations from the applicants and comments from the public. Notice of the hearing shall be given in the manner prescribed by Section 20.024 in Sub-Chapter 1, and mailed to the applicants.

Between the date of tentative selection of a Franchisee and approval of the resolution offering the franchise, the Governing Bodies of the County and Municipality of Sacramento, or subcommittees thereof, sitting jointly with respect to the initial CATV Franchise, and the Board of Directors of the Commission, or a subcommittee thereof, with respect to any other franchise, shall conduct a public hearing for the purpose of receiving comments from proposed recipients of services, resources or benefits in relation to the determinations required by Section 20.344 in Article 4-a of Sub-Chapter 4. Notice of the hearing shall be given in the manner prescribed by Section 20.024 in Sub-Chapter 1, and mailed to the tentative selectee and all proposed recipients as identified in the application by the tentative selectee and pursuant to the provisions of said Section 20.344.

With respect to the Initial CATV Franchise, the tentative selection shall not become final until the Governing Bodies of the Municipality of Sacramento and County have approved identical Resolutions offering the franchise. The Resolution offering the franchise approved by the Governing Bodies shall be adopted without change by the Board of Directors of the Commission pursuant to Section 20.218, below. The Board of Directors shall not be authorized to adopt a resolution offering the Initial CATV Franchise unless such resolution has been approved in advance by said Governing Bodies.

With respect to any franchise issued pursuant to the provisions of the Chapter other than the Initial CATV Franchise, the tentative selection of the Franchisee shall not become final until the Board of Directors of the Commission adopts the resolution offering the franchise pursuant to Section 20.218, below.

If a tentative selection has not been made within nine (9) months following the deadline for submission of applications established by a request for proposals, all applications shall be deemed rejected, and no franchise shall be issued pursuant to that request for proposals.

At any time prior to adoption of the resolution offering the franchise pursuant to Section 20.218, below, either the Governing Body of the County or Municipality of Sacramento with respect to the Initial CATV Franchise, or the Board of Directors of the Commission with respect to any other franchise to be issued under this Chapter, may reject the tentative selectee.

If the resolution offering the franchise has not been adopted within six (6) months following the date of tentative selection of a Franchisee, the tentative selectee shall be deemed to have been rejected.

If for any reason, the tentative selectee shall be deemed to have been rejected or the Resolution Offering the Franchise shall be deemed to have been repealed pursuant to provisions of these franchise documents, the Governing Bodies of the County and the Municipality of Sacramento with respect to the Initial CATV Franchise, or the Board of Directors of the Commission with respect to any other franchise to be issued under this Chapter, may select a new tentative selectee pursuant to the procedures set forth in this Chapter from among those applications previously submitted and may offer a franchise pursuant to the request for proposals by which the applications were solicited.

SECTION 3. Section 20.220 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

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20.220 ACCEPTANCE OF FRANCHISE. The resolution offering the franchise shall be deemed repealed thirty (30) calendar days after its adoption unless not later than the thirtieth (30th) day following adoption of the resolution the party to whom the franchise is offered files a (1) certificate in writing which expressly and unconditionally accepts the franchise in compliance with terms, conditions and requirements of the resolution, application, request for proposals and this Chapter. The certification shall be signed by a person duly authorized to act in behalf of the Franchisee, shall be notarized, shall have attached thereto a (2) certified copy of an order by the Board of Directors of the Franchisee directing execution and filing of the certification, and shall be (3) accompanied by any fee required by the request for proposals, and (4) the performance bond, (5) security deposit and (6) policy or policies of insurance prescribed by Sections 20.700, 20.702, and 20.706, respectively, in Article 4-e of Sub-Chapter 4, and (7) the documents required by Section 20.764 in Article 5-a of Sub-Chapter 5. The certification and accompaniments shall be filed with the Clerk of the Board of Directors of the Cable Television Commission. A certification which constitutes a qualified acceptance or places other limits or conditions thereon, shall be deemed to be a nullity and the resolution shall be deemed to be repealed and all applications rejected. The thirty (30) day period for acceptance prescribed by this Section may be extended either prior or subsequent to its expiration by the Board of Directors of the Commission through express action which prescribes the period of extension.

Filing of the certification in the manner and within the time prescribed above shall effect issuance of the Initial CATV Franchise. With respect to any franchise other than the Initial CATV Franchise, the procedure prescribed above shall effect issuance of the franchise, unless issuance is disapproved pursuant to the provisions of Section 20.222, below.

SECTION 4. Section 20.224 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.224 TERM OF FRANCHISES. The term of the Initial CATV Franchise shall be twenty (20) years from the date of filing of the certificate of acceptance pursuant to the provisions of Section 20.220, above. The term of any franchise issued pursuant to the provisions of this Chapter other than the Initial CATV Franchise shall be as prescribed by the Board

of Directors of the Cable Television Commission in its sole discretion, and set forth in the request for proposals; provided that no such franchise shall expire later than December 31, 2007.

SECTION 5. Section 20.248 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.248 VALUATION LIMITS. The property which is purchased shall be valued as follows:

- a. In the event the right of purchase is exercised pursuant to the contingency prescribed by Sub-paragraph "a" of Section 20.240, above, as a result of termination of a franchise on grounds identified by Section 20.818 in Article 5-b of Sub-Chapter 5, the value of the Cable Television System, personal property and improvements attached to land to be acquired shall be solely based on the Book Value of the tangible assets, and the value of land owned by the seller or in which the seller has a leasehold interest with option to purchase shall be based upon the original cost thereof, no other or further value to be assigned for the tangible and intangible assets acquired.
- b. In the event the right of purchase is exercised pursuant to either the contingency prescribed by Sub-paragraph "a" in Section 20.240, above, as a result of termination of a franchise on grounds identified by Section 20.050 in Sub-Chapter 1, or the contingency prescribed by Sub-paragraph "b" in Section 20.240, above; (i) the value of the Cable Television System, personal property and improvements attached to real property to be acquired shall be the greater of Market Value or the Replacement Cost of the tangible assets; (ii) the value of land owned by the seller or in which the seller has a leasehold interest shall be the Market Value thereof; and (iii) the value of all other tangible and intangible assets acquired shall be the Going Concern Value.
- c. In the event the right of purchase is exercised pursuant to the contingency prescribed by Sub-paragraph "c" in Section 20.240, above, the

value of the Cable Television System, personal property, land (owned by the seller or in which the seller has a leasehold interest with option to purchase) and improvements attached to land to be acquired shall be the Market Value of the tangible assets, no other or further value to be assigned for the tangible and intangible assets to be acquired; provided that in determining Market Value it shall be assumed that the property to be purchased is not subject to utilization for the provision of cable television services within the Sacramento Community subsequent to the expiration of the stated term of the franchise to which the property pertains.

When real or personal property subject to the purchase is leased, the lease shall be subject to assignment to the Cable Television Commission or its assignee, as prescribed by Section 20.026 in Sub-Chapter 1, above, and except as otherwise provided above no value shall be assigned to such property.

No value or benefits shall be assigned to the books, accounts or records, including subscriber lists, utilized in connection with the Franchisee's business pursuant to valuation under either Subparagraphs "a" or "c" of this Section.

A Franchisee shall not be entitled to relocation costs, and any right to such costs authorized or prescribed by law shall be deemed to have been waived by filing of the certificate of acceptance of the franchise.

SECTION 6. Section 20.318 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.318      PREVAILING RATE STANDARD. The compensation for workers engaged in the initial construction of Cable Television Systems and in the installation, maintenance, repair, extension, reconstruction and subsequent construction of such Systems shall in each instance be not less than the prevailing rate for comparable service in other employment associated with initial construction, installation, maintenance, repair, extension, reconstruction and subsequent construction of cable systems and other work of a similar nature (excluding work performed by employees of municipally owned public utilities) within the Counties of Los Angeles,

San Diego, Orange, Alameda, San Bernardino, Santa Clara, Sacramento (other than the Franchisee in connection with whom the prevailing rate is to be paid), San Francisco (City and County), Riverside, and Contra Costa, whenever such prevailing rate can be ascertained within such Counties.

The provisions of Sections 20.316 through 20.326 shall not be applicable to the installation of cable within subdivisions; when the work of installation is undertaken by the owner of the subdivision or a general contractor or subcontractor of the owner, and the cable is installed during the development of the subdivision at the same time as other utilities and public improvements including sewers, storm drains, electrical, gas and telephone lines, and street improvements are being installed, whether the work of installation of the cable is performed pursuant to a contract between the Franchisee and the owner of the subdivision or otherwise.

SECTION 7. Section 20.320 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.320 METHOD OF DETERMINATION. Whenever under Section 20.322, below, a prevailing rate is required to be ascertained, the Board of Directors of the Cable Television Commission shall appoint a person or firm to conduct a prevailing rate study and determine the prevailing rates. The person or firm appointed shall not be an officer, agent, employee or representative of the Franchisee, the Cities, the County, the Commission or any labor union or organization, and the Board of Directors shall be the sole judge of the qualifications of the appointee. All compensation and costs payable to the appointee for services rendered shall be paid by the Franchisee. The Board of Directors may, prior to execution of any contract by which the appointee is retained to render services, require the Franchisee to deposit a sum equal to the reasonably estimated cost of compensating the appointee for the services to be rendered.

The appointee shall identify the jobs and positions with respect to which the prevailing rate determination will be applicable. The Franchisee shall provide all data and information requested by the appointee including, but not limited to, data relating to job titles, job descriptions, work functions, and rates of compensation, and shall,

upon request, admit the appointee to the inspection of records and work areas as necessary to allow the appointee to make such personal examination as the appointee desires. The appointee shall conduct a survey of rates of compensation in connection with the initial construction, installation, maintenance, repair, extension, reconstruction and subsequent construction associated with cable systems and other work of a similar nature (excluding work performed by employees of municipally owned public utilities) within the Counties identified by Section 20.318, above.

Not later than ninety (90) calendar days following the date of the contract by which the appointee is retained, the appointee shall arrive at prevailing rate determinations based upon the survey and the appointee's analysis, without hearings, and shall prepare and file with the Clerk of the Board of Directors of the Commission and with the Franchisee a written report which contains the following information:

- a. The methodology utilized in conducting the survey;
- b. The methodology utilized in arriving at prevailing rate determinations;
- c. The types of compensation, in addition to salary, considered in arriving at the prevailing rate determinations;
- d. With respect to prevailing rate determinations in connection with initial construction, installation, maintenance, repair, extension, reconstruction or subsequent construction of a Cable Television System to be performed by the Franchisee through independent contracts, a list of all crafts and other jobs associated therewith, together with the determined prevailing rates therefor;
- e. With respect to prevailing rate determinations in connection with initial construction, installation, maintenance, repair, extension, reconstruction or subsequent construction of a Cable Television System to be performed by the Franchisee through its own personnel, the following:
  - (1) The job titles of the Franchisee with respect to which a prevailing rate could not be ascertained within the Counties, and the reasons why;

- (2) The prevailing rate for each job title of the Franchisee for which a prevailing rate could be ascertained within the Counties;
- (3) A list of those job titles of the Franchisee with respect to which compensation paid by the Franchisee equals or exceeds the determined prevailing rate; and
- (4) A list of those job titles of the Franchisee, if any, with respect to which compensation paid by the Franchisee is lower than the determined prevailing rate, together with the amount of difference or differences between the determined prevailing rate and the actual compensation paid for each job title.

All investigations, analyses and surveys undertaken by an appointee shall be performed independently, and the appointee shall not receive or consider any opinions, argument, claims, suggestions, or other persuasion concerning such matters or the prevailing rate determination from the Franchisee, interested workers, or labor unions or organizations. All compensation data received by an appointee from the Franchisee and others shall be held by the appointee in strict confidence, and shall not be subject to disclosure to either the Franchisee, the Commission, the Cities, the County, interested workers, any labor union or organization, or any member of the public.

Any and all determinations made by an appointee, whether or not appearing in the written report, and including, but not limited to, all decisions concerning comparability of services or the absence of comparability, decisions relating to whether a prevailing rate can be ascertained, and decisions concerning the amounts of prevailing rates, shall be final, conclusive, and not subject to judicial review as to the Franchisee, the Cities, the County, the Commission, interested workers, labor unions or organizations or any other interested party; provided that the function performed by the appointee and determinations made shall not be deemed to constitute an arbitration, nor shall the appointee be deemed to be an arbitrator, within the meaning of the provisions of this Chapter. The determinations by the appointee shall be judicially enforceable in the manner prescribed by Section 20.326, below.

SECTION 8. Section 20.338 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.338 ALTERNATIVE NO. 2 - FRANCHISEE SPONSORED PROGRAMMING. The Type of Community Use Programming contemplated by this Alternative is that which is produced as a result of an affirmative effort by the Franchisee to interest community organizations and groups in program ideas, development and production, is presented on the Subscriber Network in minimum quantities prescribed by the application, and is distributed among the various Tiers of Service as prescribed by the application.

a. Schedules showing the number of hours per week new (not previously broadcast or cablecast within the Sacramento Community) Community Use Programming will be shown on the Subscriber Network within each Tier of Service proposed in the application, categorized according to minimum number of hours per week per Tier of Service between the hours of 6:00 a.m. and 5:00 p.m., 5:00 p.m. and 11:00 p.m., and 11:00 p.m. and 6:00 a.m., with respect to the following variables:

- (1) Differences in volumes of hours of Community Use Programming at various times during the term of the Franchise, if the applicant proposes different volumes of such Programming at various times during the term of the Franchise;
- (2) Volumes of hours of audio only Community Use Programming, if the applicant proposes both audio only and audio and visual Community Use Programming;
- (3) The minimum number of hours respecting Community Use Programming to be produced by the Franchisee;
- (4) The minimum number of hours respecting Community Use Programming to be produced by the County or Cities;
- (5) The minimum numbers of hours respecting Community Use Programming to be produced by local non-profit community organizations; and

- (6) Volumes of hours of automated Community Use Programming, as distinguished from regular non-automated Community Use Programming, if such automated Programming is to be shown.
- b. A commitment by the applicant to provide during the entire term of the Franchise all hours of programming which it has proposed in the schedules identified by subparagraph "a", above;
  - c. A description of the location, nature and extent of studio facilities, production equipment and personnel and other resources proposed to be made available at the sole cost of the applicant and without any charge whatsoever to produce and assist the County, Cities and local non-profit community organizations in the presentation of Community Use Programming. The applicant shall indicate whether the studio facilities, production equipment, staffing resources and other resources will be exclusively available for Community Use Programming to the County, Cities and local non-profit community organizations, or whether such resources will be shared with the applicant's operation or others. If shared, specific criteria shall be stated showing how time priorities will be allocated among competing interests to insure, for example, that studio space and production resources will not be made available to local organizations only at the least desirable times.
  - d. Specific and detailed affirmative strategies to be utilized by the applicant to solicit and encourage interest by the County, Cities and local non-profit community organizations in planning, producing and presenting Community Use Programming to fulfill the broadcast time commitments proposed; and
  - e. A statement of all criteria intended to be utilized by the applicant to select between and apportioned time among local non-profit community organizations, the County, and the Cities if the demand to produce Community Use Programming exceeds the broadcast time proposed in the schedules identified by subparagraph "a", above.

In addition to the foregoing, and as a part of this Alternative, an applicant may, but is not required to, propose in its application a specific number of channels on the

Subscriber Network which it would set aside for the exclusive provision of Community Use Programming on a Leased Access basis by individuals and local non-profit community organizations. Such channels, if proposed, shall be subject to lease, in whole or in part, for Community Use Programming. Programming meeting the definition of "Community Use Programming" shall be included in fulfilling the broadcast time proposal contained in subparagraph "a", above. With respect to any such proposal, the application shall contain the following:

- a. An itemization of the amounts of fees and charges, if any, to be levied by the applicant at various times during the Franchise term for Leased Access Use -- the fees and charges, if any, to include all rights and privileges associated with the lease, use of studio facilities, production equipment and personnel and other resources, and broadcast time;
- b. Copies of all contract documents to be utilized in connection with such leases; and
- c. A statement as to whether identification of parties to whom channels will be leased and apportionment of leased time thereon will be vested within the sole discretion of the applicant, or determined in accordance with standards or criteria, and if so, a statement of all criteria, standards and requirements proposed to be utilized by the applicant in apportioning leased time should the demand therefor exceed the channel supply.

SECTION 9. Section 20.410 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.410 CONSTRUCTION SCHEDULE. The Cable Television System shall be constructed and installed in accordance with the construction standards set forth in Article 4-a, above, within the entirety of each Service Area and Basic Service and other services identified pursuant to the provisions of Section 20.504 in Article 4-c, shall be made available to all Dwelling Units within each Service Area within the times prescribed below, regardless of density, and the standards for line extensions set forth in Section 20.424, below, shall not be applicable to territories within Service Areas. Each Franchisee shall:

- a. Commence construction of the Cable Television System in each Service Area by stringing or laying cable not later than nine (9) months following the date of filing of the certificate of acceptance of the franchise pursuant to the provisions of Section 20.220 in Sub-Chapter 3;
- b. Make Basic Service and other services identified pursuant to the provisions of Section 20.504 in Article 4-c, below, available to at least twenty percent (20%) of all Dwelling Units within each Service Area not later than twenty-three (23) months following the date of filing of the certificate of acceptance of the franchise pursuant to the provisions of Section 20.220 in Sub-Chapter 3;
- c. Make Basic Service and other services identified pursuant to the provisions of Section 20.504 in Article 4-c, below, available to at least fifty percent (50%) of all Dwelling Units within each Service Area not later than thirty-seven (37) months following the date of filing of the certificate of acceptance of the franchise pursuant to the provisions of Section 20.220 in Sub-Chapter 3; and
- d. Make Basic Service and other services identified pursuant to the provisions of Section 20.504 in Article 4-c, below, available to one hundred percent (100%) of all Dwelling Units within each Service Area not later than fifty-one (51) months following the date of filing of the certificate of acceptance of the franchise pursuant to the provisions of Section 20.220 in Sub-Chapter 3.

Except as otherwise provided by or pursuant to the Franchise Documents, any and all studio facilities, equipment, channels and other services, resources or benefits required of a Franchisee under any provisions of the Franchise Documents shall be completed and made available, and the provision of any Community Use Programming which the Franchisee has proposed pursuant to the provisions of Sections 20.332 through 20.340 in Article 4-a, shall commence not later than thirty-seven (37) months following the date of filing of the certificate of acceptance of the franchise pursuant to the provisions of Section 20.220 in Sub-Chapter 3. When other times are prescribed by or pursuant to the Franchise Documents, such services, resources, benefits and programming shall be completed, made available or commenced, as the case may be, within the times required.

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The foregoing shall not be construed to prevent an applicant from proposing additional, more stringent construction completion levels than those set forth above. The failure to comply with such additional construction completion levels shall be subject to the provisions of Section 20.818(f) hereof.

SECTION 10. Section 20.604 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.604 MINIMUM ADVANCE PAYMENT. From and after the date of filing of a certificate of acceptance of a franchise pursuant to the provisions of Section 20.220 in Sub-Chapter 3, above, the Franchisee shall pay to the Cable Television Commission an annual amount equal to the greater of the following: (i) one hundred twenty percent (120%) times each annual budget of the Commission; or (ii) a minimum annual amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000), provided that said amount shall in no event exceed the average (mean) annual franchise fee projected in the Franchisee's application to be paid by the Franchisee to the Commission over the entire term of the franchise. Said annual amount shall be paid by the Franchisee in equal quarterly installments (prorated for the first quarter if a franchise is issued in the middle of a quarter) at the times and for the periods prescribed by Section 20.602, above. At the commencement of the first full fiscal year following issuance of a franchise and at the commencement of each fiscal year thereafter, said minimum annual amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000) shall be increased by a percentage equal to the annual percentage increase in the Consumer Price Index for all urban consumers published by the United States Department of Labor for the San Francisco-Oakland Bay Area for the twelve month period ending June 30 immediately preceding the commencement of the fiscal year for which adjustment is to be made.

At such time as annual franchise fees due to the Commission pursuant to the provisions of Section 20.602, above, shall exceed the annual sum payable under this Section, the amounts previously paid to the Commission pursuant to the provisions of this Section which have exceeded annual amounts otherwise owing under Section 20.602, above, shall be credited against the franchise fee in an amount not to exceed twenty percent (20%) of the total franchise fee payment each year until the entire amount advanced to the Commission is accounted for; provided that in no event shall such credits

be used to reduce actual payments to the Commission below the minimum amount specified above; provided further that at no time during the term of a franchise shall the amount payable by a Franchisee be lower than prescribed by this Section; and provided further, that in no event shall the Commission, County or Cities become or be liable to the Franchisee for payments made pursuant to the provisions of this Section.

The purpose of this Section is to provide operating capital with which to defray the costs of regulation and other operations incurred by the Cable Television Commission, County and Cities during any period in which the Franchisee's Gross Revenues are too low to provide adequate funds from franchise fees to finance such functions.

SECTION 11. Section 20.804 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.804 . LIQUIDATED DAMAGES - AMOUNT. In its sole discretion the Board of Directors of the Cable Television Commission may assess a Franchisee and the Franchisee shall be liable for liquidated damages in the amount of One Thousand Dollars (\$1,000) for each calendar day on which a Franchisee is in breach and for each breach of any of the provisions of any of the following: Sections 20.404 through 20.412, 20.416, 20.422 through 20.430, and 20.466 in Article 4-b of Sub-Chapter 4; time limitations prescribed pursuant to Section 20.438 in Article 4-b of Sub-Chapter 4; or Sections 20.544 and 20.546 in Article 4-c of Sub-Chapter 4 or such other provisions of this Resolution as shall expressly refer to this provision. Said liquidated damage sum shall be separately applicable to each calendar day of delay in complying with the provisions of Subparagraphs "a" through "d" of said Section 20.410, and separately applicable for each calendar day of delay in complying with any of the provisions in the last paragraph of said Section 20.410. Said liquidated damage amount shall be separately applicable to each instance for each calendar day of delay in extending lines pursuant to the provisions of Sections 20.424 or 20.426; provided that if more than one dwelling unit is subject to a particular extension from the boundaries of a Service Area, the total liquidated damages shall not exceed One Thousand Dollars (\$1,000) for each calendar day of delay. Said liquidated damage sum shall be separately applicable to each calendar day of delay in complying with each approval or the conditions thereof issued pursuant to the provisions of said Section 20.446.

In its sole discretion, the Board of Directors of the Cable Television Commission may assess a Franchisee and the Franchisee shall be liable for liquidated damages in the amount of Five Hundred Dollars (\$500) for each calendar day in excess of five (5) calendar days the Franchisee is in breach of any of the provisions of any of the following: Section 20.414 in Article 4-b of Sub-Chapter 4, or Section 20.532 in Article 4-c of Sub-Chapter 4, or such other provisions of the Resolution as shall expressly refer to this provision.

SECTION 12. Section 20.806 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.806 REDUCTION OF TERM. In addition to the foregoing liquidated damages, in its sole discretion, the Board of Directors of the Cable Television Commission may reduce the term of any franchise one (1) calendar month for each cumulative thirty (30) calendar days in excess of the first thirty (30) calendar days a Franchisee is in breach of any of the provisions of Subparagraph "d" or the next to last paragraph in Section 20.410 in Article 4-b in Sub-Chapter 4. The purpose of this Section is to authorize the Commission, after a Franchisee has been in breach of said provisions of said Section for the first thirty (30) calendar days, to reduce the term of the franchise for subsequent delays caused by the Franchisee's breach on a month-to-month basis.

SECTION 13. Section 20.814 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby deleted in its entirety.

SECTION 14. Section 20.816 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby deleted in its entirety.

SECTION 15. Section 20.402 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.402 SERVICE AREAS. As used in this Chapter the terms "Imposed Service Area" with respect to the Initial CATV Franchise, means that geographical territory shown on that map which is marked Exhibit A, and which is approved by resolution adopted by the Governing Bodies on the dates this Chapter is enacted or amended. The terms "Imposed Service Area" with respect to a franchise issued pursuant to the provisions of this Chapter other than the Initial CATV Franchise means a geographical territory defined by resolution adopted by the Board of Directors of the Cable Television Commission on or before the date of approval of a request for proposals for that franchise. The boundaries of an Imposed Service Area shall not be subject to amendment or revision during the term of a franchise to which the Imposed Service Area pertains.

As used in this Chapter, the terms "Proposed Service Areas" refer to geographical units within a Franchise Area defined by a Franchisee in its application for the franchise, which are situated outside an Imposed Service Area established for the franchise to which the application is directed. Each applicant shall plan the Proposed Service Area which it offers in such a manner that it can complete construction and provide such services within the entirety of each such Service Area within the times prescribed herein. Each application for a franchise shall contain a map or maps showing the locations of proposed Proposed Service Areas, together with word descriptions either in the form of meets and bounds or by reference to the names of public roads and highways and parcel lines shown on County Assessor's Parcel Maps. Each applicant shall also state the number of Dwelling Units within each Proposed Service Area, and the number of such Dwelling Units shall be stated in the resolution offering the franchise.

As used in this Chapter the terms "Service Areas" generically refer to both the Imposed Service Area and Proposed Service Areas, or either of such types of Service Areas.

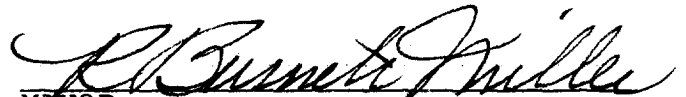
SECTION 16. Section 20.404 contained in Sub-Chapter 1 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.404 SYSTEM COVERAGE - INITIAL CATV FRANCHISE. The Franchisee under the Initial CATV Franchise shall install the Cable Television System throughout the entirety of the Imposed Service Area in compliance with the construction standards set forth in Article 4-a and the applicable standards for the System including, but not limited to, channel capacity, number of cables and other functional and technological features of the System as identified in the Franchise Documents, and shall make Basic Service and other services identified pursuant to Section 20.504 in Article 4-c, available within the times prescribed by Section 20.410, below.

The Governing Bodies hereby find as follows: (i) that at the current time construction of the Cable Television System under the Initial CATV Franchise within areas outside the Imposed Service Area, would be uneconomic, even with reduced System design and capability, reduced services and higher rates, because of the sparsity of residential development to support construction costs; (ii) that subjecting potential service of areas outside the Imposed Service Area to the competitive selection process could result in issuance of a franchise for service in areas which is not economically justified and threatens imposition of unreasonably high service costs upon subscribers in urban areas in order to underwrite the cost of service in sparsely populated areas; and (iii) that permissive proposal of service outside the Imposed Service Area would result in competing applications which variously propose service only within the Imposed Service Area, and within the Imposed Service Area and a potential number of other areas, and would make the applications extremely difficult to compare in relation to such factors as economic feasibility, cross-subsidization, propriety of system design and service levels, and rates with respect to applicants who propose Basic Service rate restrictions.

Therefore, applicants for the Initial CATV Franchise shall not be authorized to propose in their applications a Proposed Service Area.

PASSED FOR PUBLICATION: July 19, 1983  
ENACTED: August 9, 1983  
EFFECTIVE: September 8, 1983

  
MAYOR

ATTEST:

  
CITY CLERK

ORDINANCE No. 83-093