

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 838

An ordinance consenting to a change in control of the Hayden Island cable franchise of Columbia Cable of Washington with conditions; and declaring an emergency. (Ordinance)

Multnomah County ordains as follows:

Section I. Findings.

A. Columbia Cable of Washington presently owns and controls a cable franchise to operate on Hayden Island entered into by Multnomah County on October 6, 1986 with American Earthstations, Inc. (dba Hayden Island Cable, Limited Partnership) (the "Hayden Island franchise"). Multnomah County approved the transfer of ownership of the Hayden Island franchise to Columbia Cable of Washington ("Transferor") on December 18, 1986.

B. The City of Portland has annexed all of the residential portions of Hayden Island, but there remains an unincorporated, undeveloped section in the western portion of the Island that technically remains within Multnomah County.

1 the County included limited service requirements, such as 12-  
2 channel video capacity with only one Public, Education and  
3 Government ("PEG") access channel. Following the annexation of  
4 residential areas of the Island by the City of Portland, the City  
5 became the County's successor for administration and enforcement  
6 of the Hayden Island franchise. The obligations of the original  
7 Hayden Island franchise were upgraded by the City of Portland in  
8 City of Portland Ordinance No. 159282 to require, among other  
9 things, a 54 channel cable system including two Portland-  
10 originated PEG channels, one of which carried government related  
11 programming such as City Council meetings. These conditions were  
12 accepted by the Transferor.

13 D. Section 3.6 of the Hayden Island franchise requires the  
14 Transferor to promptly notify the County of any proposed change  
15 or transfer of control of Transferor. Any change in control  
16 renders the Hayden Island franchise subject to revocation unless  
17 and until the County has given its prior written consent. Under  
18 this franchise provision, the County may inquire into the  
19 qualifications of the proposed controlling party, and may make  
20 its approval subject to any conditions deemed appropriate by the  
21 County, so long as such conditions are limited to those deemed  
22 necessary by the County to ensure the strict performance of the  
23 requirements of the Hayden Island franchise.

24 E. Columbia Associates, L.P. currently holds a 99% general

1 partnership interest in Transferor, and Columbia International,  
2 Inc. ("CI") currently holds a 1% general partnership interest in  
3 Transferor. Columbia Associates, L.P. is currently owned by  
4 Liberty of Greenwich, Inc., various limited partners and CI.

5 F. On July 3, 1995, the Transferor submitted a completed  
6 FCC Form 394, together with copies of legal documents and  
7 required exhibits, to the County. In its Form 394 filing,  
8 Transferor has represented to the County that TCI/CI Merger Sub  
9 Corp. (the "Transferee" or "Applicant"), a newly-created and  
10 wholly-owned subsidiary of TCI West, Inc. ("TCI West"), a wholly-  
11 owned subsidiary of Tele-Communications, Inc., has agreed to  
12 acquire control of Transferor (including the Hayden Island  
13 franchise) pursuant to various Agreements among the parties (the  
14 "Transaction"). Transferor's Form 394 filing further represents  
15 that, following completion of the Transaction, Transferor (to be  
16 renamed TCI of Southern Washington) will be owned by Applicant  
17 and Columbia Associates, L.P. (to be renamed TCI Washington  
18 Associates, L.P.) as general partners. TCI Washington  
19 Associates, L.P. will be owned by Applicant as general partner  
20 and TCI/CA Acquisition Sub Corp., a newly-created and wholly-  
21 owned subsidiary of TCI West, as limited partner.

22 G. The Mt. Hood Cable Regulatory Commission ("Commission")  
23 represents Multnomah County on cable franchising matters. The

1 Commission was created by an Intergovernmental Agreement, (the  
2 "IGA"), among Multnomah County and other jurisdictions. As set  
3 forth in Section 4.B.2. of the IGA, the Jurisdictions have  
4 reserved full authority to act on their own behalf on "(a)ny  
5 decision concerning a change of ownership or control of a cable  
6 communications system or a Grantee". However, each Jurisdiction  
7 has agreed "to take no action in these areas until the Commission  
8 has had a prior opportunity to consider the matter." IGA §4.B.  
9 Thus, the Commission acts in an advisory capacity to Multnomah  
10 County in connection with proposed transfers of system ownership  
11 and control.

12 H. The Commission receives staff support from the City of  
13 Portland's Office of Cable Communications and Franchise  
14 Management (the "Cable Office"). With the assistance of  
15 financial consultant KFA Services and Commission legal counsel,  
16 the Cable Office has studied the Applicant's legal, technical,  
17 and financial qualifications to assume control over and operate  
18 the Hayden Island franchise. After studying Transferor's FCC  
19 Form 394 filing, and supplemental information provided to the  
20 Cable Office and other jurisdictions considering this transfer,  
21 the Cable Office concluded that the Applicant's legal, technical,  
22 and financial qualifications are adequate. The Cable Office  
23 believes that certain conditions would be appropriate to ensure  
24 performance of the Hayden Island franchise, and has recommended  
25 such conditions to the Commission.

1 I. Through Cable Office staff, the Commission has received  
2 a completed Form 394 filing on July 3, 1995, observed a  
3 Vancouver/Clark Cable Commission public hearing on July 19, 1995,  
4 participated in a joint jurisdictional briefing on July 26, 1995,  
5 and reviewed the record of the public hearing of the Metropolitan  
6 Area Communications Commission held on August 2, 1995. The  
7 Commission held a public hearing and information session on  
8 September 11, 1995 on the proposed transfer, and considered the  
9 conditions recommended in connection with the proposed transfer  
10 of control to Applicant. The Commission's Regulation Standing  
11 Committee held a work session on October 2, 1995, and voted  
12 unanimously to recommend that the Commission consider approving  
13 the transfer with conditions developed by the Cable Office in  
14 discussions with local Portland TCI management. The Commission  
15 met on October 16, 1995 to take final action on a recommendation  
16 to Multnomah County and the City of Portland. The Commission has  
17 recommended that Multnomah County approve the transfer of control  
18 subject to certain specified conditions.

19 J. Prior to this Transaction, Applicant did not exist as  
20 an operating entity. Applicant has relied upon the financial and  
21 technical qualifications of TCI West and other TCI subsidiaries  
22 to demonstrate its own qualifications to perform the obligations  
23 of the Hayden Island franchise. Therefore, the guaranty of TCI  
24 West should be obtained, as a condition of the County's consent  
25 to change in control, to ensure strict performance of the Hayden

1 Island franchise. Requiring such a guaranty would be consistent  
2 with the County's treatment of other transfer requests, including  
3 the recent approval of the transfer of the County's Paragon Cable  
4 franchises to Time Warner, Inc. in Ordinance No. 817, passed by  
5 the Board of Commissioners on May 18, 1995.

6 K. In meetings with the Cable Office, the local Portland  
7 area TCI system manager has stated that local management will  
8 directly supervise the management of Applicant.

9  
10 L. Section 2(5) of City of Portland Ordinance No. 159282  
11 requires the carriage of up to two PEG access channels, including  
12 government related programming such as City Council meetings.  
13 Hayden Island residents have expressed concern to the Cable  
14 Office and to the Commission regarding the need for notice to  
15 Island subscribers with respect to access and local programming  
16 interconnections required under this franchise section. The  
17 transfer to Applicant should be approved with conditions that  
18 adequately describe the access and local programming carriage  
19 requirements, and provide for adequate notice to Hayden Island  
20 subscribers. Carriage of the Community Access Network (CAN)  
21 channel (as carried in the Portland area on Channel 11 and  
22 carried on Channel 49 on Hayden Island) and the "City Net"  
23 government access channel (as carried in the Portland area on  
24 Channel 30 and carried on Channel 64 on Hayden Island) is  
25 currently acceptable to the County as meeting the requirements of

1 Section 2(5).

2 M. The material filed in connection with FCC Form 394, and  
3 information provided to other jurisdictions, indicate that the  
4 Applicant and its affiliates may amend their agreements  
5 subsequent to the proposed change in control. Such amendments  
6 may result in legal changes within and among the new and existing  
7 subsidiaries of TCI West after the closing date of this  
8 Transaction. The proposed transfer should be approved with a  
9 condition requiring the Applicant to promptly notify the County  
10 of further changes in control, pursuant to Sections 3.5 and 3.6  
11 of the Hayden Island franchise. Such a condition will help to  
12 ensure the strict performance of requirements contained in the  
13 Hayden Island franchise.

14 N. In order to study and take final action on this request  
15 for approval of the change in control of the Hayden Island  
16 franchise to Applicant, the Commission has incurred direct costs  
17 in financial consulting, legal hours, and printing. Consistent  
18 with the County's recent action approving the transfer of other  
19 cable franchises, Applicant shall reimburse the Commission's  
20 reasonable and necessary direct costs incurred in this  
21 proceeding.

22 O. The process utilized in reaching a decision on the  
23 proposed transfer of ownership of the Hayden Island franchise is

1 subject to the requirements of the Cable Communications Policy  
2 Act of 1992 ("1992 Cable Act"), and applicable implementing  
3 regulations of the Federal Communications Commission ("FCC").  
4 Among other things, these requirements and regulations require  
5 that franchising authorities have a maximum of 120 days from the  
6 submission of a completed FCC Form 394, together with all  
7 information required pursuant to applicable franchise agreements,  
8 to render a final decision on a transfer request, including the  
9 legal, technical, and financial qualifications of the Applicant.  
10 Unless mutually extended, the 120 day federal deadline will  
11 expire locally on October 30, 1995.

12 P. Multnomah County should approve the transfer of control  
13 of the Hayden Island franchise to Applicant subject to the formal  
14 acceptance of the Hayden Island franchise and the conditions of  
15 this ordinance by Columbia Cable of Washington, through and with  
16 its general partners TCI/CI Merger Sub Corp. and Columbia  
17 Associates, and subject to execution of a guaranty of  
18 franchisee's performance by TCI West, Inc.

19 Section II. Approval

20 Multnomah County hereby approves the transfer of control of the  
21 franchise entered into by Multnomah County on October 6, 1986  
22 with American Earthstations, Inc. (dba Hayden Island Cable,  
23 Limited Partnership) (the "Hayden Island franchise") as

1 transferred to Columbia Cable of Washington ("Transferor") with  
2 the approval of Multnomah County on December 18, 1986, to TCI/CI  
3 Sub Merger Corp. Inc. ("the Applicant") and Columbia Associates,  
4 in their capacity as general partners, subject to certain  
5 conditions which are reasonably necessary to ensure the  
6 performance of the Hayden Island franchise:

7       A. Compliance with franchise. Applicant, in its capacity  
8 as general partner, shall comply with the requirements of the  
9 Hayden Island franchise pursuant to its terms and shall  
10 specifically comply with all other conditions imposed by the City  
11 of Portland and agreed to by Transferor in City of Portland  
12 Ordinance No. 159282, passed by the Portland City Council on  
13 December 24, 1986, including without limitation all applicable  
14 ordinances, orders, contracts, and regulatory actions taken  
15 pursuant thereto by the City of Portland or the Mt. Hood Cable  
16 Regulatory Commission. The Hayden Island franchise and City of  
17 Portland Ordinance No. 159282 are attached hereto as Exhibit A.  
18 The applicable ordinances, orders, contracts, and regulatory  
19 actions taken pursuant thereto are specified and identified in  
20 Exhibit D attached to this Ordinance.

21       B. Applicant's acceptance. Transferor, through its  
22 general partners, and Applicant, in its capacity as a general  
23 partner, shall fully accept the provisions of the Hayden Island  
24 franchise in accordance with the terms thereof. Applicant and

1 Transferor's acceptance shall be in the form attached to this  
2 ordinance as Exhibit B. Such acceptance shall be unqualified and  
3 shall be construed to be an acceptance of all the terms,  
4 conditions and restrictions contained in this ordinance. The  
5 Acceptance shall not be deemed a confirmation by Applicant and  
6 Transferor that the findings set forth in Subsections A. through  
7 P. above are agreed to by Applicant or Transferor.

8 C. Guarantor. Applicant's parent company TCI West, Inc.  
9 shall fully guarantee Applicant's obligations, as a general  
10 partner, under the Hayden Island franchise, in the form attached  
11 to this ordinance as Exhibit C.

12 D. Implementation and notification regarding interconnect  
13 requirements. Transferor shall comply with Ordinance No. 159282  
14 (Exhibit A) by carrying the signals of the Community Access  
15 Network (CAN) and the "City Net" government access channel, on  
16 the Hayden Island cable system in the manner provided in Section  
17 2(5) of the ordinance. Unless Transferor has notified all Hayden  
18 Island subscribers of the availability of these channels prior to  
19 the closing of the Transaction, notification shall be provided  
20 within 90 days after the closing date of the Transaction.  
21 Thereafter, Transferor shall notify all Hayden Island subscribers  
22 of the availability of these PEG channels at least once a year.  
23 Transferor's carriage of the Community Access Network (CAN)

1 channel (as carried in the Portland area on Channel 11 and  
2 carried on Channel 49 on Hayden Island) and the "City Net"  
3 government access channel (as carried in the Portland area on  
4 Channel 30 and carried on Channel 64 on Hayden Island) is  
5 currently acceptable to the County as meeting the requirements of  
6 Section 2(5).

7 E. Notification regarding closing of the Transaction and  
8 further restructuring. Applicant or Transferor shall notify the  
9 County of the closing of the Transaction. Subject to the  
10 provisions of Section 3.5 and 3.6 of the Hayden Island franchise,  
11 Applicant shall notify the County of all further changes in  
12 Applicant or Transferor's legal or ownership structure. Such  
13 notice shall not modify or waive any of Applicant or Transferor's  
14 obligations or rights under the franchise agreement or federal law.

15 F. Reimbursement of costs. Upon issuance of an invoice,  
16 the Commission shall be reimbursed for all of the direct costs  
17 deemed reasonable and necessary by the Commission, incurred in  
18 analyzing and taking action on Applicant's request for approval  
19 of a change in control of the franchise. Such costs may include,  
20 costs of financial consulting, legal counsel, printing, and any  
21 publication. Payment of cost reimbursement shall be due within  
22 forty-five days of any invoice billing by the Commission. Due to  
23 Applicant's status as an applicant for transfer of the franchise,  
24 and not as a cable operator, the amounts reimbursed in such

1 transfer-related costs do not represent franchise fees.

2 Therefore, Applicant shall not modify or otherwise affect the  
3 franchisee's obligation to pay franchise fees as provided under  
4 the Hayden Island franchise agreements.

5 G. Responsibility for non-compliance by franchisee. The  
6 legislative history of the 1992 Cable Act contemplates that  
7 franchising authorities should address any deficiencies in  
8 service, including non-compliance, at the time of transfer. The  
9 County, through the Mt. Hood Cable Regulatory Commission, has  
10 made a good-faith attempt to identify and resolve any compliance  
11 issues under the Hayden Island franchise. However, it is  
12 possible that not all compliance issues have been addressed. The  
13 County's approval of the transfer shall not operate to serve as a  
14 waiver of any material compliance deficiencies which may be  
15 discovered in the future.

16 H. Anti-trafficking. To the extent applicable, the Transaction  
17 is subject to the anti-trafficking provisions of the Cable  
18 Television Consumer Protection and Competition Act of 1992.  
19 Applicant will fully comply with these requirements and  
20 applicable FCC implementing regulations.

21 I. Written Acceptance and Guaranty.

22 (1) This ordinance shall not be effective until accepted in

1 writing by Columbia Cable of Washington, through and with its  
2 general partners TCI/CI Merger Sub Corp. and Columbia Associates,  
3 and subject to execution of a guaranty of franchisee's  
4 performance by TCI West, Inc. The acceptance, which shall be  
5 contingent upon final closing of the Transaction, shall be in the  
6 form to that attached hereto as Exhibit B and the Guaranty shall  
7 be in the form attached hereto as Exhibit C.

8 (2) Within thirty days after passage of this ordinance by  
9 the Council, Applicant shall file in the Office of the Clerk of  
10 the Board of Multnomah County such written acceptance of this  
11 ordinance and Guaranty.

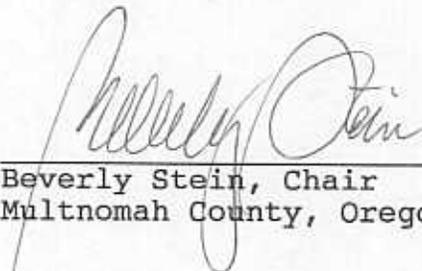
12 (3) Any failure to file such written acceptance and  
13 Guaranty within such time shall be deemed an abandonment and  
14 rejection of the rights and privileges conferred hereby and this  
15 ordinance shall thereupon be null and void.

16 J. The Applicant has notified the County that the Transaction  
17 is currently scheduled to reach final closure no later than  
18 December 31, 1995. In the event the parties are unable to reach  
19 final closure by that time, then: (1) the parties shall so notify  
20 the County, through the Mt. Hood Cable Regulatory Commission.  
21 and, (2) this ordinance, together with the written acceptance and  
22 guaranty required hereunder, shall be null and void.

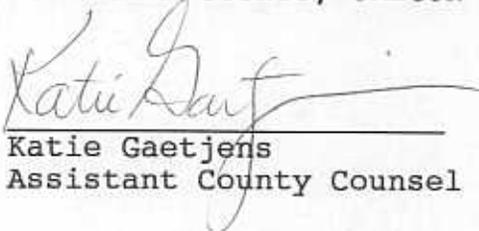
1 Section III. This Ordinance, being necessary for the health,  
2 safety and welfare of the people of Multnomah County, an  
3 emergency is declared; and the ordinance shall take effect upon  
4 its execution by the County Chair, pursuant to Section 5.50 of  
5 the Charter of Multnomah County.

6 ADOPTED this 26th day of October, 1995 being the  
7 date of its first reading before the Board of County  
8 Commissioners of Multnomah County, Oregon.



9  
10  
11  
  
\_\_\_\_\_  
Beverly Stein, Chair  
Multnomah County, Oregon

12 LAWRENCE KRESSEL, COUNTY COUNSEL  
13 MULTNOMAH COUNTY, OREGON

14  
15  
16  
  
\_\_\_\_\_  
Katie Gaetjens  
Assistant County Counsel

**EXHIBIT A**

- 1. ORDINANCE NO. 159282 (PASSED BY THE CITY COUNCIL OF PORTLAND, OREGON, DECEMBER 24, 1986)**

Consisting of a total of 48 pages and exhibits  
(including Franchise granted by Multnomah County  
to Hayden Island Cable, Ltd.)

An ordinance consenting to a change in control of the cable television franchise of Hayden Island Cable, Ltd., to Columbia Cable of Washington; with conditions; providing for acceptance; and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. On September 4, 1986, Multnomah County entered into a cable television franchise agreement for Hayden Island with American Earthstations, Inc., doing business as Hayden Island Cable, Limited Partnership.
2. The City of Portland has annexed a portion of Hayden Island (Annexation A-37-86, effective November 5, 1986), and the City Council has recommended that the remainder of Hayden Island be annexed to the City.
3. Section 3.115.160 of the City Code provides that the City will assume regulatory authority in annexed territory pursuant to the terms of a cable franchise issued by another public body. After annexation, the City succeeds to all rights under the franchise of the County and the cable company's obligations are to the City rather than the County.
4. On November 20, 1986, Columbia Cable of Washington, a Washington General Partnership, gave the City formal written notice of a proposed transfer of ownership of the cable television franchise of Hayden Island Cable to Columbia Cable, and requested the City's approval of the transfer pursuant to Section 3.5 and 3.6 of the Hayden Island cable franchise.
5. Section 3.5 of the Hayden Island cable franchise provides that the franchise may not be transferred without the prior written consent of the franchising authority. Section 3.6 of the Hayden Island cable franchise provides that the franchising authority may inquire into the qualifications of the prospective controlling party, and may make its approval subject to appropriate conditions.
6. The City Office of Cable Communications conducted an investigation into the qualifications of Columbia Cable. The Office reported the results of its investigation to the Cable Regulatory Commission. The Office concluded that the qualifications of Columbia Cable were adequate to ensure performance of the franchise, subject to certain conditions addressed to ongoing City regulatory and policy concerns and incorporating additional commitments made by Columbia Cable in its written submission to City and County franchising authorities.
7. The Cable Regulatory Commission held a public meeting on the proposed transfer of control, and recommended that the City Council approve the transfer subject to conditions recommended by the Office of Cable Communications.
8. The City should approve the transfer of control of the cable television franchise of Hayden Island Cable to Columbia Cable of Washington, subject to Columbia Cable's acceptance of this ordinance and the conditions recited herein.

NOW, THEREFORE, the Council directs:

Section 2. The City of Portland hereby approves the transfer of control of the cable television franchise of Hayden Island Cable, Limited Partnership, to Columbia Cable of Washington, a Washington General Partnership, pursuant to the terms of the franchise agreement attached hereto as Exhibit A and subject to the following additional conditions:

- (1) In accordance with letters from Calvin D. Broussard to David C. Olson dated November 20, 1986 and December 5, 1986, Columbia Cable will provide to Hayden Island a 550 MHz capable, 54-channel activated, two-way state-of-the-art cable system (52 channel downstream, 2 upstream, FM service).
- (2) In lieu of the initial configuration of program services set forth in Section 6.1 of the franchise, Columbia Cable will initially provide residential cable television services in accordance with the channel lineup attached hereto as Exhibit B. In all other respects, the provisions of Section 6.1 of the franchise shall apply, except that, where necessary, notice shall be given to and consent received from the City instead of the County.
- (3) Subject to the Cable Communications Policy Act of 1984, Columbia Cable will provide residential cable services at rates and charges attached hereto as Exhibit C. In accordance with Section 7.2 of the franchise and Section 3.115.090 of the City Code, Columbia Cable will file its initial schedule of rates and charges with the City Auditor, and will provide at least 30 days notice of future changes in the schedule of rates and charges by filing a revised schedule of rates and charges with the City Auditor and Office of Cable Communications.
- (4) Columbia agrees to comply with the franchise in all respects, as set forth in Exhibit D attached hereto, except for the requirement in Section 14.1 of the franchise agreement that the Hayden Island system be managed out of an office in Multnomah County. The City agrees to waive this requirement, provided that Columbia Cable manages the Hayden Island System from its office utilized for the Clark County system, and makes available to Hayden Island subscribers and residents a toll-free telephone number for use in making service calls and requests for service.
- (5) Pursuant to the City's goal of promoting interconnection of cable systems as set forth in Section 3.115.060 of the City Code, Columbia agrees to:
  - a. Carry on channels designated on its Clark County system as education access channels that would otherwise be carried on the Hayden Island system, up to two public, educational and government access channels, including a local origination channel carrying government related programming such as City Council Meetings on the Hayden Island system provided that signals are made available to Columbia at no cost at either a location on Hayden Island or at a headend located in Clark County either through a hard cable interconnect or microwave interconnection.

## ORDINANCE No.

- b. If such signals are available at a Clark County headend Columbia Cable will bear the costs of transporting such signals to Hayden Island and carrying the signals on the Hayden Island system including all costs of necessary hardware and equipment.
  - c. Prior to carrying such signals, pursuant to Section 6.1 of the franchise, Columbia Cable shall consult with the City to insure that channels dropped from its line-up in order to honor this commitment are dropped with the approval of the City.
  - d. If Columbia Cable is required to interconnect with the cable systems operating in the City of Portland by Clark County or Vancouver, Washington, it will do so. The transport of the entirety of Columbia Cable's channel line-up to Hayden Island will constitute a major link in the accomplishment of this interconnection. To the extent that Rogers Cablesystems agrees to transmit signals, either through a coaxial cable interconnect or through microwave, to Columbia Cable, Columbia Cable will, if required to do so by Vancouver, Washington or Clark County, construct at its expense signal pathways to transmit a like number of channels to Rogers in order to accomplish a two-way interconnect.
- (6) This approval shall not be effective until accepted in writing by Columbia Cable, the acceptance form to be provided by the City Auditor, and its execution to be approved as to form by the City Attorney. On execution of the acceptance form by Columbia Cable, the acceptance and this ordinance shall be an enforceable contract between the City and Columbia Cable.

Section 3. The Council declares that an emergency exists in that it is necessary to approve the transfer of ownership so that construction can begin and Hayden Island residents can receive cable television services as soon as possible; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

COMMISSIONER SCHWAB  
David C. Olson  
December 10, 1986

Passed by the Council, DEC 24 1986

**Jewel Lansing**  
Auditor of the City of Portland  
By

*Edna Cervera* Deputy

ACCEPTANCE

RECEIVED

JAN 14 1987

OFFICE OF THE  
CITY AUDITOR

JEWEL LANSING  
Auditor of the City of Portland  
Room 202, City Hall  
Portland, Oregon 97204

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 159282, passed by Council December 24, 1986, consenting to a change in control of the cable television franchise of Hayden Island Cable, Ltd., to Columbia Cable of Washington; with conditions; and providing for acceptance,

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,

COLUMBIA CABLE OF WASHINGTON

Signature:

Colin D. Edwards

Title:

Vice President

Address:

110 Y Street  
Vancouver, WA 98661

Approved as to form:

\_\_\_\_\_  
City Attorney

\*When an acceptance is signed by an officer of a firm or corporation, his or her official title must be stated.

EXHIBIT A

ATTACHMENT #1

CABLE TELEVISION FRANCHISE AGREEMENT

BETWEEN

MULTNOMAH COUNTY, OREGON

AND

HAYDEN ISLAND CABLE, LIMITED PARTNERSHIP

TABLE OF CONTENTS

	<u>Page</u>
Section 1: Purpose and Intent	1
Section 2: Definitions	2 - 6
Section 3: Grant of Franchise	7 - 9
Section 4: Franchise Area, System Design and Performance Requirements	10 - 11
Section 5: Construction and Availability of Service	12 - 15
Section 6: Program Services	16 - 17
Section 7: Rates and Charges	18 - 19
Section 8: Regulation of System Operations	20 - 22
Section 9: Access Services and Operations	23
Section 10: General Financial and Insurance Provisions	24 - 25
Section 11: Rights Reserved to the County	26 - 27
Section 12: Protection of the Rights of Individuals	28 - 29
Section 13: Termination and Expiration	30 - 32
Section 14: Operation and Maintenance	33 - 35
Section 15: Miscellaneous Provisions	36 - 37
Section 16: Execution of the Franchise Agreement	38
Section 17: Appendix A - Map of Franchise Territory	39

SECTION 1: PURPOSE AND INTENT

1.1 Transaction. Through this franchise agreement, Multnomah County, Oregon, grants to Hayden Island Cable, Limited Partnership, a non-exclusive, revocable 15 year right to construct, operate, and maintain a cable communications system for the area defined in this agreement.

1.2 Short Reference to Parties. Throughout this agreement, Multnomah County, Oregon, will be referred to as County; Hayden Island Cable, Limited Partnership will be called Cable Company or Company.

1.3 Purpose and Scope of Agreement. The purpose of this franchise agreement is to create a binding, enforceable contract between the County and the Cable Company. Therefore, this franchise agreement is considered by the County and the Cable Company to be a contractual action of the parties rather than a legislative action by the County.

The parties acknowledge that the provisions of this franchise agreement are subject to the Cable Communications Policy Act of 1984. The County is a "franchising authority" under the act and the Cable Company is a "cable operator".

## SECTION 2: DEFINITIONS

In this franchise agreement, the following words, terms, phrases, and their derivations have the meanings given below. When consistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "will" is always mandatory and not merely directory.

2.1 "Access." Also sometimes referred to as "community access." Access refers to the right of various agencies, organizations, and individuals in the community to use the cable system to acquire, create, and cablecast programming in the public interest. Access provided to individuals on a first-come, first-serve basis is often called "public access." Such access is not to be confused with leased access or local origination programming.

2.2 "Access Channel." Any channel or portion of a channel made available through a cable access corporation or otherwise for transmission of access programming.

2.3 "Activation". The status of any part of the cable system in which any service requiring the use of that part may be made available without further installation of system hardware or software.

2.4 "Advertising." Programming designed entirely or in part to promote the commercial sale of a product or service.

2.5 "Availability of Service." The ability of a subscriber to obtain cable service within 60 days by requesting the service and paying applicable charges.

2.6 "Broadcast signal." A television or radio signal that is transmitted over-the-air to a wide geographic audience and is received by a cable communications system off-the-air, whether by microwave link, by satellite receiver, or by some other means.

2.7 "Cable Access Corporation," "Access Corporation," or "CAC." A non-profit, public corporation whose duties may include the management of community access channels.

2.8 "Cable Company" or "Company." Hayden Island Cable, Limited Partnership, an Oregon limited partnership. Also, the lawful successors, transferees, or assignees of Hayden Island Cable, Limited Partnership, as well as its general partner, American Earth Stations, Inc.

2.9 "Cable communications system," "cable television system," or "system," sometimes referred to as "cable TV system." A system of antennas, cables, amplifiers, towers, microwave links, cable-casting studios, and any other conductors, terminals, converters, equipment or facilities, designed and constructed for the purposes of distributing video programming to subscribers and of producing, receiving, amplifying, storing, processing, or distributing audio, video, digital, or other forms of electronic or electrical signals.

2.10 "Cable Regulatory Commission," "Commission," or "CRC." The Multnomah Cable Regulatory Commission and its officers, agents and employees, created by and exercising powers pursuant to an intergovernmental agreement entered into by the Jurisdictions as authorized by state law (particularly ORS Chapter 190) and the laws, charters and other authority of the individual member units of local government who are members of the Commission. The powers of the Commission have been delegated to it by the Jurisdictions and although it may exercise those powers as an entity, it remains a composite of the Jurisdictions.

2.11 "Channel." A six megahertz (MHZ) frequency band which is capable of carrying either one standard television signal, or a number of audio, digital or other non-video signals, or some combination of such signals.

2.12 "Class of subscribers." A group of actual or potential subscribers identified by the Cable Company on the basis of specified characteristics, for the purpose of establishing service rates and charges.

2.13 "Commencement of construction." The beginning of installation of any part of the distribution system, including, but not limited to, the stringing of any strand wire or the laying of any conduit to facilitate the placing of coaxial cable within the franchise area.

2.14 "Commencement of system operations." The date on which, for the first time, any service utilizing the cable system is provided to any subscriber on the subscriber's premises.

2.15 "Completion of construction." The condition of the cable system in which all major system components are installed, and all services scheduled for availability may be provided to all subscribers of the initial service area without further installation of system hardware or software.

2.16 County. Multnomah County, Oregon, a home rule County.

2.17 "Educational channel," "Educational access channel." Any channel or portion of a channel on which educational institutions are the primary designated programmers or users.

2.18 "Effective date of the franchise." The earliest date upon which all of the following have occurred: 1) the franchise agreement has been approved by the County, and 2) the Cable Company's acceptance of the agreement has been filed with the County.

2.19 "FCC." The Federal Communications Commission.

2.20 "Franchise" or "franchise agreement." This agreement, including all referenced material, adopted in the appropriate manner by the County and fully executed by the County and the Cable Company.

2.21 "Franchise area." The territory located within the boundaries of Hayden Island and Tomahawk Island within the boundary of Multnomah County as they are now constituted or may hereinafter exist.

2.22 "Government access channel" or "government channel." Any channel or portion of a channel on which governmental institutions are the primary designated programmers.

2.23 "Gross annual revenues" or "revenues." The annual gross receipts of the Cable Company-from all sources in the operation of the cable communications system less any rebates or returns of advance payments to subscribers, and excluding any sales tax, excise tax, or other taxes collected for direct pass-through to local, state or federal government.

2.24 "Initial service area" or "ISA." That portion of the franchise area more fully described as area R-1, R-2, R-3, R-4, R-5, R-5A, and R-6 on the attached map which is marked as Exhibit A and hereby incorporated by reference.

2.25 "Initial," or "initially." A qualifier which pertains to the 12-month period following the effective date of the franchise and, wherever applicable, to the construction schedule or other timetables included in the franchise.

2.26 "Interactive services." A service offering which enables the subscriber to interact with people or equipment elsewhere on the cable system by sending as well as receiving transmission signals over the cable system.

2.27 "Interconnection." The provision of all physical and administrative components necessary to accomplish a linking of the cable system with any other communication systems so that programming may be sent to and received from the other systems.

2.28 "Local origination channel." Any channel or portion of a channel used for local origination service.

2.29 "Local origination service." Programming which is locally produced, selected, and scheduled for use on the Cable System, solely under the control of the Cable Company or a designated local third party; also channel space, facilities, equipment, and operating support provided by the Cable Company to create and deliver such programming.

2.30 "Monitoring." Observation of a one way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

2.31 "Non-broadcast signal." A signal that is transmitted by a cable communications system and that is not involved in an over-the-air broadcast transmission path.

2.32 "Non-commercial use." Use of cable system service by any public, tax-exempt organization or by any other user for a purpose that is not intended to generate income which may be subject to federal, state, or local taxes.

2.33 "Person." Any corporation, partnership, proprietorship, individual, organization, or other entity authorized to do business in the State of Oregon; any natural person.

2.34 "Penalty, Penalties." Any and all monetary penalties provided for in Section 8.1. These will be considered to be liquidated damages. In the event the Cable Company fails to comply with this agreement, the damages suffered by the County will include lost franchise fees, increased costs of administration, and other costs difficult to measure. The penalties provided for are deemed a reasonable measure of the damages suffered.

2.35 "Programmer." Any person responsible for programming on the cable system.

2.36 "Programming." The process of causing television programs or other patterns of signals in video, voice, or data format to be transmitted on the cable system; the programs or patterns of signals transmitted on the cable system.

2.37 "Section." Any section, subsection or provision of this franchise agreement, unless specified as part of another document.

2.38 "Streets and public ways " The surface of and the space above and below any public street, sidewalk, alley, or other public way, now or hereafter existing as such within the franchise area, and any public easements, rights of ways or other similar means of access to the extent the County has the right to allow the Cable Company to use them.

2.39 "Subscriber." Any person who has requested and is receiving cable service on premises owned or occupied by such person.

2.40 "Subscriber complaint" or "complaint." A written or oral communication about the Cable Company's operations or service sufficiently reasonable in nature that the Cable Company should issue an internal memorandum requiring further action in response to the complaint.

2.41 "Tapping." Observing for any purpose a two-way communications signal exchange where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means.

2.42 "Writing." Handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols, or combinations thereof; in reference to records, this may include papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, software, or other documents.

2.43 "Year." A full calendar year, unless designated otherwise, such as a fiscal year.

### SECTION 3: GRANT OF FRANCHISE

3.1 Grant. The County hereby grants to the Cable Company a non-exclusive, revocable franchise for a 15 year period from the effective date of this agreement to construct, operate and maintain a cable communications system within the franchise territory. This franchise constitutes the sole authority, right, privilege, and obligation to provide the services of a cable communications system as required by the provisions of this franchise agreement.

The franchise is granted subject to the terms and conditions contained herein, and consistent with the charter, ordinances or other laws or regulations of the County, which are incorporated by this reference and made a part of this franchise agreement as if fully set forth herein.

The franchise is hereby made subject to the general ordinances or other regulations of the County now in effect or hereafter made effective. Nothing in this franchise will be deemed to waive the codes and ordinances of the County requiring permits, fees, construction standards, or other forms of compliance.

3.2 Use of Public Streets and Ways. For the purpose of constructing, operating, and maintaining a cable communications system in the franchise area, the Cable Company may erect, install, construct, repair, replace, reconstruct, and retain on, in, over, under upon, across, and along the public streets and ways such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary, convenient and appurtenant to the operation of the cable communications system. The County shall have authority at all times, in furtherance of the safety, convenience and welfare of the public to control, by appropriate regulations the location, elevation and manner of construction and maintenance of the streets, highways, bridges and public places, subject to the provision of any State laws and Grantor's ordinances applicable thereto; and the Grantee shall promptly conform with all such regulations.

3.3 Duration and Effective Date of Franchise. Except as otherwise provided herein, the term of this franchise and all rights, privileges, obligations, and restrictions pertaining to it will extend 15 years from the effective date of this agreement, at which time the franchise will expire and be of no force and effect unless it is renewed. Upon ratification of this agreement by the County and the subsequent filing of a written acceptance by the Cable Company pursuant to Section 3.7, this agreement will be given full force and effect.

3.4 Non-exclusiveness of the Franchise. The franchise granted through this agreement is not exclusive. This franchise agreement may not be construed as any limitation upon the right of the County through its proper officers, to grant to other persons or corporations rights, privileges or authority the same as, similar to, or different from the rights, privileges, or authority set forth in this agreement. Such grants may pertain to any streets or public ways within the County and they may be conferred by franchise, permit, or other means.

3.5 Non-transferability of the Franchise. The franchise may not be sublet, sold, leased, assigned, or otherwise transferred, nor may any of the rights or privileges granted by the franchise be sublet, leased, assigned, sold, or transferred, either in whole or in part, without the prior written consent of the County. Nor may title, either legal or equitable, or any right, interest, or property utilized in the system covered by this agreement, pass to or vest in any person, except the Cable Company, either by act of the Cable Company or by operation of law, without the prior written consent of the County. The granting of such consent in one instance will not render consent unnecessary in any other instance. Such consent will not be withheld unreasonably. The County may exercise the same control over a transfer of the franchise as it is empowered to exercise over a change in control as provided for in Section 3.6 below.

Within 60 days of any transfer request approved by the County, the Cable Company will file with the County a copy of the deed, agreement, lease, or other written instrument evidencing such sale, lease, assignment, or transfer, certified and sworn to as correct by the Cable Company. Every such transfer as heretofore described, whether voluntary or involuntary, will be deemed void and of no effect unless the Cable Company obtains approval from the County and files such certified copy.

3.6 Change in Control. The Cable Company will promptly notify the County of any proposed change in, transfer of, or acquisition by any other party of control of the Cable Company. Any change in control will render this franchise agreement subject to revocation unless and until the County has given prior written consent to the change. Such consent will not be withheld unreasonably. For the purpose of determining whether they will consent to such change, the County may inquire whether the prospective controlling party qualifies to perform the obligations of the Cable Company under this agreement. The Cable Company will assist the County in any such inquiry. The County may make its approval of a change in control subject to any conditions they deem appropriate so long as such conditions are limited to those deemed necessary by the County to ensure strict performance of this agreement by the Cable Company.

A change in control shall be deemed to have occurred if: (1) American Earth Stations, Inc., ceases to be the general partner of the cable company, (2) any additional person shall also become a general partner or, (3) any person or persons other than a person owning stock in American Earth Stations, Inc., on August 1, 1986, acquires more than 50% of the voting rights of American Earth Stations, Inc.

3.7 Franchise Acceptance. Within 30 days after the tender by the County of this franchise agreement, the Cable Company will file with the County a written acceptance of this agreement. The acceptance will be executed by the Cable Company in a form approved by the County, and it will be filed with the County clerk or recorder.

In the event the Cable Company fails to accept this franchise agreement as specified herein, the County's tender will be null and void.

3.8 Taxes. Nothing contained in this agreement may be construed to exempt the Cable Company from any tax, levy, or assessment which is authorized by law or which may be authorized by law hereafter.

3.9 Annexation by City. In the event any or all of the franchise territory shall be annexed by a city then all of the rights, duties, and obligations of the County under this agreement shall become the rights, duties, and obligations of the City as they shall apply within the territory annexed by the City.

## SECTION 4: FRANCHISE AREA, SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS

4.1 Franchise Area. The franchise area shall consist of all territory located on Hayden Island and Tomahawk Island as they are now constituted or may hereinafter exist.

4.2 Channel Capacity. The cable system will be installed so as to be capable of delivering signals at frequencies up to 400 MHz, with specific initial capacity as indicated below.

<u>Cable Network</u>	<u>Signal Direction</u>	<u>Signal Frequency Range</u>	<u>Initial Video Channel Capacity</u>	<u>Maximum Video Channel Capacity</u>
Residential	Outbound	52-400 MHz	12	54 plus FM band

The initial configuration of the system shall provide for two-way interactive capability. The Cable Company shall offer two-way interactive services at such time as the Cable Company determines such services are economically feasible.

The Company agrees to provide program services beyond the initial 12 channels when such services are economically feasible given the cost of adding the services including the cost of providing convertors where necessary.

4.3 Standby Power. As a precaution against the event of an electric utility power outage, the Cable Company will provide standby battery units at all power points within the system.

The Cable Company will test the standby power systems at the intervals recommended by the manufacturer or more frequently if required by policy of the corporation. The Cable Company will report the manufacturer's testing recommendations to the County at the time standby power systems are installed, will keep records of all tests completed, and will make such records available to the County upon request.

4.4 Technical Standards. The Federal Communications Commission Rules and Regulations, Part 76, Subpart K (Technical Standards), as now or hereafter written, will apply to the system built and operated under this franchise agreement. The following referenced specifications as they apply to cable systems and are not in conflict with the FCC standards referred to above will also apply, unless exception is agreed upon between the County and the Cable Company.

- Applicable city, county, and state codes, and ordinances as they apply to the construction of cable systems, buildings, towers and other structures;
- Applicable Utility Joint Attachment Practices;
- National Electrical Safety Code, NFPA No. 70;

- State Building Code requirements;
- Local right-of-way and undergrounding requirements.

The Cable Company agrees that the FCC Technical Standards referenced above are hereby incorporated into this franchise agreement and are fully enforceable by the County.

In the event a court of competent jurisdiction renders a final decision establishing that the FCC lacks authority to prohibit the County from enforcing more stringent technical standards then the cable company agrees to also comply with additional technical standards that will be proposed by the Company at the request of the County and subject to the County's approval. Such additional standards shall be the Company's own internal technical standards.

4.5 Performance Testing. The Cable Company will perform all tests necessary to determine compliance with the FCC Technical Standards. Written records of test results will be maintained and will be available for County inspection upon request. The County may require the Cable Company to show compliance with the FCC Technical Standards in response to a subscriber(s) complaint.

The Cable Company will have access to sufficient quantities and suitable types of test equipment to ensure proper system operation in compliance with the specifications stated in this franchise agreement.

## SECTION 5: CONSTRUCTION AND AVAILABILITY OF SERVICE

5.1 General. The Cable Company will meet or exceed all the construction, extension, and service availability requirements set forth in this franchise agreement.

5.2 Construction Schedule. The Cable Company will complete system construction and make services available to all residents in the initial service area within 12 months of the granting of the franchise. For purposes of this franchise agreement, "commencement of construction" means the beginning of installation of any part of the distribution system, including but not limited to the stringing of any strand wire or the laying of any conduit to facilitate the placing of coaxial cable within the franchise area. Availability of service will mean the ability of a subscriber to request service from the Cable Company and receive service within 60 days of the request. Failure to commence or complete construction will be considered a material violation of the franchise and penalties may be assessed, pursuant to Section 8.1.

### 5.3 Geographic Coverage for Standard Installation and Service.

#### A. Inside the Initial Service Area.

- (1) The Cable Company will make residential subscriber services available at standard installation charges and standard service charges to all residential subscribers in the areas marked as R-1, R-2, R-3, R-4, R-5, R-5A, and R-6 on the attached map which is marked Exhibit A and hereby incorporated by reference. These areas are also referred to as the initial service area (ISA).
- (2) The Company shall publish pursuant to Section 7.2 a definition of a standard installation. Installations for subscribers that require additional costs beyond that required for a standard installation may be charged for the additional costs of materials, labor and easements so long as the existence of such extra charges and the methodology for determining such charges is included in the Company's rate schedule published pursuant to Section 7.2.

#### B. Outside the Initial Service Area.

- (1) The Company, whenever it shall receive a request for service from at least twenty-five (25) potential subscribers within 1500 cable feet of its trunk cable, shall extend its system to such subscribers at no cost to the subscribers for system extension other than the usual connection fees for all subscribers, provided that such extension is technically and physically feasible. The 1500 feet shall be measured in extension length of Company's cable required for service located within the public way or easement and shall not include length of necessary service drop to the subscriber's home or premises.

- (2) No person, firm, or corporation in the Company's service area shall be arbitrarily refused service. However, in recognition of the capital costs involved, for a density of less than twenty-five (25) subscribers per 1500 feet of cable system, in order to prevent inequitable burdens on potential cable subscribers in more densely populated areas, service may be made available on the basis of cost of materials, labor, and easements. In the event the Company receives a request for service pursuant to this paragraph it shall determine the cost to provide service and construct the necessary plant upon receipt of payment from the requesting subscriber. Prior to construction of any such extension the Company shall submit to the County a policy for rebate of any payments if additional subscribers are added to the extension, such policy to be subject to the approval of the County.

5.4 Construction Drawings. The Cable Company will provide to the County "as-built" drawings of the system. The purpose of the drawings is to show the actual location of all facilities. "As-built" drawings will be provided six months after construction of the system. Drawings will be updated within six months of any changes in the system.

5.5 Undergrounding of Cable. Cable must be installed underground where any one or more of the following circumstances exists: 1) if all existing utilities are already underground, 2) if any existing utilities are already underground with conduit space available at reasonable rates, 3) if any statute or County ordinance requires all utilities to be placed underground, 4) if underground trenching is offered at no cost to the cable company by developers of new residential areas, or 5) if utilities are overhead but residents prefer cable underground, provided that the cost of labor and materials for the conversion is borne by residents. The Cable Company may, at its sole discretion, place cable underground if pole clearance is not available.

5.6 Erection of Poles. If additional poles in an existing aerial utility system route are required, the Cable Company will negotiate with the utility company or provider for the installation of the needed poles. The Cable Company may not erect any pole on or along any street or public way in an existing aerial utility system unless approved by the County. The Cable Company will negotiate the lease of the pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions, and will comply with all ordinances, resolutions, rules, and regulations of the County.

5.7 Construction Codes. The Cable Company will strictly adhere to all building, zoning, or other codes currently or hereafter in force in the County. The Cable Company will arrange its lines, cables, and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of such property. In the event of such interference, the County may require the removal of the Cable Company's lines, cables, and appurtenances from the property in question.

5.8 Right to Inspect Construction. The County will have the right to inspect all system construction or installation work within its territory and to make such tests as it finds necessary to ensure compliance with the terms of this franchise agreement and pertinent provisions of law.

5.9 Repair and Restoration of Streets, Public Ways, and Grounds. Whenever the Cable Company disturbs the surface or otherwise damages any street, alley, public highway, other public way or ground for any purpose mentioned herein, it will repair and restore such property to the condition in which it was prior to the opening or other damage in question. When the Cable Company makes any opening in any hard surface pavement in any street, alley, public highway, or other way, it will promptly refill the opening and restore the pavement to its prior condition. If the Cable Company neglects to repair an opening or other damage, the County may make the necessary repairs, and the Cable Company will pay the County full and actual costs for such repairs. All excavations made by the Cable Company in the streets, alleys, public highways, or other ways will be properly safeguarded for the prevention of accidents. The work required will be done in strict compliance with the rules, regulations, and ordinances of the County as now or hereafter provided.

5.10 Reservations of Street Rights. Nothing in this franchise agreement will be construed to prevent the County from constructing sewers, from grading, paving, repairing, and/or altering any street, alley or public highway, from laying down, repairing or removing water mains, or from constructing or establishing any other public work. If any property of the Cable Company interferes with the construction or repair of any street or public improvement, whether it be construction, repair, or removal of a sewer or water main, the improvement of a street or any other public improvement, all such property, including poles, wires, conduits, or other appliances and facilities will be removed, replaced, or relocated by the Cable Company in such manner as will be directed upon reasonable notice by the County. The Cable Company will bear the expense of such removal, replacement, or relocation.

5.11 Trimming of Trees or Other Vegetation. In the conduct of its business, it may be necessary for the Cable Company to trim trees or other vegetation in order to provide space for its facilities. Tree or vegetation trimming will be done only in accordance with the ordinances and other rules and regulations of the County and, if the tree or vegetation is located on private property, with permission of the owner of the property on which the tree or vegetation stands. Nothing contained in this franchise agreement may be deemed to empower or authorize the Cable Company to cut, trim, or otherwise disturb any trees or other vegetation, whether ornamental or otherwise, without the authorization required in this section.

5.12 Street Vacation and Abandonment. In the event all or any particular street, alley, or public highway used by the Cable Company is vacated by the County, or if the use of any such way is discontinued by the Cable Company during the term of this franchise agreement, the Cable Company will promptly remove its facilities from those sites unless specifically permitted in writing by the new property owner to let such facilities remain. At the time of facility removal the Cable Company will restore, repair, or reconstruct the

street area where such removal has occurred in accordance with the general rules, regulations, and ordinances of the County as now or hereafter provided. In the event of failure, neglect or refusal of the Cable Company to repair, improve or maintain such street, the County may do such work or contract it. The cost of any such repair will be paid by the Cable Company.

5.13 Movement of Facilities. In the event it is necessary temporarily to move or remove any of the Cable Company's wires, cables, poles, or other facilities placed pursuant to this agreement. In order to lawfully move a large object, vehicle, building, or other structure over the streets, alleys, or highways of the County, the Cable Company, upon notice as required by local ordinances or regulations, will move at the expense of the person requesting the temporary removal those facilities required to enable such movements. The Cable Company may require a deposit not to exceed its anticipated direct costs prior to moving or removing its facilities.

5.14 County Use of Facilities. The County shall have the right to make additional use, for any public or municipal purpose, of any poles or conduits controlled or maintained exclusively by or for the Company in any street, provided such use by County does not interfere with the use by Company. The County shall indemnify and hold harmless the Company against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages, costs, or liabilities of every kind and nature whatsoever arising out of such use of Company's poles or conduits.

SECTION 6: PROGRAM SERVICES

6.1 Initial Services and Programming. The Cable Company shall provide the following video programming on Twelve (12) channels at a minimum.

INITIAL PROGRAM SERVICES

SERVICE	SOURCE	HOURS	TYPE
1. KATU] -	Portland	Full Broadcast Day	Local Broadcast
2. KOIN] - or other local	" "	" "	" "
3. KGW ] - broadcast	" "	" "	" "
4. KOAP] - services	" "	" "	" "
5. KPTV] -	" "	" "	" "
6. HBO, or other Pay TV service	Satellite	24 hours	Pay TV
7. WTBS, or other distant broadcast super station (satellite)	Satellite	24 hours	Distant Broadcast
8. CNN, or other satellite news & information service	Satellite	24 hours	Satellite News & Information Service
9. ESPN, USA, or other satellite sports & entertainment service	Satellite	24 hours	Sports & Entertainment
10. CBN, or other satellite family programming	Satellite	24 hours	Family Oriented Programming (includes religious & inspirational)
11. Discovery or other satellite science, non-fiction or travel information service	Satellite	12 hours	Science/Non-Fiction & Travel/Information
12. Reserved for future	Satellite	Service to be determined by Company and may be utilized for local information, program guide, advertising, weather information or similar services including character generated information until a satellite service is selected.	

The Company may not delete any type of program service provided in the initial configuration or provide fewer total hours of program services than furnished on that date without the consent of the County or as authorized by Section 625 of the Cable Communications Policy Act of 1984. (47USC545).

~~In any event, the Company shall give the County 30 days advance notice of any changes in program services offered.~~

6.2 Control of Potentially Objectionable Material. The Cable Company will not transmit or permit to be transmitted over any channel any material that is obscene as defined by Oregon law. The Cable Company will be deemed to have transmitted or permitted a transmission of obscene material if a court finds any of the Company's officers, employees, or agents have violated Oregon law relating to obscenity, including, but not limited to ORS 167.075, 167.080, 167.087, or 167.090 as a result of the transmission of any program or material on the system.

The Cable Company will make available to each subscriber upon request a parental control device using either a code, a mechanical device, or both in order to enable parents to control access to both the audio and video portions of any or all channels.

## SECTION 7: RATES AND CHARGES

7.1 Regulation of Rates. The Cable Company agrees that this agreement grants to the County the right and authority to regulate all rates and charges established or collected by the Cable Company for the provision of cable services. However, the County agrees that the Cable Communications Policy Act of 1984 and the regulations of the FCC adopted pursuant thereto presently limit the County's ability to regulate rates. Until such time as the law is so amended or the FCC either amends its rules to allow the County to regulate or determines, pursuant to a final order, that the County has authority to regulate rates, the Cable Company may determine its own rates and charges without the prior consent of the County to the initial rates and charges or any changes therein.

7.2 Publication of Rates. In all cases, all rates will be published in the form of a rate card. The schedule of rates will include installation and monthly charges for providing basic, pay television and converter deposit charges. No rate or charge may be imposed or collected which is not stated on the published rate card. Any rates will be nondiscriminatory and uniform to persons and organizations of like classes, under similar circumstances and conditions. The Company may waive or modify connection and service charges on a uniform basis during promotional campaigns. All classes of subscribers will be defined and published by the Cable Company. The Cable Company will give the County thirty (30) days advance written notice of any change in rates and charges in the form of a revised rate card. ~~The initial 30-day charges will be paid to the County at least 30 days prior to the commencement of system operations.~~

7.3 Refunds to Subscribers. Subscribers will be entitled to certain refunds from the Cable Company in instances where services or portions of services are not delivered, in instances where services are not delivered according to standards set forth in this franchise agreement, or in certain instances where subscribers elect to terminate services. Refunds will be governed by the following requirements, which the Cable Company will furnish to subscribers in writing at the time they subscribe to cable services.

A) If the Cable Company fails within a reasonable time to provide any service requested by a subscriber, it will promptly refund all deposits or advance charges that the subscriber has paid in connection with the request for such service.

B) If a subscriber terminates monthly service during the first 12 months of service because of the failure of the Cable Company to provide service in accordance with the standards set forth in this agreement, the Cable Company will refund to that subscriber an amount equal to the installation or reconnection charges paid by the subscriber multiplied by the fraction of the 12-month period for which the subscriber will not be receiving service.

C) If a subscriber terminates any service at any time and has a credit balance, the Cable Company will, upon notice to the Company that the service is to be terminated, and upon return of all Company equipment,

refund the entire credit balance to the subscriber. The subscriber will be responsible for furnishing the Cable Company a proper address to which to mail the refund.

D) If any subscriber is denied subscribed services for more than 24 consecutive hours during the month due to technical failure, damage, or other circumstances within the control of the Cable Company, the Cable Company will credit the account of that subscriber on a prorata basis, upon the subscriber's written request. The credit will be calculated using the number of 24-hour periods that service is impaired as a fraction of the total number of days in the month that the service impairment occurs.

7.4 Advance Charges and Deposits. The Cable Company will not require subscribers to pay more than one month in advance for basic monthly services, except in the case of line extension as provided in Section 5.3(B)(2). Deposits for line extensions may not be charged without prior approval of the County.

7.5 Installation and Reconnection. The Cable Company may charge subscribers for the installation of service outlets and for the reconnection of service outlets. The rates for such connection or reconnection will be published as provided in Section 7.2.

7.6 Disconnection. There will be no charge for disconnection of any installation or outlet. If any subscriber fails to pay a properly due monthly subscriber fee, or any other properly due fee or charge, the Cable Company may disconnect the subscriber's service outlet. Such disconnection may not be carried out until 30 days after the due date of said delinquent payment and until 10 days after adequate written notice of the intent to disconnect. Notice of the intent to disconnect shall be stated separately from the billing statement. Upon subscriber payment of the delinquent bill and the payment of a reconnection charge, the Cable Company will promptly reinstate the subscriber's cable service. However, the Cable Company will not be obligated to reinstate cable service if a subscriber's service has been disconnected twice within a six-month period for failure to pay a properly due fee or charge. Upon publication pursuant to 7.2, the Company may require a deposit securing payment of future charges from subscribers who have previously been disconnected for failure to pay.

Prior to disconnecting any subscriber, the Cable Company will develop and abide by a written disconnection policy which contains procedures and sample notice forms for resolving disputed billings, billing errors, and disconnection decisions. This policy and any subsequent amendments to it must be approved by the County.

## SECTION 8: REGULATION OF SYSTEM OPERATIONS

8.1 Remedies for Franchise Violations. For Cable Company violations of this franchise agreement, the County has the right to impose certain penalties. Violations will be determined and penalties will be assessed according to the following terms, conditions, and procedures.

A) Penalties. Upon determining that the Cable Company has violated any provision of this agreement, and following the conditions and procedures outlined in B) and C) and D) below, the County may assess single or combined penalties from among the following two options: 1) impose a financial penalty, not to exceed \$100 per day per violation, or 2) require the Cable Company to make rebates or payments to customers or classes of customers in amounts and on such basis as the County deems reasonable until the Cable Company remedies the violation at issue to the satisfaction of the County. As a separate option, but only following the imposition of any or all of the first two options, the County may also shorten the term of the remaining life of the franchise agreement. In the event a violation continues to occur after the County has shortened the term of the franchise, the County, pursuant to Section 13.1, may revoke the franchise agreement.

B) Rules for Application of Penalties. 1) Monetary fines exceeding a cumulative total of \$100 per violation may be levied by the County only for substantial and material violations, as such violations are defined by the County. 2) Service rebates or payments to customers or classes of customers may be made only for violations related to subscriber service. Rebate or payment penalties of \$10 or less per subscriber will be made to such customers in the form of a credit against their cable service bill. 3) Shortening of the life of the franchise may be made only for substantial and material violations, as defined by the County, and only after the Cable Company has been penalized for a violation and has willfully disregarded a request to correct that violation. Furthermore, the life of the franchise may be shortened only for the length of time that the County determines the Cable Company has willfully disregarded a request for corrective action coupled to an earlier penalty. In all cases, penalties may not be imposed unless the Company has been given written notice of the possible penalty and an opportunity to cure.

C) Further Basis for Assessing Penalties. Beyond the rules described in B) above, the County may also take the following into consideration as a basis for assessing penalties: 1) the nature and extent of the violation, 2) whether the Cable Company has a history of similar violations, 3) the remedy deemed appropriate to prevent such violations in the future, and 4) the damages suffered by the public and the costs of remedying the violation.

D) Procedure for Determining and Assessing Penalties. The County will first discuss with the Cable Company representatives any violation which appears to be taking place. If these discussions do not lead to any resolution of the problem, the County, in conformity to notice requirements described in Section 14.11, will advise the Cable Company that a violation may have occurred. Such notice will specify the nature of the possible violation and the way in which it transgresses this agreement. The Cable Company will have 21 days to respond in writing or to correct the potential violation or make a good faith effort to correct

it. The burden will be on the Cable Company to demonstrate to the County 1) that it is making the effort, and 2) how it is making that effort. If the County determines that the Cable Company is not making sufficient effort, that those efforts are not correcting the problem, or that an earlier problem of the same or similar nature has recurred, the County may propose the imposition of a penalty.

E) Other Remedies. Both parties agree that neither waives or surrenders any remedies available at law or in equity and that such remedies shall be in addition to the remedies set forth herein. The Cable Company acknowledges that damages at law may be an inadequate remedy for violations of the franchise and therefore agrees that the County may obtain injunctive relief or specific performance from the appropriate courts to enforce the provisions of this agreement.

G) Excuse of Violations. Upon application of the Cable Company, the County may excuse the Cable Company from strictly performing terms and conditions of this agreement where it finds 1) that strict performance would not substantially further the purpose of this agreement and 2) that strict performance would result in practical difficulties and hardship to the Cable Company which outweigh the benefit to be derived by the system of subscribers.

8.2 Public Disclosure. Pursuant to the terms of this agreement, the Cable Company is required to frequently furnish the County with reports containing information that the Cable Company regards as proprietary. To the extent that such information is protected under Oregon's Public Records Law, the County will not release such reports or disclose their content without the Cable Company's prior written consent. Any demands for records disclosure pursuant to the Oregon Public Records Law will be defended by the County at Cable Company expense until all reasonable avenues of defense have been exhausted.

8.3 Public Notice. Advance notice for any official public meeting relating to this franchise will conform to Oregon's Public Meeting Laws.

8.4 Performance Evaluations. As a regulated service provider, the Cable Company agrees to submit to periodic public evaluations of its performance. Such evaluations will be carried out in two ways: 1) the regulatory staff of the County will examine system performance and service, and 2) the County will conduct public hearings:

A) The County and the Cable Company will hold scheduled performance evaluations sessions not later than six months after the completion of construction and during the fifth and tenth years of the franchise. All such evaluations sessions will be open to the public.

B) Special evaluation sessions may be held at any time during the term of the franchise at the request of the County or the Cable Company.

C) All evaluation sessions will be open to the public and announced in a newspaper of general circulation. The Cable Company will include notice of such sessions in its monthly subscriber billings, each notice to be received by subscribers no fewer than five days before each session.

D) Topics to be discussed at any scheduled or special evaluation session may include, but not be limited to, the following: franchise fee, franchise agreement penalties, free or discounted services, application of new technologies, channel capacity, interactivity, system performance, system services, new program services, diversity of programming, system staffing and expenditure levels, customer complaints, customer relations, privacy issues, amendments to the franchise agreement, judicial and FCC rulings affecting the cable franchise, line extension policies, and plans and policies for integrating the system into any existing regional cable communication systems on an interconnected basis including plans to upgrade the system.

## SECTION 9: ACCESS SERVICES AND OPERATIONS

9.1 Public Education and Government Access Channel. The Company will provide one channel dedicated to public, educational, and government access use when utilized channel capacity of the system exceeds 12 channels. Channel playback time shall be available according to rules and regulations established by the County in consultation with the Company. To the extent the channel is not used for public, educational, or government access, the Company may utilize the channel for its own purposes including locally produced programming.

9.2 Public Educational and Government Access Fund. In the event and at such time as an access channel is provided pursuant to Section 9.1, the County shall dedicate 60% of the then 5% franchise fee (i.e. 3% of gross cable revenues) to a special fund which will be used exclusively to support public, educational, and government access. Funds may be granted to the Company or others, including the County to support access. The County will grant the funds under rules and regulations it shall adopt. Funds not expended or granted in one fiscal year shall be carried over into the following fiscal year(s) where they will be available to be granted and expended.

9.3 Access Equipment. At such time as a PEG Access Channel is required under Section 9.1 the Company shall allow the installation of playback equipment. This equipment shall be located at the system head end or at some other location hardwired into the system so that access users can cablecast their programs. The cost of this equipment is not the responsibility of the Company.

## SECTION 10: GENERAL FINANCIAL AND INSURANCE PROVISIONS

10.1 Franchise Fee Compensation to the County. At a minimum as compensation for the grant of franchise, for regulation of the cable service, for permission to use the streets and public ways of the County for the construction, operation, and maintenance of a cable communications system, and for support of community cable access activities, the Cable Company will pay to the County an amount equal to 3% of the Cable Company's gross annual revenues derived from the entire system within the franchise area. At such time as an access channel is required to be provided by the Company pursuant to Section 9.1 the amount of the franchise fee due and payable shall be increased to 5% of the Company's gross annual revenues.

10.2 Payment of Franchise Fees. The franchise fee payments due under this provision will be paid quarterly to the County within 30 days of the end of each quarter.

Acceptance of the payment will not be construed as an accord that the amount paid is in fact the correct amount. Nor will such acceptance of payment be construed as a release of any claim the County may have for further or additional sums payable under the provisions of this section. All amounts paid will be subject to audit.

10.3 Security Fund Letter of Credit. Within 30 days after the effective date of this franchise, the Cable Company will establish with a local bank a letter of credit which will be maintained for the life of the franchise as security for 1) the faithful performance by it of all the provisions of this franchise, 2) compliance with all orders, permits, directions of any agency of the County, and 4) the payment of penalties imposed by the County for Cable Company violation of the terms of this agreement. The letter of credit will initially be in the amount of \$25,000. Following the completion of construction, the County will reduce the amount required to \$10,000

Prior to assessing and withdrawing any amount against the letter of credit, the County must notify the Cable Company and give it an opportunity to be heard in the same manner as provided in Section 3.1.

Within 30 days after notice to it that a specified amount has been withdrawn by the County from the amount provided by the letter of credit, the Cable Company will do one of the following: 1) restore the credit to the full amount required by this section, or 2) post a performance bond or another security instrument satisfactory to the County, running to the County, of twice the amount to be replenished in the security fund. The Cable Company will furnish to the County written proof of such replenishment, posting, or security. Failure by the Cable Company to meet the requirements of this paragraph will be grounds for revocation as provided in Section 13.1.

The rights reserved to the County by this section are in addition to all other rights of the County whether reserved by this contract or authorized by law. No action, proceeding, or exercise of a right pertaining to the security letter of credit will affect any other right the County may have under the terms of this agreement.

10.4 Damages and Defense. The Cable Company will defend, indemnify and hold harmless the County, its officers, agents and employees, including but not limited to members of all boards and commissions, from and against all claims, damages, and penalties as a result of the award and exercise of this franchise agreement. These claims, damages, and penalties will include, but will not be limited to, damages arising out of copyright infringement, defamation, or anti-trust actions, and all other damages arising out of the award of the franchise or the construction, operation, maintenance, or reconstruction of the cable communications system authorized herein, if any act or omission complained of is authorized, allowed, or prohibited by this franchise. This obligation to defend, indemnify, and hold harmless will not extend to claims, damages, and penalties arising solely from the negligent acts or omissions of the County, its officers, agents, or employees.

10.5 Liability Insurance and Indemnification. The Cable Company will maintain, throughout the term of the franchise agreement, liability insurance insuring the Cable Company, the County, its officers, agents, and employees, with regard to all claims, damages, and penalties mentioned in Section 10.4 above in the minimum amounts of:

- \$200,000 for personal injury or death to any one person;
- \$300,000 for personal injury or death resulting from any one accident;
- \$100,000 for property damage resulting from any one accident; and
- \$300,000 for other types of liability covered by a comprehensive general Liability policy and broadcasters Liability coverage in the same amount if local origination service programming is being carried on the system.

Such insurance will name as additional insureds the County, its officers, agent, and employees. The policy for such insurance will provide that such coverage may not be cancelled without 30 days prior written notice being furnished to the County.

The Cable Company will file with the County copies of all insurance showing up-to-date coverages and evidence of payment of premiums as set forth above. Coverages may not be reduced or cancelled without approval of the County. Failure to maintain required insurance may be considered by the County to be breach of this agreement.

Upon request of the County, the Cable Company will annually review with the County all insurance policies and coverages. If the County determines that it is reasonable and necessary to increase insurance coverage and liability limits to adequately cover the risks of the Cable Company and of the County, along with its officers, agents, and employees, such coverage and limits will be increased subject to mutual agreement between the County and the Cable Company. The Cable Company agrees that if the limits of liability of public bodies, as provided by Oregon law, are increased to an amount which exceeds the coverage in effect under this section, the Cable Company, upon notice from the County, will increase the amount of insurance to at least the new liability limit, provided the County shall excuse the Company from not providing increased liability coverage if the County in good faith finds that the ~~Company~~ has demonstrated that such increased coverage is not available at reasonable rates.

## SECTION 11: RIGHTS RESERVED TO THE COUNTY

11.1 Right to Purchase the System. The County will have the right to purchase the system operated by the Cable Company if it has declared a forfeiture or otherwise revoked this franchise agreement in accordance with the provisions of Section 13.1, or if the system is offered for sale by a receiver or a trustee in bankruptcy.

11.2 Acquisition Price and Valuation. The price to be paid for the system will be the fair value of the system on the effective date of the notice of intent to acquire the system. If the County and the Cable Company are unable to agree upon the fair value of the system, the fair value will be determined by an arbitration committee, as provided in Section 11.3. The County will pay the fair value, determined as set forth in this section, to the Cable Company in money on the date it takes possession of the system.

For all purposes under this subsection, fair value of all or part of the system will be based upon the fair value of the plant and equipment, including real property, reduced by the amount of any lien, incumbrance, or obligation of the Cable Company which the County may assume. Where purchase is authorized pursuant to revocation, or forfeiture of the franchise agreement, fair value shall be equivalent to the equitable price required by 47USC547 (b)(1). If the purchase is made from a receiver or trustee in bankruptcy and no default then exists, fair value will be determined as the fair market value of all tangible and intangible property of the system, reduced by the amount of any lien, incumbrance, or obligation of the Cable Company assumed by the County but in any case, shall be equivalent to fair market value as defined in 47USC547 (a)2.

11.3 Arbitration of System Price. Arbitration as provided in Section 11.2 will be final and binding upon both parties. The County will have the right within 60 days of the determination of valuation to decide not to acquire the system subject to the valuation proceeding. It must exercise this right by resolution or other appropriate writing.

In the event the County desires to purchase the system pursuant to Section 11.1 and the parties cannot agree on a purchase price then the price shall be established by arbitration as provided for herein. The County may choose to employ arbitration by giving written notice to the Company. The County will name one arbitrator and the Company will name one arbitrator. The Cable Company by written notice will appoint one arbitrator within 15 days after receipt of the County's notice. The two arbitrators will select a third arbitrator within 15 days after the appointment of the second arbitrator. Within 60 days of the appointment of the third arbitrator, the three arbitrators will furnish a written report to the County and the Cable Company of their determination of the fair value of the system. A determination of valuation under this section must be agreed to by at least two of the three arbitrators. The cost of arbitration shall be shared equally between the County and the Company.

11.4 Right to Inspect Records. The Cable Company will provide information in such form as may reasonably be required by the County for its records, including, but not limited to:

A) The true and entire cost of construction of plant and equipment, of maintenance and of administration and operation; the amount of stock issued, if any; the amount of cash paid in; the number and par value of shares; the amount and character of indebtedness, if any; interest on debt; wear and tear or depreciation; and all amounts and sources of income;

B) The amount collected annually from users of services including the County if applicable, and the character and extent of the services rendered.

The information, in addition to any further data which may be reasonably required by the County, will be furnished by the Cable Company to the County upon request, and at the Cable Company's own expense, unless the requested information requires unusual conversion or reformatting, or voluminous production, in which case the County will bear the cost. The County, or its designated agents, will have the right to go to the premises of the Cable Company and to inspect all records, books, maps, plans, financial statements, and other like material of the Cable Company upon reasonable notice at any time during normal business hours.

All records, books, maps, plans, financial statements, and other like material provided to the County will be considered the private and confidential property of the Cable Company and will not be released, distributed, or made available in any way to any third party or parties, except designated agents of the County, without the express written consent of the Cable Company, except as provided for by the Oregon Public Records Law. Any demands for records disclosure pursuant to the Oregon Public Records Law will be defended by the County at Cable Company expense until all reasonable avenues of defense have been exhausted.

11.5 Right to Inspect Construction. The County, or its qualified representatives, will have the right to inspect all construction or installation work performed pursuant to the provisions of this franchise agreement. Upon 72-hour notice, it may make such tests as it deems necessary to ensure compliance with the terms of this franchise and other pertinent provisions of law.

11.6 Right to Intervene. The County will have the right to intervene in any suit or proceeding to which the Cable Company is party and which may have a major effect upon the construction, maintenance, or operation of the system. The Cable Company will not oppose such intervention by the County. This provision will not apply to negligence suits. The Cable Company will not be responsible for the expenses of the County, including attorney fees resulting from such intervention.

11.7 Right to Require Removal of Property. Upon a final determination that this franchise should not be renewed, or upon its forfeiture or revocation, as provided in this agreement, the County will have the right to require the Cable Company to remove, at Cable Company's own expense, all or any part of the cable communications system from all streets and public ways within the franchise area. In the event removal is required the Company shall no longer be obligated to provide service pursuant to Section 13.3.

## SECTION 12: PROTECTION OF THE RIGHTS OF INDIVIDUALS

12.1 Prohibition Against Discriminatory Practices. The Cable Company will not deny service, deny access, or otherwise discriminate against adult subscribers, programmers, or persons on the basis of race, color, religion, national origin, sex, sexual preference, age, handicap, or marital status. The Cable Company will strictly adhere to the equal employment opportunity requirements of the U.S. Government. The Cable Company will comply at all times with all other applicable federal, state, or County laws, rules, and regulations prohibiting discrimination. The Cable Company will not discriminate against any group of potential subscribers based upon the income level of residents in any area where the group resides.

12.2 Prohibition Against Unauthorized Monitoring or Cable Tapping. The Cable Company will not allow its own personnel or any other person, agency, or entity to tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver without the written consent of the subscriber or the user who would be subject to the monitoring or tapping. The Cable Company will comply with all provisions of Oregon and Federal law protecting privacy of communications. These provisions include ORS 165.540, Chapter 119 of Title 18 and Section 551 of Title 47 of the United States Code. Nothing in this section will be deemed to prevent sweeps or other temporary monitoring so as to insure the integrity of the system, to collect data of a non-individual nature concerning system-wide subscriber viewing preferences, or to prevent unauthorized reception of services.

For the purpose of this agreement, all communications carried on the system will be deemed to be wire communication within the meaning of Section 2510(1) of Title 18 of the United States Code. The Cable Company will comply with the provisions of such laws. Any act by the Cable Company found by the County to be in violation of these provisions may be deemed by the County to be a material violation of this agreement.

12.3 Privacy Rights: The Cable Company and the County will constantly guard against possible abuses of the right of privacy of any subscriber, programmer, or person resulting from any device or signal associated with the cable communications system. The Cable Company will not place in the building, structure, or any facility of any subscriber any converters or other terminal equipment capable of two-way communications without the written consent, revocable at will, of the subscriber and residents, and will not utilize the two-way communications capacity of the system for unauthorized or illegal subscriber surveillance of any kind. For purposes of this section, tenants who occupy premises will be deemed to be subscribers or residents, no matter who actually pays for the service.

12.4 Notice on Use of Private Easements. Nothing in this section grants to the Cable Company any easement rights to private property not otherwise possessed by the County.

12.5 Approval of Service Installations. Before installing service connections, the Cable Company will secure the permission of the property owner or agent.

12.6 Landlord-Tenant Provisions. Both the County and the Cable Company acknowledge 1) that tenants of rental-unit dwellings may have a desire to receive cable service, 2) that rental-unit property owners have a right to protect their dwellings from damage or disruption which could be occasioned by cable installation and service, and 3) that the Cable Company may wish to market and sell cable services to tenants of rental-unit dwellings. The Cable Company will provide to single family rental-units and to individual units of a multiple housing facility, such as a duplex, apartment, or condominium unit, all services offered to owner occupied units within the franchise area, providing the owner or owners of the unit or facility, or the agents of the owner(s), consent in writing to the following conditions.

- A) To allow the Cable Company to provide cable service to units.
- B) To permit reasonable procedures and times for installation, maintenance, and inspection of the system on their premises.
- C) To accept reasonable conditions which the Cable Company promulgates in order to protect its equipment and encourage widespread use of the system.
- D) To agree not to demand payment from the Cable Company for permitting the Cable Company to provide service to the unit(s) or facility.

12.7 Protection of Future Rights. The County will have the right to impose further restrictions on the Cable Company in order to protect individual's rights to privacy from unreasonable invasions arising from practices or technology not now contemplated or known.

12.8 Consent Forms. All forms presented to subscribers or potential subscribers will be filed with the County and reviewed by the County to insure accuracy with this franchise agreement.

12.9 Notification of Subscriber Rights. The Cable Company agrees to include in its initial marketing materials and distribute to all subscribers a publication describing subscriber service rights. The County will produce the publication at its expense with Cable Company review for accuracy.

## SECTION 13: TERMINATION AND EXPIRATION

13.1 Revocation. In addition to any rights set out elsewhere in this document, the County reserves the right to declare a forfeiture or to otherwise revoke this franchise agreement, including all its rights and privileges, in the event that:

- A) The Cable Company violates any material provision of this agreement after it has been penalized pursuant to Section 8.1, fails to correct the violation after a reasonable opportunity to do so, and the next penalty which may be levied, after the County exercises other penalty options under that section, is revocation;
- B) The Cable Company becomes insolvent, becomes unable or unwilling to pay its debts, or is adjudged bankrupt as provided in Section 13.2;
- C) The Cable Company is found to have practiced fraud or deceit of a material nature upon the County;
- D) The Cable Company fails to obtain and maintain any required federal or state permit relating to the construction, maintenance, and operation of the system after notification from the appropriate government agency that the permit is lacking and the Cable Company fails to obtain the permit within a reasonable time.
- E) The Cable Company fails to maintain the full amount of its security fund letter of credit or to post a performance bond or equivalent security as required in Section 10.3.

Upon reaching a finding that there are grounds to revoke this franchise agreement, the County may by ordinance, resolution, or other appropriate writing, declare a forfeiture. However, before reaching such a finding, it must give the Cable Company an opportunity to be heard. The Cable Company will be afforded due process rights at the hearing as if the hearing were a contested case hearing subject to ORS Chapter 183, including the right to cross-examine witnesses and to require that all testimony be on the record, and to judicial review. The findings will be written and will stipulate the reasons for the decision. For general violations pertaining to the provisions of 13.1 A), the County will follow procedures specified in Section 8.1. For franchise noncompliance pursuant to the provisions of 13.1(B), (C), (D), or (E) above, the County must notify the Cable Company of the noncompliance and give it an opportunity to be heard. A single hearing will constitute compliance with this provision.

Upon a final order revoking this franchise, all rights of the holders of the franchise will immediately be divested without a further act upon the part of the County, and upon the written request of the County, the Cable Company will promptly remove its structures and property from the streets and restore the streets to their prior condition. If the Cable Company fails to do so, the County may perform the work either individually or jointly and then collect the cost of the work from the Cable Company. The actual cost of the work, including administrative costs, will be a lien upon all plant and property of the Cable Company effective upon placement in the lien docket. If the County elects to require the Company to remove its equipment, the provisions of Section 13.3 shall no longer apply.

13.2 Receivership. In the event that the Cable Company is placed in receivership, and in the event that the Cable Company has been under the control of a receiver or trustee more than 120 days from the date such a person is appointed, the Cable Company will be deemed to have violated a material portion of this agreement. The violation will be deemed to have occurred whether the Cable Company is in receivership, reorganization, bankruptcy, or other action or proceeding unless the following circumstances accompany the receivership:

A) Within 120 days after election or appointment, the receiver or trustee will have been approved by the County and will have fully complied with all the provisions of the franchise agreement and remedied all defaults under the agreement, and

B) The receiver or trustee, within the 120 days, will have executed an agreement, approved by the County as well as the court having jurisdiction, whereby the receiver or trustee assumes and agrees to be bound by each and every provision of the franchise agreement.

13.3 Mandatory Continuity of Service. So long as they pay their bills to the Cable Company on a timely basis and honor their other obligations to the Company, all subscribers will have the right to receive all available services offered by the Cable Company. In the event that the Cable Company elects to overbuild, rebuild, modify, or sell the system, the Cable Company will insure that all subscribers receive continuous, uninterrupted service, regardless of the circumstances, during the lifetime of the franchise agreement, except for temporary interruptions of service as may be required from time to time to rebuild, modify, or improve service. Any service interruption caused by the Cable Company will be subject to the rebate provisions contained in Section 7.3 (D).

Further, so long as it is entitled to revenues from operation of the system, the Cable Company will maintain continuity of service for any temporary transition in the status of the franchise agreement, the system, or the control of the Cable Company. Such transitions will include but not be limited to the following:

A) The event that the County revokes the franchise agreement or elects not to renew it.

B) The event that Cable Company's plant and equipment is taken over or held by the County.

C) The event that the County purchases, lease-purchases, acquires or otherwise takes over the system.

D) The event that there is a transfer of the system to any other person, including any other grantee of a cable communications franchise.

13.4 Holdover by the Cable Company. In the event that the Cable Company continues to operate the system after the expiration, revocation, or other termination of this franchise agreement, and in the event it does so without the renewal or extension of this agreement, the Cable Company will be bound by all terms, conditions, liabilities, and obligations, just as if this agreement were in full force and effect. During the period of any such holdover, the County will be entitled to all injunctive relief necessary to insure continued compliance with the terms of this agreement. Further, in the event of litigation during the period of any such holdover, the County will have the right to demand that the Cable Company post sufficient security with the court having jurisdiction in the matter to insure the Cable Company's faithful compliance with the terms of this agreement.

## SECTION 14: OPERATION AND MAINTENANCE

14.1 Open Books and Records. The Cable Company will manage cable system operations from an office within the County. It will keep books and records which are accessible to the County. Upon reasonable notice to the Cable Company, representatives of the County will have the right to inspect at any time during normal business hours, all books, records, maps, plans, financial statements, service complaint logs, performance test results and other like materials of the Company which relate to the operation of the cable system. Access to such records will not be denied by the Cable Company to representatives of the County on the basis of the claim that such records contain "proprietary" information.

All records, books, maps, plans, financial statements, and other like material provided to the County will be considered the private and confidential property of the Cable Company and will not be released, distributed, or made available in any way to any third part or parties, except designated agents of the County, without the express written consent of the Cable Company, except as provided for by the Oregon Public Records Law. Any demands for records disclosure pursuant to the Oregon Public Records Law will be defended by the County at Cable Company expense until all reasonable avenues of defense have been exhausted.

14.2 Performance Reports. The Cable Company agrees to submit to the County certain reports of its service and financial condition.

A) Monthly Complaint Records. The Cable Company will maintain records of all complaints received per Section 14.3. The records or copies thereof shall be available to the County upon request. The Cable Company will submit a summary report of the monthly complaint records upon the request of the County within 10 days of such a request. The summary report shall contain the name, address, and telephone number of the complaining party, the specific nature of the complaint, date and time complaint was received, remedial action taken, date and time the remedial action took place and the current status of the complaint. The summary report will be requested by the County only for cause and will be in a format acceptable to the County.

B) Quarterly Financial Reports. For each calendar quarter, the Cable Company will submit to the County a written report to support the franchise fee payment which contains an accurate statement of the Cable Company's receipts for the quarter.

Each report must be submitted to the County within 30 days of the end of the quarter, must conform to format and data requirements specified by the County, and must be certified true by an officer of the Cable Company.

C) Annual Financial Report. For each calendar year, the Cable Company will submit to the County no later than two months after the end of the fiscal year a certified annual financial report. The document will report the financial results of the system operated under this agreement and will explain any procedures used to allocate revenues and expenditures between this system and any portion of this system operated by the Cable Company ~~inside~~ of the city limits of any City. This report will conform to format and data requirements specified by the County. The Cable Company will

present the following information, both for the year most recently completed and, on a pro forma basis, for the current year: 1) a statement of gross revenues from all sources, 2) gross revenue from subscribers in each category of service, 3) line-item operating expenditures, 4) net income, 5) statement of capital expenditures for the year, and 6) an end-of-year balance sheet. The report will clearly describe the Cable Company's methods for allocating both income statement and balance sheet data between the unincorporated area of the County and any area inside the City.

The County may request additional information in order to evaluate the financial condition of the franchise system. The Cable Company will comply with any such request.

D) Monitoring and Compliance Reports. The Company will file with the County copies of all reports submitted to the Federal Communications Commission as required to be in compliance with the FCC's requirements.

E) Additional Reports. The Cable Company will prepare and furnish to the County at the times and in the form prescribed by the County, any additional reports that the County deems reasonable, necessary, and appropriate to monitor the performance of the Cable Company in connection with this franchise agreement.

For future reference, it should be understood that the County, in specifying the reporting requirements in this section, does not intend to create unduly burdensome recordkeeping, report preparation, and report monitoring procedures and expenditures for either the Cable Company or the County.

14.3 Maintenance and Subscriber Complaints. The Cable Company will maintain an office in the County which will be open during all customary business hours. The Cable Company will also have a publicly listed local telephone, and will receive subscriber complaints and requests for repairs or adjustments on a 24-hour basis.

Sufficient telephone lines will be installed and sufficiently trained staff personnel provided, so that the average customer waiting time on the complaint line does not exceed 10 minutes, except during instances in which the system suffers an outage or other disruption affecting the trunks or distribution feeders and except during the period prior to the completion of construction.

The Cable Company will keep written records listing all complaints, their disposition, and the elapsed time between receipt of the complaint and resolution of the problem.

The Cable Company will render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, will be preceded by notice and will occur during periods of minimum use of the system. A written record will be maintained for all service interruptions.

The Cable Company will respond to all requests for repair or maintenance service with a telephone call and, if the problem cannot be solved by phone, an on-site service call from a service technician within 24 Cable Company working hours of receiving the request, except in cases involving a system

outage affecting more than one trunkline. The Company may also respond to the request with an on site service call within the required time period. No charges will be made to the subscriber for service calls. However, the Cable Company may levy service charges for chronic, unnecessary service calls, subject to terms and conditions approved by the County.

The Cable Company will inform all subscribers of its procedures for handling customer complaints through printed information left with each new subscriber. Instructions provided by installers, and service and office telephone numbers printed on converters.

The County will ensure that all subscribers, programmers, and members of the general public have recourse to a satisfactory hearing of any complaints where there is evidence that the Cable Company has not settled a complaint to the satisfaction of the person initiating the complaint. The County will establish procedures for handling and settling complaints that subscribers appeal to the County.

Sufficient staff, equipment, and vehicles will be provided by the Company to comply with the provisions of this section.

14.4 Safety. The Cable Company will, at all times, employ standards of care commensurate with the risks involved in its operations. It will use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or its employees.

The Cable Company will install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the National Electric Safety Code as applicable to a cable system, and in such manner that they will not interfere with the installations of the County or any public utility.

14.5 Consumer Complaint Records. The Cable Company will keep the following records, mark them with the time, date, retain them in its files for a period of three years, and make them available to the County upon request: 1) complaint forms completed for each complaint received, including details of the complaint and the action taken, and 2) forms made out for each service call to a subscriber's residence, including a complete record of the call (time taken, time dispatched, and time completed).

## SECTION 15: MISCELLANEOUS PROVISIONS

15.1 Compliance with Laws. The Cable Company will comply with all federal and state laws and regulations having a bearing on cable system construction and operation now in existence or hereafter established during the term of this franchise agreement. The Cable Company will also comply with all local ordinances, resolutions, rules, and regulations existing at the establishment of this franchise agreement, provided that the Cable Company will not be required to comply with this agreement or any local laws and regulations if to do so would require the Cable Company to violate state or federal law.

15.2 Interpretation of Agreement. This agreement will be construed liberally and interpreted to effect the purposes established in Section 1 of this agreement.

15.3 Separability. If any section, subsection, sentence, clause, phrase, or word of the franchise agreement is held to be invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase, or word will be deemed a separate, distinct and independent provision, and such holding will not affect the validity of the remaining provisions of this agreement.

15.4 Captions. The captions to sections throughout this franchise agreement are intended solely to create easier reference to this franchise agreement. The wording of captions will not affect the meaning or interpretation of this agreement.

15.5 Barrier to Recourse Against the County. The Cable Company will have no recourse whatsoever against the County of its officials, boards, commissions, agents, or employees for any of the following: 1) the occurrence of any loss, costs, or damage which may arise out of the Cable Company performing any provision or requirement contained in this agreement, 2) any loss, costs, or damage resulting from the non-negligent good faith acts of such persons in the enforcement or administration of this agreement, or 3) the event that this franchise agreement or any part of it is determined to be invalid.

15.6 Non-enforcement by the County. The Cable Company will not be relieved by its obligation to comply with any of the provisions of this franchise agreement by reason of any failure to the County to enforce prompt compliance.

15.7 Force Majeure. If by reason of force majeure the Cable Company is unable in whole, or in part to carry out its obligations under this agreement, the Cable Company will not be deemed in violation or default during the period for such inability. The term "force majeure" as used here means the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies, orders or other acts or omissions of the government of the United States of America, or of the State of Oregon, or their departments, agencies, political subdivisions, or officials; acts or omissions of any civil or military authority; insurrections; riots, epidemics; landslides; earthquakes; lightning; fires; icing conditions; hurricanes; volcanic

activity; storms; floods; washouts; droughts; restraint of government and people; civil disturbances; explosions; or partial or entire failure of utilities, or any other circumstances found in good faith by the County to be beyond the reasonable control of the Cable Company. The Cable Company agrees, however, to exert its best effort to remedy as soon as possible, under the circumstances, the cause or causes preventing it from carrying out its responsibilities and duties under this franchise agreement. In determining whether circumstances beyond the control of the Cable Company exist, the County will consider the cause of the nonperformance and whether any action or inaction of the Cable Company was a material contributing factor.

15.8 Entire Agreement. This franchise agreement contains the entire agreement between the parties. It supercedes all prior agreements or proposals except as specifically set forth herein. It cannot be changed orally but only by an instrument in writing executed by the parties.

15.9 Consent. Wherever the consent of either the Cable Company or the County is specifically required in this agreement, such consent will not be unreasonably withheld.

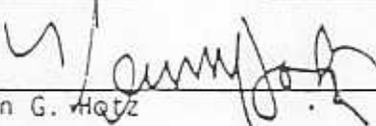
15.10 Performance Meetings. It is agreed that commencing with the effective date of this franchise agreement, at three year intervals, the Cable Company and the County will meet to discuss matters of concern or interest to either of them. The topics of such discussions will be stated in writing by each party prior to their meeting, but each party will be entitled to include any item of interest in the topic list.

15.11 Notices. All notices from the Cable Company to the County pursuant to this agreement will be sent to the clerk or the recorder of the County, unless the County designates an alternative recipient. The Cable Company will maintain with the County throughout the term of this agreement an address for service of notices by mail from the County. All notices required under this agreement will be sent certified mail, return receipt requested.

SECTION 16: EXECUTION OF THE FRANCHISE AGREEMENT

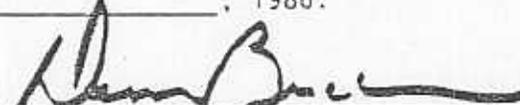
This Franchise Agreement is executed in triplicate original by the County and the Company. Execution hereof by the below-signed officials of the Company and the County is in accordance with appropriate resolution by and action by the Board of the County Commissioners of Multnomah County, Oregon. The effective date of this Franchise Agreement shall be the day the Board of the County Commissioners of Multnomah County affirmatively acts to accept the Agreement and authorizes execution thereof. The return of two fully executed originals of this Franchise Agreement to Multnomah County shall constitute formal acceptance by the Company.

Subscribed, executed, and entered into by Hayden Island Cable, Limited Partnership, on this 3rd day of October, 1986.

By:   
Norman G. Hertz

Title: President, American Earthstations, Inc. General Partner of Hayden Island Cable, Limited Partnership, an Oregon limited partnership

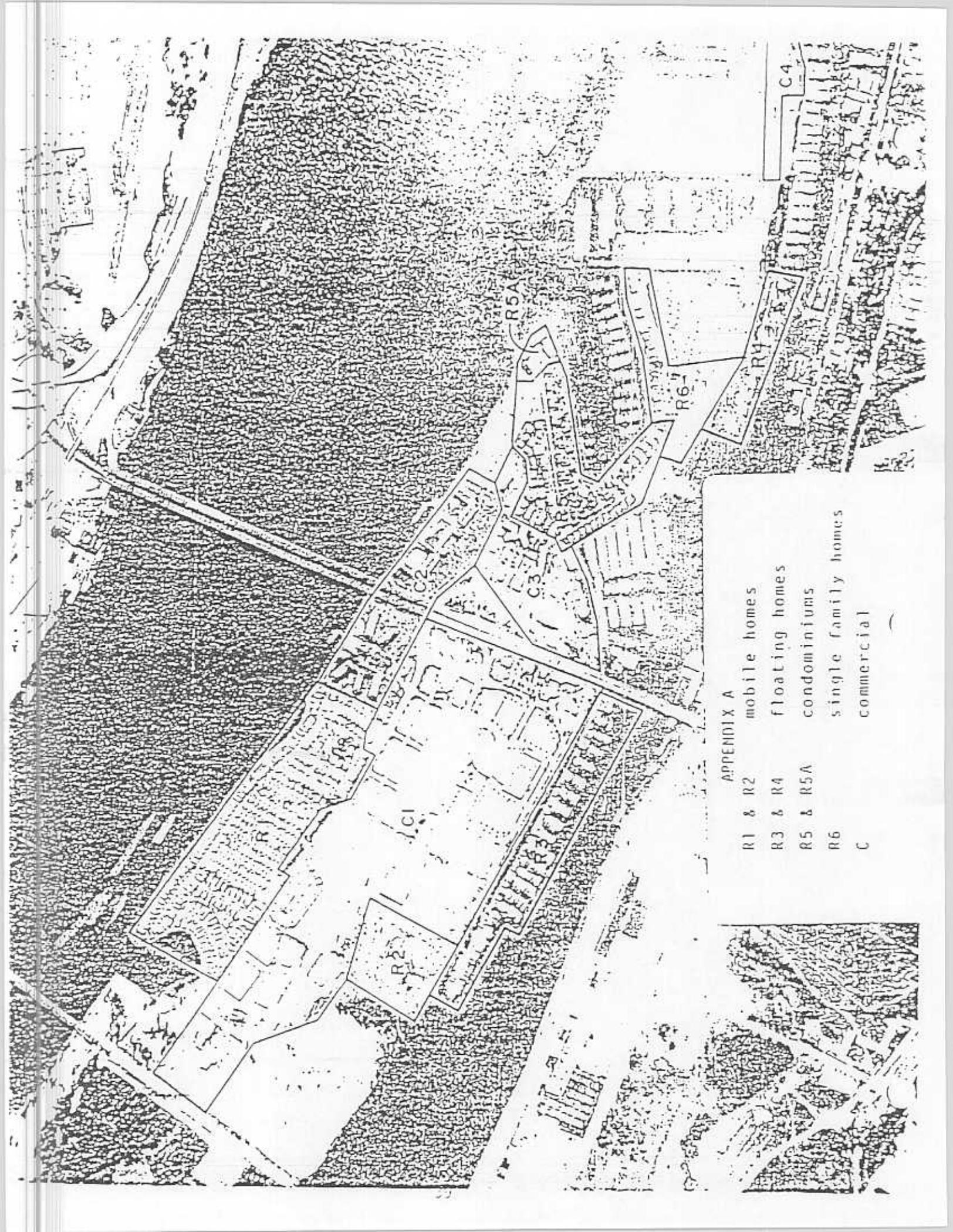
Subscribed, executed, and entered into by Multnomah County, Oregon, on this 6th day of October, 1986.

By:   
Dennis Buchanan  
County Executive

Approved as to Form:

  
John B. Leahy  
County Counsel

4583E



APPENDIX A

- R1 & R2 mobile homes
- R3 & R4 floating homes
- R5 & R5A condominiums
- R6 single family homes
- C commercial

Dear Hayden Island Resident:

Columbia Cable is proposing to serve your community with the following 52-channel Cable TV and FM Line-ups.

## YOUR CHANNEL LINE-UP

2 KATU	15 HBO	30 MTV, Music Television	43 Cable Classroom	
3 Customer Information	16 AMERICAN MOVIE CLASSICS*	31 THE NASHVILLE NETWORK	44 Cable Classroom	
4 TV DECISIONS* Program Guide <i>Premium</i>	17 SHOWTIME	32 VH-1, Video Hits One	45 Cable Classroom Library	
5 CNN Headline News	18 CINEMAX	33 KECH	46 KCTS Cable Classroom Library	
6 KOIN	19 THE MOVIE CHANNEL	34 KPDX	47 EYES ON THE WORLD	
7 ESPN	20 BRAVO	35 KING	48 COLOR BARS Visually Impaired*	
8 KGW	21 THE DISNEY CHANNEL	36 HOME SHOPPING NETWORK*	49 Community Access	
9 THE DISCOVERY CHANNEL*	22 NICKELODEON	37 ARTS & ENTERTAINMENT	50 TEMPO	
10 KOAP	23 CBS	38 Ecumenical	*New channels	
11 LIFETIME	24 CNN, Cable News Network	39 PTL	<b>COLUMBIA CABLE</b>	
12 KPTV	25 KCOL	40 CTV		
13 USA Network	26 FNNISCOPE	41 C-SPAN, Cable Classroom	110 Y Street Vancouver Mall	
14 REQUEST/BLAZER CABLE*	27 THE WEATHER CHANNEL	42 C-SPAN II, Senate*		

*Handwritten notes:*  
 Educational [ 9-14 ]  
 Variety [ 12-13 ]  
 Premium [ 14 ]  
 Family [ 21 ]  
 News [ 25-27 ]  
 Superstations [ 28-29 ]  
 Music [ 30-31 ]  
 Regional [ 34 ]  
 Religion [ 38-39 ]  
 Government [ 41-42 ]

## FM CHANNEL LINE-UP

88.9 KRRC FM 89.7	Students from Reed College Everything from Classical to Punk	94.9 KXL FM 95.5	Easy Listening	103.3 BRAVO	Premium
89.7 WWV	Bureau of Standards	96.5 KPBS FM 89.9	Classical	103.7 KXL AM 750	Easy Listening
90.1 K800 FM 90.7	Eclectic-Classical Folk Jazz Black Programming	97.7 KKSX AM 91.0	Educational	104.5 WSU	Washington State University
91.1 KVAN AM 1550	Contemporary Adult	98.1 KUPL FM 98.5	Classical Jazz	105.3 KMJK FM 107	Current Hits
91.7 KGON FM 92.3	Rock	98.9 KJIB FM 99.5	Country Western	106.1 MTV	Rock
92.9 KAAR AM 1280	50's 60's Hits	99.7 KKRZ FM 100.3	Country Western Rock	Customer Service 695-1225 Repair 695-3273 REQUEST 695-9666	
93.3 KPQ FM 93.7	Contemporary Christian	100.5 XYTE FM 101.1	Country National Weather Service		
94.5 VH-1 VIDEO HITS ONE		100.9	Adult Contemporary Premium	<b>COLUMBIA CABLE</b>	
		101.3 KINK FM 101.9	Premium Premium		
		101.7 SHOWTIME HOME BOX OFFICE	Premium Premium	110 Y Street Vancouver Mall	
		102.1	Premium Premium		
		102.5 CINEMAX			
		102.9 THE MOVIE CHANNEL	Premium		

EXHIBIT C

VANCOUVER/CLARK COUNTY  
 A LA CARTE RATES AND CHARGES\*  
 EFFECTIVE JANUARY 1, 1987

	<u>Primary Outlet</u>
<u>BASIC CABLE SERVICE LEVELS (MONTHLY)</u>	
Basic Cable - 21 Channels	\$ 5.25
Cable Plus - 41 Channels	12.25
<u>PREMIUM SERVICES (MONTHLY)</u>	
HBO, Showtime, Cinemax The Movie Channel, Disney, Bravo	11.00
American Movie Classics	4.95
<u>MISCELLANEOUS</u>	
Remote Control	3.85
Extra Remote Control	2.00
Extra Outlet	3.00
Extra Converter	3.20
Transaction Fee	5.00
Aerial Installation (Non-wired)	25.00
Aerial Installation (Wired)	10.00
Underground Installation (Non-wired)	35.00
Underground Installation (Wired)	10.00
Transfer of Service (Wired)	7.50
13 channels Stereo	N.C.

\*"Choice Package" customers will continue to receive remote controls and premium channels at a discount.

EXHIBIT D

COMPLIANCE STATEMENT

Columbia Cable agrees to and will comply with all provisions of the current Hayden Island Franchise with the exception of having a business office in Multnomah County.

Columbia Cable intends to conduct business from its Clark County office. The response time for installations, trouble calls, etc., will be as good for our subscribers on Hayden Island as it is for our Vancouver/Clark County subscribers.

  
Calvin D. Broussard

EXHIBIT B  
ACCEPTANCE

Office of the Clerk of the Board  
County Commissioners of Multnomah County  
1120 SW Fifth Avenue  
Portland, OR 97204

This is to advise Multnomah County, Oregon that we, Columbia Cable of Washington, and Columbia Associates, L.P. and TCI/CI Merger Sub Corp, Inc. in their capacity as general partners, (individually and in combination referred to herein as the "Undersigned"), hereby accept the terms and provisions applicable to us of Ordinance No. 838, passed by the Board of County Commissioners on October 26, 1995, consenting to the change in control of Columbia Cable of Washington (Hayden Island franchise) with conditions. The Undersigned have represented to the County that TCI/CI Merger Sub Corp., a wholly-owned subsidiary of TCI West, Inc., has agreed to acquire control of Columbia Cable of Washington (including the Hayden Island franchise) pursuant to various Agreements among the parties (the "Transaction").

This Acceptance shall only be effective on and after the final closure of the Transaction. This Acceptance shall be null and void, without further action on the part of any party, if the final closure of the Transaction does not occur on or before December 31, 1995.

The Undersigned accept the terms and provisions applicable to us of:

- (a) the cable franchise of Hayden Island Cable, Ltd., issued by Multnomah County September 4, 1986;
- (b) Ordinance No. 159282 (passed by the Council of the City of Portland on December 24, 1986);
- (c) Ordinance No. 838, passed by the Board of County Commissioners of Multnomah County on October 26, 1995; and,
- (d) all applicable ordinances, orders, contracts, and regulatory actions taken, passed, entered into, or adopted by Multnomah County, the City of Portland, the Portland Cable Regulatory Commission, or the Mt. Hood Cable Regulatory Commission pursuant to the above-cited items, as specified and identified in Exhibit D of Ordinance No. 838.

In consideration of the benefits to be received thereunder, the Undersigned and their successors hereby agree to abide by and

ACCEPTANCE - Change in Control of Columbia Cable of Washington

punctually perform all of these obligations, and to abide by each and every term of thereof.

The County, through the Mt. Hood Cable Regulatory Commission, has made a good-faith attempt to identify and resolve any compliance issues under the Hayden Island franchise. However, it is possible that not all compliance issues have been addressed. The Undersigned acknowledge that the County's approval of the transfer of control shall not operate to serve as a waiver of any compliance deficiencies which may be discovered in the future. The Undersigned agree to assume responsibility for any and all material non-compliance under the Hayden Island franchise that may now exist or may later be discovered to have existed during the term of the franchise.

The Undersigned also attest that, as represented in the Form 394 filing submitted to Multnomah County as completed on July 3, 1995, following completion of the Transaction, Columbia Cable of Washington (to be renamed TCI of Southern Washington) will be owned by TCI/CI Merger Sub Corp. and Columbia Associates, L.P. (to be renamed TCI Washington Associates, L.P.), in their capacities as general partners, that in turn TCI Washington Associates, L.P. will be owned by TCI/CI Merger Sub Corp. as general partner and TCI/CA Acquisition Sub Corp., a newly-created and wholly-owned subsidiary of TCI West, as limited partner, and that there will be no other parties in ownership or control of the Hayden Island franchise.

The Undersigned attest that they are duly authorized to act on behalf of their respective principals, by any and all necessary corporate action, and that they have full authority to make the statements and representations contained herein.

COLUMBIA CABLE OF WASHINGTON, by its general partners listed below

(to be renamed ~~TCI~~ of Southern Washington effective as of the merger closing date of the Transaction)

BY: [Signature]

NAME: Stephen M. Brett

TITLE: Vice President of general partner, TCI/CI Merger Sub Corp.

DATE: NOVEMBER 22, 1995 (to be effective as of the merger closing date of the Transaction)

COLUMBIA ASSOCIATES, L.P., in its capacity as general partner

(to be renamed ~~TCI~~ Washington Associates, L.P. effective as of the merger closing date of the Transaction)

BY: [Signature]

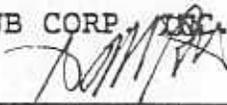
NAME: Stephen M. Brett

TITLE: Vice President of general partner, TCI/CI Merger Sub Corp.

DATE: NOVEMBER 22, 1995 (to be effective as of the merger closing date of the Transaction)

ACCEPTANCE - Change in Control of Columbia Cable of Washington

TCI/CI MERGER SUB CORP., ~~INC.~~, in its capacity as general partner

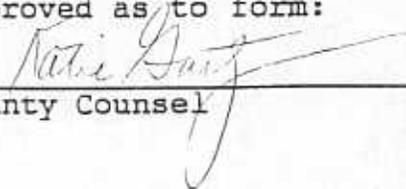
BY: 

NAME: Stephen M. Brett

TITLE: Vice President

DATE: NOVEMBER 22, 1995 (to be effective as of the merger closing date of the transaction)

Approved as to form:

  
Katie Gantz  
County Counsel

ACCEPTANCE - Change in Control of Columbia Cable of Washington

EXHIBIT C  
GUARANTY OF TCI WEST

Office of the Clerk of the Board  
County Commissioners of Multnomah County  
1120 SW Fifth Avenue  
Portland, OR 97204

1. Recitals.

1.1. On this 21st day of November, 1995, TCI West, Inc., a wholly-owned subsidiary of Tele-Communications, Inc., through its duly authorized representative, does hereby submit this sworn and notarized Guarantee for the benefit of Multnomah County, Oregon.

1.2. Columbia Cable of Washington ("Transferor") presently owns and controls a cable franchise to operate within a specified area on Hayden Island, located within Multnomah County ("County"). Columbia Associates, L.P. currently holds a 99% general partnership interest in Transferor, and Columbia International, Inc. ("CI") currently holds a 1% general partnership interest in Transferor. Columbia Associates, L.P. is currently owned by Liberty of Greenwich, Inc., various limited partners and CI. From and after the closing date (the "Closing Date") of the Supplemental Agreement dated as of June 20, 1995 (the "Supplemental Agreement") by and among Columbia Associates, L.P., Columbia International, Inc., Liberty of Greenwich, Inc., TCI West, Inc., TCI/CI Merger Sub Corp. and TCI/CA Merger Sub Corp., TCI/CI Merger Sub Corp. will acquire control of Transferor, (including the Hayden Island franchise), pursuant to various Agreements among the parties (the "Transaction"). Following the Closing Date of the Transaction, Transferor (to be renamed TCI of Southern Washington) will be owned by TCI/CI Merger Sub Corp. (the "Transferee") and Columbia Associates, L.P. (to be renamed TCI Washington Associates, L.P.), as general partners. TCI Washington Associates, L.P. will be owned by TCI/CI Merger Sub Corp. as general partner and TCI/CA Acquisition Sub Corp. as limited partner.

1.3. The Mt. Hood Cable Regulatory Commission ("Commission") represents Multnomah County on cable franchising matters. The Commission was created by an Intergovernmental Agreement among Multnomah County and other jurisdictions. As set forth in Section 4.B.2. of the IGA, the Jurisdictions have reserved full authority to act on their own behalf on "(a)ny decision concerning a change of ownership or control of a cable communications system or a Grantee". However, each Jurisdiction has agreed "to take no action in these areas until the Commission has had a prior opportunity to consider the matter." (IGA §4.B.) Thus, the Commission acts in an advisory capacity to Multnomah

County in connection with the Applicant's proposed transfer of system ownership and control. The Commission recommended to the Board of County Commissioners, that the Board approve the transfer of control of Columbia to the Transferee. The Board of County Commissioners approved the transfer in change of control by Ordinance No. 838, passed by the County on October 26, 1995.

1.4. TCI/CI Merger Sub Corp. is a newly-created and wholly-owned subsidiary of TCI West, Inc., a Delaware Corporation ("TCI West"). TCI West has a substantial interest in the conduct of Transferee, in its capacity as a general partner, in complying with the Hayden Island franchise.

## 2. Guaranty.

2.1. Notwithstanding the date of this delivery to the County, this Guaranty shall be of no force or effect unless and until the Closing Date has occurred. This Guaranty shall become void without further action on the part of any party if the Closing Date does not occur on or before December 31, 1995.

2.2. Effective as of the Closing Date and subject to the last sentence of Section 2.3 herein, TCI West hereby unconditionally guarantees the punctual performance of any and all obligations of the Transferor and the Transferee as set forth in Ordinance No. 838, passed by the Multnomah County Board of Commissioners on October 26, 1995 (the "Hayden Island franchise"). In the event Transferor or Transferee for any reason fails to perform those obligations, TCI West agrees to perform or cause to be performed those obligations, subject to the last two sentences of Section 2.3 herein. TCI West's responsibilities under this Guaranty shall mature immediately, without notice or demand by the County, and become due upon the occurrence of any failure of performance under the Hayden Island franchise.

2.3. Subject to the last two sentences of this Section 2.3, this Guaranty is an absolute, continuing, and unlimited guaranty of performance of the Hayden Island franchise by Transferor and Transferee. The County shall not be obliged to proceed first against Transferor or Transferee or any other person, firm or corporation. In any action brought by the County against TCI West pursuant to this Guaranty, TCI West shall be subrogated to all rights of Transferor and Transferee, and shall be entitled to all defenses available to Transferor and Transferee. This Guaranty does not extend to an event of noncompliance or breach or default by Transferor under the Hayden Island franchise which exists as of the Closing Date, except those specifically identified in Multnomah County ordinance approving the Transaction.

2.4. TCI West consents that, without notice to TCI West, and without the necessity for any additional endorsement, consent, or guaranty by TCI West, the obligations of Transferor or Transferee may, from time to time, be amended, modified, compromised or released by the County and Transferor, all without impairing or affecting in any way the liability of TCI West hereunder.

2.5. TCI West waives notice of acceptance of this Guaranty, and further waives protest, presentment, demand for performance or notice of default to TCI West. TCI West agrees that it is TCI West's responsibility to be informed of the condition of Transferor and Transferee and the status of the Transferor and Transferee's performance of their obligations, and the County has no duty to advise the TCI West of any information known to it in that regard. This waiver, however, shall not be deemed a waiver of any requirement of the Hayden Island franchise as to notice to Transferor and Transferee.

2.6. The County's failure to require strict performance of the Hayden Island franchise shall not release TCI West from any liability under this Guaranty.

2.7. Any litigation between the County and TCI West arising under or regarding this Guaranty shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon. The terms and provisions of this Guaranty shall be applied and interpreted according to the laws, statutes and judicial decisions of the State of Oregon.

2.8. This Guaranty, unless terminated, substituted or canceled, as provided herein, shall remain in full force and effect for the duration of the current term of the Hayden Island franchise.

2.9. TCI West may propose substitution of another guarantor to perform the obligations of this Guaranty. If the County finds the proposed substitute guarantor reasonably satisfactory, another Guaranty may be substituted upon mutual agreement of the County and the substitute guarantor. Such substitution shall not affect liability incurred or accrued under this Guaranty prior to the effective date of such substitution. No claim, suit or action under this Guaranty by reason of any default of Transferor or Transferee shall be brought against TCI West unless asserted or commenced within one year after the termination of this Guaranty, or in the case of a substitution, within one year after the effective date of such substitution of the Guaranty.

2.9. Any notice provided for under this Guaranty shall be sufficient if in writing and (1) delivered personally to the

following addressee or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), or (3) sent by facsimile transmission addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to TCI West:

TCI West  
2233 112th Avenue NE  
Bellevue, Washington 98004  
Fax Number (206) 462-8402

If to the County at:

Office of the Clerk of the Board  
County Commissioners of Multnomah County  
1120 SW Fifth Avenue  
Portland, OR 97204

TCI WEST, INC., *SMB*  
BY: *SMB*  
NAME: Stephen M. Brett  
TITLE: Vice President  
DATE: NOVEMBER 21, 1995

State of Colorado )  
County of Arapahoe ) ss.

This Guaranty was acknowledged before me on the 21<sup>st</sup> day of November 1995, by Stephen M. Brett as Vice President, a duly authorized officer of TCI West, Inc.

*Shela Merlo*  
Notary Public for \_\_\_\_\_  
My Commission Expires:  
My Commission Expires Feb. 25, 1999

Approved as to form:  
*Kate Smith*  
County Counsel

EXHIBIT D

ORDERS AND RESOLUTIONS OF PORTLAND CABLE REGULATORY COMMISSION  
AND MT. HOOD CABLE REGULATORY COMMISSION  
AFFECTING COLUMBIA CABLE/HAYDEN ISLAND FRANCHISE  
1988-1995

- 93-16            Order providing additional time for review of  
                 Columbia Cable basic service tier rates.
- 93-21            Authorizing Columbia Cable to combine basic rate  
                 data from Hayden Island and Vancouver/Clark County  
                 Franchise Areas.
- 94-4             In the matter of basic cable service and  
                 associated equipment and installation charges of  
                 Columbia Cable of Washington within the Hayden  
                 Island, Oregon franchise area; ordering an  
                 accounting.
- 94-12            In the matter of basic cable service and  
                 associated equipment and installation charges of  
                 Columbia Cable of Washington within the Hayden  
                 Island, Oregon franchise area.
- 94-20            Order authorizing filing of petition for special  
                 relief for FCC examination of cost-of-service  
                 filing of Columbia Cable.
- 94-22            Order providing additional time for review of  
                 Columbia Cable basic service tier rates.
- 95-4             Order providing additional time for review of  
                 Columbia Cable rate adjustment.
- 95-6             In the matter of basic cable service and  
                 associated equipment and installation charges of  
                 Columbia Cable within Columbia's franchise area.