

Legislation Text

File #: 2009-0597, **Version:** 3

AN ORDINANCE approving, subject to conditions, the extension of Franchise 13637 for two additional years.

STATEMENT OF FACTS:

1. King County is granted authority under federal and county law and the terms of the existing cable television franchise to grant an extension to the term of Franchise via King County Ordinance 13637 held by Summit Cablevision L.P. ("the franchisee") and Millennium Digital Media Systems, L.L.C., the sole general partner and the owner of all partnership interests in Summit Cablevision L.P., as guarantor.
2. The franchisee provides cable television service in unincorporated King County under cable television franchise via King County Ordinance 13637 ("the franchise agreement").
3. The franchise agreement expired October 11, 2009.
4. K.C.C. 6.27A.030.A. provides for franchise terms of no more than fifteen years. The franchisee was granted a ten-year term pursuant to Ordinance 13637.
5. On January 2, 2009, the franchisee and guarantor commenced cases under Chapter 11 of Title 11 of the United States Code.
6. On June 30, 2009, the county filed a proof of claim with the United States Bankruptcy Court for the District of Delaware.
7. The bankruptcy was not concluded before October 11, 2009.
8. During the past two years, the county conducted an audit to determine if all franchise fees owed under the franchise agreement were paid by the franchisee. The auditor determined that

the franchisee owes the county money for unpaid franchise fees.

9. In May 2006, February 2007 and October 2008, the county performed technical audits of the franchisee's cable system to determine if the cable system met the operational and technical requirements identified in the franchise agreement. The county's consultant determined that the franchisee was not in compliance with the technical requirements of the franchise agreement.

10. The franchisee is not in compliance with technical matters related to the operation of the cable system and the subscribers served by the franchisee. Further, as a result of the unpaid franchise fees and the pending bankruptcy, the franchisee is not in financial compliance with the franchise agreement.

11. Due to the franchisee's noncompliance with the technical and financial requirements to provide cable services, a renewal of the existing franchise in accordance with K.C.C. 6.27A.060 is not in the public interest.

12. In order to provide the franchisee with time to meet the technical and financial requirements of holding a franchise, the county is authorizing, subject to conditions, a two-year extension of the franchise agreement to October 11, 2011.

13. The county has received public comment and public testimony regarding the proposed extension of two additional years.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. A. King County hereby grants an extension to the term of the franchise agreement for one additional year, subject to the following conditions as set forth and agreed to by the county and Summit Cablevision L.P., the franchisee, and Millennium Digital Media Systems, L.L.C., the sole general partner and the owner of all partnership interests in Summit Cablevision L.P. as guarantor.

B. The franchisee shall confirm in writing that approval by the county of the two- year extension of the franchise terms shall not constitute a waiver or release of any rights of the county under the franchise

agreement, prior transfer ordinances or applicable law, before or after the effective date of the one-year extension of the franchise terms.

C. Millennium Digital Media Systems, L.L.C. shall confirm in writing that the performance guarantees on behalf of Summit Cablevision L.P. shall remain in full force and effect before and after the effective date of this ordinance and through the term of the extension.

D. Franchisee and guarantor shall submit written confirmation that the Bankruptcy Court has approved the extension and the guarantee.

E. Upon satisfaction of all the franchise extension requirements described in this ordinance, the executive is authorized to enter into a franchise amendment to extend the franchise agreement for two additional years, to October 11, 2011.

SECTION 2. Where this ordinance requires submittal of written confirmations by the franchisee, the confirmation shall be filed with the clerk of the council, and a copy shall be filed with the office of cable communications. If the conditions for the extension

of two additional years are not satisfied, the extension shall be deemed denied and Franchise 13637 terminates October 11, 2009.

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