

Ordinance No. 121628

Council Bill No. 115030

AN ORDINANCE related to cable television; granting a franchise to Millennium Digital Media Systems, L.L.C. (MDM) for the Central Business Franchise District (CBFD), amending the cable franchise held by MDM (as successor to Summit Communications, Inc.) to include the CBFD and to establish terms and conditions for extending service in the CBFD and to formally change the name of the grantee from Summit Communications to Millennium Digital Media.

CF No. _____

Date Introduced:	9-2-04	
Date 1st Referred:	9-2-04	
Date Re - Referred:	To: (committee) Utilities 5 Technology	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: 8-0	
Date Presented to Mayor:	Date Approved: 10/27/04	
Date Returned to City Clerk:	Date Published:	T.O. <input type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetoes by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

see wall on

The City of Seattle - Legislative Department
Council Bill/Ordinance sponsored by: _____

Committee Action:

IC: Yes ID: Yes NL: Yes as amended

(6-37)

10-18-04 Passed 80 (Excused)

This file is complete and ready for presentation to Full Council. Com

Law Department

Law Dept. Review

OMP Review

City Clerk Review

see 11

ORDINANCE 121628

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AN ORDINANCE related to cable television; granting a franchise to Millennium Digital Media Systems, L.L.C. (MDM) for the Central Business Franchise District (CBFD), amending the cable franchise held by MDM (as successor to Summit Communications, Inc.) to include the CBFD and to establish terms and conditions for extending service in the CBFD; and to formally change the name of the grantee from Summit Communications to Millennium Digital Media.

WHEREAS, pursuant to Ordinance 118361, the City granted a nonexclusive cable franchise to Summit Communications, Inc. for the Central Cable Television Franchise District; and

WHEREAS, pursuant to Ordinance 119295, the City approved the transfer of the Central Cable Television Franchise District from Summit Communications, Inc. to Summit Cablevision LP (LP), and the subsequent purchase of a controlling interest in LP by Millennium Digital Media Systems, L.L.C. (MDM); and

WHEREAS, MDM also provides cable services in the Central Business Franchise District pursuant to City street use permits (*see* Ordinance 111262); and

WHEREAS, the City adopted Ordinance No. 120263, establishing transition rules for the Central Business Franchise District (SMC 21.60.710), whereby holders of temporary street use permits to provide cable services in the Central Business Franchise District must obtain a franchise; and

WHEREAS, in accordance with Ordinance 120263, MDM has filed a notice of their intent to seek a franchise in the Central Business Franchise District; and

WHEREAS, the City has agreed to grant MDM a franchise for the Central Business Franchise District subject to the terms and conditions established for the CBFD; and

WHEREAS, in a separate letter agreement, substantially in the form attached hereto as Exhibit A, the City and MDM have identified and agreed upon certain issues relating to the CBFD; and

WHEREAS, the City wishes to further amend the franchise agreement attached to Ordinance 118361, which is due to expire on March 1, 2008, to establish terms and conditions for extending service in the CBFD, and to subject the CBFD to the terms and conditions contained therein; and

WHEREAS, MDM acknowledges its obligations to complete any new underground cable system extensions in the Central Business Franchise District in such a manner as to minimize the frequency of street openings and disruption to neighborhoods, reduce inconvenience to



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1 the public, and avoid work conflicts in the street rights-of-way, as required by the Seattle
2 Municipal Code and all applicable City rules, regulation, and procedures; Now, therefore,

3 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

4 Section 1. The cable franchise agreement of Millennium Digital Media Systems, L.L.C.
5 (as successor to Summit Communications, Inc.), set forth in an attachment to Ordinance 118361,
6 as amended (hereinafter "Franchise"), shall be amended as set forth in this Ordinance. Any
7 deviations from requirements or obligations contained in the Franchise are made for the purpose
8 of addressing certain characteristics of the Central Business Franchise District, including but not
9 limited to, the mix of business, industrial and residential areas and City established requirements
10 to place cable underground. The amendments pertaining to line extension costs in the Central
11 Business Franchise District shall not be applied to the Central Cable Television Franchise
12 District or any other franchise area served by Millennium unless expressly provided herein or
13 otherwise established by ordinance. In addition, the amendments shall not be construed as
14 reflecting any changes in community needs or interests.

15 Section 2. Subsection 1.1 of the Franchise is amended as follows:

16
17
18 1.1 Grant of Franchise.

19 (A) The City of Seattle hereby grants to Millennium Digital Media Systems, L.L.C.
20 (~~Summit Communications, Inc.~~), a Washington Corporation, (as successor to
21 Summit Communications, Inc.) having its principal place of business in Bellevue,
22 King County, Washington, a franchise to install, construct, operate and maintain a
23 Cable System to provide Cable Services and other services under such terms and
24 conditions as are set forth in this Ordinance.
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- 1 (B) Throughout this Franchise, the City of Seattle, Washington shall be referred to as
2 the "City," and Millennium Digital Media, Systems, L.L.C. (~~Summit~~
3 ~~Communications, Inc.~~) shall be referred to as the "Grantee." Any references to
4 Summit Communications, Inc. shall be references to Millennium Digital Media,
5 Systems, L.L.C.
6
7 (C) Millennium Digital Media, Systems, L.L.C. Inc. is granted a separate franchise for
8 each of the Cable Districts set forth in Subsection 4.1. Notwithstanding anything
9 to the contrary anywhere else in the Franchise, each cable district franchise,
10 individually, is subject to all the terms and conditions of this Franchise in each
11 Franchise District.

12
13 Section 3. Subsection 4.1 of the Franchise is amended as follows:

14 **4.1 Franchise Area.** Grantee shall provide Cable Services, as authorized under
15 ~~((this)) these Franchises,~~ within the areas of the City designated as the Central Cable Television
16 Franchise District and the Central Business Franchise District. ~~((and set forth as the Cable~~
17 ~~District identified on Appendix "A" (map) attached hereto))~~ A franchise district map shall be on
18 file with the City Clerk's Office in sufficient detail and size to determine exact boundaries and
19 shall be readily accessible to Grantee.

20
21 **(A) Central Business Franchise District.**

22 The Central Business Franchise District shall be subdivided into two areas as stated
23 below:

- 24
25 (1) Area North: All areas of the Central Business Franchise District located North of
26 Royal Brougham Way; and
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1 (2) Area South: All remaining areas of the Central Business Franchise District.

2 Section 4. A new Subsection 8.14 is added to the Franchise as follows:

3 **8.14 Line Extensions in the Central Business Franchise District (CBFD)**

4 A) General

5 The phrase "line extensions costs" as used in this subsection shall mean the total
6 construction costs of the extension as determined by Grantee. Construction costs are defined as
7 the actual necessary costs to construct the extension, exclusive of profit and the cost of the house
8 drop.
9

10 Grantee's obligation to extend its cable television system in the CBFD shall be as
11 described in this Subsection 8.14. Grantee shall have the obligation to extend its Cable System
12 to all residents in the CBFD, including residents in a multiple dwelling unit (MDU), except
13 where: (i) residents in the MDU are currently receiving Cable Services from another Cable
14 Operator under a franchise agreement with the City; or (ii) an MDU is connected to the necessary
15 cable system components of another Cable Operator to be able to receive Cable Services; or (iii)
16 the owner of the MDU and another Cable Operator are parties to an existing Right of Entry
17 Agreement or other similar agreement granting access to the building for the purpose of
18 providing Cable Services; or (iv) the owner of the MDU and Grantee have not agreed upon and
19 entered into a Right of Entry Agreement and/or Cable Services Agreement which covers any
20 inside wiring or other telecommunications improvements, provided, however, that Grantee shall
21 not propose terms for the purpose of avoiding service to any MDU. All Right of Entry
22 Agreements and/or Cable Service Agreements covering an MDU are subject to the terms of
23 Subsection 16.5 of this Franchise Agreement. Grantee shall maintain evidence that it has
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1 attempted to secure a Right of Entry Agreement and/or Cable Service Agreement, and provide
2 such evidence at the City's request.

3 If any line extension charges to subscribers are applicable under this subsection, Grantee
4 may, in its sole discretion, waive all or a portion of the extension charges if it deems it
5 commercially desirable. Grantee may also require that payment of up to 100% of the line
6 extension costs to be borne by potential Subscribers under this subsection be paid in advance;
7 however, nothing in this subsection shall prohibit Grantee from providing more favorable
8 payment terms to Subscribers.
9

10 Whenever the City is contacted by a potential subscriber or residential building owner
11 who believes that a line extension estimate is unreasonable, the City may request, and Grantee
12 shall provide, information pertaining to all construction costs included in the total line extension
13 estimate provided to the customer. The City may also request that the cable operator arrange for
14 and host a meeting between the City and the contractor that provided the estimate.
15

16 (1) Line Extensions in Area North

17 Whenever the Grantee receives a request for Cable Service from a potential residential
18 Subscriber in Area North of the Central Business Franchise District, Grantee shall extend its
19 Cable System to such Subscriber at no cost to said Subscriber for the Cable System extension,
20 other than the published Standard/non-Standard Installation fees, where Grantee's total costs of
21 construction is no greater than \$1,200.00 per Dwelling Unit. Grantee shall have no obligation to
22 extend its Cable System to provide service to Subscribers where Grantee's cost of construction is
23 greater than \$1,200.00 per Dwelling Unit, unless Subscribers to be served by the extension agree
24 to pay all additional costs in excess of said amount. In the case of a multiple dwelling unit
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1 (MDU), Grantee shall multiply the \$1,200.00 maximum cost cap by the number of total
2 residential units in the building, regardless of the number of subscribers, to determine its
3 maximum cost cap for line extension costs to an MDU.

4 (2) Line Extensions in Area South

5 No Subscriber requesting service shall be refused service arbitrarily. Whenever the
6 Grantee receives a request for Cable Service from a potential residential Subscriber in Area
7 South of the Central Business Franchise District as defined in Section 4.1, and where there are at
8 least 15 Dwelling Units within 1,320 cable-bearing strand feet from the portion of Grantee's
9 trunk or distribution cable which is to be extended, Grantee shall extend its Cable System to such
10 Subscribers at no cost to said Subscribers for the Cable System extension, other than the
11 published Standard/non-Standard Installation fees, provided, however, that Grantee shall not be
12 obligated to extend its Cable System across or under Interstate 5.
13

14 However, if any area in Area South of the Central Business Franchise District does not
15 meet the density requirements set forth in this subsection, Grantee shall only be required to
16 extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the
17 construction costs for extending the Cable System, provided, however, that Grantee shall not be
18 obligated to extend its Cable System across or under Interstate 5. Specifically, the Grantee shall
19 contribute a capital amount equal to the construction cost per mile, multiplied by a fraction
20 whose numerator equals the actual number of Dwelling Units per 1,320 cable-bearing strand feet
21 from Grantee's trunk or distribution cable, and whose denominator equals 15. Subscribers who
22 request service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata*
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1 basis. A Subscriber shall also be responsible for any Standard/non-Standard Installation charges
2 to extend the Cable System from the tap to the Dwelling Unit.

3 Section 5. Except as expressly provided herein, all terms and conditions of the
4 franchise granted by Ordinance 118361, as amended, remain unchanged and in full force and
5 effect. Changes to the sections and subsections specified herein above do not affect other
6 sections or subsections.

7
8 Section 6. The Franchise amendments contained in this Ordinance shall not become
9 effective for any purpose unless and until Grantee accepts the conditions of this Ordinance and
10 such acceptance is filed with the City Clerk and the Office of Cable Communications. Such
11 acceptance shall be in writing, shall be in a form and substance approved by the City Attorney,
12 and shall be and operate as an acceptance of each and every term and condition and limitation
13 contained in this Ordinance. If Grantee fails to accept the amendments to the Franchise
14 contained herein within 30 days of the Mayor's acceptance of this Ordinance, the Franchise
15 amendments shall be null and void. All other terms, conditions, and limitations of the Franchise
16 Agreement not specifically amended by this Ordinance shall remain in full force and effect and
17 shall apply to the obligations created by this Ordinance.
18

19
20 Section 7. Any acts done consistent with the authority granted herein and prior to the
21 effective date of this Ordinance are hereby ratified and confirmed.

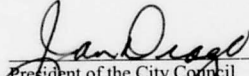
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23 Section 8. This Ordinance shall take effect and be in force thirty (30) days from and
24 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
25 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.
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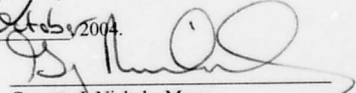
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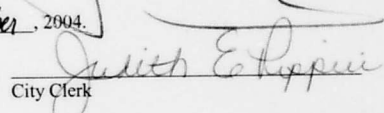
Passed by the City Council the 18th day of October, 2004, and signed by me in open session in authentication of its passage this 18th day of October, 2004.



President of the City Council

Approved by me this 27th day of October, 2004.


Gregory J. Nickels, Mayor

Filed by me this 27th day of October, 2004.


City Clerk

(Seal)
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Attachment A:
Side letter of agreement between the City of Seattle and Millennium Digital Media, L. L. C.



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City of Seattle

Attachment A.

Gregory J. Nickels, Mayor

Department of Information Technology
Bill Shrier, Director and Chief Technology Officer

July 26, 2004

Via Electronic Mail and U.S. Mail

Mr. David Walker
Vice President/General Manager NW Region
Millennium Digital Media, L.L.C.
3633 136th Pl SE, Suite 107
Bellevue, WA 98006

Re: Franchise for the Central Business Franchise District

Dear Mr. Walker:

This letter addresses issues that were identified during franchise negotiations for the Central Business Franchise District (CBFD). The following statements represent clarifications and/or intentions as they relate to the CBFD:

1) The City and Millennium agree that the application of an inflation factor to the per unit contribution amount, as described in new subsection 8.14 to the franchise agreement attached to Ordinance No. 118361 (Section 4 of this ordinance), shall be a discussion item during informal renewal negotiations of the franchise agreement attached to Ordinance No. 118361.

2) The City and Millennium agree that the granting of a franchise for the CBFD increases the number of subscribers served under the terms of the franchise agreement attached to Ordinance No. 118361, as amended. Further, the City and Millennium agree that due to the increase in the subscriber base and the addition of another franchise district, the requirements for bonding, insurance, security fund and liquidated damages shall be discussion items during informal renewal negotiations of the franchise agreement attached to Ordinance No. 118361.

By signing below the parties acknowledge and agree to the matters described herein above.

City of Seattle

Millennium Digital Media, L.L.C.

Bill Shrier
Director and Chief Technology Officer

Kelvin R. Westbrook
President and CEO

Department of Information Technology
Key Tower, Suite 2700, 700 Fifth Avenue, P. O. Box 94709 Seattle, WA 98124-4709
Tel (206) 684-0690, TDD: (206) 233-7810, Fax: (206) 684-0911, <http://www.cityofseattle.net>
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Author: Tony Perez
Date: July 14, 2004
Name of Companion Legislation: DoIT Millennium DT ORD
Version #: 1

Form revised March 2, 2004

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst Phone:
DoIT	Tony Perez/ 6-0070	Aimee Strasko/ 6-4090

Legislation Title:

AN ORDINANCE related to cable television; granting a franchise to Millennium Digital Media Systems, L.L.C. (MDM) for the Central Business Franchise District (CBFD), amending the cable franchise held by MDM (as successor to Summit Communications, Inc.) to include the CBFD and to establish terms and conditions for extending service in the CBFD; and to formally change the name of the grantee from Summit Communications to Millennium Digital Media.

• **Summary of the Legislation:**

The attached Council Bill grants a franchise to Millennium Digital Media Systems, L.L.C. (MDM) for the Central Business Franchise District (CBFD), establishes terms and conditions for extension of service in the CBFD and amends the MDM franchise agreement for the Central Cable Television District (Central District) to include the CBFD. This Council Bill to serve residents and City buildings in the CBFD where certain conditions are met. Specifically, it requires MDM to make a capital contribution toward the cost of extending its cable service in the CBFD where service has been requested and where such a line extension is necessary. Lower extension costs should encourage more residential building owners in the CBFD to subscribe to cable services, allowing broader access to cable services and potentially increasing franchise fees for the City. In addition, MDM will provide cable television service to City buildings that currently do not have access to cable service.

• **Background:**

MDM, one of the City's two cable operators, is currently providing service to the Central Business Franchise District (CBFD) pursuant to temporary, revocable street use permits issued by the City. The City's transition rule (SMC 21.60.710) requires cable companies operating under permits in the CBFD to obtain a franchise. The City, through its Department of Information Technology, has agreed to grant MDM a franchise for this franchise area, subject to the terms and conditions contained in this Council Bill.

The CBFD has been subdivided into two sub-areas, Area North and Area South, to address certain characteristics of each area. Area North of the CBFD is comprised mainly of multiple dwelling units (MDUs). It is the most densely populated area of the CBFD but also the most costly to serve due to City requirements to place cable underground. Currently, if MDM receives a request for cable service where its system must be extended to provide service, it will only do



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so if a service agreement is reached with the building owner where some or all of its costs to extend its cable system will be recovered, unless expected returns make it desirable for the company to waive such costs. With this Council Bill, MDM must contribute an amount equal to \$1,200, multiplied by the number of residential units, towards the cost to extend its cable system. Area South of the Cbfd, including all areas of the Cbfd South of Royal Brougham Way, is characterized by mostly industrial development, a relatively low density of residential development, and there are currently no requirements to place cable underground. A density formula, as described in this Council Bill, will be applied to determine MDM's required contribution amount for extensions of its cable system in this area.

By adding the Cbfd to MDM's existing franchise agreement, the City may request that MDM provide free cable television service to any City building in the Cbfd. There are currently 3 unserved City buildings, including the Police Department's West Precinct, the Park 90/5 Building, and the Seattle Aquarium. Service to these City buildings will result in greater access to the Seattle Channel by City employees, access to future training channels for the Police Department, and use of the cable system for other public purposes. MDM and Comcast will share the obligation to provide service to these buildings, since both cable operators are seeking a franchise for the Cbfd. The City will make the final determination regarding the obligation of each operator to serve these buildings.

- Please check one of the following:

This legislation does not have any financial implications. (Stop here and delete the remainder of this document prior to saving and printing.)

This legislation has financial implications. (Please complete all relevant sections that follow.)

Anticipated Revenue/Reimbursement: Resulting From This Legislation: This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Fund Name and Number	Department	Revenue Source	2004 Revenue	2005 Revenue
TOTAL				

Notes:

The City is currently receiving franchise fees based on MDM's gross revenues for cable television services in the Cbfd just as it does in its other cable franchise districts. However, the proposed amendments to MDM's cable franchise agreement will formalize MDM's

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requirement to pay franchise fees in the Cbfd. In addition, the proposed agreement will provide less costly access to cable services where line extensions are required to provide service. As a result of less costly access, the City believes that more building owners in the Cbfd will choose to provide cable services to their tenants, potentially resulting in additional franchise fees to the City.

MDM will also provide free cable television service for up to three (3) City buildings that currently do not have access to cable television services. The actual value of these services and the cost to extend the cable system to the three unserved City buildings has not yet been determined; however, estimates have been provided by both providers and are currently being evaluated. The City will assign obligations to serve these buildings following the granting of franchises for both MDM and Comcast.

Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE Impact: This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the No.es section below the table

Position Title and Department*	Fund Name	Fund Number	Part-Time/Full Time	2004 Positions	2004 FTE	2005 Positions**	2005 FTE**
TOTAL							

* List each position separately

** 2005 positions and FTE are total 2005 position changes resulting from this legislation, not incremental changes. Therefore, under 2005, please be sure to include any continuing positions from 2004

Notes:

N/A

- **Do positions sunset in the future?** (If yes, identify sunset date):

N/A

Spending/Cash Flow: This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.



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Fund Name and Number	Department	Budget Control Level*	2004 Expenditures	2005 Anticipated Expenditures
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

N/A

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

If the City does not implement the legislation, the City will not be provided free cable television services for up to 3 currently unserved City buildings, including the Police Department's West Precinct, the Park 90/5 Building, and the Seattle Aquarium, unless, based on MDM estimates, several thousands of dollars are paid to MDM to extend the service.

There is also the potential loss of additional franchise fee revenues. The City anticipates that MDM's obligation to pay a capital contribution towards necessary cable line extensions will make cable services more attractive to MDU owners and residents in the CBFDD who are not currently served by a cable operator. An increase in cable service subscribers would mean higher gross revenues to MDM, resulting in higher franchise fees for the City.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** (Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)

N/A

- **Is the legislation subject to public hearing requirements?** (If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)

The Law department has advised that a public hearing is necessary. DoIT staff and Council staff have agreed to coordinate efforts to schedule a public hearing immediately after this legislation is introduced at Council.



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- **Other Issues** (including long-term implications of the legislation):

Please list attachments to the fiscal note

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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 10, 2004

Honorable Jan Drago
President, Seattle City Council
City Hall, 2nd Floor
Seattle, WA 98104

Dear Council President Drago:

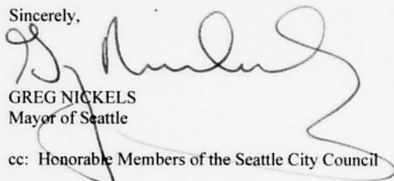
I am pleased to transmit the attached proposed Council Bill that grants a cable franchise to Millennium Digital Media Systems, L.L.C. (MDM) for the Central Business Franchise District (CBFD). This franchise will require MDM to serve any resident in the downtown area where certain conditions are met. It will also enable the City to require MDM to provide cable services to City buildings that do not currently have access to cable services, such as the Police Department's West Precinct, the Park 90/5 Building, and the Seattle Aquarium.

MDM is one of two cable operators that provide cable services in the CBFD under temporary, revocable City street use permits in lieu of a franchise, which is required in all other Seattle cable franchise districts. In 2001, the City established a transition rule (SMC 21.60.710) that requires cable operators serving this area to obtain a franchise. While the current system has resulted in access to cable services for the majority of residents in the CBFD, the City now seeks to facilitate even greater access to cable services for all residents in the CBFD by requiring cable operators to serve customers and establishing rules for extending the cable system.

Under the present permitting system, if a cable system extension is needed in order for MDM to serve a residential building, MDM may charge the building owner up to 100% of the cost to extend its system. Under this proposed agreement, MDM will be required to contribute to the cost of extending its cable system rather than assessing the full cost of extension to the subscriber. This will make cable services more attractive to residential building owners who do not currently provide their tenants the option of cable services, potentially resulting in greater access to cable services and higher franchise fees for the City. In addition, the City will be able to require, at no charge to the City, that MDM provide cable services to the City buildings mentioned above that do not currently have access to cable services.

Thank you for your consideration of this legislation. Should you have questions, please contact Tony Perez at 386-0070 or Rona Zevin at 684-8264.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 12th Floor, Seattle, WA 98104-1873

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E-mail: mayors.office@ci.seattle.wa.us

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RIDDELL WILLIAMS P.S.

November 26, 2004



Ms. Judith Pippin
Office of the City Clerk
PO Box 94728
Seattle, Washington 98124-4728

RE: Central Business Franchise District Franchise

Dear Ms. Pippin:

We are providing this letter as per Section 6 of the Central Business Franchise District Ordinance (Ordinance 121628) (the "Ordinance") amending the franchise agreement of Summit Communications, Inc. attached to Ordinance 117955 and transferred to Millennium Digital Media Systems, L.L.C. ("MDM") by Ordinance 119295 ("Franchise Agreement"). As directed by Section 6 of the Ordinance, we provide this letter accepting all the terms and conditions of the Ordinance as passed by the Seattle City Council on October 18, 2004 and have executed Attachment A to the Ordinance. We understand and agree that all other terms, conditions, and limitations of the Franchise Agreement not specifically amended by the Ordinance shall remain in full force and effect and shall apply to the obligations created by the Ordinance. As discussed with staff, our ability to comply with the line extension build out requirements of the Ordinance is dependent upon our financial position and ability to access necessary funds at the time of the request. Please place this acceptance in the appropriate files as per Section 6 of the Ordinance. We look forward to continuing to serve and work with the City in the future.

Sincerely,

Kelvin R. Westbrook
President & CEO

CC: Janet Jensen
Department of Information Technology
Office of Cable Communications
PO Box 94709
Seattle, WA 98124-4709

FILED
CITY OF SEATTLE
NOV 24 AM 10:31
CITY CLERK

Millennium Digital Media • 120 S. Central Ave., Suite 150 • St. Louis, MO 63105-1705
Telephone 314.802.2400 • Facsimile 314.802.2300

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
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City of Seattle

Attachment A.

Gregory J. Nickels, Mayor

Department of Information Technology
Bill Shrier, Director and Chief Technology Officer

July 26, 2004

Via Electronic Mail and U.S. Mail

Mr. David Walker
Vice President/General Manager NW Region
Millennium Digital Media, L.L.C.
3633 136th Pl SE, Suite 107
Bellevue, WA 98006

Re: Franchise for the Central Business Franchise District

Dear Mr. Walker:

This letter addresses issues that were identified during franchise negotiations for the Central Business Franchise District (CBFD). The following statements represent clarifications and/or intentions as they relate to the CBFD:

1) The City and Millennium agree that the application of an inflation factor to the per unit contribution amount, as described in new subsection 8.14 to the franchise agreement attached to Ordinance No. 118361 (Section 4 of this ordinance), shall be a discussion item during informal renewal negotiations of the franchise agreement attached to Ordinance No. 118361.

2) The City and Millennium agree that the granting of a franchise for the CBFD increases the number of subscribers served under the terms of the franchise agreement attached to Ordinance No. 118361, as amended. Further, the City and Millennium agree that due to the increase in the subscriber base and the addition of another franchise district, the requirements for bonding, insurance, security fund and liquidated damages shall be discussion items during informal renewal negotiations of the franchise agreement attached to Ordinance No. 118361.

By signing below the parties acknowledge and agree to the matters described herein above.

City of Seattle

Millennium Digital Media, L.L.C.

Bill Shrier
Director and Chief Technology Officer

Kelvin R. Westbrook
President and CEO

Department of Information Technology
Key Tower, Suite 2700, 700 Fifth Avenue, P. O. Box 94709 Seattle, WA 98124-4709
Tel (206) 684-0600, TDD: (206) 233-7810, Fax: (206) 684-0911, http://www.cityofseattle.net
An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

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STATE OF WASHINGTON }
COUNTY OF KING } SS
CITY OF SEATTLE }

I, JUDITH E. PIPPIN, CITY CLERK OF THE CITY OF SEATTLE DO HEREBY
CERTIFY THAT THE WITHIN AND FOREGOING IS A TRUE AND CORRECT
COPY OF ORDINANCE #121628, Plus
ATTACHMENT A.

AS THE SAME APPEARS ON FILE AND OF RECORD IN THIS DEPARTMENT

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED
THE SEAL TO THE CITY OF SEATTLE, THIS 3rd DAY of November 2004.
BY *Colna Wheaton*
DEPUTY CLERK

JUDITH E. PIPPIN
CITY CLERK



1 the public, and avoid work conflicts in the street rights-of-way, as required by the Seattle
2 Municipal Code and all applicable City rules, regulation, and procedures; Now, therefore,

3 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

4 Section 1. The cable franchise agreement of Millennium Digital Media Systems, L.L.C.
5 (as successor to Summit Communications, Inc.), set forth in an attachment to Ordinance 118361,
6 as amended (hereinafter "Franchise"), shall be amended as set forth in this Ordinance. Any
7 deviations from requirements or obligations contained in the Franchise are made for the purpose
8 of addressing certain characteristics of the Central Business Franchise District, including but not
9 limited to, the mix of business, industrial and residential areas and City established requirements
10 to place cable underground. The amendments pertaining to line extension costs in the Central
11 Business Franchise District shall not be applied to the Central Cable Television Franchise
12 District or any other franchise area served by Millennium unless expressly provided herein or
13 otherwise established by ordinance. In addition, the amendments shall not be construed as
14 reflecting any changes in community needs or interests.
15

16
17 Section 2. Subsection 1.1 of the Franchise is amended as follows:

18 1.1 Grant of Franchise.

19 (A) The City of Seattle hereby grants to Millennium Digital Media, Systems, L.L.C.
20 ~~((Summit Communications, Inc.))~~, a Washington Corporation, ~~(as successor to~~
21 Summit Communications, Inc.) having its principal place of business in Bellevue,
22 King County, Washington, a franchise to install, construct, operate and maintain a
23 Cable System to provide Cable Services and other services under such terms and
24 conditions as are set forth in this Ordinance.
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1 (B) Throughout this Franchise, the City of Seattle, Washington shall be referred to as
2 the "City," and Millennium Digital Media, Systems, L.L.C. (~~Summit~~
3 ~~Communications, Inc.~~) shall be referred to as the "Grantee." Any references to
4 Summit Communications, Inc. shall be references to Millennium Digital Media,
5 Systems, L.L.C.

6
7 (C) Millennium Digital Media, Systems, L.L.C. Inc. is granted a separate franchise for
8 each of the Cable Districts set forth in Subsection 4.1. Notwithstanding anything
9 to the contrary anywhere else in the Franchise, each cable district franchise,
10 individually, is subject to all the terms and conditions of this Franchise in each
11 Franchise District.

12
13 Section 3. Subsection 4.1 of the Franchise is amended as follows:

14 **4.1 Franchise Area.** Grantee shall provide Cable Services, as authorized under
15 ~~((this))~~ these Franchises, within the areas of the City designated as the Central Cable Television
16 Franchise District and the Central Business Franchise District. (~~and set forth as the Cable~~
17 District identified on Appendix "A" (map) attached hereto)) A franchise district map shall be on
18 file with the City Clerk's Office in sufficient detail and size to determine exact boundaries and
19 shall be readily accessible to Grantee.

20
21 **(A) Central Business Franchise District.**

22 The Central Business Franchise District shall be subdivided into two areas as stated
23 below:

24
25 (1) Area North: All areas of the Central Business Franchise District located North of
26 Royal Brougham Way; and
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1 (2) Area South: All remaining areas of the Central Business Franchise District.

2 Section 4. A new Subsection 8.14 is added to the Franchise as follows:

3 **8.14 Line Extensions in the Central Business Franchise District (CBFD)**

4 (A) General

5 The phrase "line extensions costs" as used in this subsection shall mean the total
6 construction costs of the extension as determined by Grantee. Construction costs are defined as
7 the actual necessary costs to construct the extension, exclusive of profit and the cost of the house
8 drop.
9

10 Grantee's obligation to extend its cable television system in the CBFD shall be as
11 described in this Subsection 8.14. Grantee shall have the obligation to extend its Cable System
12 to all residents in the CBFD, including residents in a multiple dwelling unit (MDU), except
13 where: (i) residents in the MDU are currently receiving Cable Services from another Cable
14 Operator under a franchise agreement with the City; or (ii) an MDU is connected to the necessary
15 cable system components of another Cable Operator to be able to receive Cable Services; or (iii)
16 the owner of the MDU and another Cable Operator are parties to an existing Right of Entry
17 Agreement or other similar agreement granting access to the building for the purpose of
18 providing Cable Services; or (iv) the owner of the MDU and Grantee have not agreed upon and
19 entered into a Right of Entry Agreement and/or Cable Services Agreement which covers any
20 inside wiring or other telecommunications improvements, provided, however, that Grantee shall
21 not propose terms for the purpose of avoiding service to any MDU. All Right of Entry
22 Agreements and/or Cable Service Agreements covering an MDU are subject to the terms of
23 Subsection 16.5 of this Franchise Agreement. Grantee shall maintain evidence that it has
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1 attempted to secure a Right of Entry Agreement and/or Cable Service Agreement, and provide
2 such evidence at the City's request.

3 If any line extension charges to subscribers are applicable under this subsection, Grantee
4 may, in its sole discretion, waive all or a portion of the extension charges if it deems it
5 commercially desirable. Grantee may also require that payment of up to 100% of the line
6 extension costs to be borne by potential Subscribers under this subsection be paid in advance;
7 however, nothing in this subsection shall prohibit Grantee from providing more favorable
8 payment terms to Subscribers.
9

10 Whenever the City is contacted by a potential subscriber or residential building owner
11 who believes that a line extension estimate is unreasonable, the City may request, and Grantee
12 shall provide, information pertaining to all construction costs included in the total line extension
13 estimate provided to the customer. The City may also request that the cable operator arrange for
14 and host a meeting between the City and the contractor that provided the estimate.
15

16 (1) Line Extensions in Area North

17 Whenever the Grantee receives a request for Cable Service from a potential residential
18 Subscriber in Area North of the Central Business Franchise District, Grantee shall extend its
19 Cable System to such Subscriber at no cost to said Subscriber for the Cable System extension,
20 other than the published Standard/non-Standard Installation fees, where Grantee's total costs of
21 construction is no greater than \$1,200.00 per Dwelling Unit. Grantee shall have no obligation to
22 extend its Cable System to provide service to Subscribers where Grantee's cost of construction is
23 greater than \$1,200.00 per Dwelling Unit, unless Subscribers to be served by the extension agree
24 to pay all additional costs in excess of said amount. In the case of a multiple dwelling unit
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1 (MDU), Grantee shall multiply the \$1,200.00 maximum cost cap by the number of total
2 residential units in the building, regardless of the number of subscribers, to determine its
3 maximum cost cap for line extension costs to an MDU.

4 (2) Line Extensions in Area South

5 No Subscriber requesting service shall be refused service arbitrarily. Whenever the
6 Grantee receives a request for Cable Service from a potential residential Subscriber in Area
7 South of the Central Business Franchise District as defined in Section 4.1, and where there are at
8 least 15 Dwelling Units within 1,320 cable-bearing strand feet from the portion of Grantee's
9 trunk or distribution cable which is to be extended, Grantee shall extend its Cable System to such
10 Subscribers at no cost to said Subscribers for the Cable System extension, other than the
11 published Standard/non-Standard Installation fees, provided, however, that Grantee shall not be
12 obligated to extend its Cable System across or under Interstate 5.
13

14 However, if any area in Area South of the Central Business Franchise District does not
15 meet the density requirements set forth in this subsection, Grantee shall only be required to
16 extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the
17 construction costs for extending the Cable System, provided, however, that Grantee shall not be
18 obligated to extend its Cable System across or under Interstate 5. Specifically, the Grantee shall
19 contribute a capital amount equal to the construction cost per mile, multiplied by a fraction
20 whose numerator equals the actual number of Dwelling Units per 1,320 cable-bearing strand feet
21 from Grantee's trunk or distribution cable, and whose denominator equals 15. Subscribers who
22 request service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata*
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1 basis. A Subscriber shall also be responsible for any Standard/non-Standard Installation charges
2 to extend the Cable System from the tap to the Dwelling Unit.

3 Section 5. Except as expressly provided herein, all terms and conditions of the
4 franchise granted by Ordinance 118361, as amended, remain unchanged and in full force and
5 effect. Changes to the sections and subsections specified herein above do not affect other
6 sections or subsections.

7
8 Section 6. The Franchise amendments contained in this Ordinance shall not become
9 effective for any purpose unless and until Grantee accepts the conditions of this Ordinance and
10 such acceptance is filed with the City Clerk and the Office of Cable Communications. Such
11 acceptance shall be in writing, shall be in a form and substance approved by the City Attorney,
12 and shall be and operate as an acceptance of each and every term and condition and limitation
13 contained in this Ordinance. If Grantee fails to accept the amendments to the Franchise
14 contained herein within 30 days of the Mayor's acceptance of this Ordinance, the Franchise
15 amendments shall be null and void. All other terms, conditions, and limitations of the Franchise
16 Agreement not specifically amended by this Ordinance shall remain in full force and effect and
17 shall apply to the obligations created by this Ordinance.

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19
20 Section 7. Any acts done consistent with the authority granted herein and prior to the
21 effective date of this Ordinance are hereby ratified and confirmed.

22
23 Section 8. This Ordinance shall take effect and be in force thirty (30) days from and
24 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
25 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

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1 Passed by the City Council the ____ day of _____, 2004, and signed by me in open
2 session in authentication of its passage this ____ day of _____, 2004.
3

4 _____
President of the City Council

5 Approved by me this ____ day of _____, 2004.
6

7 _____
Gregory J. Nickels, Mayor

8 Filed by me this ____ day of _____, 2004.
9

10 _____
City Clerk
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ORDINANCE _____

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AN ORDINANCE related to cable television; granting a franchise to Millennium Digital Media Systems, L.L.C. (MDM) for the Central Business Franchise District (CBFD), amending the cable franchise held by MDM (as successor to Summit Communications, Inc.) to include the CBFD and to establish terms and conditions for extending service in the CBFD; and to formally change the name of the grantee from Summit Communications to Millennium Digital Media.

WHEREAS, pursuant to Ordinance 118361, the City granted a nonexclusive cable franchise to Summit Communications, Inc. for the Central Cable Television Franchise District; and

WHEREAS, pursuant to Ordinance 119295, the City approved the transfer of the Central Cable Television Franchise District from Summit Communications, Inc. to Summit Cablevision LP (LP), and the subsequent purchase of a controlling interest in LP by Millennium Digital Media Systems, L.L.C. (MDM); and

WHEREAS, MDM also provides cable services in the Central Business Franchise District pursuant to City street use permits (*see* Ordinance 111262); and

WHEREAS, the City adopted Ordinance No. 120263, establishing transition rules for the Central Business Franchise District (SMC 21.60.710), whereby holders of temporary street use permits to provide cable services in the Central Business Franchise District must obtain a franchise; and

WHEREAS, in accordance with Ordinance 120263, MDM has filed a notice of their intent to seek a franchise in the Central Business Franchise District; and

WHEREAS, the City has agreed to grant MDM a franchise for the Central Business Franchise District subject to the terms and conditions established for the CBFD; and

WHEREAS, in a separate letter agreement, substantially in the form attached hereto as Exhibit A, the City and MDM have identified and agreed upon certain issues relating to the CBFD; and

WHEREAS, the City wishes to further amend the franchise agreement attached to Ordinance 118361, which is due to expire on March 1, 2008, to establish terms and conditions for extending service in the CBFD, and to subject the CBFD to the terms and conditions contained therein; Now, therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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1 Section 1. The cable franchise agreement of Millennium Digital Media Systems, L.L.C.
2 (as successor to Summit Communications, Inc.), set forth in an attachment to Ordinance 118361,
3 as amended (hereinafter "Franchise"), shall be amended as set forth in this Ordinance. Any
4 deviations from requirements or obligations contained in the Franchise are made for the purpose
5 of addressing certain characteristics of the Central Business Franchise District, including but not
6 limited to, the mix of business, industrial and residential areas and City established requirements
7 to place cable underground. The amendments pertaining to line extension costs in the Central
8 Business Franchise District shall not be applied to the Central Cable Television Franchise
9 District or any other franchise area served by Millennium unless expressly provided herein or
10 otherwise established by ordinance. In addition, the amendments shall not be construed as
11 reflecting any changes in community needs or interests.
12

13 Section 2. Subsection 1.1 of the Franchise is amended as follows:

14 1.1 Grant of Franchise.

- 15 (A) The City of Seattle hereby grants to Millennium Digital Media, Systems, L.L.C.,
16 ~~((Summit Communications, Inc.)),~~ a Washington Corporation, ~~(as successor to~~
17 ~~Summit Communications, Inc.)~~ having its principal place of business in Bellevue,
18 King County, Washington, a franchise to install, construct, operate and maintain a
19 Cable System to provide Cable Services and other services under such terms and
20 conditions as are set forth in this Ordinance.
21
22 (B) Throughout this Franchise, the City of Seattle, Washington shall be referred to as
23 the "City," and Millennium Digital Media, Systems, L.L.C. ~~((Summit~~
24 ~~Communications, Inc.))~~ shall be referred to as the "Grantee." Any references to
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1 Summit Communications, Inc. shall be references to Millennium Digital Media,
2 Systems, L.L.C.

3 (C) Millennium Digital Media, Systems, L.L.C. Inc. is granted a separate franchise for
4 each of the Cable Districts set forth in Subsection 4.1. Notwithstanding anything
5 to the contrary anywhere else in the Franchise, each cable district franchise,
6 individually, is subject to all the terms and conditions of this Franchise in each
7 Franchise District.

8
9 Section 3. Subsection 4.1 of the Franchise is amended as follows:

10 **4.1 Franchise Area.** Grantee shall provide Cable Services, as authorized under
11 ~~((this)) these~~ Franchises, within the areas of the City designated as the Central Cable Television
12 Franchise District and the Central Business Franchise District. ~~((and set forth as the Cable~~
13 ~~District identified on Appendix "A" (map) attached hereto))~~ A franchise district map shall be on
14 file with the City Clerk's Office in sufficient detail and size to determine exact boundaries and
15 shall be readily accessible to Grantee.

16
17 **(A) Central Business Franchise District.**

18 The Central Business Franchise District shall be subdivided into two areas as stated
19 below:

- 20
21 (1) Area North: All areas of the Central Business Franchise District located North of
22 Royal Brougham Way; and
23 (2) Area South: All remaining areas of the Central Business Franchise District.

24
25 Section 4. A new Subsection 8.14 is added to the Franchise as follows:

26 **8.14 Line Extensions in the Central Business Franchise District (CBFD)**

27
28



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(A) General

1
2 The phrase "line extensions costs" as used in this subsection shall mean the total
3 construction costs of the extension as determined by Grantee. Construction costs are defined as
4 the actual necessary costs to construct the extension, exclusive of profit and the cost of the house
5 drop.

6
7 Grantee's obligation to extend its cable television system in the CBFD shall be as
8 described in this Subsection 8.14. Grantee shall have no obligation to extend its Cable System to
9 a multiple dwelling unit (MDU) unless it has received permission to enter the property and
10 provide Cable Service to tenants via a Right of Entry Agreement and/or Cable Service
11 Agreement signed by the building owner, subject to the terms of Subsection 16.5. Grantee shall
12 maintain evidence that it has attempted to secure a Right of Entry Agreement and/or Cable
13 Service Agreement, and provide such evidence at the City's request.

14
15 If any line extension charges to subscribers are applicable under this subsection, Grantee
16 may, in its sole discretion, waive all or a portion of the extension charges if it deems it
17 commercially desirable. Grantee may also require that payment of up to 100% of the line
18 extension costs to be borne by potential Subscribers under this subsection be paid in advance;
19 however, nothing in this subsection shall prohibit Grantee from providing more favorable
20 payment terms to Subscribers.
21

22
23 Whenever the City is contacted by a potential subscriber or residential building owner
24 who believes that a line extension estimate is unreasonable, the City may request, and Grantee
25 shall provide, information pertaining to all construction costs included in the total line extension
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1 estimate provided to the customer. The City may also request that the cable operator arrange for
2 and host a meeting between the City and the contractor that provided the estimate.

3 (1) Line Extensions in Area North

4 Whenever the Grantee receives a request for Cable Service from a Subscriber in Area
5 North of the Central Business Franchise District, Grantee shall extend its Cable System to such
6 Subscriber at no cost to said Subscriber for the Cable System extension, other than the published
7 Standard/non-Standard Installation fees, where Grantee's total costs of construction is no greater
8 than \$1,200.00 per Dwelling Unit. Grantee shall have no obligation to extend its Cable System
9 to provide service to Subscribers where Grantee's cost of construction is greater than \$1,200.00
10 per Dwelling Unit, unless Subscribers to be served by the extension agree to pay all additional
11 costs in excess of said amount. In the case of a multiple dwelling unit (MDU), Grantee shall
12 multiply the \$1,200.00 maximum cost cap by the number of total residential units in the building,
13 regardless of the number of subscribers, to determine its maximum cost cap for line extension
14 costs to an MDU.
15

16
17
18 (2) Line Extensions in Area South

19 No Subscriber requesting service shall be refused service arbitrarily. Whenever the
20 Grantee receives a request for Cable Service from a Subscriber in Area South of the Central
21 Business Franchise District as defined in Section 4.1, and where there are at least 15 Dwelling
22 Units within 1,320 cable-bearing strand feet from the portion of Grantee's trunk or distribution
23 cable which is to be extended, Grantee shall extend its Cable System to such Subscribers at no
24 cost to said Subscribers for the Cable System extension, other than the published Standard/non-
25 Standard Installation fees.
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1 However, if any area in Area South of the Central Business Franchise District does not
2 meet the density requirements set forth in this subsection, Grantee shall only be required to
3 extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the
4 construction costs for extending the Cable System. Specifically, the Grantee shall contribute a
5 capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator
6 equals the actual number of Dwelling Units per 1,320 cable-bearing strand feet from Grantee's
7 trunk or distribution cable, and whose denominator equals 15. Subscribers who request service
8 hereunder shall bear the remaining cost to extend the Cable System on a *pro rata* basis. A
9 Subscriber shall also be responsible for any Standard/non-Standard Installation charges to extend
10 the Cable System from the tap to the Dwelling Unit.
11

12
13 Section 5. Except as expressly provided herein, all terms and conditions of the
14 franchise granted by Ordinance 118361, as amended, remain unchanged and in full force and
15 effect. Changes to the sections and subsections specified herein above do not affect other
16 sections or subsections.
17

18 Section 6. The Franchise amendments contained in this Ordinance shall not become
19 effective for any purpose unless and until Grantee accepts the conditions of this Ordinance and
20 such acceptance is filed with the City Clerk and the Office of Cable Communications. Such
21 acceptance shall be in writing, shall be in a form and substance approved by the City Attorney,
22 and shall be and operate as an acceptance of each and every term and condition and limitation
23 contained in this Ordinance. If Grantee fails to accept the amendments to the Franchise
24 contained herein within 30 days of the Mayor's acceptance of this Ordinance, the Franchise
25 amendments shall be null and void. All other terms, conditions, and limitations of the Franchise
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1 Agreement not specifically amended by this Ordinance shall remain in full force and effect and
2 shall apply to the obligations created by this Ordinance.

3 Section 7. Any acts done consistent with the authority granted herein and prior to the
4 effective date of this Ordinance are hereby ratified and confirmed.

5 Section 8. This Ordinance shall take effect and be in force thirty (30) days from and
6 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
7 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

8 Passed by the City Council the ___ day of _____, 2004, and signed by me in open
9 session in authentication of its passage this ___ day of _____, 2004.

10
11
12 _____
13 President of the City Council

14 Approved by me this ___ day of _____, 2004.

15 _____
16 Gregory J. Nickels, Mayor

17 Filed by me this ___ day of _____, 2004.

18 _____
19 City Clerk

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21 (Seal)

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STATE OF WASHINGTON - KING COUNTY

--SS.

178503
CITY OF SEATTLE, CLERKS OFFICE

No. ORDINANCE IN FULL

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:121628 ORD IN FULL

was published on

11/4/2004



Mel D

Subscribed and sworn to before me on

11/4/2004

Jennifer A. Payer

Notary public for the State of Washington,
residing in Seattle

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State of Washington

City of Seattle

ORDINANCE 118628

AN ORDINANCE related to cable television; granting a franchise to Millennium Digital Media Systems, L.L.C. (MDM) for the Central Business Franchise District (CBFD); amending the cable franchise held by MDM (as successor to Summit Communications, Inc.) to include the CBFD and to establish terms and conditions for extending service in the CBFD; and to formally change the name of the grantee from Summit Communications to Millennium Digital Media.

WHEREAS, pursuant to Ordinance 118361, the City granted a nonexclusive cable franchise to Summit Communications, Inc. for the Central Cable Television Franchise District; and

WHEREAS, pursuant to Ordinance 119295, the City approved the transfer of the Central Cable Television Franchise District from Summit Communications, Inc. to Summit Cablevision LP (LP), and the subsequent purchase of a controlling interest in LP by Millennium Digital Media Systems, L.L.C. (MDM); and

WHEREAS, MDM also provides cable services in the Central Business Franchise District pursuant to City street use permits (see Ordinance 111921); and

WHEREAS, the City adopted Ordinance No. 120263, establishing transition rules for the Central Business Franchise District (SMC 21.60.710), where y holders of temporary street use permits to provide cable services in the Central Business Franchise District must obtain a franchise; and

WHEREAS, in accordance with Ordinance 120263, MDM has filed a notice of their intent to seek a franchise in the Central Business Franchise District; and

WHEREAS, the City has agreed to grant MDM a franchise for the Central Business Franchise District subject to the terms and conditions established for the CBFD; and

WHEREAS, in a separate letter agreement, substantially in the form attached hereto as Exhibit A, the City and MDM have identified and agreed upon certain issues relating to the CBFD; and

WHEREAS, the City wishes to further amend the franchise agreement attached to Ordinance 118361, which is due to expire on March 1, 2008, to establish terms and conditions for extending service in the CBFD, and to subject the CBFD to the terms and conditions contained therein; and

WHEREAS, MDM acknowledges its obligations to complete any new underground cable system extensions in the Central Business Franchise District in such a manner as to minimize the frequency of street openings and disruption to neighborhoods, reduce inconvenience to the public, and avoid work conflicts in the street rights-of-way, as required by the Seattle Municipal Code and all applicable City rules, regulation, and procedures, now, then, or hereafter.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The cable franchise agreement of Millennium Digital Media Systems, L.L.C. (as successor to Summit Communications, Inc.), set forth in an amended (hereinafter "Franchise"), shall be amended as set forth in this Ordinance. Any deviations from requirements or obligations contained in the Franchise are made for the purpose of addressing certain characteristics of the Central Business Franchise District, including but not limited to, the mix of business, industrial and residential areas and City established requirements to place cable underground. The amendments pertaining to line extension costs in the Central Business Franchise District shall not be applied to District or any other franchise area served by Millennium unless expressly provided herein or otherwise established by ordinance. In addition, the amendments shall not be construed as reflecting any changes in community needs or interests.

Section 2. Subsection 1.1 of the Franchise is amended as follows:

1.1 Grant of Franchise.

(A) The City of Seattle hereby grants to Millennium Digital Media Systems, L.L.C. (Summit-Communications, Inc.), a Washington Corporation, (as successor to Summit Communications, Inc.) having its principal place of business in Bellevue, King County, Washington, a franchise to install, construct, operate and maintain a Cable System to provide Cable Services and other services under each term and conditions as are set forth in this Ordinance.

(B) Throughout this Franchise, the City of Seattle, Washington shall be referred to as the "City," and Millennium Digital Media Systems, L.L.C. (Summit-Communications, Inc.) shall be referred to as the "Grantee." Any references to Summit Communications, Inc. shall be references to Millennium Digital Media Systems, L.L.C.

(C) Millennium Digital Media Systems, L.L.C., Inc. is granted a separate franchise for each of the Cable Districts set forth in Subsection 4.1. Notwithstanding anything to the contrary herein set forth in the Franchise, each cable district franchise, individually, is subject to all the terms and conditions of this Franchise in each Franchise District.

Section 3. Subsection 4.1 of the Franchise is amended as follows:

4.1 Franchise Area. Grantee shall provide Cable Services, as authorized under (b) (b) (b) these Franchises, within the area of the City designated as the Central Cable Television Franchise District and the Central Business Franchise District. (and set forth as the Cable District identified on Appendix "A" (many attached hereto)) A franchise district map shall be on file with the City Clerk's Office in sufficient detail and scale to determine exact boundaries and shall be readily accessible to Grantee.

(A) Central Business Franchise District. The Central Business Franchise District shall be subdivided into two areas as stated below:

(i) Area North: All areas of the Central Business Franchise District located North of Royal Brougham Way; and

(ii) Area South: All remaining areas of the Central Business Franchise District.

Section 4. A new Subsection 8.14 is added to the Franchise as follows:

8.14 Line Extensions in the Central Business Franchise District (CBFD)

(A) General

The phrase "line extension costs" as used in this subsection shall mean "a total construction cost of the extension, a determined amount of the extension, as determined as follows: Construction cost as determined as

of no cost to said Subscriber for the Cable System extension, other than the published Standard/Non-Standard Installation fees, where Grantee's total costs of construction is no greater than \$1,200.00 per Dwelling Unit. Grantee shall have no obligation to extend its Cable System to provide service to Subscribers where Grantee's cost of construction is greater than \$1,200.00 per Dwelling Unit, unless Subscribers to be served by the extension agree to pay all additional costs in excess of said amount. In the case of a multiple dwelling unit (MDU), Grantee shall multiply the \$1,200.00 maximum cost cap by the number of total residential units in the building, regardless of the number of subscribers, to determine its maximum cost cap for line extension costs to an MDU.

(B) Line Extensions in Area South

No Subscriber requesting service shall be refused service arbitrarily. Whenever the Grantee receives a request for Cable Service from a potential residential Subscriber in Area South of the Central Business Franchise District as defined in Section 4.1, and where there are at least 15 Dwelling Units within 1,320 cable-bearing strand feet from the portion of Grantee's trunk or distribution cable which is to be extended, Grantee shall extend its Cable System to such Subscribers at no cost to said Subscribers for the Cable System extension, other than the published Standard/Non-Standard Installation fees, provided, however, that Grantee shall not be obligated to extend its Cable System across or under Interstate 5.

However, if any area in Area South of the Central Business Franchise District does not meet the density requirements set forth in the subsection, Grantee shall only be required to extend the Cable System to Subscribers in the area if the Subscriber(s) are willing to share the construction costs for extending the Cable System, provided, however, that Grantee shall not be obligated to extend its Cable System across or under Interstate 5. Specifically, the Grantee shall contribute a capital amount equal to the fraction whose numerator equals the actual number of Dwelling Units per 1,320 cable-bearing strand feet from Grantee's trunk or distribution cable, and whose denominator equals 15. Subscribers who request service under the Cable System on a pro rata basis, A Subscriber shall also be responsible for any Standard/Non-Standard Installation charges to extend the Cable System from the tap to the Dwelling Unit.

Section 5. Except as expressly provided herein, all terms and conditions of the franchise granted by Ordinance 118361, as amended, remain unchanged and in full force and effect. Changes to the sections and subsections specified herein above do not affect other sections or subsections.

Section 6. The Franchise amendments contained in this Ordinance shall not become effective for any purpose unless and until Grantee accepts the conditions of this Ordinance and such acceptance is filed with the City Clerk and the Office of Communications. Such acceptance shall be in writing, shall be in a form and substance approved by the City Attorney, and shall be and operate as an acceptance of each and every term and condition and limitation contained in this Ordinance. If Grantee fails to accept the amendments to the Franchise contained herein within 30 days of the Mayor's acceptance of this Ordinance, the Franchise amendments shall be null and void. All other terms, conditions, and limitations of the Franchise Agreement not specifically amended by this Ordinance shall remain in full force and effect and shall apply to the obligations created by this Ordinance.

Section 7. Any acts done consistent with the authority granted herein and prior to the effective date of this Ordinance are hereby ratified and confirmed.

Section 8. This Ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 18th day of October, 2004, and signed by me in open session in authentication of its passage this 18th day of October, 2004.

Jan Drago
President of the City Council
Approved by me this 27th day of October, 2004.

Gregory J. Nickels, Mayor
Filed by me this 27th day of October, 2004.

(Seal) Judith Pippin
City Clerk

Attachment A:
Side letter of agreement between the City of Seattle and Millennium Digital Media, L.L.C.

See City Clerk for Attachment
Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, November 4, 2004
118628

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

