



ROBERT E. SMITH
EXECUTIVE DIRECTOR

February 26, 1985

For Commission Meeting of:
March 7, 1985

To: Sacramento Metropolitan Cable Television Commission

From: Bob Smith, Executive Director

Subject: GOVERNMENT PROGRAMMING ANNUAL PLAN FOR 1985/86

The Government Programming Contract executed January 17, 1985 requires that the Cable Commission submit an annual plan for the utilization of the 1985 grant to the cable company within ninety (90) days. In addition, the Joint Powers Agreement between the Commission and the jurisdictions require the Commission to submit an Annual Budget Plan for their approval prior to forwarding this document to the cable company. Since the 1984/85 Fiscal Year Plan has already been approved, the attached budget encompasses the 1985/86 Fiscal Year. Approving this plan authorizes staff to seek budget approval from the jurisdictions for submission to the cable company.

Because grant funds from the company are dispensed on a calendar year basis and the jurisdictions must approve budgets by fiscal year, the attached plan encompasses a 1½-year minimum grant from the cable company, or \$37,500. As indicated in the six year plan submitted to you last year, staff is recommending purchase of a portable production package and an editing system to be shared by all the jurisdictions. The purchase of this equipment will enable jurisdictions to cablecast a limited amount of government events, programs about department services, and public service announcements for the cable system.

In addition, a video cassette recorder and TV monitor is suggested for location at two jurisdictions. (Equipment for the remaining two jurisdictions is scheduled for purchases in the next budget cycle.) Purchase of this equipment for the jurisdictions will be subject to a utilization review prepared by a Municipal Programming Task Force.

This Task Force will consist of a representative selected by each City Manager and the County Executive. It will work closely with staff to develop procedures for use of the resources and encourage the utilization of these resources by staff within their respective jurisdictions. It is anticipated that the first meeting of this Task Force will take place in March and will focus on the utilization of the alphanumeric system, and preparation of a utilization review for each participating jurisdiction.

Programming for 1985 will consist primarily of alphanumeric messages prepared by each of the jurisdictions. After the formation of the Task Force, a schedule of programs produced outside of Sacramento County, but of interest to residents, will be presented to the Commission. Once the production equipment outlined in the budget is purchased, the Task Force can begin plans for the production of locally-produced government programming.

Upon approval of this 1985/1986 Annual Plan by the Commission, staff will request approval from each jurisdiction and then submit the plan to the cable company as required by the contract.

Therefore, staff recommends approval of the attached Annual Plan for Fiscal Year 1985/86 which includes authorization to expend \$37,500 in grant money as outlined in Part A of the Plan.



Bob Smith, Executive Director
Sacramento Metropolitan Cable
Television Commission

RES:kl

Attachment

85-100

ANNUAL PLAN FOR 1985/86

A. Planned expenditure of operating grants. (Based on minimum grant of \$37,500; \$25,000 for calendar year 1985, \$12,500 for the first half of 1986)

I. Fixed Assets

A. Central Equipment Pool

(1) Portable Production Package:

3/4" portable VCR	\$ 3,000
3-tube color television	7,000
Tripod with head + dolly	500
Portable 5" monitor	500
Portable light kit	500
Microphone kit	600
Cables, batteries, AC adapters/charger	800
Equipment cases	500
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Total \$ 13,400

(1) Editing System:

3/4" Source VTR	\$ 4,500
3/4" Editor VTR	6,000
Editor Controller	2,000
(2) 9" color monitors	1,000
Connecting cables/equipment racks	500
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Total Editing System \$ 14,000

B. Equipment for Jurisdiction*

(2) Video cassette recorder/players (\$2,300 each)	\$ 4,600
(2) Color monitor/receivers	1,000
(2) Equipment stands (\$250 each)	500
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Total Jurisdiction Equipment \$ 6,100

TOTAL FIXED ASSETS \$ 33,500

II. Services and Supplies

Insurance	\$ 1,500
Maintenance/repair	1,000
Video tape	1,000
Spare lamps, adapters, Cleaning supplies	500
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TOTAL SERVICES & SUPPLIES \$ 4,000

*Subject to utilization review by Municipal Programming Task Force.

III. Programming

Any savings realized from competitive bidding or reduced vendor prices will be used for program acquisition.

TOTAL \$ 37,500

B. Number of Programs and Program Hours Planned for Production.

For 1985, the government access channel will contain primarily alphanumeric programming about government information and services. Based on availability and budget considerations, a limited number of acquired programs may be shown on the channel. Since production equipment will not be completely acquired until the end of 1985, no locally produced programs are being planned for that year.

The production equipment purchased by 1986 will allow limited coverage of government events and production of public information programs. Specific programs will be developed by the Municipal Programming Task Force for approval by the Commission. A TV and video cassette recorder is suggested for purchase by the jurisdiction to playback videotapes and record programs from the cable system. However, the Municipal Programming Task Force may suggest other equipment based on a review of their needs.

C. Staff Requirements.

Programs distributed from the headend will require a playback operator on a scheduled basis. This will be provided by the cable company as part of their in-kind staff grants. Coordination of municipal programming will continue under the direction of existing Commission staff. Based on production demand beginning in 1986, part-time student interns may be utilized by the Commission to assist jurisdictions in program production.

D. Number of Program Acquisitions Planned to Borrow or Purchase.

The Commission staff will research the availability of acquiring rental programs for distribution on the government channels. Based on this research, in conjunction with the Municipal Programming Task Force, a recommended schedule of hours will be presented to the Commission for their approval.

E. Planned Equipment Purchases. See Item A, Budget.

F. Statement of Programming Goals.

The contract between the Cable Commission and Sacramento Cable Television requires a Statement of Programming Goals to be submitted. Staff is recommending the following statement:

"The overall goal of the Government Access Channel is to improve the delivery of government services or efficiency of government operations. Specific objectives include:

- a) To provide comprehensive information about programs and services offered by government departments, agencies, Boards, Commissions, and government supported agencies;
- b) To expand citizen awareness of local government and its decision-making processes;
- c) To enhance and make more cost effective existing public information materials and utilize cable TV as an effective public information tool;
- d) To produce and distribute programming that will inform, educate, enlighten and encourage feedback from community residents."



RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SACRAMENTO APPROVING AN ALTERNATE SYSTEM DESIGN FOR SACRAMENTO METROPOLITAN CABLE TELEVISION SYSTEM SUBJECT TO CERTAIN CONDITIONS AND MAKING CERTAIN CHANGES IN THE CABLE FRANCHISE RESOLUTION.

WHEREAS, this COUNCIL adopted its Resolution No. 83-920 on November 22, 1983 ("the Franchise Resolution") authorizing the SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION ("the COMMISSION") to offer a cable television franchise to CABLEVISION OF SACRAMENTO; and

WHEREAS, pursuant to its Resolution No. 83-023, the COMMISSION did offer such a franchise and it was accepted; and

WHEREAS, the COMMISSION and this COUNCIL have from time to time amended certain provisions of the aforesaid Resolutions including approving a transfer of control of the franchisee and a change of name to SACRAMENTO CABLE TELEVISION ("the FRANCHISEE"); and

WHEREAS, pursuant to the provisions of Section II A 2 of the Franchise Resolution, as amended (Alternative System Design), the FRANCHISEE has submitted a proposed revision of the design of the system, a copy of which is attached hereto and incorporated herein by reference as Exhibit "A"; and

WHEREAS, the COMMISSION has retained an engineer to study, evaluate and analyze the proposed revision of the design; and

WHEREAS, the engineer has reported to the COMMISSION and this COUNCIL on the matter of the proposed revision's equality to or superiority to the original design contained in the Application, a copy of which is attached hereto and incorporated herein by reference as Exhibit "B"; and

WHEREAS, the COUNCIL and the COMMISSION find it appropriate to amend certain provisions of the Franchise Resolution in order to clarify the rights, duties, and obligations of the COMMISSION, the COUNTY, the CITIES, and the FRANCHISEE; and

Resolution No. 85-_____

WHEREAS, the COMMISSION and this COUNCIL have conducted a properly noticed public hearing to receive additional evidence concerning the proposed amendments to the Franchise Resolution and revision of the design; and

WHEREAS, the COMMISSION and this COUNCIL have duly considered the proposed revision of the design, together with the report, evaluation and analysis of the COMMISSION's engineer and such other and additional evidence as has come before it in the noticed public hearing; and

WHEREAS, this COUNCIL desires to adopt certain amendments to the Franchise Resolution and to approve the proposed revision of the design upon the terms and subject to the conditions hereinafter set forth;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO THAT:

1. Subparagraph b. (1) of Section II A 2 of the Franchise Resolution is hereby amended and restated to read as follows:

"(1) A certification by the Chief Executive Officer of the Franchisee stating in clear and unequivocal terms that, to the best of his knowledge and belief, the proposed revision of the design is in all aspects, including but not limited to quality, anticipated useful life and performance characteristics, equal to or superior to the design set forth in the Application in that:

a. the quality and performance characteristics of each aspect of the signal under the proposed system design, as delivered to the ultimate user, will be of at least the same quality and performance characteristics (including without limitation consideration of its strength, definition, integrity and discreteness) as the corresponding aspect of the signal which would have been so delivered under the design specified in the Application; and

b. the reliability of each aspect of the signal under the proposed system design, as delivered to the ultimate user, will be of at least the same degree of reliability (including without limitation consideration of the influence of atmospheric, topographic and competitive signal factors which may reasonably be anticipated to be found within the

franchise area or any portion of it during the franchise term) as the corresponding aspect of the signal which would have been so delivered under the design specified in the Application; and

c. the capacity of the system will be such as to be capable of delivery of such volumes of programming and other services to the community, as to both existing and reasonably foreseeable future programming and services, as the COUNTY and the CITY acting jointly have determined is necessary, appropriate and in the best interests of the Sacramento community; and"

2. This COUNCIL finds and determines, based upon all of the evidence presented and available to it, that the FRANCHISEE has shown by clear and convincing evidence that the proposed revision of the design, in its ultimate configuration, is in all aspects, including but not limited to quality, anticipated useful life and performance characteristics, equal to or superior to the design set forth in the Application in that:

a. the quality and performance characteristics of each aspect of the signal under the proposed system design, as delivered to the ultimate user, will be of at least the same quality and performance characteristics (including without limitation consideration of its strength, definition, integrity and discreteness) as the corresponding aspect of the signal which would have been so delivered under the design specified in the Application; and

b. the reliability of each aspect of the signal under the proposed system design, as delivered to the ultimate user, will be of at least the same degree of reliability (including without limitation consideration of the influence of atmospheric, topographic and competitive signal factors which may reasonably be anticipated to be found within the franchise area or any portion of it during the franchise term) as the corresponding aspect of the signal which would have been so delivered under the design specified in the Application; and

c. the capacity of the system will be such as to be capable of delivery of such volumes of programming and other services to the community, as to both existing and reasonably foreseeable future programming and services, as this COUNCIL has determined is necessary, appropriate

and in the best interests of the Sacramento community.

3. This COUNCIL hereby approves the FRANCHISEE's proposed revision of the design of the system as set forth in the attached Exhibit "A", and hereby incorporates such revision into the Franchise Resolution and, to the extent that it is expressly inconsistent with the design of the system as set forth in the Application, the provisions of Exhibit "A" hereto shall prevail over the terms of the Application and the Franchise Resolution, PROVIDED THAT the foregoing approval shall in no way operate to relieve the FRANCHISEE to any degree whatsoever of its obligation to meet and comply strictly with each and every technical test, review and specification as set forth in the Franchise Resolution including without limitation signal testing, Federal Communications Commission standards, technical standards and equipment substitution procedures, unless such technical test, review or specification is expressly altered, amended or deleted herein.

4. This COUNCIL hereby expressly finds and determines that it would not have approved the temporary use of a four hundred fifty (450) megahertz system as set forth in Exhibit "A" but for the assurance of the FRANCHISEE of the installation of a five hundred fifty (550) megahertz system as soon as it is, in the judgement of this COUNCIL and as hereinafter provided, reliable in accordance with the terms hereof. Accordingly, by the filing of a Certificate of Acknowledgement and Undertaking hereto as required by Paragraph 21 d. of this Resolution below, the FRANCHISEE, the named owners thereof and SCRIPPS HOWARD BROADCASTING COMPANY do hereby agree to accomplish the purposes hereof and to require the installation of the five hundred fifty (550) megahertz system described in Exhibit "A" hereto in accordance with Section VI E hereof, or such other system design as may be from time to time approved by the COUNTY and the CITY acting jointly pursuant to Sections II A 2 and VI E 24 of the Franchise Resolution.

5. Section VI A 1 of the Franchise Resolution is hereby amended and restated to read as follows:

"1. Subscriber Network. The Subscriber Network shall:

a. Consist of one cable with a frequency spectrum of 5-550 megahertz with:

(1) at least four (4) six (6) megahertz channels upstream within a frequency spectrum

of 5-30 megahertz; and

(2) at least seventy-seven (77) six (6) megahertz video channels downstream within a frequency spectrum of 50-550 megahertz, provided that pursuant to the provisions of Paragraph 19 of this Section VI below, the FRANCHISEE may initially activate the system to four hundred fifty (450) megahertz.

..."

6. The second paragraph of Section VI B 3 of the Franchise Resolution is hereby amended and restated to read as follows:

"The FRANCHISEE shall utilize the Subscriber Network Cable to provide Home Entertainment; Educational; and Home Non-Entertainment Services in four tiers or packages as follows:

..."

7. Section VI of the Franchise Resolution is hereby amended by adding a new Section E thereto after the existing Section D as follows:

"E. TEMPORARY ACTIVATION OF SYSTEM AND CONDITIONS UPON ULTIMATE ACTIVATION

19. The Upgrade Order. The FRANCHISEE shall be permitted initially to activate the system only to four hundred fifty (450) megahertz, providing thereby not less than sixty-two (62) video channels. The COMMISSION may meet from time to time to consider the need for additional spectrum capacity beyond the capability of the system at four hundred fifty (450) megahertz. The COMMISSION shall give the FRANCHISEE written notice of the time, date, place, and purpose of any such meeting in accordance with Section 5.50.024 of the Ordinance. The FRANCHISEE shall be permitted at such meeting to address all matters which are the subject of such notice. If the COMMISSION determines, in accordance with the foregoing provisions and in its sole discretion, that there is a need for additional spectrum capacity, the COMMISSION shall issue and mail to the FRANCHISEE the upgrade order as hereinafter defined. It is the intention of the

COUNTY and the CITY acting jointly, the COMMISSION, the FRANCHISEE, and the named owners thereof to upgrade the system to its ultimate activation level of five hundred fifty (550) megahertz at the earliest possible date, but in no event more three hundred sixty-five (365) days after the issuance by the COMMISSION of an order (the "upgrade order") to the FRANCHISEE to upgrade the system to its ultimate activation level of five hundred fifty (550) megahertz, subject to the right of the FRANCHISEE to establish non-reliability pursuant to Paragraph 21 below.

20. Franchisee's Establishment of Non-reliability. The COMMISSION may at any time during the term of the franchise and in its sole discretion, but not more than once within any twenty-four (24) consecutive months during such term, after notice to the FRANCHISEE pursuant to Section 5.50.024 of the Ordinance, issue an upgrade order to the FRANCHISEE causing the upgrade of the system to its ultimate activation level of five hundred fifty (550) megahertz, subject ONLY to the right of the FRANCHISEE to establish non-reliability pursuant to Paragraph 21 below.

21. Non-Reliability Defined. Upon the issuance of an upgrade order by the COMMISSION pursuant to Paragraphs 19 and 20 above, the FRANCHISEE may forestall the application of its obligation to upgrade the level of activation of the system to five hundred fifty (550) megahertz ONLY by establishing, at a hearing to be held within ninety (90) days after the issuance of such an order, by clear and convincing evidence that one or more of the following conditions have been met and continue to exist:

a. The mean time to failure for a five hundred fifty (550) megahertz amplifier manufactured by the manufacturer of the FRANCHISEE's four hundred fifty (450) megahertz amplifiers (the "FRANCHISEE's manufacturer") is LESS than the mean time to failure for any four hundred fifty (450) megahertz amplifier theretofore installed by the FRANCHISEE in the system. The "mean time to failure" for amplifiers of FRANCHISEE's manufacturer shall be determined only by

reference to published statistics of FRANCHISEE's manufacturer available to the cable industry generally.

b. The average number of service calls related to system failure per plant mile in all five hundred fifty (550) megahertz systems throughout the country shall be MORE THAN the average number of service calls related to system failure per plant mile in all four hundred fifty (450) megahertz systems throughout the country, when the maximum statistical inaccuracy derived from the applicable sampling technique is assumed and excluded from consideration. The "average number of service calls related to system failure... throughout the country" shall be determined only by reference to published figures, generally accepted within the cable industry, and based upon generally accepted statistical sampling techniques.

c. The FRANCHISEE's manufacturer has not installed MORE than three thousand (3,000) miles of five hundred fifty (550) megahertz system plant which has been operating for at least twenty-four (24) consecutive months.

d. The FRANCHISEE's manufacturer has not installed at least one system with at least eight hundred (800) miles of five hundred fifty (550) megahertz system plant which has been operating for at least twenty-four (24) consecutive months.

e. The FRANCHISEE's manufacturer is unable to guarantee that the FRANCHISEE's manufacturer can deliver as a standard production item five hundred fifty (550) megahertz amplifiers which meet the reliability standard set forth in subparagraph a. above (provided that such data is available), meaning that FRANCHISEE's manufacturer can deliver at least five thousand (5,000) such five hundred fifty (550) megahertz amplifiers per month for a period of at least twenty four (24) consecutive months.

f. The installation of five hundred fifty (550)

megahertz amplifiers would require a complete replacement of the then existing amplifier housings.

22. Disputes Regarding Reliability. Upon receipt of notice from the FRANCHISEE that the FRANCHISEE asserts the non-reliability of a five hundred fifty (550) megahertz system, the COMMISSION shall establish a hearing for the purpose of receiving the FRANCHISEE's evidence of non-reliability referred to in Paragraph 21 above. Upon receipt of such evidence, if the COMMISSION finds and determines that the FRANCHISEE has established by clear and convincing evidence that a five hundred fifty (550) megahertz system is not reliable pursuant to the provisions of Paragraph 21 above, the upgrade order shall forthwith be null and void. If the COMMISSION finds and determines that the FRANCHISEE has NOT established by clear and convincing evidence that a five hundred fifty (550) megahertz system is not reliable pursuant to the provisions of Paragraph 21 above, the COMMISSION shall thereupon issue an order confirming its upgrade order and its finding of the lack of the FRANCHISEE's establishment of non-reliability (the "reliability order"). Thereupon, the FRANCHISEE shall have thirty (30) days to give written notice to the COMMISSION that the FRANCHISEE is submitting the matter of the COMMISSION's reliability order to arbitration pursuant to the provisions of Paragraph 23 below. If the FRANCHISEE fails to give such a notice in a timely fashion, the COMMISSION's reliability order shall become final and binding upon the FRANCHISEE.

23. Arbitration Proceedings . With respect to any arbitration proceeding conducted pursuant to the provisions of Paragraph 22 of this Section VI, the arbitration panel shall be selected, the hearing scheduled within the time prescribed, notice given, the hearing conducted, decision made and costs divided in the manner prescribed by Sections 5.50.830 through 5.50.840, inclusive, of the Ordinance. The questions which may be submitted to the arbitration panel and the jurisdiction of the arbitration panel shall be limited to the following:

a. The interpretation of the provisions of the Franchise Documents solely in relation to the

decision required by b. below; and

b. Whether or not the FRANCHISEE established before the COMMISSION by clear and convincing evidence that a five hundred fifty (550) megahertz system is not reliable under one or more of the tests set forth in Paragraph 21 above.

The determination of the arbitration panel shall be final, binding and conclusive upon the parties, and shall not be subject to judicial review or vacation except on the grounds set forth in Section 1286.2 of the Code of Civil Procedure.

24. Alternative Technology . Notwithstanding the provisions of this Section E of this Section VI, the FRANCHISEE may apply at any time under the provisions of Section II A 2 of this Resolution for a revision of the design of the system to accomplish the purposes hereof by means of alternative technology. Nothing in this Paragraph shall be construed to limit or diminish the discretion of the COUNTY and the CITY acting jointly under the aforementioned section in its consideration of such a proposed alternative system design."

8. Section II A 6 a. of the Franchise Resolution is hereby amended by deleting therefrom the first sentence thereof.

9. Section III of the Franchise Resolution is hereby amended by deleting therefrom Paragraph 8 thereof.

10. Section VI A 2 of the Franchise Resolution is hereby amended and restated to read as follows:

"2. Institutional Usage of Subscriber Network and Institutional Network.

a. Institutional Usage of Subscriber Network. The FRANCHISEE shall utilize up to twenty (20) megahertz of the Subscriber Network for institutional uses until such time as the Institutional Network is constructed pursuant to subparagraph b. hereof. Subsequent to the construction of the Institutional Network, the FRANCHISEE may, but shall not be required to utilize the aforementioned portion of the Subscriber Network for institutional services.

b. Institutional Network. The FRANCHISEE shall, from time to time hereafter, as required below, immediately begin construction of an Institutional Network, consisting of one (1) institutional cable which shall cover approximately two hundred (200) miles within the Imposed Service Area and with at least forty-nine (49) six (6) megahertz video channels within a frequency spectrum of 30-400 megahertz, at such time as the institutional usage of the Subscriber Network results in either of the following conditions:

(1) For a period of at least thirty (30) days, at least ninety percent (90%) of the FRANCHISEE's data channels on the Subscriber Network which may be utilized for institutional purposes pursuant to subparagraph a. above are utilized between the hours of 8:00 a.m. and 5:00 p.m. on business days Monday through Friday, or

(2) A bona fide contract for the utilization of institutional services at commercially reasonable rates has been offered to the FRANCHISEE and, if accepted, when added to the then existing institutional usage of the Subscriber Network, the total of such existing and additional Institutional usage would exceed the twenty (20) megahertz band of the Subscriber Network which may be utilized for institutional purposes pursuant to subparagraph a above.

In the event of the occurrence of condition (1) or (2) above, the FRANCHISEE shall construct a segment of the Institutional Network as may be necessary to relieve conditions (1) and (2) above, as the case may be, but in no event less than forty (40) miles or such less distance as the COMMISSION may in its sole discretion approve. Notwithstanding the foregoing sentence, the FRANCHISEE shall, upon the occurrence of condition (1) or (2) above, construct such first segment of the Institutional Network capable of delivery of all of the then existing institutional usage of the Subscriber Network. After construction of the first segment of the Institutional Network, the FRANCHISEE shall not

thereafter, without the further express permission of the COMMISSION, utilize any additional portion of the Subscriber Network for institutional usage.

Nothing contained in this Paragraph 2 shall be deemed or construed to reduce or diminish to any extent whatsoever the obligations of the FRANCHISEE to make available certain spectrum space to the Sacramento County Corporation for Educational Telecommunications (SCCET), also known as the Educational Consortium, for institutional usages pursuant to the Application or any contract by and between the FRANCHISEE and SCCET which may now or hereafter exist."

11. Section VI D 14 of the Franchise Resolution is hereby amended by adding the following sentence to the end thereof:

"The foregoing obligation shall be subject, in all respects, to the provisions of Paragraph A 2 of this Section VI."

12. Section V A 10 a. of the Franchise Resolution is hereby amended by deleting therefrom the words "...twentieth (20th)..." and substituting therefor the words "...twenty-sixth (26th)...".

13. Subparagraph a. of Section V B 17 of the Franchise Resolution is hereby amended by deleting therefrom the words "...commencement of the second year..." and substituting therefor the words "...twenty-sixth (26th) month...".

14. Paragraph 1 of Section III of the Franchise Resolution is hereby amended by adding a new subparagraph c. thereto after the existing subparagraph b. as follows:

"c. The FRANCHISEE shall, within sixty (60) days after the notification by the COMMISSION of the approval of an Alternative System Design pursuant to Section II A 2 of this Resolution, submit a revised Construction Activation Table and a revised Census Tract Progression Table which (i) take into account the effect of the alternative system design and (ii) provide for the completion of the system within the times set forth in Section 5.50.410 of the Ordinance. Thereafter, all references in this Resolution to the Construction Activation Table or the Census Tract Progression Table shall be deemed to have

reference to the revised tables, as applicable, and the FRANCHISEE shall continue to be bound by the terms of this Section III as such terms then apply to such revised tables."

15. Subparagraph d. (1) of Section VI B 4 of the Franchise Resolution is hereby amended and restated to read as follows:

"(1) During each year of the franchise, the Franchisee shall be expressly permitted to reduce the number of distant channels cablecast upon the system to the extent, and only to the extent, that, in the next preceding franchise year, the actual expenditures for copyright fees on distant signal channels shall not have averaged less than an amount equal to the lesser of: (1) 24.778% of the Basic Service Revenues of the system as determined herein, or (2) five dollars and ninety-five cents (\$5.95) for each person and/or entity who has been a subscriber to some or all of the home entertainment, educational and home non-entertainment services contained within the Basic tier as defined by Paragraph B 3 a of Section VI of this Resolution during the franchise year. To the extent that such expenditures in any year shall be less than the aforementioned amount, the amount of the difference shall be set aside in a copyright fee reserve. When the level of funds in such reserve added to the aforementioned amount shall be sufficient to pay the copyright fees for an additional distant signal channel, said channel shall be restored to the system until said copyright fee reserve shall be exhausted."

16A. Subparagraph b. of Paragraph 8 of Section IV of the Franchise Resolution hereby amended by deleting therefrom the second full sentence thereof and substituting in lieu thereof as follows:

"At all times during the term of the franchise that the Franchisee is obligated to provide 'The Sacramento Channel', the Franchisee shall employ personnel to be utilized by such channel in such numbers and in such functional categories as may be necessary to achieve all of the quantitative and qualitative performances required of the Franchisee pursuant to this subparagraph b. and subparagraphs c. and d. of this Paragraph 8 of this Resolution."

16B. Subparagraph (b) of Paragraph 20 of Section V C of the Franchise Resolution is hereby amended by deleting therefrom

the second full sentence thereof.

17. Subparagraphs e, f, and g of Paragraph 8 of Section IV of the Franchise Resolution are hereby deleted in their entirety.

18. Paragraph 8 of Section IV of the Franchise Resolution is hereby amended by adding a new subparagraph e. thereto as follows:

"e. Notwithstanding the provisions of subparagraph b. above, the Franchisee may initiate a determination of the economic feasibility of The Sacramento Channel in advance of its activation, by filing with the Commission, not less than ninety (90) days in advance of the date upon which it reasonably anticipates having obtained one hundred thousand (100,000) subscribers and in any event on or before the date upon which it obtains eighty thousand (80,000) subscribers, an application for pre-activation economic feasibility determination. Thereupon, the Commission shall select and retain an expert which shall be one of the so-called 'Big Eight' accounting firms, the cost of which shall be borne entirely by the Franchisee without consideration of any other amounts paid by Franchisee to the Commission under the Franchise Documents, for the purpose of estimating, by such means and techniques as said experts shall deem advisable, the 'Revenues' reasonably anticipated to be derived and the 'Costs' reasonably anticipated to be incurred (as those terms are defined in subparagraph b. above) during the first year of operation of the Sacramento Channel. The report of the aforesaid experts shall be submitted jointly to the Franchisee and to the Commission within sixty (60) days after submission of the application by the Franchisee. Upon submission of the report of the estimation of Revenues and Costs, the Franchisee may reduce, pursuant to subparagraph b. above, (i) the hours per day, and/or (ii) the days per week, and/or (iii) the number or types of personnel required by this paragraph to the extent required to prevent Costs from exceeding Revenues, provided that, if the aforesaid study should result in the complete elimination of the Sacramento Channel, the Commission shall be entitled to, but not required to, similarly retain such experts (at the expense of the Franchisee) at intervals of not less than every three (3) years thereafter for the balance of the franchise term for the purpose of determining whether a change in circumstances within the market would enable the introduction of the Sacramento Channel."

19. Paragraph 20 of Section V of the Franchise Resolution is hereby amended by adding thereto a new subparagraph (c) as follows:

"(c) Notwithstanding the provisions of subparagraph (b) above, the Franchisee may initiate a determination of the economic feasibility of The Sacramento Channel in advance of its activation, by filing with the Commission, not less than ninety (90) days in advance of the date upon which it reasonably anticipates having obtained one hundred thousand (100,000) subscribers and in any event on or before the date upon which it obtains eighty thousand (80,000) subscribers, an application for pre-activation economic feasibility determination. Thereupon, the Commission shall select and retain an expert which shall be one of the so-called 'Big Eight' accounting firms, the cost of which shall be borne entirely by the Franchisee without consideration of any other amounts paid by Franchisee to the Commission under the Franchise Documents, for the purpose of estimating, by such means and techniques as said experts shall deem advisable, the 'Revenues' reasonably anticipated to be derived and the 'Costs' reasonably anticipated to be incurred (as those terms are defined in subparagraph (b) above) during the first year of operation of the Sacramento Channel. The report of the aforesaid experts shall be submitted jointly to the Franchisee and to the Commission within sixty (60) days after submission of the application by the Franchisee. Upon submission of the report of the estimation of Revenues and Costs, the Franchisee may reduce, pursuant to subparagraph (b) above, (i) the hours per day, and/or (ii) the days per week, and/or (iii) the number or types of personnel required by this paragraph to the extent required to prevent Costs from exceeding Revenues, provided that, if the aforesaid study should result in the complete elimination of the Sacramento Channel, the Commission shall be entitled to, but not required to, similarly retain such experts (at the expense of the Franchisee) at intervals of not less than every three (3) years thereafter for the balance of the franchise term for the purpose of determining whether a change in circumstances within the market would enable the introduction of the Sacramento Channel."

20. Section III of the Franchise Resolution is hereby amended by adding thereto a new Paragraph 8 as follows:

"8. Burden of Proof in Construction Disputes . If (i) the FRANCHISEE should in the course of the construction of the system elect to place underground cable plant in the public utility easement in front yards upon private property where there was, at the time of the FRANCHISEE's election, space available for the installation of such plant at the lip of the curb of the gutter within the public roadway, or (ii) the FRANCHISEE should fail, neglect or refuse to take pre-construction photography of the condition of any private property upon which underground construction is to occur, the FRANCHISEE shall have the burden of proof as to the condition of the private property prior to the initiation of such construction in any subsequent complaint resolution, arbitration or judicial procedure between the FRANCHISEE and the private property owner. It is expressly agreed by the parties hereto that the private property owner is the intended third party beneficiary of the FRANCHISEE's contractual obligations and promises under this Paragraph 8."

21. The provisions of this Resolution shall not be effective for any purpose unless and until:

a. The Board of Directors of the COMMISSION adopts a Resolution amending its Resolution 83-023, adopted on November 22, 1983, to include provisions identical to the amendments made to Resolution No. 83-920 of this COUNCIL by this Resolution; and

b. The Board of Supervisors of the COUNTY OF SACRAMENTO adopts a Resolution amending its Resolution No. 83-1450, adopted November 22, 1983, to include provisions identical to the amendments made to Resolution No. 83-920 of this COUNCIL by the adoption of this Resolution; and

c. The City Council of the City of Folsom and the City Council of the City of Galt have each adopted a Resolution approving the adoption of this Resolution within thirty (30) days from the date hereof; and

d. The FRANCHISEE, the named owners thereof and SCRIPPS-HOWARD BROADCASTING COMPANY have approved, accepted and agreed to the provisions of this Resolution for themselves, their successors, assigns and guarantors by submitting a Certificate of Acknowledgement and Undertaking in a form identical to that attached as