Item # 43

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: An ordinance approving and entering into a ten year franchise renewal agreement with Bright House Networks, LLC.

DEPARTMENT: Community Information **DIVISION:** Cable Franchising

AUTHORIZED BY: Sally Sherman **CONTACT:** Matt Chesler **EXT.** 1170

Agenda Date 4/11/06 **Regular** ☐ **Consent** ☐ **Work Session** ☐ **Briefing** ☐
Public Hearing – 1:30 ☒ **Public Hearing – 7:00** ☐

MOTION/RECOMMENDATION:
Motion to adopt the attached ordinance approving and entering into a ten year franchise renewal agreement with Bright House Networks, LLC. and authorizing the execution thereof by the Chairman.

BACKGROUND:
Chapter 55, Seminole County Code regulates the granting, renewal, transfer and operations of cable television franchises in unincorporated Seminole County. The Code requires a franchise agreement for franchise renewals.

Bright House Networks' franchise expired on December 31, 2005. They are currently operating under and complying with the terms and conditions of that franchise until a renewal agreement is reached.

The County and Bright House have negotiated in good faith over the last year and successfully concluded negotiations for a mutually beneficial franchise renewal agreement.

Staff believes the public interest is best served by approving and entering into the Franchise Agreement.

Highlights of the agreement are attached.

Reviewed by:
Co Atty:
DFS:
Other:
DCM:
CM:

File No. PHCID

Highlights of Bright House Franchise Agreement

- Term of agreement: 10 years.
- The franchise is nonexclusive.
- The agreement may be modified if state or federal law changes.
- The County may enter into agreements with the municipalities to consolidate franchises countywide.
- The County continues to receive revenue from the Communications Services Tax.
- The County may inspect the records of the franchisee.
- The franchisee must maintain minimum insurance requirements, a security fund and a bond for any major construction projects.
- Cable service provided to County buildings, and schools within 500' of cable access.
- In addition to SGTV, a second access channel for educational use is provided with connectivity to a School Board designated origination location.
- A capital grant in the amount of $400,000, for equipment upgrades and acquisitions in support of the two access channels is provided. $300,000 is payable within 60 days of approval and $100,000 payable on January 2, 2008. Bright House has the right to recover the cost of the grant from monthly billings of its subscribers over the 10 year term of the agreement (estimated to be 5-7 cents per month).
- Bright House will cooperate in disseminating information whenever the EOC is activated for emergencies/disasters.
- Bright House will cooperate with the County in conducting periodic customer satisfactions surveys.

ECONOMIC IMPACT STATEMENT

DATE: March 9, 2006 **DEPT./DIVISION:** Community Information

CONTACT PERSON: Matt Chesler **EXTENSION: 1170**

DESCRIBE PROJECT/PROPOSAL:

An ordinance approving the entering into a ten year franchise renewal with Bright House Networks, LLC pursuant to Chapter 55, Seminole County Code, and authorizing the Chairman to execute the negotiated Franchise Agreement. This agreement sets forth the terms and conditions for the franchisee to construct, install, maintain and operate a cable television system within Seminole County and to use and occupy the public rights-of-way and public easements of the County for that purpose. The Franchise Agreement identifies applicable laws, specifies minimum facilities and services, sets forth insurance and bond requirements, and provides for the payment of a capital grant for equipment upgrades and acquisition in support of the government/education access cable channel.

DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE OPERATION OF THE COUNTY:

County staff is responsible for ensuring compliance with all regulations and would assist customers with unresolved complaints. As a result of the franchisee maintaining operations in the county, Communications Services Tax revenues will continue to be received by the County. The County will receive a capital grant of $400,000, from the franchisee, for upgrades and acquisitions for SGTV and the start up of an educational access channel, as well as cable television time at no cost.

DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE PROPERTY OWNERS/TAX PAYERS/CITIZENS WHO ARE EXPECTED TO BE AFFECTED:

The franchisee is entitled to recover the $400,000 capital cost from the monthly billings of its subscribers over the 10 year life of the franchise agreement. This would be identified/included as an addition to the billing, not a county franchise fee. The cost to the estimated 40,000 customers in unincorporated Seminole County will be less than 10 (ten) cents per month for the next 10 (ten) years. Customers of the franchise may also be charged administrative charges if payments are overdue, as specified in the ordinance.

IDENTIFY ANY POTENTIAL INDIRECT ECONOMIC IMPACTS, POSITIVE OR NEGATIVE WHICH MIGHT OCCUR AS A RESULT OF THE PROJECT PROPOSAL:

The citizens of the county would benefit from the regulations and processes outlined in this ordinance by way of improved public health, communication and safety.

ORDINANCE NO. 2006- ____ **SEMINOLE COUNTY, FLORIDA**

AN ORDINANCE PERTAINING TO COMMUNITY ANTENNA TELEVISION SYSTEMS AND THE FRANCHISING THEREOF IN SEMINOLE COUNTY, FLORIDA; APPROVING THE ENTERING INTO A TEN YEAR FRANCHISE RENEWAL AGREEMENT WITH BRIGHT HOUSE NETWORKS, LLC; APPROVING THE FORM OF SAID AGREEMENT AND INCORPORATING SAID AGREEMENT INTO THIS ORDINANCE BY REFERENCE; PROVIDING THAT SAID ORDINANCE SHALL NOT BE CODIFIED; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida enacted Chapters 202 and 337, Florida Statutes wherein the franchising of cable television service systems by local governments is authorized subject to certain terms and conditions; and

WHEREAS, Chapter 55, Seminole County Code (the "Code") comprehensively regulates the granting, renewal, transfer and operations of cable television franchises within all of the unincorporated areas of the County; and

WHEREAS, Bright House Networks, LLC, a Delaware Limited Liability Company ("Bright House") has heretofore submitted all information requested by the County in accordance with 47 U.S.C., Section 546, and Section 55.26, Seminole County Code and which has been reviewed by County staff; and

WHEREAS, the County and Bright House have successfully concluded negotiations on terms and conditions for a renewal of Bright House's cable television franchise in Seminole County, the terms of which are reflected in the Franchise Agreement attached

hereto as Exhibit "A" (the "Franchise Agreement"); and

WHEREAS, the Board of County Commissioners, after consultation with staff and the results of the associated pubic hearing, believes that the public interest is best served by the entry into the Franchise Agreement; and

WHEREAS, there has heretofore been prepared an economic impact statement as required by Article II, Section 2.2 D regarding the economic impact on the taxpaying citizens of the County which will likely result from adoption of this Ordinance;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Legislative Findings. The foregoing recitals are hereby adopted as legislative findings of fact by the Board of County Commissioners (the "Board") and are incorporated into the body of this Ordinance.

Section 2. Approval of Franchise Agreement. The Board hereby approves the County's entrance into the Franchise Agreement with Bright House in the form attached as Exhibit "A" hereto and authorizes the execution thereof by the Chairman.

Section 3. Approval of Economic Impact Statement. The Board hereby approves the Economic Impact Statement as prepared by staff, attached as Exhibit "B" hereto.

Section 4. Codification. It is the intention of the Board of County Commissioners that this Ordinance shall not be codified.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 6. Effective date. This Ordinance shall take effect upon filing a copy of this Ordinance with the Florida Department of State by the Clerk of the Board of County Commissioners.

ENACTED this _____ day of _____, 2006.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

_____

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida

_____

CARLTON HENLEY, Chairman

Exhibit "A" - Franchise Agreement
Exhibit "B" - Economic Impact Statement

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CABLE TELEVISION FRANCHISE AGREEMENT
BETWEEN SEMINOLE COUNTY, FLORIDA AND BRIGHT HOUSE NETWORKS, LLC

THIS FRANCHISE AGREEMENT is made and entered into this _____ day of _____. 20___, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY", and **BRIGHT HOUSE NETWORKS, LLC**, a Delaware limited liability company authorized to do business in the State of Florida, f/k/a TWEAN Subsidiary, LLC, whose address is 2251 Lucien Way, Maitland, Florida 32751, hereinafter referred to as "FRANCHISEE".

W I T N E S S E T H:

WHEREAS, pursuant to the Communications Act of 1934, as amended, 47 U.S.C., §§ 521, et seq. (the "Communications Act") the COUNTY may grant or renew a franchise to own, construct, install, maintain and operate a cable television system within Seminole County; and

WHEREAS, on May 24, 2002, the Board of County Commissioners of Seminole County, Florida ("Board") adopted Ordinance No. 2002-23 providing for the issuance and regulation of cable television franchises for, and the ownership, construction, installation, maintenance and operation of, cable television systems within Seminole County; and

WHEREAS, FRANCHISEE's existing franchise expired on December 31, 2005 and FRANCHISEE has formally applied to the COUNTY for the granting of a renewal of the franchise; and

WHEREAS, the ownership, construction, installation, maintenance and operation of such a system involves the use and occupation of the

public rights-of-way and public easements of the COUNTY, over which the COUNTY exercises governmental jurisdiction and control; and

WHEREAS, the COUNTY has evaluated FRANCHISEE's renewal application in light of requirements of Federal law, State law and the Ordinance, and has conducted a public hearing concerning FRANCHISEE's request; and

WHEREAS, the COUNTY has relied on information presented by FRANCHISEE to the COUNTY; and

WHEREAS, based on said information, the COUNTY has determined that a grant for a renewal of a nonexclusive franchise to FRANCHISEE to own, construct, install, maintain and operate a cable television system within Seminole County, subject to the terms and conditions set forth herein and in the Ordinance, is consistent with the public interest; and

WHEREAS, the COUNTY and FRANCHISEE have reached an agreement on the terms and conditions of such a franchise agreement,

NOW, THEREFORE, in consideration of FRANCHISEE's franchise renewal application to own, construct, install, maintain and operate a cable television system within Seminole County, and to use and occupy the public rights-of-way and public easements of the COUNTY for that purpose, and in consideration of FRANCHISEE's promise to provide cable service to residents of Seminole County pursuant to the Ordinance, and under the terms and conditions set forth herein, and in consideration of the mutual promises and undertakings herein, the receipt and adequacy of which is hereby acknowledged, the FRANCHISE RENEWAL is HEREBY GRANTED; AND THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

SECTION 1. DEFINITIONS. Except as may be otherwise provided herein, the definitions in the Ordinance shall govern this Franchise Agreement. In addition, the following definitions shall apply:

(a) "Agreement" or "Franchise Agreement" shall mean this instrument and as it may hereafter be lawfully amended.

(b) "Franchise Area" shall mean the unincorporated area of Seminole County.

(c) "FRANCHISEE" shall mean Bright House Networks, LLC, a Delaware limited liability company authorized to do business within the State of Florida and its lawful and permitted successors, assigns and transferees.

(d) "Ordinance" shall mean Seminole County Ordinance No. 2002-23, known as the Cable Television Franchise Ordinance, codified as Chapter 55, Part I of the Seminole County Code, as in effect on the date hereof or as may be amended pursuant to the lawful exercise of the COUNTY'S police powers pursuant to Section 55.36(a), Seminole County Code.

(e) "SGTV" shall mean Seminole County Government Television, a government access channel owned and operated by the COUNTY.

SECTION 2. GRANT OF FRANCHISE. Subject to the terms of this Franchise Agreement and the Ordinance, the COUNTY hereby grants FRANCHISEE a franchise renewal solely for the right and privilege to own, construct, install, maintain and operate a cable television system within the Franchise Area.

SECTION 3. NONEXCLUSIVE FRANCHISE. FRANCHISEE's right and privilege to use and occupy the public rights-of-way and public

easements of the COUNTY and to operate a cable television system shall be nonexclusive. The COUNTY reserves the right to grant the same, a similar, or other use of the public rights-of-way and public easements, or to grant or renew a cable television franchise to any other person at any time during the term of this Franchise Agreement consistent with applicable Federal, State and local law. In the event the COUNTY enters into a franchise, permit, license authorization or other agreement of any kind with any other person or entity other than franchisee to enter into the COUNTY's streets and public rights of ways for the purpose of constructing or operating a cable system or providing cable service to any part of the franchise area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law. If the COUNTY grants an additional franchise on terms more favorable or less burdensome than those contained herein, then this franchise shall be deemed amended as of the effective date of the additional franchise to incorporate the more favorable or less burdensome terms herein.

SECTION 4. TERMS OF FRANCHISE. This franchise shall be for a period of ten (10) years unless otherwise sooner terminated in accordance with this Franchise Agreement. The franchise period shall commence on the date of final approval of this agreement by the Board of County Commissioners.

SECTION 5. FRANCHISE AGREEMENT AND FRANCHISE SUBJECT TO APPLICABLE LAW.

(a) This Franchise Agreement and the franchise shall be subject to and shall be governed by all terms, conditions and provisions of the Communications Act, any amendments thereto, and any other applicable provision of Federal, State or local law, ordinance, rule, regulation, or order existing as of the effective date of this Franchise Agreement. The COUNTY and FRANCHISEE agree to comply with all applicable Florida Statutes, including particularly, Chapter 202, the "Communications Service Tax Simplification Law". REMAINING LANGUAGE TO BE FINALIZED.

(b) . The foregoing notwithstanding and except as may be expressly provided herein, the Ordinance shall govern this Franchise Agreement.

(c) Franchisee shall be bound by the terms and conditions of the Ordinance. Any future modifications to the Ordinance shall not be applicable to the FRANCHISEE except to the extent those changes are made pursuant to the COUNTY'S exercise of its police powers and which do not materially change the mutual promises of this Franchise Agreement.

SECTION 6. FRANCHISE SUBJECT TO EXERCISE OF COUNTY'S POLICE POWER. FRANCHISEE shall be subject to all lawful exercise of the police power of the COUNTY. This Franchise Agreement is not intended to limit the COUNTY's right to exercise such police power in any lawful way.

SECTION 7. USE OF PUBLIC RIGHTS-OF-WAY. In addition to complying with this Franchise Agreement and the Ordinance, FRANCHISEE shall abide by all applicable provisions of the Seminole County Code and the Seminole County Land Development Code in the use of the public rights-of-way and public easements to the extent not in conflict with this Franchise Agreement.

In the event, at any time during the period of this Franchise Agreement, the COUNTY shall lawfully elect to alter or change the grade of any street, or require the burial of overhead lines and removal of poles, FRANCHISEE, upon reasonable notice by the COUNTY, shall remove, relay and/or relocate its equipment and be compensated as other private users of the public rights-of-way are compensated for moving their facilities.

As a condition of subdivision approval, the COUNTY shall ensure that Franchisee has nondiscriminatory access to developments for the construction and installation of its facilities at the same time and in the same manner as all public utilities.

SECTION 8. RESERVATION OF RIGHTS.

(a) This Franchise Agreement may be modified, after notice and public hearing, to comply with applicable law, including but not limited to, the rules and regulations promulgated by the Federal Communications Commission. Such amendment or modification requires the approval of both parties.

(b) Nothing contained in this Franchise Agreement shall constitute a waiver by either party of any right or remedy it may have

at law to challenge any law, ordinance, rule, or regulation relating to the operation of cable television systems.

(c) The COUNTY reserves the right to adopt and incorporate herein, or incorporate by reference herein and/or by ordinance, any additional terms, conditions, or regulations as it shall find necessary in the lawful exercise of its police powers as granted by the Constitution of the State of Florida or the laws of the State of Florida which are generally applicable to other users of the rights-of-way.

(d) The COUNTY reserves the right to enter into interlocal agreements with all of the seven (7) municipalities within Seminole County for the purpose of consolidating the respective franchises under the terms of this Franchise Agreement and the Ordinance, as they may be amended, to accommodate such consolidation, subject to the terms of Section 25 of this Franchise Agreement.

SECTION 9. FRANCHISE FEE. In the event the Florida Legislature repeals the Communications Services Tax and the annualized allocation to the COUNTY as imposed by Chapter 202, Florida Statutes, the COUNTY reserves the right to levy and collect a franchise fee from FRANCHISEE in an amount not to exceed five percent (5%) of the gross revenues, or such greater percentage as may be authorized by 47 U.S.C. §542 derived from its operations of the cable system within the Franchise Area as identified by the Ordinance and this Franchise Agreement. Section 55.19 of the Ordinance shall be deemed controlling as to all aspects of the levy, collection, and administration of any such franchise fee.

SECTION 10. FURNISHING OF RECORDS BY FRANCHISEE; RIGHT OF COUNTY TO INSPECT RECORDS, FACILITIES, AND PROPERTY. Upon request, FRANCHISEE shall timely prepare, maintain, and deliver to COUNTY, and allow COUNTY inspection at all reasonable times of those reports, records, and information as specified by Ordinance Section 55.20. COUNTY agrees to treat those records and reports that FRANCHISEE deems confidential as exempt from disclosure to the extent that it is allowed to do so under Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes. To the extent that any reports, records or information is not exempt from disclosure, FRANCHISEE may make same available for inspection by the COUNTY at the FRANCHISEE's offices.

SECTION 11. INSURANCE. FRANCHISEE shall obtain and maintain insurance of the types, and in the minimum amounts, terms, and conditions required under Section 55.12 of the Ordinance. FRANCHISEE shall annually provide evidence of required insurance coverage to the COUNTY and shall otherwise promptly notify the COUNTY of changes in types of insurance carried, amounts of coverage or changes of insurers providing such coverage.

SECTION 12. INDEMNIFICATION.

(a) FRANCHISEE shall, at its sole cost and expense, indemnify, hold harmless, and defend the COUNTY, its officials, boards, commissions, commissioners, agents, and employees as provided by the Ordinance in all actions arising from or as a result of the franchise granted pursuant to this Agreement.

(b) The COUNTY shall notify FRANCHISEE of any issue that it determines may require indemnification.

(c) Nothing herein shall be construed to affect, in any way, the COUNTY's rights, privileges, and immunities as set forth in Section 768.28, Florida Statutes, nor shall anything be construed to affect, in any way, the rights or privileges of FRANCHISEE pursuant to Federal or State law.

SECTION 13. SECURITY FUND. Pursuant to Ordinance Section 55.13, FRANCHISEE shall, at its sole cost and expense, provide the COUNTY with, and maintain, a security fund in the form of a cash security deposit, a bond, or an irrevocable letter of credit in a form acceptable to the COUNTY in an amount not less than ONE HUNDRED THOUSAND AND NO/100 DOLLARS ($100,000.00) as security to ensure FRANCHISEE's faithful performance of, and compliance with, this Franchise Agreement, other applicable law, and the payment by FRANCHISEE of any claims, liens, fees, or taxes due the COUNTY which arise by reason of the construction, operation and maintenance of the cable system. Such security fund shall remain in effect and be maintained for the term of the franchise plus an additional six (6) months thereafter. The COUNTY shall provide FRANCHISEE with fifteen (15) business days written notice before withdrawing any amount from the security fund.

SECTION 14. CONSTRUCTION BOND.

(a) Pursuant to Ordinance Section 55.14, prior to any major cable system construction, upgrade, or rebuild in public rights-of-way and public easements, FRANCHISEE shall furnish a construction bond or letter of credit in favor of the COUNTY in an amount of not less than ONE HUNDRED THOUSAND AND NO/100 DOLLARS ($100,000.00).

(b) If such construction bond or letter of credit is not furnished to the COUNTY at least thirty (30) days prior to the commencement of any such construction work by FRANCHISEE, FRANCHISEE's authorization to work in the public rights-of-way and public easements will be revoked until such bond or letter of credit is furnished to the COUNTY.

(c) The construction bond or letter of credit must be approved by the COUNTY, which approval shall not be unreasonable withheld.

(d) The construction bond or letter of credit shall be maintained until such construction work is completed, and it shall be released no earlier than three (3) months and no later than six (6) months after completion of such construction. FRANCHISEE shall notify the COUNTY in writing both when it believes such construction has been completed and at least ten (10) days prior to actual release of the construction bond or letter of credit.

SECTION 15. MINIMUM FACILITIES AND SERVICES.

(a) As of the effective date hereof, FRANCHISEE's cable system shall, at a minimum, have the following capabilities:

(1) be able to pass frequencies of at least 750 MHz;

(2) have at least seventy-eight (78) activated downstream video channels; and

(3) have upstream video channel capacity to the headend from the locations specified in, and in the amount necessary to satisfy, the access channel requirements set forth in this Franchise Agreement and the Ordinance.

(b) Franchisees shall, within 30 days of written request by the County and to the extent permitted by Federal law, provide one outlet of basic and CPST cable television service to the following facilities within the County when its lines have been extended to within 500 feet of the named facilities: all public and private schools (excluding home schools) that are accredited by one or more generally recognized accrediting agencies of primary and secondary schools, County Sheriffs Department, County Fire Stations, and other buildings owned or occupied by the County and used by the County for municipal purposes. County facilities which exist at the time of adoption of this Franchise Agreement shall continue to receive one (1) free basic and CPST service drop at their current location. The FRANCHISEE shall charge no more than its time and material costs for providing any additional service outlets to facilities described in this paragraph.

(c) FRANCHISEE shall provide drop down menu access and organization of topical programming guides and channel selection when and if such design is implemented by the Franchisee. If applicable, Seminole County access channel shall be listed in a drop down menu under a top menu position designated as "Government Channel".

(d) FRANCHISEE may provide, at no cost, available program listings and related material such as "cable in the classroom" to all connected schools.

(e) Nothing herein shall preclude FRANCHISEE from providing services or benefits to public, private, and parochial schools which exceed those provided or required herein.

(f) FRANCHISEE's cable system shall be capable of transmitting, and shall transmit to customers, any stereo signals received and carried by the cable system in the form received.

(g) FRANCHISEE shall comply fully with all applicable FCC regulations concerning provisioning of programming to handicapped or disabled persons.

SECTION 16. ACCESS CHANNELS AND FACILITIES

(a) The channel currently reserved for educational use shall continue to be reserved, until requested by the County, for the use of the School Board of Seminole County. Non-commercial educational programming may be supplied by local higher educational institutions designated by the COUNTY. FRANCHISEE shall provide one connection to either the Educational Support Center Annex, 1722 W. Airport Blvd., Sanford FL or the Educational Support Center, 400 E. Lake Mary Blvd., Sanford FL for the transmission of educational access programming over the educational channel.

(b) FRANCHISEE agrees to locate the existing and future government and educational access channels on the basic service tier. Until such time as the second government channel and the reserved educational channel are activated, FRANCHISEE may continue to use such channels for regular programming purposes. Should FRANCHISEE elect to change the access channel locations, it shall provide no less than thirty (30) days notice to the COUNTY and subscribers. Further, FRANCHISEE shall advertise the change on the cable system with public service announcements and place a message in each subscriber's monthly billing statement.

(c) FRANCHISEE shall, at its sole cost and expense, continue throughout the term of this Franchise Agreement to equip, activate, make available, and maintain fiber optic cable to transmit the signal of SGTV from its facilities/origination point currently located at 1101 E. First Street, Sanford, Florida, to FRANCHISEE's appropriate headend facility.

(d) Upon request by the COUNTY to activate the educational access channel and the second government access channel, FRANCHISEE shall, at its sole cost and expense, activate, make available and maintain fiber optic cable to transmit the signal of the educational access channel and the government access channel from the cablecast origination point, pursuant to paragraph 16(c) above, which shall be a location serviceable by FRANCHISEE's cable system.

(e) FRANCHISEE shall extend its best efforts to have appropriate personnel on site in the EOC at meetings, briefings, updates and disaster drills pertaining to cable systems and/or cable issues during a Level 2 or higher activation of the EOC as well as for the duration of a state of emergency affecting COUNTY as declared by Federal, State, or local officials. COUNTY shall communicate the details of any such activities with the Company.

(f) Should FRANCHISEE convert its basic tier services to a digital format, the three (3) government and educational access channels shall be carried on the lowest digitally transmitted service tier, pursuant to Federal law.

(g) The facilities, equipment, services, and all other support to be provided by FRANCHISEE pursuant to this Franchise Agreement

constitute capital costs which are required to be incurred by FRANCHISEE for educational/governmental access facilities within the meaning of Section 62(g)(2)(C) of the Communications Act, 47 U.S.C., § 542(g)(2)(C). Such grant shall not constitute a franchise fee within the meaning of the Communications Act, State law, the Ordinance, or this Franchise Agreement.

SECTION 17. EDUCATIONAL AND GOVERNMENTAL ACCESS SUPPORT. FRANCHISEE shall pay to the COUNTY a capital grant in the amount of FOUR HUNDRED THOUSAND AND NO/100 DOLLARS ($400,000.00) for equipment upgrades and acquisitions for SGTV and start up of the educational access channel. The sum of THREE HUNDRED THOUSAND AND NO/100 DOLLARS ($300,000.00) shall be due and payable within sixty (60) days of final approval of this Agreement by the Board of County Commissioners. The remaining installment of ONE HUNDRED THOUSAND AND NO/100 DOLLARS ($100,000.00) shall be due and payable on January 2, 2008. It is hereby agreed that such payment shall not constitute or be credited against any other fee or tax due under Federal, State, or local law. FANCHISEE shall be entitled to recover this capital cost from monthly billings of its subscribers over the ten (10) year life of this Franchise Agreement.

SECTION 18. ANNUAL REPORT ON TECHNOLOGICAL ADVANCES. Upon request, but no more than annually, FRANCHISEE shall report in writing to the COUNTY Manager and the SGTV/Cable Franchising Manager what plans, if any, FRANCHISEE has for the upgrading or rebuilding of its cable system and its effect on the system. To the extent that any reports, records or information is not exempt from disclosure,

FRANCHISEE may make same available for inspection by the COUNTY at the FRANCHISEE'S offices.

SECTION 19. EMERGENCY USE OF CABLE SYSTEM AND FACILITIES.

(a) FRANCHISEE shall comply with all applicable law, including all FCC rules, regarding emergency use of its cable system and facilities.

(b) FRANCHISEE shall have standby power generating capacity at its cable system headend capable of providing at least two (2) hours of emergency power supply. Standby batteries, capable of providing at least two (2) hours of emergency power, shall be installed in the cable distribution plant.

SECTION 20. CUSTOMER SERIVCE REQUIREMENTS. FRANCHISEE shall comply with the customer service requirements set forth in Section 55.21 of the Ordinance and required under applicable Federal law.

SECTION 21. LOCK-OUT DEVICES. FRANCHISEE shall make available at reasonable charge to any residential customer, upon request, a "parental guidance", "lock-out", or similar device which may be a function of a converter shall permit the customer, at his option, to eliminate the audio and visual transmissions from any channel reception to the extent technically feasible. FRANCHISEE shall advise all residential customers at least annually of the availability of such devices.

SECTION 22. CABLE HOME WIRINGS. FRANCHISEE shall comply with all applicable law, including all FCC rules regarding cable home wiring.

SECTION 23. RATES.

(a) Nothing in the Ordinance or this Franchise Agreement shall prohibit the COUNTY from regulating rates for cable service, installation, disconnection, equipment rental, or other matters, to the fullest extent permitted by and consistent with applicable law.

(b) FRANCHISEE shall not increase rates or charges for basic cable service, installation, disconnection or equipment rental without thirty (30) days prior written notice to its customers and the COUNTY inasmuch as FRANCHISEE has advance notice of such changes.

(c) Pursuant to the Ordinance, FRANCHISEE shall, at all times, charge nondiscriminatory rates to its customers. FRANCHISEE may offer bulk discounts and promotions to the extent permitted by Federal or State law.

(d) Pursuant to Federal and State law, FRANCHISEE shall not engage in predatory pricing, negative option billing, or any other illegal anti-competitive business practice.

SECTION 24. MODIFICATION OF FRANCHISE. If FRANCHISEE wishes to modify its franchise, it shall file an application with the COUNTY pursuant to Ordinance Section 55.09(f).

SECTION 25. FRANCHISE CONSOLIDATION.

(a) FRANCHISEE acknowledges that the COUNTY and the seven (7) municipalities therein routinely explore issues concerning Countywide consolidated local government services and operations, including possible a countywide, cable television franchise with the COUNTY as the franchisor agency. Because of the mutual interest of both parties hereto, COUNTY shall provide written notification to FRANCHISEE of all

consolidation task force meetings involving the issue of cable franchise consolidation with the intent of affording FRANCHISEE the opportunity to attend and participate in these discussions.

(b) County expressly reserves the right to amend its Ordinance pursuant to Section 55.36(a) thereof and pursuant to Part I, Chapter 163, Florida Statutes, to enter into interlocal agreements with any of the seven (7) municipalities in Seminole County to establish the basis for a consolidated cable television franchise arrangement. The COUNTY further reserves the right to modify this Franchise Agreement to accommodate a consolidation of the franchise on terms acceptable to both parties and upon written acceptance by Franchisee and the County.

SECTION 26. TRANSFER OF FRANCHISE. FRANCHISEE shall not directly or indirectly transfer, assign, or sell its franchise, or any right, title, or interest in the franchise, this Franchise Agreement, or its cable system, nor shall any ownership interest or any other form of control of FRANCHISEE or any lawful successor be transferred, assigned, or sold directly or indirectly without prior written notice to and consent by the COUNTY. In determining whether to approve such a transfer, assignment or sale, the COUNTY shall consider the factors set forth in Sections 55.09 and 55.27 of the Ordinance consistent with Federal law.

SECTION 27. RENEWAL OF FRANCHISE. This franchise may be renewed in accordance with Section 626 of the Cable Act (47 U.S.C., § 546) and the Ordinance.

SECTION 28. CUSTOMER SATISFACTION SURVEY. The COUNTY shall conduct periodic performance evaluations of a franchisee as the COUNTY

deems necessary. The FRANCHISEE shall cooperate with these evaluations reasonably and in good faith. If the COUNTY implements a survey of cable subscribers in connection with a performance evaluation, the contents of which shall be agreed upon by the COUNTY and the FRANCHISEE, the COUNTY may require the FRANCHISEE to distribute the COUNTY'S questionnaire, in a form approved by the FRANCHISEE, to its subscribers at the COUNTY'S expense. Upon request and upon reimbursement of the COUNTY'S copying costs, the FRANCHISEE may receive copies of all responses.

SECTION 29. REVOCATION OR TERMINATION OF FRANCHISE. In the event the COUNTY exercises its right to revoke or terminate the franchise, the procedures set forth in Ordinance Section 55.28 shall apply.

SECTION 30. ENFORCEMENT REMEDIES. For failure to comply with any of the provisions of the Ordinance or this Agreement, FRANCHISEE may be subject to the enforcement remedies and liquidated damages provisions set forth in the Ordinance.

SECTION 31. FORCE MAJEURE. Prevention or delay of performance by FRANCHISEE of any obligation under this Franchise Agreement or the Ordinance because of circumstances beyond the control of FRANCHISEE, unforeseen circumstances, or acts of God shall not be deemed noncompliant with, or in violation of, this Franchise Agreement or the Ordinance. To the extent FRANCHISEE's performance of any obligation is delayed by circumstances described in the preceding sentence, FRANCHISEE's compliance with such obligation shall be excused until such circumstances are removed or resolved.

SECTION 32. MISCELLANEOUS PROVISIONS.

(a) Validity. The COUNTY and FRANCHISEE each represent and warrant to the other as to their respective authority and power to enter into this Agreement and that all conditions precedent to the execution hereof have been performed. The COUNTY and FRANCHISEE each represents, warrants and covenants to the other that the undersigned elected official (as to the COUNTY) and officer (as to FRANCHISEE) has been duly authorized to execute this Franchise Agreement such that this Franchise Agreement has been validly entered into by the respective party and that this Franchise Agreement constitutes a legal, valid and binding contract enforceable against the respective party in accordance with the terms hereof.

(b) Construction. The COUNTY and FRANCHISEE represent and warrant that they have had the benefit of consultation with legal counsel prior to entering into this Franchise Agreement.

(c) Amendments and Modifications. No amendment or modification to this Franchise Agreement shall be effective unless in writing and signed by FRANCHISEE and the COUNTY.

(d) Non-Waiver. No waiver of any provision of this Franchise Agreement shall be effective unless in writing and signed by the party against whom it is asserted. Any such waiver shall be applicable only to the specified instance to which it relates and shall not be deemed a continuing or future waiver.

(e) Successors and Assigns. This Franchise Agreement shall bind and run to the parties hereto and their respective successors and assigns.

(f) Disclaimer of Third-Party Beneficiaries. This Franchise Agreement is solely for the benefit of the parties hereto and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a party hereto. Nothing in this Franchise Agreement, express or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy or claim under or by reason of this Franchise Agreement or any provisions or conditions hereof, other than the parties hereto and their respective successors and assigns.

(g) Governing Laws. This Franchise Agreement shall be governed, construed and enforced in accordance with Federal law, the laws of the State of Florida and the Ordinance.

(h) Venue. Venue for any legal proceedings resulting from this Franchise Agreement shall be in the Eighteenth Judicial Circuit Court in and for Seminole County, Florida or the United States District Court for the Middle District of Florida, Orlando Division.

(i) Singular, Plural, Masculine, Feminine. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the case may require.

(j) Headings. The headings or captions of sections or subsections used in this Franchise Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Franchise Agreement.

(k) Ordinance Deemed Controlling. FRANCHISEE shall be bound by the Ordinance.

(l) Ethical Conduct. To the extent applicable, neither party hereto shall engage in any conduct or utilize any moneys derived hereunder that would constitute a violation of Chapter 112, Part III, Florida Statutes (the "Code of Ethics for Public Officers and Employees"). To the extent applicable to the FRANCHISEE, both parties shall abide by section 220.115, Seminole County Code of Ordinances.

(m) Notice. All notices, elections, requests, and other communications hereunder shall be in writing and shall be deemed given in the following circumstances: when personally delivered, certified or registered; or the next business day after being deposited with a recognized overnight service or courier delivery service; addressed as follows (or to such other person or at such other address of which any party hereto shall give written notice as provided herein):

For COUNTY:

County Manager
Seminole County Services Building
1101 E. First Street
Sanford, Florida 32771

with a copy to:

County Attorney
Seminole County Services Building
1101 E. First Street
Sanford, Florida 32771

and:

Program Manager, SGTV/Cable Franchising
Community Information Department
1101 E. First Street
Sanford, Florida 32771

For FRANCHISEE:

Vice President, Public Affairs and Governmental Relations
Bright House Networks, LLC
2251 Lucien Way
Maitland, Florida 32751

SECTION 34. EFFECTIVE DATE. This Franchise Agreement, which may be executed in counterparts, shall become effective upon the date of approval by the Board of County Commissioners.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
CARLTON HENLEY, Chairman

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida

Date: _____

For the use and reliance
Of Seminole County only.

Approved as to form and
Legal sufficiency

As authorized for execution
by the Board of County Commissioners
at their _____, 20_____
regular meeting.

_____
County Attorney

BRIGHT HOUSE NETWORKS, LLC

By: _____

Its: _____

Date: _____

STATE OF _____]
]
COUNTY OF _____]

PERSONALLY appeared before me, the undersigned authority _____, who is personally known to me and known by me to be the _____ of BRIGHT HOUSE NETWORKS, LLC, instrument on behalf of BRIGHT HOUSE NETWORKS, LLC, as its true act and deed, and that he/she was authorized so to do.

WITNESS my hand and official seal this _____ day of _____, 20____.

_____
NOTARY PUBLIC

[NOTARY SEAL]