

COUNTY COUNCIL OF CECIL COUNTY, MARYLAND
LEGISLATIVE SESSION 2022-15

RESOLUTION NO. 45-2022

Title of Resolution: Approval – Franchise Agreement – Armstrong Cable Television

Synopsis: A Resolution to execute the renewal of a non-exclusive cable service franchise agreement by and between Cecil County, Maryland, and Armstrong Utilities Inc., operator of Armstrong Cable Television, for the installation, operation, maintenance and extension of the cable system for subscribers within the County, upon the terms and conditions and subject to the agreement.

Introduced by: Council President on behalf of the County Executive

Introduced and order posted on: July 5, 2022

Public Hearing schedule on: August 2, 2022 at 7:00 pm

Consideration scheduled on: August 16, 2022

By: 
Council Manager

Notice of time and place of public hearing and title of Resolution having been posted by July 5, 2022 at the County Administrative Building, 200 Chesapeake Blvd, Elkton, and having been published according to the Charter on July 20, 2022 and July 27, 2022, a public hearing was held on August 2, 2022 and concluded on August 2, 2022.

By: 
Council Manager

Explanation: CAPITALS INDICATE MATTER ADDED TO EXISTING ORDINANCE.
~~Strike through~~ indicate matter deleted from existing ordinance.
Underlining indicates language added by amendment.
~~Double Strike through~~ indicates language deleted by amendment.

RESOLUTION NO. 45-2022
Approval – Franchise Agreement – Armstrong Cable Television

1 **WHEREAS**, in accordance with Section A381 of the Code of Cecil County and Local Government
2 Article Section 1-702 of the Annotated Code of Maryland, the County Council is authorized to grant one
3 or more nonexclusive franchises to operate a cable television system within the County; and

4 **WHEREAS**, the County Council renewed an existing franchise and awarded a nonexclusive
5 franchise to Armstrong Utilities, Inc., by Resolution No. 02-2013 on February 6, 2013; and

6 **WHEREAS**, Armstrong Utilities, Inc., operator of Armstrong Cable Television, has contacted the
7 County requesting a renewal of the franchise agreement for a period of fifteen (15) years; and

8 **WHEREAS**, the County Council finds that Armstrong Cable Television has substantially complied
9 with the material terms of its current franchise and with both county and federal laws; and


10 **WHEREAS**, the County Council has determined that it is in the best interests of the citizens of
11 the county to renew the cable television franchise to Armstrong Utilities, Inc., on the terms and
12 conditions set forth in the franchise agreement as Appendix 1.

13 **NOW THEREFORE, BE IT HEREBY RESOLVED BY THE COUNTY COUNCIL OF CECIL COUNTY,**
14 **MARYLAND**, that Armstrong Utilities, Inc., operator of Armstrong Cable Television, is granted a renewal
15 of its nonexclusive franchise to construct, operate, and maintain a cable television system within the
16 County for a period of fifteen (15) years from the effective date of this Act.

17 **AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND** that
18 this Resolution shall take effect on the date of its passage.

INTRODUCED: July 5, 2022

ADOPTED: August 16, 2022



President of the Council

ATTEST:



Council Manager

CABLE FRANCHISE AGREEMENT

BY AND BETWEEN

CECIL COUNTY, MARYLAND

AND

ARMSTRONG UTILITIES, INC.

CECIL COUNTY - ARMSTRONG CABLE TELEVISION RENEWAL FRANCHISE AGREEMENT

THIS AGREEMENT, executed this _____ day of _____, 2022, between Cecil County, Maryland (hereinafter called “County”) and Armstrong Utilities, Inc., a Pennsylvania corporation authorized to conduct business in the State of Maryland, and having its principal office at One Armstrong Place, Butler, Pennsylvania 16001 (hereinafter called "Company").

Cecil County, Maryland, having determined that the financial, legal, and technical ability of the Company is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Company for the construction, operation, and maintenance of a Cable System on the terms and conditions set forth herein.

Section 1. (TITLE) This Agreement shall be known and may be cited as the “CECIL COUNTY - ARMSTRONG CABLE TELEVISION RENEWAL FRANCHISE AGREEMENT”.

Section 2. (DEFINITIONS)

For this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq. (the "Cable Act") and, if not in conflict, the Cable Law, and the words “shall” and “will” are mandatory. In addition, the following definitions shall apply:

2.1 "Cable Act" shall mean the Cable Communications Policy Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, as may be amended from time to time.

2.2 “Affiliate” shall mean any person who, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, the Company.

2.3 "Advertising Revenues" shall mean revenues derived from sales of advertising that are made available to Company's Cable System subscribers within the County and shall be allocated on a pro rata basis using total Cable Service subscribers reached by the advertising. Additionally, Company agrees that Gross Revenues subject to franchise fees shall include without any offset or other adjustment, all commissions, rep fees, associated with sales of advertising on the Cable System within the County allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

2.4 "Bundled Services" shall mean the combination of Cable Services and non-Cable Service offered to Subscribers in a bundled Package.

2.5 "Cable Law" shall mean Chapter A381 (“Cable Service Franchising”) of the Cecil County Code, as amended, to the extent authorized under and consistent with federal and state law.

2.6 "Cable Service" or "Service" shall mean the one-way transmission to Subscribers of Video Programming or other Programming service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other Programming service, as defined under Chapter A381-2 of the Cecil County Code, as may be amended from time to time.

2.7 “Cable System” shall be defined herein as it is defined under Chapter A381-2 of the Cecil County Code.

2.8 "Channel" shall be defined herein as it is defined under Chapter A381-2 of the Cecil County Code.

2.9 "Code” shall mean the Cecil County Code, as may be amended from time to time

- g) Late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the County;
- h) Revenues from program guides;
- i) FCC Regulatory Fees;
- j) Commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the County.

Gross revenues shall include revenues received by an entity other than Company, an Affiliate, or another entity that operates the Cable System where necessary to prevent evasion or avoidance of the obligation under this agreement to pay the franchise fee.

Gross Revenue shall not include:

- a) actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the County;
- b) any taxes or fees on services furnished by Company imposed by any municipality, state or other governmental unit, provided that franchise fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- c) other fees imposed by any municipality, state or other governmental unit on Company including PEG Fees;
- d) launch fees and marketing co-op fees; and
- e) unaffiliated third- party advertising sales agency fees or commissions which are reflected as a deduction from revenues.

To the extent revenues are received by Company for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Company shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a pro rata basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law it is expressly understood that equipment shall be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Company derives revenues in the County. The County reserves its right to review and to challenge Company's calculations.

Company reserves the right to change the allocation methodologies set forth in this definition to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC").

2.23 Intentionally left blank

2.24 Intentionally left blank.

2.25 "Public Rights-of-Way" shall be the surface and the area across, in, over, along, upon and below the surface of the public streets, roads, bridges, sidewalks, lanes, courts, ways, alleys, and boulevards, including public lands and waterways used as Public Rights-of-Way, as the same now or may hereafter exist, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System.

2.26 Intentionally Omitted.

the Cable System in the Public Rights-of-Way within the Franchise Area for the sole purpose of providing Cable Service shall terminate as applicable, subject to applicable federal law.

3.7 **Competitive Equity:** Company acknowledges and agrees that this franchise is non-exclusive and the County reserves the right to grant additional franchises to construct, operate, and maintain a Cable System within the County. If the County grants to a new entrant a subsequent franchise to construct, operate, and maintain a cable system that, upon consideration of all its material obligations, is more favorable or less burdensome to the subsequent franchisee than this Agreement is to the Company, then Armstrong may request an amendment to this Agreement to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent.

Section 4. (EFFECTIVE DATE AND TERM OF FRANCHISE) This franchise shall become effective on the date it is approved by resolution of the County Council ("Effective Date"). The term of this Franchise shall be for fifteen years from the Effective Date unless the Franchise is earlier revoked as provided herein, or unless the Franchise is renewed or extended by mutual agreement.

Section 5. (ANNEXATION) Upon 90 days written notice from the County, the annexation of any territory to the County contiguous to the Franchise Area as defined in Section 2.20, above, the portion of any Cable System of the Company that may be located or operated within said territory shall thereafter be subject to all the terms of this Agreement as though it were an extension made hereunder.

Section 6. (COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES) The Company shall, at all times during the life of this franchise renewal, be subject (i) to the terms of this Agreement, (ii) to all lawful exercise of the police power by the County, (iii) to such reasonable and generally applicable regulations as the County shall hereafter by resolution or ordinance provide, which are not expressly prohibited by or inconsistent with the provisions of the Cable Act or this Agreement, and (iv) to all applicable provisions of state and federal law, including but not limited to, the Cable Act.

6.1 Company acknowledges that the County may modify its regulatory policies by lawful exercise of the County's police powers throughout the term of this Agreement. Company agrees to comply with such lawful and generally applicable modifications which are not expressly prohibited by or inconsistent with the provisions of the Cable Act or this Agreement. Company reserves all rights it may have to challenge such County Code modifications whether arising in contract or at law. The County reserves all of its rights and defenses to such challenges whether arising in contract or at law.

6.2 In addition to the inherent powers of the County to regulate and control a franchise, and those powers expressly reserved by the County or agreed to and provided for herein, the right and power is hereby reserved by the County to promulgate such additional and generally applicable regulations as it shall find necessary in the exercise of its lawful police powers and in furtherance of the terms and conditions of this Agreement.

6.3 Notwithstanding any other provisions of this Agreement to the contrary, the Company shall at all times comply with all applicable laws and regulations of the state and federal government or any administrative agencies thereof, provided however, if any such state or federal law or regulation shall require the Company to perform any service, or shall permit the Company to perform any service, or shall prohibit the Company from performing any services, in conflict with the terms of this Agreement or of any law or regulation of the County, then as soon as possible following knowledge thereof, the Company shall notify the County of the point of conflict believed to exist between such regulation or law and the laws or regulations of the County or this Agreement.

6.4 Should the County or Company determine that a material provision of this Agreement is affected by any subsequent action of the state or federal government, the Company and County will thereupon, by mutual agreement, modify any of the provisions herein to reflect such government action.

Section 7. (INDEMNIFICATION) Company agrees to indemnify, save and hold harmless, and defend the County, its elected and appointed officials, officers, boards and employees, from and against any liability for damages or claims resulting from the following to the extent caused by Company:

7.2 The County shall at no time be liable for any injury or damage occurring to any Person or property from any acts or omissions of Company in the construction, maintenance, use, operation or condition of the Cable System. It is a condition of this Agreement that the County shall not and does not by reason of this Agreement assume any liability whatsoever of Company for injury to Persons or damage to property; provided, however, the County shall be responsible for its own acts of willful misconduct or negligence, or breach of obligation committed by the County for which the County is legally responsible, subject to any and all defenses and limitations of liability provided by law.

7.3 Nothing in this Agreement shall be construed to waive the County's governmental immunity.

Section 8. (INSURANCE) Company shall maintain in full force and effect, at its own cost and expense, during the Franchise term, the following insurance coverage:

8.1 Commercial General Liability Insurance in the amount of one million dollars (\$1,000,000) combined single limit for property damage and bodily injury. Such insurance shall cover the construction, operation and maintenance of the Cable System, and the conduct of Company's Cable Service business in the County.

8.2 Automobile Liability Insurance in the amount of one million dollars (\$1,000,000) combined single limit for bodily injury and property damage coverage for owned automobiles and trucks, non-owned automobiles and trucks and/or rented automobiles and trucks.

8.3 Workers' Compensation Insurance meeting all legal requirements of the State of Maryland.

8.4 Broadcaster's Liability Coverage, covering errors and omissions and negligent acts and other operations of the Company, committed during the term of the Franchise period with the County, with a limit of liability of at least two million dollars (\$2,000,000) per claim and aggregate. Company agrees to provide a one-year discovery period under this policy.

8.5 Employers' liability Insurance in the following amounts; (i) Bodily Injury by Accident: \$100,000; and (ii) Bodily Injury by Disease: \$100,000 employee limit; \$500,000 policy limit.

8.6 Copyright infringement insurance insuring the County and the Company in the minimum amount of \$2,000,000 for copyright infringement occasioned by the operation of the Cable System.

8.7 The County shall be included as an additional insured under each of the insurance policies required in this Section 8 except Workers' Compensation and Employer's Liability Insurance.

8.8 Company shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Agreement and providing new Certificates of Insurance under Subsection 8.5.

8.9 Each of the required insurance policies shall be with insurers qualified to do business in the State of Maryland, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition.

8.10 The Company's failure to obtain, procure or maintain the required insurance shall constitute a breach of the Franchise and may lead to County action under Section 21 below.

8.11 Within 30 calendar days of the Effective Date, Company shall deliver to County Certificates of Insurance showing evidence of the required coverage.

8.12 All insurance policies and certificates maintained pursuant to this Agreement shall provide the following unless the County approves other language:

"It is hereby understood and agreed that this insurance coverage may not be materially changed or canceled by the insurance company nor the intention not to renew be stated by the insurance company until at least 60 days after receipt by the County of a written notice of such intention to cancel or not to renew."

Section 9. Intentionally Omitted.

10.4 Limitation on Franchise Fee Actions: The period of limitation for recovery of any Franchise fee payable hereunder shall be five years from the end of the fiscal year during which the Franchise fee payment was made.

Section 11. (CUSTOMER SERVICE) Customer service standards are set forth in Exhibit A, which shall be binding unless amended by written consent of the parties.

Section 12. (BOOKS AND RECORDS) Upon 30 days written notice to the Company, the County shall have the right to inspect and copy Company's books and records pertaining to Company's provision of Cable Service or relate to the Cable System in the Franchise Area at any time during normal business hours and on a non-disruptive basis, as are reasonably necessary to ensure compliance with the terms of this Agreement and the Cable Law. Such notice shall specifically specify the purpose of the review, so that the Company may organize the necessary books and records for appropriate access by the County. Records to be available to review include, but are not necessarily limited to, all books, records, maps, plans, financial statements, service complaint logs, performance test results, records required to be kept by Company and any parent company as such relate to the Cable System or the provision of Cable Services pursuant to the rules and regulations of the FCC and other regulatory agencies, and other like materials of Company and any parent company which relate to the enforcement of the Franchise. All books and records relating to Company's activities under the Franchise shall be, or upon request be made, available in Cecil County. Any information requested by the County pursuant to this section shall be limited to the provisions of Cable Services in the Franchise Area. Company shall not be required to maintain any books and records for Franchise compliance purposes longer than 5 years.

12.1 (PROPRIETARY INFORMATION) Notwithstanding anything to the contrary set forth in this Section, Company shall not be required to deliver copies of information which it reasonably deems to be proprietary or confidential in nature, nor disclose any of its or an Affiliate's books and records not relating to the provision of cable service in the Service Area. If the Company believes that any requested information is confidential and proprietary, the Company must provide the following documentation to the County: (i) specific identification of the information; (ii) statement attesting to the reason(s) Company believes the information is confidential; and (iii) statement that the documents are available at the Company's office in the county for inspection by the County. The County agrees to take reasonable steps to protect the proprietary and confidential nature of any books, records, Franchise area maps, plans, or other County-requested documents that are provided pursuant to this Agreement to the extent they are designated as such by the Company.

Company shall not be required to provide customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by Company to be competitively sensitive. Company may make proprietary or confidential information available for inspection, but not copying or removal of information by the County's representative.

12.2 (PUBLIC INFORMATION ACT REQUESTS) If the County receives a demand from any person for disclosure pursuant to the Maryland Public Information Act of any information designated by the Company as confidential, the County shall, within 5 business days of receiving this request, provide the Company with notice of the request, including providing a copy of the Public Information Act Records Request received by the County. Company shall thereafter have 5 business days within which to provide a written response to the County before the County may disclose any requested confidential information. Should the County determine that it will be necessary to disclose the information pursuant to the Public Information Act, the County shall promptly notify Company and, if possible, provide to the Company a minimum of 5 business days prior to the information being released to the requestor. The County shall retain final discretion to determine whether to release the requested information in response to the Public Information Act Records Request as recognized under Maryland Law, subject to the Company's right to initiate court action to protect its interests including, but not limited to, requesting an injunction or other order restraining and prohibiting the release of the information by the County pending a ruling by the Court.

k) **Complete and Accurate Records:** The Company shall keep complete and accurate books of account and records of its business and operations under and in connection with the Agreement.

l) **Record Retention:** Unless otherwise provided in this Section, all materials and information specified in this Section shall be maintained for a period of 5 years.

m) **Communication with Regulatory Agencies:** Upon request, the Company shall file with the County a copy of any document filed by the Company with a regulatory agency or received by the Company from a regulatory agency that pertains to and references the County with respect to the provision of Cable Service or any document filed by the Company with the Federal Communications Commission in a formal cable proceeding.

12.4 (REPORTS REQUIRED)

a) In addition to the reports reprinted in paragraph 12.3 and, for the purpose of ensuring compliance with the terms and conditions of this Agreement, the Company shall, concurrent with the payment of the fee specified in Section 10 hereof, file a verified statement of the gross subscriber revenues received from the subscribers in the County for the preceding quarter and it will also provide the aggregate number of subscribers receiving Cable Services.

b) The company shall submit upon request by the County, an expansion schedule for the next 12 months, showing its plans for extending service in its franchise area.

c) After the Company and its affiliates and subsidiaries have filed a report, petition or communication with any governmental body pertaining directly and materially to any aspect of the Company's provision of Cable Service in the County, it shall file a copy of such document with the County upon 10 days written request.

d) The Company shall notify the County of all products and Cable Services offered over the Cable System as promptly as practicable after each such product or Cable Service is instituted.

e) Upon request by the County, the Company shall provide a summary of the previous calendar year's activities in development of the Cable System, including but not limited to descriptions of services begun or dropped, excluding programming services.

12.5 (Service Area Maps)

Upon written request, Company shall provide to the County for the County's exclusive use and shall maintain at the Company's local office a complete set of their service area maps of the County on which shall be shown those areas in which its facilities exist. The maps shall be provided to the County in hardcopy and also, if requested, in an electronic GIS format which is compatible with the County's GIS format. The Company shall provide the County with updated maps within 30 days after a written request by the County, but shall not be required to provide such maps more than twice in any calendar year.

Section 13. (PRIVACY)

13.1 Company shall respect the rights of privacy of every Customer and shall not violate such rights through the use of any device or signal associated with the Cable System. Company shall at all times comply with the privacy provisions of Section 631 of the Cable Act and all other applicable federal and state privacy laws and regulations.

13.2 Company shall be responsible for complying with all applicable privacy laws and regulations and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal Customer information is handled and protected strictly in accordance with all applicable laws and regulations.

13.3 Except as permitted by applicable law, neither Company nor its designee nor its employees shall make available to any third party, including the County, information concerning the viewing habits or subscription

- a) Company shall provide service at its normal, published installation charge for the initial 400 feet of extension.
- b) The subscriber shall pay all costs for the extension for the distance greater than 400 feet.

15.3 (LOW DENSITY AREAS) Where potential Subscribers reside in residential dwelling units in a portion of the Franchise Area with a density that does not meet the Subscriber density requirements set out in Section 15.1, upon request of those potential Subscribers Company shall extend Service to the potential Subscribers in the low density area if the potential Subscribers agree to pay a Subscriber contribution to aid in construction of the Cable system in this area. The costs of providing Cable Service to the area shall be calculated by taking 1) the capital cost to construct the entire extension from the existing trunk and distribution system that is required to serve the person or persons requesting service including electronics, pole make-ready charges, labor and reasonable associated overhead, but not the cost of the house drop, divided by the number of residential dwelling units requesting Cable Service in the area minus the average cost extending Cable Service to the residential dwelling units in an area that meets the density requirement specified in Section 15.1 above. The resulting costs shall equal the per Subscriber contribution relating to line extension of Cable Service in that particular area of the County, or

$$C/LE - CA/P = SC$$

- C equals the cost of construction of new plant from the nearest technically feasible point on the Cable System trunk or feeder line.
- LE equals the number of dwelling units requesting Cable Service in the line extension area, who subsequently pay a contribution in aid of construction;
- CA equals the average cost of construction per mile in the primary service area;
- LE equals the number of dwelling units requesting service in the line extension area;
- P equals the 15 residential dwelling units per mile of plant as measured from the nearest technically feasible point on the Cable System trunk or feeder line; and
- SC equals the per residential dwelling unit contribution in aid of construction in the line extension area.

15.4 (NON-DISCRIMINATION) Neither the Company nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, shall discriminate or permit discrimination between or among any individuals in the availability of Cable Services provided in connection with the Cable System in the Franchise Area ;provided, however, Company reserves the right to deny service for good cause, including but not limited to non-payment or theft of service, vandalism of equipment, or documented or founded harassment or abuse of Company's employees or agents. It shall be the right of all individuals to receive all available services provided on the Cable System so long as such individual's financial or other obligations to the Company are satisfied. Nothing contained herein shall prohibit the Company from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice.

Section 16. Intentionally Omitted.

Section 17: (SYSTEM FACILITIES) Company's Cable System shall meet or exceed the following requirements:

17.1 The System shall be designed to be an active two-way plant for subscriber interaction, if any, required for the selection or use of Cable Service.

17.2 The System shall be of modern design when built, utilizing an architecture that will permit additional improvements necessary for high quality and reliable service throughout the Franchise term. The Cable System shall meet or exceed the applicable technical standards set forth in 47 C.F.R. §76.601, and any other applicable FCC rules and regulations, industry standards, and manufacturers performance specifications.

Similarly, all closed-captioned programming retransmitted over the Cable System shall include the closed-captioned signal in a manner that renders that signal available to Subscriber equipment used to decode the captioning.

17.14 (INTERCONNECTION) Company shall design its Cable System so that it may be interconnected with other cable systems in the Franchise Area at suitable locations as determined by Company. Interconnection of systems may be made by direct fiber connection or other methods of equivalent quality.

17.15 (EMERGENCY ALERT SYSTEM) Company shall comply with the Emergency Alert System (EAS) requirements of the FCC in order that emergency may be distributed over the System. This EAS shall at all times be operated in compliance with FCC requirements in order that emergency messages may be distributed over the System. In the event of a state or local civil emergency, the EAS shall be activated by equipment or other acceptable means as set forth in the Maryland State EAS Plan. Company will override the audio and video on all channels, so long as it is consistent with Company's contractual commitments, to transmit EAS alerts received from the designated Local Primary Sources assigned by the Maryland State EAS Plan to serve the Cecil County Operational Area.

17.16 (RESTORATION OF COUNTY PROPERTY) When installing, repairing or disconnecting Cable Service, any County property damaged or destroyed by the Company's employees or agents shall be repaired or replaced by the Company and restored to a condition comparable to the condition immediately prior to the disturbance.

17.17 (RESTORATION OF PRIVATE PREMISES) Company shall ensure that privately-owned premises are restored to a condition comparable to the condition immediately prior to the disturbance if damaged by the Company's employees or agents in connection with the installation, repair, or disconnection of Cable Service.

Section 18. (TERM OF FRANCHISE) The franchise renewal and rights herein granted shall take effect upon the Effective Date of the franchise renewal by the Company with the County and shall continue in full force for a term to end or otherwise expire fifteen years from the effective date.

Section 19. (RENEWAL) Any renewal of this Agreement shall be governed by and comply with the provisions of Section 626 of the Cable Act (47 U.S.C. §546), as amended.

Section 20. (PERFORMANCE BOND) Prior to the Service Date, the Company shall provide to the County a security for the performance of its obligations under this Agreement in the amount of \$75,000 in cash or in the form of a letter of credit reasonably satisfactory to the County or in form of a performance bond (the "Security Fund"). Subject to Section 21, the following procedures shall apply to the Security Fund:

- (i) The County may not draw on the Security Fund until 30 calendar days have passed after the County has provided the Company with written notice of its intent to make such withdrawal and the amount and the reasons therefor;
- (ii) In the event that the Security Fund is in the form of cash, amounts withdrawn from the Security Fund pursuant to this Section shall be replenished by Franchisee by delivering to the County or its designee for deposit in the Security Fund a cash amount equal to the amount so withdrawn within 30 calendar days of its receipt of notice from the County of the date and amount of such withdrawal;
- (iii) In the event the Security Fund is in the form of a letter of credit, Franchisee shall replenish the Security Fund by establishing a new letter of credit within 30 calendar days of its receipt of notice from the County of the date and amount of such withdrawal; and
- (iv) Within 30 calendar days of receipt of the new letter of credit, the County shall return the previously issued letter of credit to the Company. If the Company posts a performance bond ("Performance Bond"), in the event that a Performance Bond provided pursuant to this Agreement is not renewed or is cancelled, the Company shall provide new security pursuant to the Agreement within 30 calendar days of such cancellation or failure to renew. Neither cancellation, nor termination, nor refusal by surety to extend the Performance Bond, nor inability of the Company

failure of a Franchisee to hire sufficient staff or to properly train its staff shall not preclude the application of the provisions in this Section.

b) The County, or its designee, shall have the authority to waive or reduce the liquidated damage amounts herein for good cause.

c) Cure periods listed below shall begin to run at the time the Company is notified in writing of a violation by the County, unless otherwise specified below. Should the County elect to receive liquidated damages for any of the violations enumerated herein, such liquidated damages shall be the County's sole remedy for the violations occurring during the period of time to which the liquidated damages apply.

d) On an annual basis from the Effective Date, the Company shall be liable for liquidated damages up to \$75,000 (the "Liquidated Damages Cap"); provided, however, the Company may pay any amount in excess of the Liquidated Damages Cap. The liquidated damages may be assessed only by the County and any assessments shall be made in the following manner:

i) For failure to substantially comply with requirements for PEG use of the Cable System: \$400 per day for each day compliance is delayed beyond a fourteen (14) day cure period, if the Company has not undertaken substantial corrective action to cure the violation within that 14 day cure period;

ii) For failure to provide complete and accurate information, reports, or filings lawfully required under this Agreement: \$150 per day for each day that each such filing is delayed beyond a 30-day cure period;

iii) For each day during which the County determines that the Company has violated customer service standards pursuant to Exhibit A: \$150 per violation, treating each failure to comply as a separate violation, following a 7 day cure period, except that such cure period does not apply to customer service standards that themselves provide a time to act or a specific cure period;

a) A separate violation under sub-section 21.2(D)(iii) shall be deemed to occur whenever the County reasonably determines that a separate customer service standard violation has occurred on one day. Thus, for example, if the Company fails to keep an appointment pursuant to Exhibit A with one Subscriber on one day and on that same day, independent of the missed appointment, the Company fails to disclose price terms to that same Subscriber, then there would be two violations. However, the Company shall not be charged with multiple violations for a single act or event affecting a single Subscriber or for a single act or event affecting multiple Subscribers on the same day. For example, the failure of the Company to send out its annual notice to multiple Subscribers would constitute a single violation.

iv) For failure to issue an undisputed refund or credit pursuant to Exhibit C after being directed by the County to do so: \$150 per violation, treating each failure to comply as a separate violation, following a 7 day cure period;

v) For failure to meet customer service standards with regard to telephone answering time, time to transfer a call to a customer service representative, or excessive busy signals, if such standards are not met according to the terms in which such standards are established in Exhibit C: \$300 for each quarter in which such standards were not met if the failure was by less than 5%; \$ 600 for each quarter in which such standards were not met if the failure was by 5% or more but less than 15%;and \$1,200 for each quarter in which such standards were not met if the failure was by 15% or more;

vi) For failure to render payment for Audit Fees pursuant to Section 10.3, \$100, for each day each such payment is delayed, following a 7 day cure period;

22.2 (BINDING ACCEPTANCE) This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns, and the promises and obligations herein shall survive the expiration date hereof.

22.3 (PREEMPTION) In the event that federal or state law, rules or regulations preempt a provision or limit the enforceability of a provision of this Agreement, the provision shall be read to be preempted to the extent, and for the time, but only to the extent and for the time, required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the County.

22.4 (NOTICES) Unless otherwise expressly stated herein or agreed between the parties, notices required under this Agreement shall be mailed first class, postage prepaid, or via overnight courier to the addresses listed below. Each party may change its designee or address by providing written notice to the other party.

a) Notices to Company shall be mailed to:

Armstrong Utilities, Inc.
One Armstrong Place
Butler, Pennsylvania 16001
Attention: President

Additional Notice:

Armstrong Utilities, Inc.
One Armstrong Place
Butler, Pennsylvania 16001
Attention: Legal Department

b) Notices to the County shall be mailed to:

Cecil County
Office of the County Executive
200 Chesapeake Blvd, Suite 2100
Elkton, MD 21921

With a copy to:

Cecil County
Department of Information Technology
200 Chesapeake Blvd, Suite 2600
Elkton, MD 21921

22.5 (ENTIRE AGREEMENT) This Agreement and the Exhibits hereto constitute the entire agreement between Company and the County, and it supersedes all prior or contemporaneous agreements, representations, proposals or understandings of the parties regarding the subject matter hereof except as specifically incorporated herein. Amendments modifications to this Agreement shall be mutually agreed to in writing by the parties.

22.6 (CAPTIONS) The captions and headings of articles and sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

22.7 (CONFLICTS WITH THE ACT AND THE COUNTY CODE) The County and the Company recognize that this Franchise Agreement imposes certain burdens and obligations on the Company that are greater than those imposed by the Act or the County Code, and the Company agrees to be bound by these greater burdens and obligations. The provisions of this agreement shall be liberally construed to effectuate their objectives. Company is subject to the County Code in effect as of the Effective Date of this Agreement, and as amended in the future, and to all reasonable and lawful exercises of police power by the County, provided that each of these authorities is applied in a manner consistent with Company's rights under this Agreement. In the event of a conflict between the Cable Law and this Agreement, this Agreement shall prevail. In the event of an item or issue not being addressed in this agreement, then County Code or State and/or Federal Law shall prevail. The County shall not

of this Franchise by reason of any failure of the Company to enforce prompt compliance, nor does the Company waive or limit any of its rights under this Franchise by reasons of such failure or neglect.

22.17 (AFFILIATE ACTIONS) During the term of the Franchise, the Company shall be liable to the acts or omissions of its affiliates while such affiliates are involved directly or indirectly in the construction, upgrade, installation, maintenance or operation of the cable system as if the acts or omissions of such affiliates are the acts or omissions of the Company.

22.18 (GUARANTEE OF PERFORMANCE) Company agrees that it enters into this Franchise voluntarily in order to secure and in consideration of the grant from the County of a Franchise. The Company has the requisite power and authority under applicable law and its by-laws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has secured all consents which are required to be obtained as of the Effective Date of this Franchise Agreement, to enter into and legally bind the Franchisee to this Franchise and to take all actions necessary to perform all of its obligations pursuant to this Franchise Agreement.

22.19 (CONTRACTORS) Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of System equipment or for the pruning or removal must be properly licensed under laws of the State and all applicable local ordinances, where applicable, and each contractor or subcontractor shall have the same obligations with respect to its work as the Company would have if the work were performed by the Company. The Company must ensure that contractors, subcontractors and all employees who will perform work for it are trained. The Company shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with the franchise and applicable law, persons contracting or subcontracting or representing the Company in the course of providing Cable Service to any Subscriber.

22.20 (NO THIRD-PARTY BENEFICIARIES) Nothing in this Franchise is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise.

WITNESS the hands and seals of the parties the day and year first above written.

Cecil County, Maryland

By: _____

Title: _____

Date: _____

Armstrong Utilities, Inc.

By: _____

Title: _____

Date: _____

- b) Percentage of transferred calls which are transferred within thirty (30) seconds.
- c) Percentage of time customers received busy signal when calling the Company.

Subject to consumer privacy requirements, underlying activity will be made available to the County for review upon reasonable request.

SECTION 3: INSTALLATIONS AND SERVICE APPOINTMENTS

3.1 All installations shall be in accordance with FCC rules, including but not limited to, appropriate grounding, connection of equipment to ensure reception of Cable Service, and the provision of required consumer information and literature to adequately inform the Subscriber in the utilization of the Company-supplied equipment and cable Service.

3.2 The Standard Installation shall be performed within 7 business days after an order is placed where a drop connection already is in place. If the drop is not present, the Standard Installation shall be performed within 14 business days after an order is placed. For other than a Standard Installation, Company shall provide the customer in advance with a total installation cost estimate and an estimated date of completion.

Commencing with the first calendar quarter from the effective date of this Franchise Agreement, Company shall meet this standard for 95% of the Standard Installations it performs, as measured on a calendar quarter basis, excluding customer requests for connection later than 7 business days after an order is placed.

3.3 Upon written request, the Company shall provide the County with a report once every quarter, 30 calendar days following the end of each quarter, noting the percentage of Standard Installation; completed within the 7 business day period, excluding those requested outside of the 7 business day period by the Subscriber. Subject to consumer privacy requirements, underlying activity will be made available to the County for review upon reasonable request.

3.4 The Company will offer Subscribers "appointment window" alternatives for arrival to perform installations, Service Calls and other activities of a maximum 4 hours scheduled time block during appropriate daylight available hours, usually beginning at 8:00 a.m. unless it is deemed appropriate to begin earlier by location exception. At the Company's discretion, the Company may offer Subscribers appointment arrival times other than these 4-hour time blocks, if agreeable to the Subscriber.

3.5 Company may not cancel an appointment with a Customer after the close of business on the business day prior to the scheduled appointment.

3.6 If Company's representative is running late for an appointment with a Customer and will not be able to keep the appointment as scheduled, the Customer shall be contacted. The appointment will be rescheduled, as necessary, for a time which is convenient for the Customer.

SECTION 4: SERVICE INTERRUPTIONS AND OUTAGES

4.1 The Company shall notify the County of any Significant Outage of the Cable Services.

4.2 The Company shall exercise commercially reasonable efforts to limit any Significant Outage for the purpose of maintaining, repairing, or constructing the Cable System. Except in an emergency or other situation necessitating a more expedited or alternative notification procedure, the Company may schedule a Significant Outage for a period of more than 4 hours during any twenty-four (24) hour period only after the County and each affected Subscriber in the Service Area have been given 15 calendar days prior notice of the proposed Significant Outage. Notwithstanding the forgoing, Company may perform modifications, repairs and upgrades to the System between 12:01 a.m. and 6:00 a.m. which may interrupt service, and this Section's notice obligations respecting such possible interruptions will be satisfied by notice provided to Subscribers upon installation and in the annual subscriber notice.

4.3 Company representatives who are capable of responding to Service Interruptions must be available to respond 24 hours a day, 7 calendar days a week.

6.3 Should any customer's rates be changed (whether increased or decreased) an explanation shall be provided to customers in accordance with Section 10.5 herein.

6.4 A specific due date shall be listed on the bill of every Subscriber whose account is current. Delinquent accounts may receive a bill which lists the due date as upon receipt; however, the current portion of that bill shall not be considered past due except in accordance with Subsection 6.2 above.

6.5 Any Subscriber who, in good faith, disputes all or part of any bill shall have the option of withholding the disputed amount without disconnect or late fee being assessed until the dispute is resolved provided that:

- a) The Subscriber pays all undisputed charges;
- b) The Subscriber provides notification of the dispute to Company within five (5) calendar days prior to the due date; and
- c) The Subscriber cooperates in determining the accuracy and/or appropriateness of the charges in dispute.

6.6 Under Normal Operating Conditions, the Company shall initiate investigation and resolution of all billing complaints received from Subscriber within five business days of receipt of the complaint. Final resolution shall not be unreasonably delayed.

6.7 The Company shall provide a telephone number and address on the bill for Subscribers to contact the Company.

6.8 The Company shall forward a copy of any Cable Service related billing inserts or other mailing sent to Subscribers to the County upon written request.

SECTION 7: DEPOSITS, REFUNDS AND CREDITS

7.1 The Company may require refundable deposits from Subscribers 1) with a poor credit or poor payment history, 2) who refuse to provide credit history information to the Company, or 3) who rent Subscriber equipment from the Company, so long as such deposits are applied on a non-discriminatory basis. The deposit the Company may charge Subscribers with poor credit or poor payment history or who refuse to provide credit information may not exceed an amount equal to an average Subscriber's monthly charge multiplied by three (3).

7.2 The Company shall refund or credit the Subscriber for the amount of the deposit collected for equipment, which is unrelated to poor credit or poor payment history, after one year and provided the Subscriber has demonstrated good payment history during this period. The Company shall pay interest on other deposits if required by law.

7.3 Under Normal Operating Conditions, refund checks will be issued within the next available billing or within 45 days cycle following the resolution of the event giving rise to the refund, (I.E. equipment return and final bill payment).

7.4 Credits for Cable Service will be issued no later than the Subscriber's next available billing cycle or within 45 days, following the determination that a credit is warranted, and the credit is approved and processed. Such approval and processing shall not be unreasonably delayed.

7.5 Bills shall be considered paid when the Company receives appropriate payment. Appropriate time considerations shall be included in the Company's collection procedure to assure that payments due have been received before late notices or termination notices are sent.

SECTION 8: RATES, FEES AND CHARGES

8.1 The Company shall not, except to the extent permitted by law, impose any fee or charge for Service Calls to a Subscriber's premises to perform any repair or maintenance work related to Company equipment necessary to receive Cable Service, except where such problem is caused by a negligent or wrongful act of the Subscriber (including, but not limited to, a situation in which the Subscriber reconnects Company equipment

10.6 The Company shall provide information to all Subscribers about each of the following items at the time of installation of Cable Services, annually to all Subscribers, at any time upon request, and, subject to Subsection 10.5, at least 30 calendar days prior to making significant changes in the information required by this Section if within the control of the Company:

- a) Products and Cable Service offered;
- b) Prices and options for Cable Services and condition of subscription to Cable Services. Prices shall include those for Cable Service options, equipment rentals, program guides, installation, downgrades, late fees and other fees charged by the Company related to Cable Service;
- c) Installation and maintenance policies including, when applicable, information regarding the Subscriber's in-home wiring rights during the period Cable Service is being provided.
- d) Channel positions of Cable Services offered on the Cable System;
- e) Complaint procedures, including the name, address and telephone number of the County, but with a notice advising the Subscriber to initially contact the Company about all complaints and questions;
- f) Procedures for requesting Cable Service credit;
- g) The availability of a parental control device;
- h) Company practices and procedures for protecting against invasion of privacy; and
- i) The address and telephone number of the Company's office to which complaints may be reported.

A copy of notices required in this Subsection will be given to the County earlier or contemporaneous with distribution to subscribers if the reason for notice is due to a change that is within the control of Company and as soon as possible if not within the control of Company.

10.7 Notices of changes in rates shall indicate the Cable Service new rates and old rates; if applicable.

10.8 Notices of changes of Cable Services and/or Channel locations shall include a description of the new Cable Service, and the specific channel location. In addition, should the channel location, hours of operation, or existence of other Cable Services be affected by the introduction of a new Cable Service, such information must be included in the notice.

10.9 Every notice of termination of Cable Service shall include the following information:

- a) The name and address of the Subscriber whose account is delinquent;
- b) The amount of the delinquency for all services billed;
- c) The date by which payment is required in order to avoid termination of Cable Service; and
- d) The telephone number for the Company where the Subscriber can receive additional information about their account and discuss the pending termination.