

INCORPORATED COUNTY OF LOS ALAMOS ORDINANCE NO. 762

AN ORDINANCE REPEALING ORDINANCE NO. 754 AND GRANTING A CABLE FRANCHISE TO COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC, TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE SYSTEM IN THE PUBLIC RIGHTS-OF-WAY AND TO PROVIDE CABLE SERVICE, WITHIN THE INCORPORATED COUNTY OF LOS ALAMOS; ESTABLISHING THE TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT; AND ESTABLISHING CERTAIN REMEDIES FOR THE VIOLATION OF THE FRANCHISE

WHEREAS, pursuant to the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, which amend the Communications Act of 1934, the Congress established procedures and standards in order to, among other purposes, provide for the orderly renewal of cable television franchises, encourage the growth and development of Cable Systems and establish certain requirements for use of Public Rights of Way, and provide for regulation of cable systems; and

WHEREAS, the Incorporated County of Los Alamos ("County") intends to exercise the full scope of its governmental powers, including both its police power and contracting authority, to promote the public interest and to protect the health, safety and welfare of the citizens of Los Alamos County; and

WHEREAS, on June 9, 2026, the County Council adopted Ordinance No. 754 to grant a cable franchise to Comcast of Florida/Michigan/New Mexico/Pennsylvania/Washington LLC to construct, operate, and maintain a cable system in the public rights-of-way and to provide cable service within the County; and

WHEREAS, due to corporate reorganization, Comcast of Florida/Michigan/New Mexico/Pennsylvania/Washington LLC is no longer a legal entity that can execute the franchise agreement attached as Exhibit A to Ordinance No. 754; and

WHEREAS, as a result of such corporate reorganization, Comcast Cable Communications, LLC is now the legal entity that will construct, operate, and maintain a cable system in the public rights-of-way and provide cable service within the County; and

WHEREAS, the rights granted under any other ordinance purporting to grant Comcast Cable Communications Management, LLC, or its predecessor, franchise rights, are superseded and of no further force and effect; no violation of the expired ordinance shall be considered a breach of this Franchise or give rise to any proceeding for liquidated damages, revocation or termination of this Franchise.

NOW, THEREFORE, in consideration of the foregoing clauses, which clauses are hereby made a part of the Franchise Agreement ("Agreement"), attached hereto as Exhibit A, the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

Section 1. Authority. The County Council, pursuant to the provisions of Article X, Section 6 of the Constitution of New Mexico, pertaining to municipal home rule, enacts this Ordinance relating to the Cable System, and for the purpose of providing maximum local self-government.

Section 2. This Ordinance shall be effective thirty (30) days after the publication of its notice of its adoption.

Section 3. Severability. Should any section, paragraph, clause or provision of this ordinance or the Agreement, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance or the Agreement.

Section 4. Repealer. Ordinance No. 754 is hereby repealed in its entirety. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

PASSED AND ADOPTED this 8th day of September 2026.

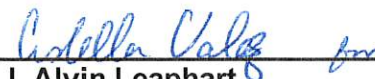
**COUNCIL OF THE INCORPORATED COUNTY
OF LOS ALAMOS**

Randall T. Rytz,
Council Chair

ATTEST:

Michael D. Redondo,
Los Alamos County Clerk

Approved as to Form:


J. Alvin Leaphart
Los Alamos County Attorney

CABLE FRANCHISE AGREEMENT
BY AND BETWEEN
INCORPORATED COUNTY OF LOS ALAMOS
AND
COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

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**COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC
AND INCORPORATED COUNTY OF LOS ALAMOS**

CABLE FRANCHISE AGREEMENT

SECTION 1. DEFINITIONS

(A) DEFINITIONS

For the purposes of this Cable Franchise Agreement (“Franchise”), the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

- 1.1 “Access” means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including the Grantor and its designees, of the Cable System to acquire, create, receive, and distribute video Cable Services and other services and signals as permitted under Applicable Law including, but not limited to:
- a. “Public Access” means Access where community-based, noncommercial organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users.
- b. “Educational Access” means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, “school” means any State-accredited public educational institution, including, for example, primary and secondary schools, colleges and universities.
- c. “Government Access” means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.
- 1.2 “Access Channel” means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming or services.
- 1.3 “Activated” means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.
- 1.4 “Affiliate,” when used in connection with Grantee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.
- 1.5 “Applicable Law” means any statute, ordinance, judicial decision, executive order or

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regulation having the force and effect of law, that determines the legal standing of a case or issue.

- 1.6 “Bad Debt” means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.
- 1.7 “Basic Service” is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG SD Access Channels required in this Franchise, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.
- 1.8 “Broadcast Channel” means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.
- 1.9 “Broadcast Signal” means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any other means.
- 1.10 “Cable Act” means the Title VI of the Communications Act of 1934, as amended.
- 1.11 “Cable Operator” means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.
- 1.12 “Cable Service” means 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.
- 1.13 “Cable System” means any facility, including Grantee’s, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and that is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

- 1.14 “Channel” means a portion of the electromagnetic frequency spectrum that is used in the Cable System and that is capable of delivering a television channel (as television channel is defined by the FCC by regulation).
- 1.15 “Grantor” is the Incorporated County of Los Alamos, a body politic and corporate under the laws of the State of New Mexico.
- 1.16 “County” means the Incorporated County of Los Alamos, a county in New Mexico.
- 1.17 “County Council” means the Council of the Incorporated County of Los Alamos or its successor, the governing body of the County of Los Alamos, New Mexico.
- 1.18 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.
- 1.19 “Designated Access Provider” means the entity or entities designated now or in the future by the Grantor to manage or co-manage Access Channels and facilities. The Grantor may be a Designated Access Provider.
- 1.20 “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service and does not include Premium Services.
- 1.21 “Downstream” means carrying a transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.
- 1.22 “Dwelling Unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units unless the additional facilities are clearly accessory.
- 1.23 “FCC” means the Federal Communications Commission.
- 1.24 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric light wave impulses.
- 1.25 “Franchise” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the Grantor and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.
- 1.26 “Franchise Area” means the area within the jurisdictional boundaries of the County, including any areas annexed by the County during the term of this Franchise.
- 1.27 “Franchise Fee” means that fee payable to the Grantor described in subsection 3.1.1.

- 1.28 “Grantee” means Comcast Cable Communications Management, LLC or its lawful successor, transferee or assignee.
- 1.29 “Grantor” is the Incorporated County of Los Alamos, a body politic and corporate under the laws of the State of New Mexico.
- 1.30 “Gross Revenues” means and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the Franchise Area, calculated in accordance with generally accepted accounting principles (GAAP). Gross revenues include, by way of illustration and not limitation:
- 1.30.1 • monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);
 - 1.30.2 • installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;
 - 1.30.3 • fees paid to Grantee for channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service subscribers within the County;
 - 1.30.4 • converter, remote control, and other Cable Service equipment rentals, leases, or sales;
 - 1.30.5 • Advertising Revenues as defined herein;
 - 1.30.6 • 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;
 - 1.30.7 • revenues from program guides;
 - 1.30.8 • 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.
 - 1.30.9 “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’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, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to National Cable Communications (“NCC”) and Comcast Spotlight (“Spotlight”) or other Affiliates

or their successors 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.

1.30.10 “Gross Revenues” shall not include:

1.30.11 • actual bad debt write-offs, except any portion thereof that is subsequently collected by Grantee whether directly or from any third party;

1.30.12 • any taxes and/or fees on services furnished by Grantee imposed by any municipality other than the County, state or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;

1.30.13 • fees imposed by Grantor on Grantee including but not limited to Public, Educational and Governmental (PEG) Fees;

1.30.14 • launch fees and marketing co-op fees; and,

1.30.15 • unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

1.30.16 To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology in accordance with GAAP 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 may 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 Grantee derives revenues in the County. The Grantor reserves its right to review and to challenge Grantee’s calculations.

1.30.17 Grantee reserves the right upon no fewer than sixty (60) days prior written notice to Grantor to change the allocation methodologies set forth in this Section 1.28 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board (“FASB”) and/or the U.S. Securities and Exchange Commission (“SEC”).

1.30.18 Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles (“GAAP”) as promulgated and defined by the Financial Accounting Standards Board (“FASB”) and/or the U.S. Securities and Exchange Commission (“SEC”). Notwithstanding the foregoing, the Grantor reserves its right to challenge Grantee’s calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB and/or the SEC.

- 1.31 “Headend” means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and Interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.
- 1.32 “Leased Access Channel” means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.
- 1.33 “Manager” means the County Manager of the Grantor or designee.
- 1.34 “Person” means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.
- 1.35 “Premium Service” means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.
- 1.36 “Residential Subscriber” means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.
- 1.37 “Right-of-Way” means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the County: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, rights-of-way and similar public property and areas.
- 1.38 “State” means the State of New Mexico.
- 1.39 “Subscriber” means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who is in compliance with Grantee's regular and nondiscriminatory terms and conditions for receipt of service.
- 1.40 “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.
- 1.41 “Telecommunications” means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. Section 153(43)).
- 1.42 “Telecommunications Service” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(46)).

- 1.43 “Tier” means a group of two (2) or more Channels for which a single periodic subscription fee is charged.
- 1.44 “Two-Way” means that the Cable System is capable of providing both Upstream and Downstream transmissions.
- 1.45 “Upstream” means carrying a transmission to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

2.1.1 The Grantor hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the County to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise and in any prior utility or use agreements entered into by Grantee with regard to any individual property.

2.1.2 Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable Grantor ordinance existing as of the Effective Date, as defined in subsection 2.3.

2.1.3 Each and every term, provision or condition herein is subject to the provisions of State law, federal law, the Charter of the Grantor, and the ordinances and regulations enacted pursuant thereto. The Charter and Municipal Code of the Grantor, as the same may be amended from time to time, are hereby expressly incorporated into this Franchise as if fully set out herein by this reference. Notwithstanding the foregoing, the Grantor may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

2.1.4 This Franchise shall not be interpreted to prevent the Grantor from imposing additional lawful conditions for occupancy or use of the Rights-of-Way on all similarly situated users of the Rights-of-Way.

2.1.5 Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the obligations of this Franchise.

2.1.6 No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

2.1.6.1 Any other permit or authorization required for the privilege of transacting and carrying on a business within the County that may be required by the Grantor’s ordinances and laws;

2.1.6.2 Any permit, agreement, or authorization required by the Grantor for Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

2.1.6.3 Any permits or agreements for occupying any other property of the Grantor or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

2.1.7 This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the Grantor has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

2.2 Use of Rights-of-Way

2.2.1 Subject to the Grantor's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the County such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the County. Grantee, through this Franchise, is granted extensive and valuable rights to operate its Cable System for profit using the Grantor's Rights-of-Way in compliance with all applicable Grantor construction codes and procedures. As trustee for the public, the Grantor is entitled to fair compensation as provided for in Section 3 of this Franchise to be paid for these valuable rights throughout the term of the Franchise.

2.2.2 Grantee must follow Grantor established nondiscriminatory requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the Grantor's role in protecting public health, safety and welfare, the Grantor may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with Grantor's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by the Grantor, or that is installed without prior Grantor approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Rights-of-Way through joint trenching and other arrangements.

2.3 Effective Date and Term of Franchise

This Franchise and the rights, privileges and authority granted hereunder shall take effect on _____, 2026 (the “Effective Date”), and shall terminate on _____, 2036 unless terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements or licenses granted by the Grantor to any Person to use any property, Right-of-Way, right, interest or license for any purpose whatsoever, including the right of the Grantor to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The Grantor may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems as the Grantor deems appropriate.

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of the Grantor to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the Grantor or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Grantor shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the Grantor's police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

2.6.1 The Grantee acknowledges and agrees that the Grantor reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the County. If the Grantor grants such an additional franchise or other similar lawful authorization containing material terms and conditions that Grantee believes differ from Grantee's material obligations under this Franchise, then Grantee shall disclose to Grantor those material obligations believed by Grantee to differ. The parties shall meet and confer to discuss Grantee's claims of inequality, and upon agreement of the parties, the Grantor agrees that the obligations in this Franchise will, pursuant to the process set forth in this Section, be amended 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 ensure 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. Video programming services (as defined in the Cable Act) delivered over wireless broadband networks are specifically exempted from the requirements of this Section.

2.6.2 The modification process of this Franchise as provided for in Section 2.6.1 shall be initiated by written notice by the Grantee to the Grantor regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent. Grantor may similarly invoke the modification process set out herein in response to changes in state or federal law or court decisions that bind Grantor.

2.6.3 Upon receipt of a written notice as provided in Section 2.6.2, the Grantor and Grantee agree that they will use best efforts in good faith to negotiate any proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day period, unless that time period is reduced or extended by mutual agreement of the parties. If the Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Grantor shall amend this Franchise to include the modifications.

2.6.4 In the alternative to Franchise modification negotiations as provided for in Section 2.6.3, or if the Grantor and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the Grantor grants to another provider of Cable Services, with the understanding that Grantee will use its current system design and technology infrastructure to meet any requirements of the new franchise so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the Grantor shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Cable Services provider.

2.6.5 Notwithstanding anything contained in this Section 2.6.1 through Section 2.6.4 to the contrary, the Grantor shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services available for purchase by Subscribers or customers under its franchise agreement with the Grantor.

2.6.6 Notwithstanding any provision to the contrary, at any time that a wireline facilities-based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of video programming for which a cable television franchise fee is owed to the County, within the Franchise Area, then:

2.6.6.1 Grantee may negotiate with the Grantor to seek Franchise modifications as per Section 2.6.3 above; or

2.6.6.1.1 the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice; or,

2.6.6.1.2 Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set forth in Section 625 of the Cable Act.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise and finds that the same are reasonable and commercially practicable at this time, and consistent with all local, State and federal laws and regulations currently in effect, including the Cable Act.

2.8 Effect of Acceptance

2.8.1 By accepting the Franchise, the Grantee:

2.8.1.1 acknowledges and accepts the Grantor's legal right to issue and enforce the Franchise;

2.8.1.2 accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and

2.8.1.3 agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the Grantor's Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the Grantor, throughout the duration of and consistent with this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to the Grantor shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after said dates.

3.3 Acceptance of Payment

No acceptance of any payment shall be construed as an accord by the Grantor that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments by Grantor be construed as a release of any claim the Grantor may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the Grantor, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

3.5 Annual Franchise Fee Reports

Grantee shall, within sixty (60) days after the end of each year, furnish to the Grantor a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

3.6 Audits

3.6.1 On an annual basis, upon thirty (30) days prior written notice, the Grantor, including the Grantor's Auditor or his/her authorized representative, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise at the expense of the Grantor. If the Grantor does not exercise this right to an audit in any particular year, such event shall not be construed as a waiver of any right to a future audit in any subsequent year. Pursuant to subsection 1.28, as part of the Franchise Fee audit/review the Grantor shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for Grantor subscribers during the audit period. To the extent that the Grantor does not believe that the relevant data supplied is sufficient for the Grantor to complete its audit/review, the Grantor may require other relevant data. For purposes of this Section 3.6.1, the "other relevant data" shall generally mean but not be limited to all:

3.6.1.1 billing reports,

3.6.1.2 financial reports (such as General Ledgers) and

3.6.1.3 sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the Grantor to recompute the Gross Revenue determination.

3.6.2 If the audit/review shows that Franchise Fee payments have been underpaid by at least five percent (5%), Grantee shall pay to Grantor the cost of the audit/review up to \$5,000 for each year of the audit period where the underpayment is at least five percent (5%). The Grantor's right to audit/review and the Grantee's obligation to retain records related to this subsection shall expire upon the passing of three (3) years after a particular Franchise Fee payment has been made to the Grantor.

3.7 Late Payments Subject to Late Fee

In the event any payment due quarterly is not received within forty-five (45) days from the end of the calendar quarter, Grantee shall pay interest on the amount due at the maximum rate allowed by Applicable Law calculated from the date the payment was originally due until the date the Grantor receives the payment.

3.8 Underpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the maximum rate allowed by Applicable Law calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the Grantor.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate the Grantor through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall comply with any other Applicable Law related to the right to occupy the Grantor's Rights-of-Way and compensation therefore.

3.10 [Omitted in this Agreement]

3.11 Additional Commitments Not Franchise Fee Payments

3.11.1 The Grantee offers and Grantor accepts that PEG Capital Contribution pursuant to Section 9.6, as well as any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damage) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the Grantor and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees. Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The Grantor likewise reserves all rights it has under Applicable Law. Should Grantee elect to offset the items set forth herein, or other Franchise commitments such as complimentary Cable Service, against Franchise Fees in accordance with Applicable Law, including any Orders resulting from the FCC's 621 proceeding, MB Docket No. 05-311, Grantee shall provide the Grantor with advance written notice. Such notice shall document the proposed offset or service charges so that the Grantor can make an informed decision as to its course of action. Upon receipt of such notice Grantor shall have up to one hundred twenty (120) days to either (1) maintain the commitment with the understanding that the value of the Basic Service shall be offset from Franchise Fees; (2) relieve Grantee from the commitment obligation under the Franchise; or (3) pay for the services rendered pursuant to the commitment in accordance with Grantee's regular and nondiscriminatory term and conditions for Basic Service.

3.11.2 Grantee's notice pursuant to Section 3.11.1 shall, at a minimum, address the following: (1) identify the specific cash or non-cash consideration or obligations that must be offset from Grantee's Franchise Fee obligations; (2) identify the Franchise terms and conditions for which Grantee is seeking amendments; (3) provide text for any proposed Franchise amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent with Applicable Law; (4) provide all information and documentation reasonably necessary to address how and why specific offsets are to be calculated and (5) if applicable provide all information and documentation reasonably necessary to document how Franchise Fee offsets may be passed through to Subscribers in accordance with 47 U.S.C. 542(e). Nothing in this Section 3.11.2 shall be construed to extend the one hundred twenty (120) daytime period for Grantor to make its election under Section 3.11.1; provided however, that any disagreements or disputes over whether sufficient information has been provided pursuant to this Paragraph 3.11.2 may be addressed under Sections 13.1 or 13.2 of this Franchise.

3.11.3 Upon receipt of Grantee's written notice as provided in Section 3.11.2 the Grantor and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications and agree to what offsets, if any, are to be made to the Franchise Fee obligations. Such negotiation will proceed and conclude within a one hundred twenty (120) day period, unless that time period is reduced or extended by mutual agreement of the parties. If the Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Grantor shall amend this Franchise to include those modifications.

3.11.4 If the parties are unable to reach agreement on any Franchise Fee offset issue within one hundred twenty (120) days or such other time as the parties may mutually agree, each party reserves all rights it may have under Applicable Law to address such offset issues.

3.11.5 The Grantor acknowledges that Grantee currently provides one outlet of Basic Service and associated equipment to certain Grantor-owned and Grantor-occupied or leased and occupied buildings, schools, fire stations and public libraries located in areas where Grantee provides Cable Service. For purposes of this Franchise, "school" means all State-accredited K-12 public. Outlets of Basic Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Grantee's commitment to provide this service is voluntary, and may be terminated by Grantee, at its sole discretion.

3.11.6 The parties understand and agree that offsets may be required and agreed to as a result of the FCC's Order in what is commonly known as the "621 Proceeding", FCC MB Docket No. 05-311, and that this Order is on appeal. Should there be a final Order in the appeal of the 621 Proceeding or any change in Applicable Law, which would permit any cash or non-cash consideration or obligations to be required by this Franchise without being offset from Franchise Fees, or would change the scope of the Grantor's regulatory authority over the use of the rights-of-way by the Grantee, the parties shall, within one hundred twenty (120) days of written notice from the Grantor, amend this Franchise to reinstate such consideration or obligations without offset from Franchise Fees, and to address the full scope of the Grantor's regulatory authority.

3.12 Tax Liability

The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the Grantor, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the Grantor. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.13 Financial Records

Grantee agrees to meet with a representative of the Grantor upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the Grantor deems necessary for reviewing reports and records.

3.14 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the Grantor within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The Grantor reserves the right to satisfy any remaining financial obligations of the Grantee to the Grantor by utilizing the funds available in the letter of credit or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

4.1.1 The Grantor shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under Federal, State and local law, to any agent in its sole discretion.

4.1.2 Nothing in this Franchise shall limit nor expand the Grantor's right of eminent domain under State law.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the Grantor to the full extent authorized by applicable federal, State and local laws.

4.3 Rate Discrimination

4.3.1 All of Grantee's rates and charges shall be published (in the form of a publicly available rate card) and be non-discriminatory as to all Persons of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or geographic location within the County. Grantee shall offer the same Cable Services to all Residential Subscribers at identical rates to the extent required by Applicable Law and to Multiple Dwelling Unit Subscribers to the extent authorized by FCC rules or applicable Federal law. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses without additional charge nor penalizing the Subscriber therefore. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit:

4.3.2 The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

4.3.3 The offering of reasonable discounts to senior citizens and economically disadvantaged citizens; or,

4.3.4 The offering of rate discounts for Cable Service; or,

4.3.5 The Grantee from establishing different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowed by federal law and regulations.

4.4 Filing of Rates and Charges

Throughout the term of this Franchise, Grantee shall maintain on file with the Grantor a complete schedule of applicable rates and charges for Cable Services provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

4.5 Cross Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross-subsidization.

4.6 Reserved Authority

Both Grantee and the Grantor reserve all rights each may have under the Cable Act and any other relevant provisions of federal, State, or local law.

4.7 Franchise Amendment Procedure

Either party may at any time seek to amend this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, the Grantor and Grantee shall meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the County Council for its approval. If so approved by the County Council and the Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment to this Franchise. The County Council may amend this Franchise without the mutual agreement of Grantee where the purpose of the amendment is to add, amend, or remove a term or terms in this Franchise to bring the Franchise into compliance with Applicable Federal or State Law or applicable court decisions or to generally applicable safety codes adopted by the County.

4.8 Performance Evaluations

4.8.1 The Grantor may hold performance evaluation sessions upon ninety (90) days written notice to Grantee, provided that such evaluation sessions shall be held no more frequently than once every three (3) years. All such evaluation sessions shall be conducted by the Grantor.

4.8.2 All regular evaluation sessions shall be open to the public and announced at least two (2) weeks in advance in any manner within the discretion of the Grantor.

4.8.3 Topics which may be discussed at any evaluation session may include, but are not limited to, Cable Service rate structures; Franchise Fee payments; liquidated damages; free or discounted Cable Services; application of new technologies; Cable System performance; Cable Services provided; programming offered; Subscriber complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and the Grantor or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

4.8.4 During evaluations under this subsection, Grantee shall fully cooperate with the Grantor and shall provide such information and documents as the Grantor may reasonably require to perform the evaluation.

4.8.5 Grantee, at Grantee's sole option, is permitted to provide any information and documents to Grantor in connection with a performance evaluation session, even if not requested by Grantor.

4.9 Late Fees

4.9.1 For purposes of this subsection a late fee is any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber for late payment of a bill and shall be applied in accordance with the Grantor's Customer Service Standards, as the same may be amended from time to time by the County Council acting by ordinance or resolution, or as the same may be superseded by Applicable Law.

4.9.2 Nothing in this subsection shall be deemed to create, limit or otherwise affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.

4.9.3 The Grantee's late fee and disconnection policies and practices shall be consistent with Applicable Law.

4.10 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation that is satisfactory to the Grantor. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the Franchise Area and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably required by the Grantor to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the Grantor with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

5.1.1 General Indemnification. Grantee shall indemnify, defend and hold the Grantor, its officers, officials, boards, commissions, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the Grantor while conducting its defense of the Grantor. Grantee shall not be obligated to indemnify the Grantor to the extent of the Grantor's negligence or willful misconduct.

5.1.2 Indemnification for Relocation. Grantee shall indemnify the Grantor for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the Grantor arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the Grantor.

5.1.3 Additional Circumstances. Grantee shall also indemnify, defend and hold the Grantor harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

5.1.3.1 The lawful actions of the Grantor in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

5.1.3.2 Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

5.1.4 Procedures and Defense. If a claim or action arises, the Grantor or any other indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The Grantor may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense then Grantee shall not be liable for any attorneys' fees, expenses or other costs that Grantor may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.1.6 is required. In that event the provisions of Paragraph 5.1.6 shall govern Grantee's responsibility for County's attorney's fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting the Grantor without the Grantor's approval.

5.1.5 Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this subsection.

5.1.6 Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the Grantor and the counsel selected by Grantee to represent the Grantor, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the Grantor in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and Grantor desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then Grantor shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. The Grantor's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the Grantor Attorney or his/her assistants or any employees of the Grantor or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the Grantor by Grantee.

5.2 Insurance

5.2.1 Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance, but in no event shall occurrence basis minimum limits be less than provided for by:

5.2.1.1 Commercial General Liability insurance with limits of no less than one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) general aggregate, accepting and understanding insurance does not limit liability. Coverage shall be at least as broad as that provided by the current ISO form CG 00 01 or its equivalent and include severability of interests. Such insurance shall name the Grantor, its officers, officials, employees, and volunteers as additional insureds per the current ISO form CG 2010 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the Grantor, its officers, officials, employees, and volunteers. Coverage shall apply as to claims between insureds on the policy, if applicable.

5.2.1.2 Commercial Automobile Liability insurance with minimum combined single limits of one million dollars (\$1,000,000.00) each occurrence with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System in the County. The policy shall contain a severability of interests provision.

5.2.2 The insurance required in this Section 5.2 shall not be canceled or materially changed so as to be out of compliance with these requirements without thirty (30) days' written notice first provided to the Grantor, via certified mail, and ten (10) days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.

5.2.3 No self-insurance is allowed, and the carriage of insurance by Grantee does not limit the liability of Grantee.

5.3 Deductibles / Certificate of Insurance

Any deductible of the policies shall not in any way limit Grantee's liability to the Grantor to any other claimants.

5.3.1 Endorsements.

5.3.1.1 All policies shall contain, or shall be endorsed so that:

5.3.1.1.1 The Grantor, its officers, officials, boards, commissions, employees and agents are to be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by, or on behalf of, Grantee under this Franchise or Applicable Law, or in the construction, operation or repair, or ownership of the Cable System;

5.3.1.1.2 Grantee's insurance coverage shall be primary insurance with respect to the Grantor, its officers, officials, boards, commissions, employees

and agents. Any insurance or self-insurance maintained by the Grantor, its officers, officials, boards, commissions, employees and agents shall be in excess of the Grantee's insurance and shall not contribute to it; and

5.3.1.1.3 Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

5.3.2 Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A VII."

5.3.3 Verification of Coverage. The Grantee shall furnish the Grantor with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

5.4 Letter of Credit

5.4.1 If there is a claim by the Grantor of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then the Grantor may require and Grantee shall establish and provide within thirty (30) days from receiving notice from the Grantor, to the Grantor as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the Grantor in the amount of ten thousand dollars (\$10,000).

5.4.2 In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained at ten thousand dollars (\$10,000) until the allegations of the uncured breach have been resolved.

5.4.3 After completion of the procedures set forth in Section 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the Grantor for purposes including, but not limited to, the following:

5.4.3.1 Failure of Grantee to pay the Grantor sums due under the terms of this Franchise;

5.4.3.2 Reimbursement of costs borne by the Grantor to correct Franchise violations not corrected by Grantee;

5.4.3.3 Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements; and,

5.4.3.4 Failure to comply with the Customer Service Standards of the Grantor, as the same may be amended from time to time by the County Council acting by ordinance or resolution.

5.4.4 The Grantor shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

5.4.5 Grantee shall have the right to appeal to the County Council for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the Grantor erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

5.5 Immunity from Tort Claims

The County shall only be responsible for liability arising from personal injury or damage to person and property occasioned by its own agents or employees in the performance of this Agreement, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act (Section 41-4-1, et. seq., NMSA 1978) and any amendments thereto. This paragraph is intended only to define the liabilities between the parties hereto and is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

The County hereby adopts the customer service standards set forth in Appendix A to this Franchise. The Grantee shall comply in all respects with the customer service requirements established in Appendix A.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of current and former Subscribers contained in federal and State law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber that is in any way inconsistent with the terms of this Franchise, or the requirements of any applicable Customer Service Standards set forth in Appendix A. Upon request, Grantee will provide to the Grantor a sample of the Subscriber contract or service agreement then in use.

6.4 Advance Notice to Grantor

The Grantee shall use reasonable efforts to furnish information provided to Subscribers or the media in the normal course of business to the Grantor in advance.

6.5 Identification of Local Franchise Authority on Subscriber Bills

Within sixty (60) days after written request from the Grantor, Grantee shall place the Grantor's phone number on its Subscriber bills and other written correspondence sent to subscribers to identify where a Subscriber may call to address inquiries and complaints.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the Grantor. The Grantor, including the Grantor's Auditor or his/her authorized representative, shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations and Affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise. Grantee shall not deny the Grantor access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate or a third party. The Grantor may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the Grantee's receipt of such request. One (1) copy of all reports and records required under this or any other subsection shall be furnished to the Grantor, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the Grantor inspect them at Grantee's local offices with Los Alamos County. If any books or records of Grantee are not kept in a local office and not made available in copies to the Grantor upon written request as set forth above, and if the Grantor determines that an examination of such records is necessary or appropriate for the performance of any of the Grantor's duties, administration or enforcement of this Franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality

The Grantor agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or New Mexico law, to the extent Grantee makes the Grantor aware of Grantee's claims of such confidentiality. Grantee shall be solely responsible for clearly and conspicuously affixing the word "Confidential" on each page of each document that Grantee claims contains confidential or proprietary information and shall provide a brief written explanation as to why such information is confidential under federal or New Mexico law citing to the applicable law, statute, or code upon which Grantee makes such claim. If the Grantor believes it must release any such claimed confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests unless such advance notice is prohibited by law or court order. If the Grantor receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the Grantor shall, so far as consistent with Applicable Law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law,

it shall deny access to any of Grantee's books and records marked "Confidential" as set forth above to any Person. Grantee shall reimburse, indemnify, and hold harmless the Grantor for all reasonable costs and attorney's fees incurred in any legal proceedings pursued under this Section. Unless specifically within the scope of this Section 7.2, all information not so specifically claimed to be protected shall be subject to the New Mexico Inspection of Public Records Act, NMSA 1978, Chapter 14, Article 2 as amended or subsequently replaced.

7.3 Records Required

7.3.1 Grantee shall at all times maintain, and shall furnish to the Grantor upon 30 days written request and subject to Applicable Law:

7.3.1.1 A complete set of maps showing the exact location of all Cable System equipment and facilities in the Right-of-Way but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the Grantor's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the Grantor. These maps shall be certified as accurate by an appropriate representative of the Grantee;

7.3.1.2 A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the County;

7.3.1.3 Current Subscriber Records and information, including subscriber's name and address, but not including protected personal identifier information as defined by NMSA 1978, Section 14-2-6(F);

7.3.1.4 A log of Cable Services added or dropped, Channel changes, number of Subscribers added or terminated, all construction activity, and total homes passed for the previous twelve (12) months; and

7.3.1.5 A list of Cable Services, rates and Channel line-ups and all Service Tiers.

7.3.2 Subject to subsection 7.2, all information furnished to the Grantor is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

7.4 Annual Reports

Annually, at the written request of Grantor, and within sixty (60) days of the Grantor's written request, Grantee shall submit to the Grantor a written report, in a form acceptable to the Grantor, which shall include, but not necessarily be limited to, the following information for the Grantor:

7.4.1 A Gross Revenue statement, as required by subsection 3.5 of this Franchise;

7.4.2 A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter, and Premium);

7.4.3 The number of homes passed, beginning and ending plant miles, any services added or dropped, and any technological changes occurring in the Cable System;

7.4.4 A statement of planned construction, if any, for the next year; and,

7.4.5 A copy or hyperlink of the most recent annual report Grantee filed with the SEC or other governing body.

7.5 Copies of Federal and State Reports

Within thirty (30) days of Grantee's receipt of Grantor's written request, Grantee shall submit to the Grantor copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the County. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

7.6.1 Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. These files shall remain available for viewing to the Grantor during normal business hours at Grantee's local business office.

7.6.2 Within thirty (30) days of the close of every third year on the date of the grant of this Franchise, Grantee shall provide the Grantor an executive summary in the form to be reasonably agreed to by the Parties for the period set out by Grantor, which shall include the following information from the preceding quarter:

7.6.2.1 A summary of service calls, identifying the number and nature of the requests and their disposition;

7.6.2.2 A log of all service interruptions;

7.6.2.3 A summary of customer complaints referred by the Grantor to Grantee; and,

7.6.2.4 Such other information as reasonably requested by the Grantor.

7.6.2.5 No such data required in this Section 7.6 shall contain any protected

personal identifier information of customer (NMSA § 14-2-5(F)).

7.6.3 The parties agree that the Grantor's request for these summary reports shall be made every third year.

7.7 Failure to Report

The failure or neglect of Grantee to file any of the reports or filings required under this Franchise or a second request for such other reports as the Grantor may reasonably request (not including clerical errors or errors made in good faith), may, at the Grantor's option, be deemed a breach of this Franchise, subject to all due process rights held by Grantee.

7.8 False Statements

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the Grantor under this Franchise or otherwise. In an action by Grantor for fraudulent concealment, the statute of limitations begins to run as set forth in Section 44-9-7 of the New Mexico Fraud Against Taxpayers Act.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

- 8.1.1** Educational programming;
- 8.1.2** New Mexico news, weather and information;
- 8.1.3** Sports;
- 8.1.4** General entertainment (including movies);
- 8.1.5** Children/family-oriented;
- 8.1.6** Arts, culture and performing arts;
- 8.1.7** Foreign language;
- 8.1.8** Science/documentary;
- 8.1.9** National news, weather and information; and,

8.1.10 Public, Educational and Government Access, to the extent required by this Franchise.

8.2 Deletion or Reduction of Broad Programming Categories

8.2.1 Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the Grantor.

8.2.2 In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date of this Franchise shall be deemed the mix and quality of Cable Services required under this Franchise throughout its term.

8.3 [Omitted in this Agreement]

Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at no cost to the subscriber and in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

8.5.1 It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing or for reasons outside of Grantee's actual control.

8.5.2 In the event of a change of grantee, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the Grantor, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System and shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

8.6 Services for the Disabled

Grantee, in connection with the operation of its system and provision of its services within the County, shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Access Channel

9.1.1 Grantee shall continue to provide, at no charge, one (1) Public, one (1) Educational, and one (1) Governmental Access Channel, collectively, the PEG Access Channels.

9.1.2 The County may delegate management of each PEG Access Channel to itself and/or a Designated Access Provider.

9.1.3 The PEG Access Channels provided for in this Agreement shall be carried system-wide in the Franchise Area and shall be provided on the Basic Service tier and made available at no additional charge to every subscriber regardless of the tier or subscription plan selected by the subscriber.

9.1.4 The technical quality of the PEG Access Channel service shall not be lower than the quality of high-definition transmission of over-the-air network stations (e.g., CBS, ABC, NBC) carried on Grantee's system.

9.1.5 The County shall establish and enforce rules for use of the PEG Access Channel to assure nondiscriminatory access to the Channel to similarly situated users; and to promote use and viewership of the channel, consistent with applicable law. PEG Access Channel may not be used for commercial purposes.

9.1.6 Grantee shall not exercise any editorial control over the content of programming on the PEG Access Channel.

9.2 Access Channel Location

Grantee shall use its best efforts to minimize the movement of Access Channel assignments. Grantee shall provide to County a minimum of ninety (90) days prior written notice, prior to any relocation of its Access Channel, unless the change is required by federal law, in which case Grantee shall give the County the maximum notice possible.

9.3 Return Line(s)

9.3.1 Grantee shall maintain the return PEG carrier line(s) from all existing Access broadcast facilities to the Headend in order to enable the distribution of programming to Subscribers on the Access Channel. Grantee shall continuously maintain these return line(s) throughout the term of the Agreement, unless any of these locations are no longer used in the future, to originate PEG programming.

9.3.2 The parties acknowledge that the current return line at the PAC 8 Community Media Center building at 475 20th St, Suite E, Los Alamos, NM 87544, consists of coax cable and that this current configuration may at some point in the future cease to function as a means

of distribution of programming on the Cable System as technology changes. At the point when the current coax cable return line becomes obsolete, upon written request from Grantor, Grantee shall construct a new fiber return line to and from the existing or replacement origination point in the Franchise Area to and from Grantee's Headend to provide uninterrupted service to Grantor, provided that Grantee reserves all rights under applicable law to recover such return line construction costs as a PEG capital cost.

9.3.3 Return lines shall be maintained by Grantee in the same manner as the rest of the Cable System.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to Applicable Law, regulations, rules, as well as resolutions and ordinances of the County and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the County, of which the Grantee is made aware, regarding Right-of-Way issues that may impact the Cable System.

10.3 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of the County, of which the Grantee is made aware, to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Right-of-Way cuts within the County.

10.4 General Standard

All work authorized and required hereunder shall be done in full compliance with the most current versions of the National Electrical Code and the National Electrical Safety Code and any other Applicable Law and in a timely manner. All installations of equipment shall be permanent in nature, and at all times maintained in safe condition by Grantee.

10.5 Permits Required for Construction

Prior to doing any work in the Right-of Way, on public property, or on any private property for which the County requires construction permits, Grantee shall apply for, and obtain, appropriate permits from the County. As part of the permitting process, the County may impose such conditions and regulations as are necessary for the purpose of protecting any structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may

also include but not be limited to the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees for the requisite County permits applied for by Grantee.

10.6 Emergency Permits

In the event that emergency repairs to Grantee's system are necessary, Grantee shall immediately notify the County of the need for such repairs or as soon as possible at the time or shortly after such emergency repairs are commenced.

10.7 Compliance with Applicable Codes

10.7.1 Construction and Safety Codes. Grantee shall comply with the most current published version of all applicable construction codes, including, without limitation, National Electrical Safety Code, the National Electrical the Uniform Building Code and other building codes, the Uniform Fire Code, the Uniform Mechanical Code, the Electronic Industries Association Standard for Physical Location and Protection of Below-Ground Fiber Optic Cable Plant, and zoning codes and regulations. Grantee shall comply with all federal, State and County safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by Applicable Law during construction, operation and repair of its Cable System including without limitation to the United States Occupational Safety and Health Administration (OSHA) Standards and the New Mexico Occupational Health and Safety Bureau. Where conflicts between any such codes exists, the code which provides the greatest level of public and employee safety shall control.

10.7.2 Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, State, and local codes or regulations.

10.8 GIS Mapping

Grantee shall comply with any generally applicable ordinances, rules and regulations of the County regarding geographic information mapping ("GIS") systems for users of the Rights-of-Way. Upon written request by the County to Grantee, Grantee shall provide to the County twice per year in January and in July, with accurate as-built map locations of all of its facilities located in the County. Such information shall be provided to the County in an electronic form acceptable to the County for importation to the County's GIS system.

10.9 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of the public, property owners, and residents. Grantee's Cable System

shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the County, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the County's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the County may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, the County may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.10 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the County's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.11 Hazardous Substances

10.11.1 Grantee shall comply with any and all Applicable Laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

10.11.2 Upon reasonable notice to Grantee or immediately if the County determines that a health and safety need so requires, the County may inspect Grantee's facilities in the Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise, Grantee shall also remove all residue of hazardous substances related thereto.

10.11.3 Grantee agrees to defend, indemnify, and hold harmless the County against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the Grantor arising out of a release of hazardous substances caused by Grantee's Cable System.

10.12 Locates

Prior to doing any non-emergency work in the Right-of-Way or on public property of the County, Grantee shall become and thereafter remain a member of New Mexico 811, be subject to New Mexico's Excavation Law Chapter 62, Article 14 NMSA, and perform all duties required by New Mexico New Mexico Public Regulation Commission.

10.12.1 All location marks affixed to any property other than that owned by Grantee shall be made by way of erasable or removable paint or chalk or other such marking, on the surface all of its located underground facilities within the area of the proposed excavation and shall be

removed by Grantee upon notice from County.

10.13 Notice to Private Property Owners

Grantee shall give notice to public and private property owners of work on or adjacent to private property in accordance with the Grantor's Customer Service Standards set forth in Appendix A, as the same may be amended from time to time by the County Council acting by Ordinance or resolution.

10.14 Underground Construction and Use of Poles

10.14.1 When required by general ordinances, resolutions, regulations or rules of the Grantor or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances such as but not limited to fiber node or amplifier pedestals or power supplies.

10.14.2 Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction or upgrade, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the Grantor or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with the County's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional actual cost in excess of aerial installation.

10.14.3 The Grantee shall utilize existing poles and conduits it controls or has rights to use wherever possible.

10.14.4 In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make the minimum needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located, constructed, maintained, and removed as designated by the proper County authorities.

10.14.5 This Franchise does not grant, give or convey to the Grantee any right or privilege to install its facilities in any manner on specific utility poles or equipment of the Grantor or any other person or entity. Copies of agreements for the use of poles, conduits or other utility facilities must be provided upon request by the Grantor.

10.15 Undergrounding of Multiple Dwelling Unit Drops

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of

individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Unit where determined to be technologically feasible in agreement with the owners and/or owner's association of the Multiple Dwelling Units.

10.16 Burial Standards

10.16.1 All underground cables and conduits shall at Grantee's sole cost and expense be installed, maintained, relocated, and removed as required by the County.

10.16.2 Cable drops installed by Grantee to residences shall be buried according to these standards within one calendar week of initial installation, or at a time mutually agreed upon between the Grantee and the Subscriber. When freezing surface conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial and shall provide the Subscriber with Grantee's telephone number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

10.17 System Grounding and Cable Drop Bonding

Grantee shall ensure that its system and all cable drops are properly grounded or bonded as applicable, consistent with applicable code requirements.

10.18 Prewiring

Any ordinance or resolution of the County which requires pre-wiring of structures, subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

10.19 Repair and Restoration of Property

10.19.1 The Grantee shall protect public and private property from damage. If damage to public property occurs, the Grantee shall promptly notify the Grantor in writing within twenty-four (24) hours.

10.19.2 Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

10.19.3 Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the Grantor may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the Grantor.

10.19.4 Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed. Grantee shall also perform such restoration in accordance with the Grantor's Customer Service Standards attached as Appendix A, as the same may be amended from time to time by the County Council acting by ordinance or resolution.

10.20 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any Grantor Right-of-Way, or upon the addition to the Grantor of any area in which Grantee owns or operates any such facility, Grantee shall, at the Grantor's request, submit to the Grantor a statement describing all such facilities involved, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise.

10.21 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Rights-of-Way, Grantee shall submit for the Grantor's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request in writing that the Grantor permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the Grantor may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The Grantor may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with those permits and/or a schedule set by the Grantor. Until such time as Grantee removes or modifies the facility as directed by the Grantor, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the Grantor may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes.

10.22 Movement of Cable System Facilities for Grantor Purposes

10.22.1 The Grantor shall have the time, place, and manner right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the Grantor for public purposes, in the event of an emergency, or when the public health, safety or welfare requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the Grantor for public purposes).

Such work shall be performed at the Grantee's expense. Except during an emergency, the Grantor shall provide reasonable notice to Grantee, not to be less than forty-five (45) business days, and allow Grantee with the opportunity to perform such action. In the event of any capital improvement project exceeding \$500,000 in expenditures by the Grantor which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the Grantor shall provide at least sixty (60) days' written notice to Grantee. Following notice by the Grantor, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the Grantor. If the Grantor requires Grantee to relocate its facilities located within the Rights-of-Way, the Grantor shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way. If funds are generally made available to users of the Rights-of-Way for such relocation, Grantee shall be entitled to its pro rata share of such funds.

10.22.2 If the Grantee fails to complete this work within the time prescribed and to the Grantor's satisfaction, the Grantor may cause such work to be done and bill the cost of the work to the Grantee, including all costs and expenses incurred by the Grantor due to Grantee's delay. In such event, the Grantor shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the Grantor.

10.23 Movement of Cable System Facilities for Other Franchise Holders

If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another Grantor franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee shall require that the costs associated with the removal or relocation be paid by the benefited party.

10.24 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.25 Reservation of Grantor Use of Right-of-Way

Nothing in this Franchise shall prevent the Grantor or public utilities owned, maintained or operated by public entities other than the Grantor from constructing sewers; grading, paving, repairing or altering in any other way any Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.26 Tree Trimming

Grantee shall not prune or cause to be pruned, any tree or other source of foliage in the Grantor's Rights-of-Way which Grantee claims interferes with Grantee's Cable System. Should any foliage in Grantor's right-of-way interfere with Grantee's interests, Grantee shall inform Grantor's Department of Public Utilities (DPU), Electric Distribution Department, of the location/address of the foliage concern, in writing, and request DPU crews, who are qualified to work around live electric wires on the DPU distribution system, to prune or clear the foliage. The owner or occupant of any abutting premises that may have foliage that Grantee believes is the cause of interference with Grantee's cable system, should not conduct any pruning or foliage clearing without first checking with the DPU.

10.27 Inspection of Construction and Facilities

The Grantor may inspect any of Grantee's facilities, equipment or construction at any time upon at least twenty-four (24) hours' notice, or, in case of emergency, upon demand without prior notice. The Grantor shall have the right to charge generally applicable inspection fees therefore. If an unsafe condition is found to exist, the Grantor, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the Grantor establishes. The Grantor has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so, and to charge Grantee therefore.

10.28 Stop Work

10.28.1 On notice from the Grantor that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the Grantor, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the Grantor.

10.28.2 The stop work order shall:

10.28.2.1 Be in writing;

10.28.2.2 Be given to the Person doing the work, or posted on the work site;

10.28.2.3 Be sent to Grantee by overnight delivery at the address given herein;

10.28.2.4 Indicate the nature of the alleged violation or unsafe condition; and

10.28.2.5 Establish conditions under which work may be resumed.

10.29 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the Grantor's ordinances, regulations and requirements. Work by contractors and subcontractors

is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other Applicable Law governing the work performed by them.

SECTION 11. CABLE SYSTEM AND TECHNICAL STANDARDS

11.1 Subscriber Network

11.1.1 Grantee's Cable System shall be equivalent to or exceed technical characteristics of a traditional HFC 750 MHz Cable System and provide Activated Two-Way capability. The Cable System shall be capable of supporting video and audio. The Cable System shall deliver a diverse set of digital video programming services to Subscribers, provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

11.1.2 Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided is consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

11.1.3 All construction shall be subject to the Grantor's permitting process.

11.1.4 Grantee and Grantor shall meet, at the Grantor's request, to discuss the progress of the design plan and construction.

11.1.5 Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

11.1.6 Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the Grantor no later than thirty (30) days following receipt of a request.

11.3 Emergency Alert Capability

Grantee shall provide an operating Emergency Alert System (“EAS”) throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the Grantor shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall immediately make any necessary adjustment to the EAS, and the EAS shall be retested.

11.4 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including, but not limited to, the FCC) and State technical, and operational standards, as they may be amended from time to time, regardless of the transmission technology utilized. The Grantor shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards. This section 11.4 does not apply to construction-related standards.

11.5 Cable System Performance Testing

11.5.1 Grantee shall provide to the Grantor a copy of its current written process for resolving complaints about the quality of the video programming services signals delivered to Subscriber and shall provide the Grantor with any amendments or modifications to the process at such time as they are made.

11.5.2 Grantee shall, at Grantee’s expense, maintain all aggregate data of Subscriber complaints related to the quality of the video programming service signals delivered by Grantee in the Grantor for a period of at least one (1) year, and individual Subscriber complaints from the Grantor for a period of at least three (3) years and make such information available to the Grantor upon reasonable request.

11.5.3 Grantee shall maintain written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the Grantor upon reasonable request.

11.5.4 Grantee shall perform any tests required by the FCC.

11.6 Additional Tests

Where there exists other evidence which in the judgment of the Grantor casts doubt upon the reliability or technical quality of Cable Service, the Grantor shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the Grantor in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- 11.6.1 the nature of the complaint or problem which precipitated the special tests;
- 11.6.2 the Cable System component tested;
- 11.6.3 the equipment used and procedures employed in testing;
- 11.6.4 the method, if any, in which such complaint or problem was resolved; and
- 11.6.5 any other information pertinent to said tests and analysis which may be required.

SECTION 12. SERVICE AVAILABILITY

12.1 In General. Except as otherwise provided herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the Franchise Area. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Except as otherwise provided herein, Grantee shall provide such service:

12.1.1 With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.

12.1.2 At a non-discriminatory installation charge for a standard installation, consisting of a 125 foot drop connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by Grantee and provided in writing to the County.

12.1.3 At non-discriminatory monthly rates for Residential Subscribers.

12.2 Service to Multiple Dwelling Units. Consistent with this Section 12.1, the Grantee shall offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the County upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the Grantee having legal access to said unit. The County acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the point of demarcation at a Multiple Dwelling Unit.

12.3 Customer Charges for Extensions of Service. Grantee agrees to extend its Cable System to all persons living in areas with a residential density of thirty (30) residences per mile of Cable System plant and is within one hundred twenty-five (125) feet of the existing Cable System's nearest distribution point. If the residential density is less than thirty (30) residences per 5,280 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and customers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 5,280 cable-bearing strand feet of its trunk or distribution cable and whose

denominator equals thirty (30). Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remediating Franchise Violations

13.1.1 If the Grantor reasonably believes that Grantee has failed to perform any obligation under this Franchise or has failed to perform in a timely manner, the Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

13.1.1.1 respond to the Grantor, contesting the Grantor's assertion that a default has occurred, and requesting a meeting in accordance with subsection 13.1.2, below;

13.1.1.2 cure the default; or,

13.1.1.3 notify the Grantor that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the Grantor in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the Grantor may set a meeting in accordance with subsection 13.1.2 below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

13.1.2 If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection 13.1.3, or denies the default and requests a meeting in accordance with 13.1.1, or the Grantor orders a meeting in accordance with subsection 13.1.3, the Grantor shall set a meeting to investigate said issues or the existence of the alleged default. The Grantor shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

13.1.3 If, after the meeting, the Grantor determines that a default exists, the Grantor shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable time frame as the Grantor shall determine. In the event Grantee does not cure within such time to the Grantor's reasonable satisfaction, the Grantor may:

13.1.3.1 Withdraw an amount from the letter of credit as monetary damages;

13.1.3.2 Recommend the revocation of this Franchise pursuant to the procedures in subsection 13.2; or,

13.1.3.3 Recommend any other legal or equitable remedy available under this

Franchise or any Applicable Law.

13.1.4 The determination as to whether a violation of this Franchise has occurred shall be within the discretion of the Grantor, provided that any such final determination may be subject to appeal to a court of competent jurisdiction under Applicable Law.

13.1.5 It shall not be a violation of this Franchise if Grantee decides, on a company-wide basis, to cease providing Cable Services. Grantee shall provide a minimum of one year's written notice to Grantor of the termination date, and upon that date all rights, duties and obligations of this Franchise shall terminate except for those that by their nature, should survive termination.

13.2 Revocation

13.2.1 In addition to revocation in accordance with other provisions of this Franchise, the Grantor may revoke this Franchise and rescind all rights and privileges associated with this Franchise in the following circumstances, each of which represents a material breach of this Franchise:

13.2.1.1 If Grantee fails to perform any material obligation under this Franchise or under any other agreement, ordinance or document regarding the Grantor and Grantee;

13.2.1.2 If Grantee willfully fails for more than forty-eight (48) hours to provide continuous and uninterrupted Cable Service;

13.2.1.3 If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the Grantor or Subscribers; or

13.2.1.4 If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;

13.2.1.5 If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise.

13.2.2 Following the procedures set forth in subsection 13.1 and prior to forfeiture or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise and set a date for a revocation proceeding. The notice shall set forth the exact nature of the noncompliance.

13.2.3 Any proceeding under the paragraph above shall be conducted by the Grantor Council and open to the public. Grantee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

13.2.3.1 At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared equally between the parties. The County

Council shall hear any Persons interested in the revocation, and shall allow Grantee, in particular, an opportunity to state its position on the matter.

13.2.3.2 Within ninety (90) days after the hearing, the County Council shall determine whether to revoke the Franchise and declare that the Franchise is revoked and the letter of credit forfeited; or if the breach at issue is capable of being cured by Grantee, direct Grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the County Council determines are reasonable under the circumstances. If the Grantor determines that the Franchise is to be revoked, the Grantor shall set forth the reasons for such a decision and shall transmit a copy of the decision to the Grantee. Grantee shall be bound by the Grantor's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

13.2.3.3 Grantee shall be entitled to such relief as the Court may deem appropriate.

13.2.3.4 The County Council may at its sole discretion take any lawful action which it deems appropriate to enforce the Grantor's rights under the Franchise in lieu of revocation of the Franchise.

13.3 Procedures in the Event of Termination or Revocation

13.3.1 If this Franchise expires without renewal after completion of all processes available under this Franchise and federal law or is otherwise lawfully terminated or revoked, the Grantor may, subject to Applicable Law:

13.3.1.1 Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the Grantor's satisfaction that it needs additional time to complete the sale; or

13.3.1.2 Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.4, below.

13.3.2 In the event that a sale has not been completed in accordance with subsections 13.3.1.1 and/or 13.3.1.2 above, the Grantor may order the removal of the above-ground Cable System facilities and such underground facilities from the County at Grantee's sole expense within a reasonable period of time as determined by the Grantor. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request compensation of any sort therefore.

13.3.3 If Grantee fails to complete any removal required by subsection 13.3.2 to the

Grantor's satisfaction, after written notice to Grantee, the Grantor may cause the work to be done and Grantee shall reimburse the Grantor for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the Grantor may recover the costs through the letter of credit provided by Grantee.

13.3.4 The Grantor may seek legal and equitable relief to enforce the provisions of this Franchise.

13.4 Purchase of Cable System

13.4.1 If at any time this Franchise is revoked, terminated, or not renewed upon expiration in accordance with the provisions of federal law, the Grantor shall have the option to purchase the Cable System.

13.4.2 The Grantor may, at any time thereafter, offer in writing to purchase Grantee's Cable System. Grantee shall have thirty (30) days from receipt of a written offer from the Grantor within which to accept or reject the offer.

13.4.3 In any case where the Grantor elects to purchase the Cable System, the purchase shall be closed within one hundred twenty (120) days of the date of the Grantor's audit of a current profit and loss statement, only of Grantee's Cable System business in Los Alamos County. The Grantor shall pay for the Cable System in cash or certified funds, and Grantee shall deliver appropriate bills of sale and other instruments of conveyance.

13.4.4 For the purposes of this subsection, the just and reasonable compensation for the Cable System, shall only include the Grantee's Cable System business in Los Alamos County, and shall be determined as follows:

13.4.4.1 In the case of the expiration of the Franchise without renewal, Grantor may elect to acquire the Cable System with the value determined on the basis of Grantee's Cable System at the depreciated value of the physical system assets as determined on the expiration date and the value of the customer relationships for all services computed in a manner consistent with arms-length business acquisitions, but with no value allocated to the Franchise itself. If the parties cannot agree on the valuation, the parties will engage a mediator experienced in business valuations and acquisitions to attempt to reach a mutually agreeable valuation.

13.4.4.2 In the case of revocation for cause, the price of Grantee's Cable System shall be that as determined in Section 13.4.4.1.

13.5 Receivership and Foreclosure

13.5.1 At the option of the Grantor, subject to Applicable Law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

13.5.1.1 The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

13.5.1.2 The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise.

13.5.2 If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the Grantor may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

13.5.2.1 The Grantor has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

13.5.2.2 The purchaser has covenanted and agreed with the Grantor to assume and be bound by all of the terms and conditions of this Franchise.

13.6 No Monetary Recourse Against the Grantor

Grantee shall not have any monetary recourse against the Grantor or its officers, officials, boards, commissions, agents, employees, or volunteers for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the Grantor under this Franchise are in addition to, and shall not be read to limit, any immunities the Grantor may enjoy under federal, State or local law.

13.7 Alternative Remedies

No provision of this Franchise shall be deemed to bar the right of the Grantor to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the Grantor to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

13.8 Assessment of Monetary Damages

13.8.1 The Grantor may assess against Grantee monetary damages (i) up to five hundred dollars (\$500.00) per day for general construction delays, violations of PEG obligations or payment obligations, (ii) up to two hundred fifty dollars (\$250.00) per day for any other material

breaches, or (iii) up to one hundred dollars (\$100.00) per day for defaults, and withdraw the assessment from the letter of credit or collect the assessment as specified in this Franchise. Damages pursuant to this Section shall accrue for a period not to exceed one hundred twenty (120) days per violation proceeding. To assess any amount from the letter of credit, Grantor shall follow the procedures for withdrawals from the letter of credit set forth in the letter of credit and-in this Franchise. Such damages shall accrue beginning thirty (30) days following Grantee's receipt of the notice required by subsection 13.1.1, or such later date if approved by the Grantor in its sole discretion but may not be assessed until after the procedures in subsection 13.1 have been completed.

13.8.2 The assessment does not constitute a waiver by Grantor of any other right or remedy it may have under the Franchise or Applicable Law, including its right to recover from Grantee any additional damages, losses, costs and expenses that are incurred by Grantor by reason of the breach of this Franchise.

13.9 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the Grantor, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the Grantor, or until the Franchise is revoked and a new franchisee is selected by the Grantor; or obtain an injunction requiring the Grantee to continue operations. If the Grantor is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the Grantor or its designee for all reasonable costs, expenses and damages incurred.

13.10 What Constitutes Abandonment

The Grantor shall be entitled to exercise its options in subsection 13.9 if:

13.10.1 The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for four (4) consecutive days, unless the Grantor authorizes a longer interruption of service; or

13.10.2 The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

14.1.1 The Grantor and Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

14.1.2 In addition to the procedures set forth in said Section 626(a), the Grantor agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and Grantor agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the Grantor and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Grantor may grant a renewal thereof. Grantee and Grantor consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

14.1.3 Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and Grantor are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis, with the same terms and conditions as provided in the Franchise, and the Grantee and Grantor shall continue to comply with all obligations and duties under the Franchise.

14.2 Transfer of Ownership or Control

14.2.1 The Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person or entity without the prior written consent of the Grantor, which consent shall be by the County Council, acting by ordinance/resolution.

14.2.2 The Grantee shall promptly notify the Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until the Grantor shall have consented in writing thereto.

14.2.3 The parties to the sale or transfer shall make a written request to the Grantor for its approval of a sale or transfer and furnish all information required by law and the Grantor.

14.2.4 In seeking the Grantor's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

14.2.4.1 Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

14.2.4.2 Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

14.2.4.3 Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

14.2.4.4 Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that the Grantor may reasonably require; and

14.2.4.5 Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

14.2.5 The Grantor shall act by ordinance on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. The Grantor and the Grantee may by mutual agreement, at any time, extend the 120-day period. Subject to the foregoing, if the Grantor fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the Grantor agree to an extension of time.

14.2.6 Within thirty (30) days of any transfer or sale, if approved or deemed granted by the Grantor, Grantee shall file with the Grantor a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise, subject to Applicable Law, and will not be required to file an additional written acceptance.

14.2.7 In reviewing a request for sale or transfer, the Grantor may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the Grantor in so inquiring. The Grantor may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

14.2.8 Notwithstanding anything to the contrary in this subsection, the prior approval of the Grantor shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an entity controlling, controlled by or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the Grantor and must agree in writing to comply with all of the provisions of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the Grantor; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

If any Section, subsection, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term

or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance of work under this Franchise, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, physical and/or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective addresses and such notices shall be effective upon the actual date of receipt or the date of actual refusal. These addresses may be changed by the Grantor or the Grantee by written notice at any time.

As of the Effective Date of this Franchise:

Grantee's address is:

Comcast Cable Communications Management, LLC
Attn: Government Affairs Dept.
4611 Montbel Place NE
Albuquerque, New Mexico 87107

With a copy to:

Comcast
Attn: Regulatory Law Dept
One Comcast Center, 35th Floor
Philadelphia, Pennsylvania 19103

and

Grantor's address is:

Incorporated County of Los Alamos
Attention: County Manager
1000 Central Avenue, Suite 350
Los Alamos, New Mexico 87544

with copy of each such notice concurrently delivered to:

Incorporated County of Los Alamos
Attention: County Attorney (LEGAL NOTICE)
1000 Central Avenue, Suite 340
Los Alamos, New Mexico 87544

The notice copy to the County Attorney is a mandatory administrative step but does not constitute actual notice to Grantor.

The addressees and addresses may be changed by the Grantor or the Grantee by written notice to the other Party of at least ten (10) days.

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the Grantor for all costs incurred in publishing this Franchise, if such publication is required.

16.5 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of the Grantor at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of the Grantor hereafter to enforce the same. Nor shall the waiver by the Grantor of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and

governmental policy, moral and ethical standards as well as business and economic considerations.

16.9 Entire Agreement

This Franchise and all Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

16.10 No Third Party Beneficiaries

Nothing in this Franchise Agreement is intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

16.11 Jurisdiction

Venue for any judicial dispute between the Grantor and Grantee arising under or out of this Franchise shall be in Los Alamos County District Court, New Mexico, or in the United States District Court in Albuquerque.

IN WITNESS WHEREOF, this Franchise is signed in the name of the Incorporated County of Los Alamos _____.

ATTEST:

**INCORPORATED COUNTY OF LOS
ALAMOS:**

**Michael D. Redondo,
County Clerk**

**Randall T. Ryti,
County Council Chair**

APPROVED AS TO FORM:

RECOMMENDED AND APPROVED:

**J. Alvin Leaphart,
County Attorney**

**Anne W. Laurent,
County Manager**

Accepted and approved _____.

COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

Signature: _____

Name/Title: _____

Date: _____

Appendix A Technical Standards

Technical Standards

1. Customer Service Standards

- a. Customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended*

2. Construction and Maintenance

- a. 2023 version of the National Electrical Code (automatically adopt updates as published by NFPA)*
- b. 2023 version of the National Electrical Safety Code (automatically adopt updates as published by IEEE)*
- c. Generally applicable safety codes adopted by Los Alamos County (automatically adopt updates as published by Los Alamos County)*