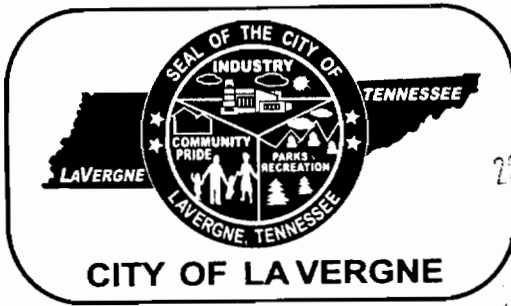




RECEIVED
27 DEC 19 14:30
TRA DOCKET ROOM

5093 Murfreesboro Road • LaVergne, TN 37086
Phone: (615) 793-6295 • Fax: (615) 793-6025

E-Mail: city@lavergne.org • Web Page: www.lavergne.org

December 18, 2008

VIA HAND DELIVERY

Tennessee Regulatory Authority
ATTN: Docket Room (08-00115)
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: TRA Receipt of Application for Certificate of Franchise Authority and Official Request for Information

Dear Lisa Cooper, TRA Programs Manager:

The City of La Vergne (hereinafter "the City") is in receipt of the Application of BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee for a State-Issued Certificate of Franchise Authority, as well as your request for the following information:

- The number of activated PEG channels for such municipality or county, as well as the number authorized to be activated if different; and
- The terms of any PEG support payments being provided by the incumbent service provider.

The City has an active franchise agreement (2005 Cable Franchise Agreement between the City of La Vergne and Comcast Cablevision of Nashville II, LLC hereinafter "the Agreement") with Comcast Cable allowing them to provide cable services in the present territorial limits of the City and any area lawfully annexed thereto during the term of the franchise. I have attached for your information a copy of our Franchise Agreement with Comcast.

The City currently has one activated PEG channel, although pursuant to Exhibit A of the Agreement there is the opportunity for one more additional PEG channel based upon certain criteria involving the amount and duration of Qualified Programming as set out in the Agreement.

Pursuant to Section 7 of the Agreement, each year during the incumbent franchise term, the franchisee must pay to the City, on a quarterly basis, a franchise fee of five percent

(5%) of gross revenues. Gross revenues are defined in the Agreement as all revenue derived directly or indirectly by Grantee, its affiliates, subsidiaries, or parent from the operation of its Cable System to provide Cable Service within City including, but not limited to, revenues from Basic Cable Service, other Cable Service tiers, fees for programming offered on a per-channel or per-program basis, installation and reconnection fees, leased channel fees, converter rentals and Lockout Device fees, Advertising Revenue less sales commissions, home shopping channel commissions, and late payment fees. The term Gross Revenue shall not include any taxes on services furnished by Grantee imposed by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit. The Franchise Fee is not such a tax and shall be included in Gross Revenue.

I would respectfully request that you deem this letter to have been received within the CCVSA-designated 10-day period given our office received the AT&T application notification on December 12, 2008. Should you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron. Erwin". The signature is fluid and cursive, with a large initial "R" and "E".

Ronnie Erwin
Mayor, City of La Vergne

Enclosure

ORDINANCE #2005-03

AN ORDINANCE GRANTING A FRANCHISE TO COMCAST CABLE OF NASHVILLE II, LLC, TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF LA VERGNE, TENNESSEE, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS HEREIN;

The City Council of the City of La Vergne, Tennessee ordains:

STATEMENT OF INTENT AND PURPOSE

City intends, by the adoption of this Franchise, to bring about the continued operation and further development of a Cable System. Such operation and further development can contribute significantly to the communication needs and desires of the residents and citizens of City and the public generally. Further, City may achieve better utilization and improvement of public services and enhanced economic development with the operation and development of a Cable System.

Adoption of this Franchise is, in the judgment of the City Council, in the best interests of City and its residents.

FINDINGS

In the review of the request for renewal by Grantee and negotiations related thereto, and as a result of a public hearing, the City Council makes the following findings:

1. Grantee's technical ability, financial condition, legal qualifications, and character were considered and approved in a full public proceeding after due notice and a reasonable opportunity to be heard;
2. Grantee's plans for constructing and operating the Cable System were considered and found adequate and feasible in a full public proceeding after due notice and a reasonable opportunity to be heard;
3. The Franchise granted to Grantee by City complies with the existing applicable state statutes, federal laws and regulations; and
4. The Franchise granted to Grantee herein is nonexclusive.

SECTION 1.

SHORT TITLE AND DEFINITIONS

1. Short Title. This Franchise Ordinance shall be known and cited as the Cable Television Franchise Ordinance.
2. Definitions For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number, and words

in the plural number include the singular number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory. Words not defined shall be given their common and ordinary meaning.

- a. "Applicable Laws" means state, local or federal law.
- b. "Basic Cable Service" means any Service tier, which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the Franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7).
- c. "Cable Service" or "Service" means (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service. Cable Service as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(6).
- d. "Cable System" or "System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:
 - (1) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
 - (2) a facility that serves Subscribers without using any public Right-of-Way;
 - (3) a facility of common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 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;
 - (4) an open video system that complies with 47 U.S.C. § 573; or
 - (5) any facilities of any electric utility used solely for operating its electric utility systems.
- e. "Channel" or "Cable Channel" means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel.

- f. "City" means City of La Vergne, Tennessee, a municipal corporation, in the State of Tennessee, acting by and through its City Council, or its lawfully appointed designee.
- g. "City Council" means the governing body of the City of La Vergne, Tennessee.
- h. "Converter" means an electronic device, which converts signals to a frequency acceptable to a television receiver of a Subscriber and by an appropriate selector permits a Subscriber to view all Subscriber signals included in the Service.
- i. "Drop" means the cable that connects the ground block on the Subscriber's residence or institution to the nearest feeder cable of the System.
- j. "Effective Date" means May 19, 2005.
- k. "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- l. "Franchise" or "Cable Franchise" means this franchise ordinance and the regulatory and contractual relationship established hereby.
- m. "Franchise Fee" includes any tax, fee, or assessment of any kind imposed by the City or other governmental entity on Grantee or Subscriber, or both, solely because of their status as such. It does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable Subscribers); capital costs which are required by the Franchise to be incurred by Grantee for educational, or governmental access facilities; requirements or charges incidental to the awarding or enforcing of the Franchise, including payments for bonds, insurance, indemnification, penalties, or liquidated damages; or any fee imposed under Title 17 of the Communications Act of 1934, as amended.
- n. "Grantee" is Comcast of Nashville II, LLC, its lawful successors, transferees or assignees.
- o. "Gross Revenue" means all revenue derived directly or indirectly by Grantee, its affiliates, subsidiaries, or parent from the operation of its Cable System to provide Cable Service within City including, but not limited to, revenues from Basic Cable Service, other Cable Service tiers, fees for programming offered on a per-channel or per-program basis, installation and reconnection fees, leased channel fees, converter rentals and Lockout Device fees, Advertising Revenue less sales commissions, home shopping channel commissions, and late payment fees. The term Gross Revenue shall not include any taxes on services furnished by Grantee imposed by any municipality, state, or other

governmental unit and collected by Grantee for such governmental unit. The Franchise Fee is not such a tax and shall be included in Gross Revenue.

- p. "Installation" means the connection of the Cable System from feeder cable to the point of connection on a Subscriber's terminal including Standard Installations and custom Installations with the Subscriber Converter or other terminal equipment.
- q. "Lockout Device" means an optional mechanical or electrical accessory to a Subscriber's terminal, which inhibits the viewing of a certain program, certain Channel, or certain Channels provided by way of the Cable System.
- r. "Normal Business Hours" means those hours during which most similar businesses in City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours, at least one (1) night per week and/or some weekend hours.
- s. "Normal Operating Conditions" means those service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.
- t. "Other Programming Service" means information that a cable operator makes available to all Subscribers generally.
- u. "Pay Television" means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.
- v. "Person" is any Person, firm, partnership, association, corporation, company, limited liability entity or other legal entity.
- w. "Right-of-Way" or "Rights-of-Way" means the area on, below, or above any real property in City in which the City has an interest including, but not limited to any street, road, highway, alley, sidewalk, parkway, park, skyway, or any other place, area, or real property owned by or under the control of City, including other dedicated Rights-of-Way for travel purposes and utility easements.
- x. "Right-of-Way Ordinance" means any ordinance codifying requirements regarding regulation, management, and use of Rights-of-Way in City, including registration and permitting requirements.

- y. "Service Area" or "Franchise Area" means the entire geographic area within the City as it is now constituted or may in the future be constituted.
- z. "Service Interruption" means the loss of picture or sound on one or more Cable Channels.
- aa. "Standard Installation" means any residential Installation which can be completed using a Drop of one hundred twenty five (125) feet or less.
- bb. "Subscriber" means any Person who lawfully receives Cable Service via the System. In the case of multiple office buildings or multiple dwelling units, the "Subscriber" means the lessee, tenant or occupant.
- cc. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 2. GRANT OF AUTHORITY AND GENERAL PROVISIONS

1. Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.
2. Grant of Nonexclusive Authority.
 - a. The Grantee shall have the right and privilege, subject to the permitting and other lawful requirements of City to operate, construct, erect, and maintain, in, upon, along, across, above, over and under the Rights-of-Way in City a Cable System. The System constructed and maintained by Grantee or its agents shall not interfere with other uses of the Rights-of-Way. Grantee shall make use of existing poles and other above and below ground facilities available to Grantee to the extent it is technically and economically feasible to do so.
 - b. Notwithstanding the above grant to use Rights-of-Way, no Right-of-Way shall be used by Grantee if City determines that such use is inconsistent with the terms, conditions, or provisions by which such Right-of-Way was created or dedicated, or with the present use of the Right-of-Way.
 - c. This Franchise shall be nonexclusive, and City reserves the right to grant use of said Rights-of-Way to any Person at any time during the period of this Franchise for the provision of Cable Service. After the effective date hereof , the City will not grant a franchise to an operator of a Cable System required by law to obtain a franchise, or amend the franchises existing on the date hereof, if such franchise or amendment contains material terms that, when taken in their entirety, are more favorable or less burdensome than the material terms set forth in this Agreement.

3. Lease or Assignment Prohibited. No Person may lease Grantee's System for the purpose of providing Cable Service until and unless such Person shall have first obtained and shall currently hold a valid franchise or other lawful authorization from the City containing substantially similar burdens and obligations to this Franchise. Any assignment of rights under this Franchise shall be subject to and in accordance with the requirements of Section 9.5 of this Franchise. This provision shall not prevent Grantee from complying with any commercial leased access requirements or any other provisions of Applicable Law.
4. Franchise Term. This Franchise shall be in effect for a period of ten (10) years from the Effective Date, unless sooner renewed, revoked or terminated as herein provided.
5. Previous Franchises. Upon execution by Grantee, this Franchise shall supersede and replace any previous ordinance or other authorization granting a franchise to Grantee.
6. Compliance with Applicable Laws, Resolutions and Ordinances.
 - a. The terms of this Franchise shall define the contractual rights and obligations of Grantee with respect to the provision of Cable Service and operation of the System in their entirety. However, Grantee shall at all times during the term of this Franchise be subject to all lawful exercise of the police power of City. This Franchise may also be modified or amended with the written consent of City and Grantee as provided in Section 12.3 herein.
 - b. Grantee shall be subject to the terms of any City ordinance or regulation of general applicability which addresses usage of the Rights-of-Way within City adopted pursuant to a valid exercise of City's police powers.
 - c. In the event Grantee cannot determine how to comply with any Right-of-Way requirement of City, whether pursuant to this Franchise or other applicable requirements, Grantee shall immediately provide written notice of such question, including Grantee's interpretation, to City in accordance with Section 2.9. City shall provide a written response within five (5) days of receipt of such written notice indicating how the requirements cited by Grantee apply or requesting additional time for review not to exceed fourteen (14) days from receipt. Grantee may proceed in accordance with its interpretation in the event a written response or request for additional time is not received within seven (7) days of mailing or delivering such written question. City will use all reasonable best efforts to ensure that no Right-of-Way ordinance provisions unduly slow Grantee's System rebuild, if any, unless necessary to address health safety and welfare concerns.
7. Rules of Grantee. Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligations under this Franchise and to assure uninterrupted Service to each and all

of its Subscribers; provided that such rules, regulations, terms and conditions shall not be in conflict with Applicable Laws.

8. Territorial Area Involved. This Franchise is granted for the corporate boundaries of City, as they exist from time to time. Access to Cable Service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides.
9. Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's manager of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City Of La Vergne, Tennessee
 Attn: City Manager
 5093 Murfreesboro Road
 La Vergne, TN 37086
 Telephone: (615) 793-6294
 Fax: (615) 793-6025

If to Grantee: Comcast of Nashville II, LLC
 Attn: General Manager
 660 Mainstream Drive
 Nashville, TN 37228
 Telephone: (615) 244-7462
 Fax: (615) 254-6857

With a courtesy Copy provided to Additional Grantee Offices:

Comcast Cable Communications, Inc
Attn: Vice President, Government Affairs
360 Interstate Parkway, Suite 600
Atlanta, Georgia 30339

Comcast Cable Communications, Inc.
Attn: Legal Dept.
1500 Market Street
Philadelphia, PA 19102

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

SECTION 3. CONSTRUCTION STANDARDS

1. Registration, Permits, Construction Codes, and Cooperation.

- a. Grantee shall comply with the construction requirements of local, state and federal laws.
- b. Grantee agrees to obtain a permit as required by City prior to removing, abandoning, relocating or reconstructing, if necessary, any portion of its facilities, other than for the normal routine installation of Drop(s) and maintenance activities. Notwithstanding the foregoing, City understands and acknowledges there may be instances when Grantee is required to make significant repairs—that are of an emergency nature. Permits for emergency work, if necessary, shall be applied for as soon as possible, but in no event later than (5) business days after the emergency work has commenced.
- c. The fees paid to obtain permits are separate, and are in addition to any other fees provided for in the Franchise.
- d. City may issue reasonable policy guidelines to all grantees to establish procedures for determining how to control issuance of construction permits to multiple users of the same Rights-of-Way. Grantee shall cooperate with City in establishing such policy and comply with the procedures established by the City Manager or his or her designee to coordinate the issuance of multiple construction permits.
- e. Upon reasonable prior written notice, Grantee shall meet with developers and be present at pre-construction meetings to ensure that Cable System facilities are installed, subject to Section 4, herein, in new developments within City in a timely manner.

2. Use of existing poles or conduits

- a. Grantee shall use its best efforts to utilize existing poles, conduits and other similar facilities belonging to either Grantee or other utility providers whenever commercially reasonable and shall not construct or install any new, different or additional poles, conduits or other similar facilities on public property without the written approval of City. No location or any pole or wire-holding structure of Grantee shall be a vested interest, and such poles or structures shall be removed or modified by Grantee at its own expense whenever City determines that such a move is a public necessity. The Grantee shall not be responsible for the cost associated with relocating its Cable System to accommodate other providers, including the City, private development projects or to satisfy a zoning condition imposed upon a developer by the City.
- b. The facilities of Grantee shall be installed underground in those areas of City where all other public or private utilities are underground at the time of construction by Grantee. In areas where the facilities of all other public or private utilities are installed aerially at the time of System construction, Grantee may install its facilities aerially; however, at such time as the existing

aerial facilities of all other public or private utilities are placed underground, Grantee shall likewise place its facilities underground at its sole cost. If City requires utilities to bury lines which are currently overhead, and the City financially participates in said under grounding, then the City shall provide the same cost sharing to the Grantee.

3. Minimum Interference.

- a. Grantee shall use its best efforts to give reasonable prior notice to any adjacent private property owners who will be negatively affected or impacted by Grantee's significant construction work in the Rights-of-Way.
- b. All transmission and distribution structures, lines, and equipment erected by Grantee shall be located so as to cause minimum interference with the unencumbered use of Rights-of-Way and other public places and minimum interference with the rights and reasonable convenience of property owners who adjoin any of the Rights-of-Way and public places.

4. Disturbance or damage. Any and all Rights-of-Way, or public or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, expansion, extension or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing immediately prior to Grantee's work. If Grantee fails to promptly perform the restoration required herein, after written request of City and reasonable opportunity to satisfy that request, City shall have the right to put the Rights-of-Way back into condition as good as that prevailing immediately prior to Grantee's work. In the event City determines that Grantee is responsible for such disturbance or damage, Grantee shall be obligated to fully reimburse City for such reasonable cost of restoration within thirty (30) days after its receipt of City's invoice therefore.

5. Intentionally Left Blank

6. Temporary Relocation

- a. At any time during the Term of the Franchise, Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate or remove any of its property when, in the opinion of City, (i) the same is required by reason of traffic conditions, public safety, Rights-of-Way vacation, freeway or Rights-of-Way construction, alteration to or establishment of any Rights-of-Way or any facility within the Rights-of-Way, sidewalk, or other public place, including but not limited to, installation of sewers, drains, waterlines, power lines, traffic signal lines or transportation facilities; or (ii) a City project or activity makes disconnection, removal, or relocation necessary or less expensive for City. If the City requests the relocation, removal or reinstallation of any of Grantee's facilities in any of the Rights-of-Way for the sole purpose of installing or providing its own cable television or telecommunications services or those of a second cable television or telecommunications service provider in

competition with Grantee, then such cost shall not be borne by Grantee but by the City or requesting entity.

- b. Grantee shall, on prior written request of any Person holding a permit to move a building, temporarily raise or lower its wires to permit the movement of such buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same, and Grantee shall have the authority to require such payment in advance. Grantee shall be given not less than ten (10) business days advance notice to arrange such temporary wire alterations.
7. Emergency. Whenever, in case of fire or other emergency, it becomes necessary in the judgment of the City Administrator, police chief, fire chief, or their delegates, to remove or damage any of Grantee's facilities, no charge shall be made by Grantee against City for restoration, repair or damages.
8. Tree Trimming. Grantee shall have the authority to trim trees on public Rights-of-Way at its own expense as may be necessary to protect its wires and facilities. Trimming of trees on private property shall require consent of the property owner. Any trimming of trees by the Grantee in the Rights-of-Way and public ways shall be subject to such regulation or supervision as the City Manager or other authorized official may establish to protect the public health, safety and convenience.
9. Protection of facilities. Nothing contained in this section shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid damaging Grantee's facilities while performing any work connected with grading, re-grading or changing the line of any Rights-of-Way or public place or the construction or reconstruction of any sewer or water system.
10. Installation records. Grantee shall keep accurate Installation records of the location of all facilities in the Rights-of-Way and public ways and furnish strand maps to City upon prior written request. Grantee shall cooperate with City to furnish such information in an electronic mapping format, if possible, compatible with the then-current City electronic mapping format. Upon completion of new or relocation construction of underground facilities in the Rights-of-Way and public ways, Grantee shall provide City with Installation records in an electronic format, if possible, compatible with the then-current City electronic mapping format showing the location of the underground and above ground facilities.
11. Locating facilities.
 - a. If, during the design process for public improvements, City discovers a potential conflict with proposed construction, Grantee shall either: (a) locate and, if necessary, expose its facilities in conflict or (b) use a location service to locate or expose its facilities. Grantee is obligated to furnish the location information in a timely manner, but in no case longer than thirty (30) days.

- b. City reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, regrade, widen, realign, or maintain any Rights-of-Way and public ways, aerial, surface, or subsurface improvement, including but not limited to water mains, traffic control conduits, cable and devices, sanitary or storm sewers, subways, tunnels, bridges, viaducts, or any other public construction within the Rights-of-Way of City limits.
12. City's rights. Nothing in this Franchise shall be construed to prevent City from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Right-of-Way; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
13. Facilities in conflict. If, during the course of a project, City determines Grantee's facilities are in conflict, the following shall apply:
- a. Prior to City Notice to Proceed to Contractor: Grantee shall, within a reasonable time, but in no event exceeding three (3) months, remove or relocate the conflicting facility. This time period shall begin running upon receipt by Grantee of written notice from City. However, if both City and Grantee agree, the time frame may be extended based on the requirements of the project.
 - b. Subsequent to City Notice to Proceed to Contractor: City and Grantee will immediately begin the coordination necessary to remove or relocate the facility. Removal or relocation is to begin no later than seventy-two (72) hours, if practicable, after written notification from City of the conflict.
14. Relocation delays. In the event City becomes aware of a potential delay involving Grantee's facilities, City shall promptly notify Grantee of this potential delay.
15. Interference with City Facilities. The Installation, use and maintenance of the Grantee's facilities within the Rights-of-Way and public ways authorized herein shall be in such a manner as not to interfere with City's placement, construction, use and maintenance of its Rights-of-Way and public ways, Rights-of-Way lighting, water pipes, drains, sewers, traffic signal systems or other City systems that have been, or may be, installed, maintained, used or authorized by City.
16. Interference with Utility Facilities. Grantee agrees not to install, maintain or use any of its facilities in such a manner as to damage or interfere with any existing facilities of another utility located within the Rights-of-Way and public ways of City and agrees to relocate its facilities, if necessary, to accommodate another facility relocation. Nothing in this section is meant to limit any rights Grantee may have under Applicable Laws to be compensated for the cost of relocating its facilities from the utility that is requesting the relocation.

17. Co-location. To maximize public and employee safety, to minimize visual clutter of aerial plant, and to minimize the amount of trenching and excavation in and along City Rights-of-Way and sidewalks for underground plant, Grantee shall make every commercially reasonable effort to co-locate compatible facilities within the Rights-of-Way subject to the engineering requirements of the owners of utility poles and other facilities.
18. Safety Requirements.
 - a. Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injuries.
 - b. Grantee shall install and maintain its System and other equipment in accordance with City's codes and the requirements of the National Electric Safety Code and all other applicable FCC, state and local regulations, and in such manner that they will not interfere with City communications technology related to health, safety and welfare of the residents.
 - c. Cable System structures, and lines, equipment and connections in, over, under and upon the Rights-of-Way of City, wherever situated or located, shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the health, safety or property of City or any Person.

SECTION 4. DESIGN PROVISIONS

1. System Upgrade/Construction: Minimum Channel Capacity.
 - a. Grantee shall operate for the Term of this Franchise a System capable of providing a minimum of eighty (80) video Channels on the Cable System.
 - b. Programming decisions remain the discretion of Grantee in accordance with federal law, provided that Grantee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, and further subject to Grantee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.
2. Construction. During periods of upgrade or rebuild, on or about thirty (30) days prior to any scheduled construction, affected subscribers, if any will receive a notice, which shall include Grantee's telephone number that Subscribers can use to contact Grantee with any questions or concerns they may have.
3. Interruption of Service. Grantee shall endeavor to interrupt Service only for good cause and for the shortest time possible. If Service is interrupted for a total period of

more than twenty-four (24) continuous hours in any thirty (30) day period, Subscribers shall, upon request, be credited pro rata for such interruption.

4. Emergency Alert Capability. Grantee shall at all times comply with the Emergency Alert System standards pursuant to Title 47, Section 11, Subparts A-E of the Code of Federal Regulations, as may be amended or modified from time to time.
5. Technical Standards. The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76, Subpart K of the Code of Federal Regulations, as may be amended or modified from time to time.
6. Special Testing.
 - a. City shall have the right to inspect and test all construction or Installation work performed pursuant to the provisions of this Franchise. In addition, City may require special testing of a location or locations within the System as desired at any time during the term of this Franchise. Demand for such special tests may be made on the basis of complaints received or other substantial evidence indicating an unresolved controversy or noncompliance with FCC technical standards. City shall endeavor to so arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the Subscribers caused by such testing
 - b. Before ordering such tests, Grantee shall be afforded thirty (30) days advance written notice. City shall meet with Grantee prior to tests to discuss the need for such and, if possible, visually inspect those locations which may be the focus of concern. If, after such meetings and inspections, City wishes to commence special tests and the thirty (30) days have elapsed, the tests shall be conducted by a qualified engineer selected by City. Grantee shall participate and cooperate in such testing. If such special testing establishes that the System meets all required FCC technical standards as set forth in Section 4, paragraph 5, above, the City shall bear the expense for such special testing. If such special testing establishes that the System does not meet the required FCC technical standards set forth in Section 4, paragraph 5, above, Grantee shall bear the expense for such special testing.
7. FCC Reports. Any reports required to be filed by Grantee with the FCC shall, upon written request, be filed with City or its designee within thirty (30) days of the date when report is filed with the FCC.
8. Annexation. Upon the annexation of any additional land area by the City, if the annexed area is not currently served by a cable operator it will be subject to the other provisions of this Section 4. If the annexed area is served by a cable operator, Grantee has the option to extend its Cable System to the newly annexed area if Grantee determines that it is economically feasible to do so. Upon the annexation of any additional land area by the City, the annexed area shall be

subject to all the terms of this Franchise upon ninety (90) days of written notification by the City to Grantee. A cable operator other than Grantee whose Cable System already passes homes in an annexed area shall not extend its Cable System beyond those homes which it passes at the time the annexation occurs unless it otherwise obtains a franchise from the City.

9. Line Extension.

- a. Grantee shall construct and operate its Cable System so as to provide Service to all parts of its Franchise area as provided in this Franchise and having a density equivalent of seven (7) residential units per one-quarter (1/4) mile of System, as measured from the nearest point of connection to the Cable System.
- b. Where the density is less than that specified above, Grantee shall inform Persons requesting Service of the possibility of paying for Installation or a line extension and shall offer to provide them with an estimate of the cost, which shall be provided within fifteen (15) working days of such a request. The charge for Installation or extension for each Person requesting Service shall not exceed a pro rata share of the actual cost of extending the Service.
- c. Any residential unit located within one hundred twenty five (125) feet of the Grantee's System shall be connected to the System at no charge other than the Standard Installation charge. Grantee shall, upon request by any potential Subscriber residing in City beyond the one hundred twenty five (125) foot limit, extend Service to such Subscriber provided that the Subscriber may be required to pay the net additional Drop costs.
- d. Under Normal Operating Conditions, if Grantee cannot perform Installations within the times specified in applicable customer standards, the Subscriber may request and is entitled to receive a credit equal to the charge for a Standard Installation. For any Installation that is not a free Installation or a Standard Installation, Grantee shall provide the Subscriber, upon request, an estimate of all charges within seven (7) days of a request by the Subscriber. Failure to comply will subject Grantee to appropriate enforcement actions. This Section does not apply to the introduction of new products and services when Grantee is utilizing a phased introduction.

10. Lockout Device. Upon the request of a Subscriber, Grantee shall, under normal operating conditions, provide by sale or lease to each Subscriber, one of the following devices by which the Subscriber can block completely the video and audio signals of a particular Cable Service: (i) a parental control device; or (ii) a converter with a parental control feature; or (iii) a filter, trap or other method or device. The Grantee shall provide the device in a timely manner not to exceed thirty (30) days after the request is received.

SECTION 5. SERVICE PROVISIONS

1. Regulation of Service Rates. City may regulate rates for the provision of Cable Service, equipment, or any other communications service provided over the System to the extent allowed under federal or state law(s). City reserves the right to regulate rates for any future Services to the extent permitted by law.
2. Non-Standard Installations. Grantee shall install and provide Cable Service to any Person requesting other than a Standard Installation provided that said Cable Service can meet FCC technical specifications and all payment and policy obligations are met. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the Standard Installation.
3. Sales Procedures. At the time of installation, Grantee shall inform the non-Subscriber of all levels of Service available, including the lowest priced tiers. Grantee shall have the right to market door-to-door during reasonable hours consistent with local ordinances and regulation.
4. Consumer Protection and Service Standards. Grantee shall maintain a bill payment location for receiving subscriber payments. Grantee shall also provide the necessary facilities, equipment and personnel to comply with the following consumer protection standards under Normal Operating Conditions:
 - a. Cable System office hours and telephone availability:
 - i. Grantee will maintain a local or toll-free telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.
 1. Trained Grantee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.
 2. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Grantee representative on the next business day.
 - ii. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.
 - iii. The Grantee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering

standards above unless a historical record of complaints indicates a clear failure to comply.

- iv. Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.
 - v. Customer service center or bill payment locations will be open at least during normal business hours.
- b. Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following four (4) standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:
- i. Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred twenty five (125) feet from the existing distribution system.
 - ii. Excluding conditions beyond the control of Grantee, Grantee will begin working on "Service Interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee must begin actions to correct other Service problems the next business day after notification of the Service problem.
 - iii. The "appointment window" alternatives for Installations, Service calls, and other Installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (Grantee may schedule Service calls and other Installation activities outside of Normal Business Hours for the express convenience of the customer.)
 - iv. Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
 - v. If Grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted prior to the time of the scheduled appointment. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.
- c. Communications between Grantee and Subscribers:
- i. Notifications to Subscribers:
 - 1. Grantee shall provide written information on each of the following areas at the time of Installation of Service, at least annually to all Subscribers, and at any time upon request:

- a. Products and Services offered;
 - b. Prices and options for programming services and conditions of subscription to programming and other services;
 - c. Installation and Service maintenance policies;
 - d. Instructions on how to use the Cable Service;
 - e. Channel positions of the programming carried on the System; and
 - f. Billing and complaint procedures, including the address and telephone number of the City.
2. Subscribers will be notified of any changes in rates, programming services or Channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the changes are within the control of the Grantee. In addition, the Grantee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by this Section 5.4(c)(i)(1). Grantee shall not be required to provide prior notice of any rate changes as a result of a regulatory fee, Franchise Fee, or other fees, tax, assessment or charge of any kind imposed by any federal agency, state or City on the transaction between the operator and the Subscriber.
- ii. Billing:
 1. Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium Service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
 2. In case of a billing dispute, the Grantee must respond to a written complaint from a Subscriber within thirty (30) days.
 - iii. Refunds: Refund checks will be issued promptly, but no later than either:
 1. The Subscriber's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or
 2. The return of the equipment supplied by Grantee if Service is terminated.

- iv. Credits: Credits for Service will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.

Upon fourteen (14) days written request, Grantee shall provide City with an annual compliance report which report shall, at a minimum, describe in detail Grantee's compliance with the terms and provisions of this Section.

- 5. Subscriber Cable Service Agreement. Upon request, Grantee shall file with City any standard form residential Subscriber Cable Services agreement utilized by Grantee. If no such written agreement exists, Grantee shall file with the City a document completely and concisely stating the length and terms of the Subscriber agreement offered to customers. The length and terms of any such Subscriber agreement(s) shall be available for public inspection during Normal Business Hours. A list of Grantee's current Subscriber rates and charges for Cable Service shall be maintained on file with City and shall be available for public inspection.
- 6. Refund Policy.
 - a. If a Grantee's Cable Service is interrupted due to a System outage for twenty-four (24) or more consecutive hours, Subscribers, upon request, shall be credited pro rata for such interruption. Credits must be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted. For this purpose, every month will be assumed to have thirty (30) days.
 - b. In the event a Subscriber establishes or terminates Service and receives less than one (1) full month of Service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which Service was rendered to the number of days in the billing. Refund checks will be issued promptly, but no later than thirty (30) days from the date of return of the equipment supplied by the Grantee if Cable Service is terminated.
- 7. Late Fees. Fees for the late payment of bills shall be assessed in accordance with applicable law.

SECTION 6.

ACCESS CHANNEL(S) PROVISIONS

- 1. Grantee Support for Access Channels. Grantee shall provide the following support for access Channel usage within the Service Area.
 - a. Provision of the EG Channel provided for in Exhibit A of this Agreement for Educational and Government access use at no charge in accordance with the requirements of Exhibit A.

- b. Support of Educational and Governmental programming to the extent specified in Exhibit A of this Agreement.
 - c. Provision of free public building Installation and Cable Service as more clearly specified in Exhibit A.
2. Compliance with Federal Law. Grantee and City agree that the access support fee referenced in Exhibit A will not be deemed to be "Franchise Fees" within the meaning of Section 622 of the Cable Act (47 U.S.C. §542), and such obligations shall not be deemed to be (i) "payments in kind" or any involuntary payments chargeable against the Franchise Fees to be paid to the City by Grantee pursuant to Section 7 hereof or (ii) part of the Franchise Fees to be paid to City by Grantee pursuant to Section 7 hereof.

SECTION 7. OPERATION AND ADMINISTRATION PROVISIONS

1. Administration of Franchise. The City Manager or other lawful designee of the City shall administer and represent the City's interest under this Franchise; provided, however, that the City Council shall retain the sole authority to take enforcement action pursuant to this Franchise.
2. Franchise Fee.
- a. During the term of the Franchise, Grantee shall pay to City a Franchise Fee in an amount equal to five percent (5%) of its annual Gross Revenues. Calculation, collection, and pass-through of franchise fees shall be in accordance with Applicable Laws.
 - b. Any payments due under this provision shall be made on a quarterly basis. Each quarterly payment shall be made within forty-five (45) days of the end of each of Grantee's fiscal quarters together with a report showing the basis for the computation. In the event that a Franchise Fee payment or other sum due is not received by the City on or before the date due, after notice and opportunity to cure, interest shall accrue on the outstanding amount at rates published by the Internal Revenue Service for tax refunds and additional tax payments for the period of delinquency.
 - c. All amounts paid shall be subject to audit and re-computation by City and acceptance of any payment shall not be construed, as an accord that the amount paid is in fact the correct amount. If any audit reveals an error by Grantee of five percent (5%) or more during any audit period, Grantee shall be responsible for City's reasonable out of pocket costs associated with the audit.
3. Not Franchise Fees.

- a. Grantee acknowledges and agrees that the Franchisee Fees payable by Grantee to City pursuant to this Section shall take precedence over all other payments, contributions, services, equipment, facilities, support, resources or other activities to be provided or performed by Grantee pursuant to this Franchise and that the Franchise Fees provided for in this section of this Franchise shall not be deemed to be in the nature of a tax, and shall be in addition to any and all taxes of general applicability and other fees and charges which Grantee shall be required to pay to City and/or to any other governmental authority, all of which shall be separate and distinct obligations of Grantee.
 - b. Grantee shall not apply or seek to apply or make any claim that all or any part of the Franchisee Fees to be made by Grantee to City pursuant to this Franchise shall be deducted from or credited or offset against any taxes, fees or assessments or general applicability levied or imposed by City or any other governmental authority, including any such tax, fee or assessment imposed on both utilities and cable operators or their services.
 - c. Grantee shall not apply or seek to apply all or any part of any taxes, fees or assessments or general applicability levied or imposed by the City or any other governmental authority (including any such tax, fee or assessment imposed on both utilities and cable operators or their services) as a deduction or other credit from or against any of the Franchise Fees or other payments or contributions to be paid or made pursuant by Grantee to City to this Franchise which shall be deemed to be separate and distinct obligations of Grantee.
4. Access to Records. The City shall have the right to request and inspect, upon reasonable prior written notice and during Normal Business Hours, at either Grantee's place of business or City's place of business, any records or other information maintained by Grantee which relate to compliance with the terms and conditions of this Franchise including, specifically, Grantee's applicable accounting and financial records. The City shall have the right to request and Grantee shall make every effort to provide electronic copies of such records and other information and shall fully cooperate in making available its records and other information within forth-five (45) days of such written request, unless both parties agree upon an alternate delivery schedule. Grantee may require the City, or any of its employees, agents or duly authorized representatives who will have access to such information to sign a confidentiality agreement prior to the release of any such information to the City.
5. Periodic Evaluation.
 - a. City may require evaluation sessions at any time during the term of this Franchise, upon thirty (30) days prior written notice to Grantee beginning no sooner than thirty six (36) months from the Effective Date of this Agreement and no more often than annually thereafter.

- b. Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, System performance, programming offered, access Channels, facilities and support, municipal uses of cable, Subscriber rates, customer complaints, amendments to this Franchise, judicial rulings, FCC rulings, line extension policies and any other topics City deems relevant.

**SECTION 8.
GENERAL FINANCIAL AND INSURANCE PROVISIONS**

1. Performance Bond.

- a. At the time of acceptance of this Franchise, Grantee shall deliver to City a performance bond, in form and substance acceptable to City, in the amount of five thousand and No/100 Dollars (\$5,000).
- b. The performance bond shall provide that funds will be paid to City, upon written demand of City, and in an amount determined in accordance with this Section 8 in payment for penalties charged pursuant to this Section 8.
- c. The City and the Grantee agree that there are certain violations for which damages cannot be readily determined. Accordingly, The City may charge to Grantee and collect from the performance bond only the following amounts as liquidated damages up to a maximum of two thousand five hundred dollars (\$2,500) per month:
 - i. For failure to provide data, documents, reports or information or to cooperate with City during a system review or as otherwise provided herein, the penalty shall be one hundred and no/100 dollars (\$100.00) per day for each day, or part thereof, such failure occurs or continues.
 - ii. For failure of Grantee to comply with construction, operation or maintenance standards, the penalty shall be one hundred fifty and no/100 dollars (\$150.00) per day for each day, or part thereof, such failure occurs or continues.
 - iii. For failure to provide the Services Grantee has proposed, including, but not limited to, the implementation and the utilization of the access Channels, the penalty shall be one hundred fifty and no/100 dollars (\$150.00) per day for each day, or part thereof, such failure occurs or continues.
 - iv. For failure to comply with any of the material provisions of this Franchise for which damages are not readily determined and are not otherwise specifically provided pursuant to this subparagraph (c), the amount shall be one hundred and no/100 dollars (\$100.00) per day for each day, or part thereof, such failure occurs or continues.

- d. Each violation of any provision of this Franchise shall be considered a separate violation for which a separate penalty can be imposed.
- e. Whenever City finds that Grantee has violated one or more material terms, conditions or provisions of this Franchise, or for any other violation contemplated in subparagraph (c) above, a written notice shall be given to Grantee informing it of such violation. Subject to section 8.2 below, at any time after thirty (30) days (or such longer reasonable time which, in the sole determination of City, is necessary to cure the alleged violation) following Grantee's receipt of notice, provided Grantee remains in violation of one or more terms, conditions or provisions of this Franchise, The City may draw from the performance bond all liquidated damages due City from the date of the Grantee's receipt of notice.
- f. If said performance bond expires prior to twelve (12) months after the expiration of the term of this Franchise, it shall be renewed or replaced during the term of this Franchise to provide that it will not expire earlier than twelve (12) months after the expiration of this Franchise. The renewed or replaced performance bond shall be of the same form and with a bank authorized herein and for the full amount stated in subparagraph (a) of this Section.
- g. If City draws upon the performance bond in whole or in part, upon written request, Grantee shall replace or replenish to its full amount the same within thirty (30) days and shall deliver to City a like replacement performance bond or certification of replenishment for the full amount stated in Section 8.2 (a). This shall be a continuing obligation for any draws upon the performance bond.
- h. The drawing on the performance bond by City, and use of the money so obtained for payment or performance of the obligations, duties and responsibilities of Grantee, which are in default, shall not be a waiver or release of such default.

2. Procedure for Remedying Franchise Violations

- a. Whenever the City believes that the Grantee is in violation of one or more of the material terms, conditions, or provisions of this Franchise, a written notice shall be given to the Grantee. The written notice shall describe in reasonable detail the alleged violation so as to afford the Grantee the opportunity to remedy the violation. Grantee shall have thirty (30) days subsequent to the receipt of written notice in which to correct the violation. Grantee shall, within ten (10) business days of receipt of written notice, notify the City if there is a dispute as to whether a violation has, in fact, occurred. Such notice by the Grantee shall specify with reasonable particularity the matters disputed and shall stay the running of the above-described time for cure.

- b. The City shall hold a hearing regarding the alleged violation(s) at a regularly scheduled or specially scheduled City Council meeting with at least ten (10) days prior written notice to Grantee. The Grantee shall be afforded an opportunity to be heard and present evidence at such hearing. The City shall make a determination as to the alleged violation(s) and shall make written findings of fact relative to its determination. Grantee may appeal decision of City to court of competent jurisdiction.
- c. If after hearing the dispute, the City Council finds that a violation exists, then the Grantee shall have the remainder of the initial thirty (30) day cure period within which to remedy the violation or appeal the decision.
- d. The time for Grantee to correct any alleged violation shall be extended by the City if the necessary action to correct the alleged violation is of such a nature or character as to require more than thirty (30) days and provided Grantee commences corrective action within thirty (30) days and thereafter exercises due diligence to correct the violation.
- e. If the City elects to draw down against the performance bond, then such election shall constitute City's exclusive remedy for a period of ninety (90) days. Thereafter, if the Grantee remains in non-compliance, the City may pursue any other available remedy.

3. Liability Insurance.

- a. Upon the effective date, Grantee shall, at its sole expense take out and maintain during the term of this Franchise public liability insurance with a company licensed to do business in the state of Tennessee with a rating by A.M. Best & Co. of not less than "A minus" listing the City as additional insured that shall protect the Grantee, City and its officials, officers, directors, employees and agents from claims which may arise from operations under this Franchise, whether such operations be by the Grantee, its officials, officers, directors, employees and agents or any subcontractors of Grantee. This liability insurance shall include, but shall not be limited to; protection against claims arising from bodily and personal injury and damage to property, resulting from Grantee's vehicles, products and operations. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall not be less than one million and no/100 dollars (\$1,000,000.00).
 - i. The policy shall not be canceled without thirty (30) days notice of such cancellation given to City.
- b. City reserves the right to adjust the insurance limit coverage requirements of this Franchise no more than once every three (3) years. Any such adjustment by City will be no greater than the increase in the State of

Tennessee Consumer Price Index (all consumers) for such three (3) year period.

- c. Within thirty (30) days of Grantee's acceptance, the Grantee shall submit to City documentation of the required insurance, including a copy of the certificate of insurance signed by the insurance agent and companies named, as well as all properly executed endorsements.

4. Indemnification

- a. Grantee shall indemnify, defend and hold City, its officers, boards, commissions, agents and employees (collectively the "Indemnified Parties") harmless from and against any and all lawsuits, claims, causes or action, actions, liabilities, demands, damages, judgments, settlements, disability, losses, expenses (including reasonable attorney's fees and disbursements of counsel) that any of the Indemnified Parties may at any time suffer, sustain or incur arising out of, based upon or in any way connected with the Grantee's operations, the exercise of the Franchise, the breach of Grantee of its obligations under this Franchise and/or the activities of Grantee, it contractor, employees and agents hereunder. Grantee shall not be required to provide indemnification to City for programming cablecast over the educational and governmental access Channels administered by City.
- b. The indemnification obligations of Grantee set forth in this Franchise not limited in any way by the amount or type of damages or compensation payable by or for Grantee under Workers' Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Franchise or the terms, applicability or limitations of any insurance held by Grantee.
- c. City does not, and shall not, waive any rights against Grantee which it may have by reason of the indemnification provided for in this Franchise, because of the acceptance by City, or the deposit with City by Grantee, of any of the insurance policies described in this Franchise.
- d. The indemnification of City by Grantee provided for in this Franchise shall apply to all damages and claims for damages of any kind suffered by reason of any of the Grantee's operations referred to in this Franchise, regardless of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- e. Grantee shall not be required to indemnify City for negligence or misconduct on the part of City or its officials, boards, commissions, agents, or employees. City shall hold Grantee harmless, subject to the limitations in state statutes for any damage resulting from the negligence or misconduct of the City or its officials, boards, commissions, agents, or employees in utilizing any E&G access Channels, equipment, or facilities and for any such

negligence or misconduct by City in connection with work performed by City and permitted by this Agreement, on or adjacent to the Cable System.

5. Grantee's Insurance.

Grantee shall not commence any Cable System reconstruction work or permit any contractor to commence work until all insurance required under this Franchise has been obtained. Said insurance shall be maintained in full force and effect until the expiration of this Franchise.

- a. In order for City to assert its rights to be indemnified, defended, and held harmless, City must with respect to each claim:
 - i. Promptly notify Grantee in writing within ten (10) business days of any claim or legal proceeding which gives rise to such right;
 - ii. Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
 - iii. Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph 2 above.

SECTION 9.

SALE, ABANDONMENT, TRANSFER AND REVOCATION OF FRANCHISE

1. City's Right to Revoke.

- a. In addition to all other rights which City has pursuant to law or equity, City reserves the right to commence proceedings to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if it is determined by City that after notice and an opportunity to cure as reordere herein;
 - i. Grantee has violated material provisions(s) of this Franchise and has not cured; or
 - ii. Grantee has practiced fraud or deceit upon City as determined by a court of competent jurisdiction.

2. Procedures for Revocation.

- a. City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee thirty (30) days subsequent to receipt of the notice in which to correct the violation or to provide adequate

assurance of performance in compliance with the Franchise. In the notice required therein, City shall provide Grantee with the basis of the revocation.

- b. Grantee shall, on at least ten (10) day written notice, be provided the right to a public hearing affording due process before the City Council prior to the effective date of revocation, which public hearing shall follow the thirty (30) day notice provided in subparagraph (a) above. City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.
- c. Only after the public hearing and upon written notice of the determination by City to revoke the Franchise may Grantee appeal said decision with an appropriate state or federal court or agency.
- d. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires or unless continuation of the Franchise would endanger the health, safety and welfare of any Person or the public.

3. Abandonment of Service. Grantee may not abandon the System or any portion thereof without having first given three (3) months written notice to City. Grantee may not abandon the System or any portion thereof without compensating City for damages resulting from the abandonment, including all costs incident to removal of the System.

4. Removal After Abandonment, Termination or Forfeiture.

- a. In the event of a lawful termination or abandonment of the System, City shall have the right to require Grantee to remove all or any portion of the System from all Rights-of-Way and public property within City.
- b. If Grantee has failed to commence removal of System, or such part thereof as was designated by City, within thirty (30) days after written notice of City's demand for removal is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of City's demand for removal is given, City shall have the right to remove the System, apply funds secured by the performance bond and toward removal and/or declare all right, title, and interest to the System to be in City with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it.

5. Sale or Transfer of Franchise.

- a. Neither the Grantee nor any other Person may sell, transfer or assign the Franchise or any of the Grantee's rights or obligations in or regarding the System or the Franchise without the prior written consent of the Franchising Authority which consent shall not be unreasonably withheld.

- b. No change in Control of the Grantee, the System or the Franchise, including actual working control shall occur after the Effective Date, by operation of law, or otherwise, without the prior written consent of the Franchising Authority. Such consent shall not be unreasonably withheld. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title or interest of the Grantee in this Franchise or the Cable System in order to secure indebtedness, or (ii) intra-corporate reorganizations between or among entities wholly owned and wholly controlled by Comcast Corporation to the extent such transaction does not involve a change in the management, day to day operations, or financial condition of the Grantee; provided the Franchising Authority shall be notified by the Grantee in the event of such intra-corporate reorganization.
- c. Any request for consent to a transfer shall be handled by the Franchising Authority in accordance with its rules and procedures as such are consistent with federal and state law, with Section 617 of the Cable Act, and with regulations of the FCC
- d. Any proposed transferee must accept in writing the Franchise rights and obligations.

SECTION 10. PROTECTION OF INDIVIDUAL RIGHTS

- 1. Discriminatory Practices Prohibited. Grantee shall not deny Service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of economic status, race, color, religion, national origin, sex, age, or disability. Grantee shall comply at all times with all other applicable federal, state, and City laws, relating to nondiscrimination. It shall be the right of all Persons to continuously receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied.
- 2. Subscriber Privacy. The Grantee shall comply with Section 631 of the Cable Act and regulations adopted pursuant thereto.

SECTION 11. UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

- 1. Unauthorized Connections or Modifications Prohibited. It shall be unlawful for any firm, Person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any unauthorized connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the System or receive Services of the System without Grantee's authorization.

2. Removal or Destruction Prohibited. It shall be unlawful for any firm, Person, group, company, or corporation to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the System for any purpose whatsoever.
3. Penalty. Any firm Person, group, company, or corporation found guilty of violating this section may be prosecuted and fined according to applicable law.

SECTION 12. MISCELLANEOUS PROVISIONS

1. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with Section 626 of the Cable Act.
2. Work Performed by Others. All applicable obligations of this Franchise shall apply to any contractor or others performing any work or services pursuant to the provisions of this Franchise, however, in no event shall any such contractor or others performing work obtain any rights to maintain and operate a System or provide Cable Service. Upon written request by City, Grantee shall provide notice to City of the name(s) and address(es) of any entity, other than Grantee, which performs substantial services pursuant to this Franchise.
3. Amendment of Franchise Ordinance. Grantee and City may agree, from time to time, to amend this Franchise. The Franchise may be amended if City and Grantee agree that an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws; provided, however, nothing herein shall restrict City's exercise of its police powers. However, no provision of this Franchise shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the City and the Grantee, which amendment shall be authorized on behalf of the City through the adoption of an appropriate resolution or order by the City.
4. Compliance with Federal, State and Local Laws.
 - a. If any federal or state law or regulation shall require or permit City or Grantee to perform any service or act or shall prohibit City or Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Grantee and City shall conform to state and federal laws and regulations and rules regarding cable communications, as they become effective.
 - b. If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable in whole or in part, by any court, agency, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other provisions shall

continue in full force and effect. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and City.

5. Non-enforcement by City. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure or delay of City to enforce prompt compliance. City may only waive its rights hereunder by expressly so stating in writing. Any such written waiver by City of a breach or violation of any provision of this Franchise shall not operate as or be construed to be a waiver of any subsequent breach or violation.
6. Rights Cumulative. All rights given to City by this Franchise or retained by City herein shall be in addition to and cumulative with any and all other rights existing or implied, now or hereafter available to City, at law or in equity, and such rights and shall not be exclusive, but each and every right specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by City and the exercise of one or more rights shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right.
7. Grantee Acknowledgment of Validity of Franchise. Grantee acknowledges that it has had an opportunity to review the terms and conditions of this Franchise and that under current law Grantee believes that said terms and conditions are not unreasonable or arbitrary, and that Grantee believes City has the power to make the terms and conditions contained in this Franchise.
8. Force Majeure. Neither party shall be liable for any failure of performance hereunder due to causes beyond its reasonable control including but not limited to; acts of God, fire, explosion, vandalism, storm or other similar catastrophes; national emergencies; insurrection; riots; wars; or strikes, lockouts, work stoppages or other labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable and/or equipment is attached, as well as unavailability of materials.
9. No Third Party Beneficiaries. Nothing in this Franchise nor any prior agreement, is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise."
10. No Waiver of Rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, Grantee may have under federal or state law unless such waiver is expressly stated herein.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of this 19th day of May, 2005

ATTEST:

CITY OF LA VERGNE, TN

By: Bruce E. Richardson

Bruce E. Richardson
City Recorder

By: Sherry Green

Sherry Green
Mayor

COMCAST OF NASHVILLE II, LLC.

By: John H. Ridall, Jr.

John H. Ridall, Jr.
President, Southern Division

5/19/05
Date

ATTEST:

By: Dana M. Snyder

DANA M. SNYDER
Notary Public, Cobb County, Georgia
My Commission Expires March 24, 2008

EXHIBIT A
GRANTEE COMMITMENT TO EDUCATIONAL AND
GOVERNMENT ACCESS FACILITIES AND EQUIPMENT

1. EDUCATIONAL GOVERNMENTAL ACCESS CHANNELS

Grantee shall make one (1) video Channel available exclusively for non-commercial Educational and Government (EG) use. City and Grantee shall establish rules and procedures for such scheduling in accordance with Section 611 of the Cable Act (47 U.S.C. § 531).

- a. Additional Channel. The Grantee shall make available one (1) additional non-commercial EG Channel, upon ninety (90) days prior written notice by the City to Grantee, provided that the current Channel is fully utilized and that it has available additional local non-commercial, non-repetitive programming such that a second EG Channel would also be fully utilized within twelve (12) months after commencing operation.
- b. Fully Utilized. An EG Channel shall be considered fully utilized if it is programmed with local, non-commercial, non-repetitive educational and/or governmental programming for at least twelve (12) hours on a daily basis from Monday through Friday as measured over a calendar month. For the purpose of this Section 1, repetitive programming includes character generated programming and video slide shows.

2. EDUCATIONAL AND GOVERNMENT CAPITAL GRANT

Grantee shall provide City with an EG Capital Grant in the amount of Ninety Three Thousand and no/100 dollars (\$93,000), to purchase equipment for the EG Channel as listed in Exhibit B, herein. The Grantee shall pay the City Ninety Three Thousand dollars (\$93,000) within thirty (30) days following the effective date of the Franchise Agreement. The City and Grantee agree that the EG Capital Grant will not be deducted from Franchise Fees. Notwithstanding the foregoing, the Grantee expressly reserves all rights under applicable law to recover the amount of such EG Capital Grant including interest allowable by the FCC from subscribers at Grantee's discretion throughout the term of the Franchise. City agrees that within one hundred twenty (120) days of receipt of the EG Capital Grant to purchase such equipment as listed on Exhibit B and provide Grantee with a full detailed summary of all production equipment purchased. City reserves the right to substitute equipment of an equal or higher cost as such equipment listed on Exhibit B.

3. DROPS TO DESIGNATED BUILDINGS

- a. Grantee shall provide free "Basic" and "Expanded Basic" tier Cable Service and free installation of one (1) outlet to each non-residential municipal building located in the Franchise Area within one hundred twenty five (125) feet of the Grantee's existing distribution cable as of the Effective Date of this Franchise Agreement. Municipal buildings are those non-residential

buildings owned or leased by the City for government administrative purposes, and shall not include buildings owned by City but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed. The municipal site may pay up to the cost of labor and material for any Drop or extension beyond one hundred twenty five (125) feet.

- c. Grantee shall provide free "Basic" and "Expanded Basic" tier Cable Service, and free installation of one (1) outlet to each accredited K through 12 public and private school, not including "home schools," and to each Public Library located in the Franchise Area within one hundred twenty five (125) feet of the Grantee's existing distribution cable as of the Effective Date of this Franchise Agreement. The Library/School may pay up to the cost of labor and material for any Drop or extension beyond one hundred twenty five (125) feet.

4. FIBER CONNECTION

Grantee shall provide a fiber connection between the current City Hall and La Vergne Library locations within one hundred twenty (120) days of the Effective Date of this Franchise. Grantee further agrees to install the wiring necessary for three (3) different video camera locations within the Library.

EXHIBIT B

EG Channel Equipment

Equipment	Quantity
JVC GY-DV5000UL16 w/ Firestore HDD drives	(2)
Sennheiser EW100ENGG2	(2)
Sennheiser MD 46	(1) Firestore DV
Solution (F-3 80 Gig)	(2)
Included with cameras above	
Bogen 542/519	(2)
IDX Battery system Endura 80 Broadcast Kit (includes Charger & 8 Batteries)	(1)
Sennheiser EW322G2	(12)
Sennheiser EWANTT8RG2	(2)
Sennheiser BA2015G2	(24)
Sennheiser L2015G2	(12)
Sennheiser NT-3 120	(6)
Crown Power Amp	(1)
Leightronix TCD/IP	(1)
Visual Circuit Firefly	(1)
Firefly Media Messenger	(1)
Marantz DVD Player	(1)
Pro-Bus/Plus – Bus Devices	(1)
TV Scan Converter	(1)
VT4 TV Studio System	(1)
Sony BRC 300 Camera	(3)
Sony RMBR 300 Remote Camera Control	(1)
Cables	
JVC TMH1500CGU Video Monitor	(1)
Misc. installation/wiring	