

**CITY OF ERLANGER
SOLICITATION FOR SEALED BIDS
AND PROPOSALS**

The City of Erlanger, 505 Commonwealth Avenue, Erlanger, KY, 41018, hereby solicits and advertises bids for a five (5) year, with one five (5) year renewal, competitive, non-exclusive franchise for the use of all real estate in the City, which has been opened to public use, by dedication or otherwise, for the purpose of owning, constructing, installing, using, operating, maintaining, repairing and reconstructing thereon a “cable system” for the purpose of providing “cable services,” (within the meaning of those terms provided in 47 U.S.C. 522), to subscribers in the City, as described and specified in the bid packet entitled City of Erlanger Cable Franchise Bid, copies of which are available at the office of the Erlanger City Clerk, 505 Commonwealth Avenue, Erlanger, KY 41018.

All bids and proposals in response to this advertisement and solicitation must be received by the Erlanger City Clerk on or before 10:00 a.m. on October 28, 2024, on a form provided by the Erlanger City Clerk and completed according to the Bid Instructions provided thereby, including all required attachments; and enclosed within a sealed envelope, with the words “City of Erlanger Cable Franchise Bid” written, typed or otherwise indicated on the outside of the envelope.

The City of Erlanger reserves the right to not only reject any and all bids and proposals submitted in response to this advertisement and solicitation, for any reason or no reason; but especially those that are not in conformity with either the bid instructions or the specifications provided by the City, but also to accept bids and proposals submitted in response to this advertisement and solicitation that do not conform to those bid instructions and specifications.

CITY OF ERLANGER INSTRUCTIONS TO BIDDERS

1. Read the City of Erlanger Cable Franchise Bid, including Agreement, attached hereto and made a part hereof by reference. They describe the specifications and contractual provisions related to your proposal. Any changes in those specifications or contractual provisions may invalidate any bid or proposal that includes those changes.
2. Complete the Bid Form attached hereto and made a part hereof by reference by providing the following information in the blanks for it:
 - 2.1 The amount of the bid or proposal.
 - 2.2 The complete name, address, telephone number and e-mail address of the Bidder/Vendor.
 - 2.3 The signature of the Bidder/Vendor or someone signing for the Bidder/Vendor.
 - 2.4 The printed name of the signatory.
 - 2.5 The date.
3. Complete the Agreement attached hereto and made a part hereof by reference by:
 - 3.1 Providing the printed name of the bidder as the Vendor in the blank in the first paragraph.
 - 3.2 Signing the Agreement at the end.
4. Have the signature on the Agreement notarized.
5. All bidders must submit one (1) original and one (1) photocopy of the completed bid package.
5. Seal (both the original and photocopy) the signed Bid Form with the signed and notarized Agreement within an envelope with the words "City of Erlanger Cable Franchise Bid" written or otherwise indicated on the outside of the envelope; deliver the sealed envelope to the office of the Erlanger City Clerk, 505 Commonwealth Avenue, Erlanger, Kentucky before 10:00 a.m., prevailing time on or before October 28, 2024.

**CITY OF ERLANGER
BID FORM**

The undersigned Bidder/Vendor hereby bids, offers and proposes to sell, convey and deliver to the City of Erlanger the materials, supplies or services described in the City of Erlanger Cable Franchise Bid agreement attached hereto and made a part hereof by reference, for the total sum of the amount bid indicated herein and pursuant to the terms and provisions of the agreement attached hereto and made a part hereof by reference. This bid, offer and proposal is irrevocable until the expiration of sixty (60) consecutive calendar days after the date indicated herein; and may be accepted by the City of Erlanger, at any time prior thereto, provided that a copy of the agreement attached hereto is signed on behalf of the City of Erlanger by the Mayor thereof and mailed by registered mail, return receipt requested.

The undersigned Bidder/Vendor hereby authorizes the City of Erlanger to investigate the Bidder/Vendor and inspect and copy any and all records, books of account, correspondence, or other document reasonably necessary for the City of Erlanger to determine the responsibility and ability of the Bidder/Vendor to comply with terms and provisions hereof.

Amount Bid _____

Complete Name of Bidder/Vendor _____

Signature of Bidder/Vendor or
Authorized Representative _____

Printed Name of Signatory _____

Complete Address of Bidder/Vendor _____

Telephone Number of Bidder/Vendor _____

E-mail address of Bidder/Vendor _____

Date _____

COMPETITIVE CABLE FRANCHISE AGREEMENT

THIS COMPETITIVE CABLE FRANCHISE AGREEMENT, dated as of _____ but made effective when legally adopted by a resolution approving and as provided in this Franchise Agreement, by and between the City of Erlanger, Kentucky and _____ (hereinafter referred to as "Franchisee").

WHEREAS, pursuant to Kentucky Constitution Section 164 and Kentucky Revised Statute 67.083, the City is authorized and empowered to award a cable television franchise; and

WHEREAS, the City has conducted a full public hearing on _____ after giving notice as required by statute, the purpose of said public hearing being to analyze and consider the following:

1. The technical ability, financial condition and legal qualification of the Franchisee to provide the services, facilities and equipment for that system; and
2. Whether Franchisee's plans for its Cable System are adequate in light of community needs; and
3. Whether the Franchisee can meet the future cable-related needs and interests in light of the costs; and

WHEREAS, the City, after such consideration, analysis, and deliberation has found that the Franchise to the Franchisee should be granted; and

WHEREAS, the City recommends that the Franchise to the Franchisee be granted pursuant to 47 U.S.C. 541 for said Cable Communication System in the City limits.

THEREFORE, by this Franchise Agreement, the non-exclusive Franchise of the Franchisee is granted from the date of its effectiveness for an initial period of five (5) years from the Effective Date. The Franchise Agreement shall be automatically renewed for an additional five (5) years unless six (6) months written notice is given by the City or by Franchisee that either party does not wish to exercise the automatic renewal.

NOW, THEREFORE, in consideration of the mutual and reciprocal terms and provisions hereof, the City and the Franchisee hereby agree as follows:

SECTION 1. CONSTRUCTION

This agreement shall be construed in light of applicable Federal and State laws and

regulations governing cable television.

SECTION 2. SCOPE

This agreement shall be effective within the geographical limits of the City of Erlanger, including any areas subsequently annexed by the City.

SECTION 3. SEVERABILITY

If any word, phrase, sentence, part, section, subsection, or other portion of this agreement, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect. The City declares that no invalid or proscribed provision or application was an inducement to this agreement, and that it would have enacted this agreement regardless of the invalid or proscribed provision or application.

SECTION 4. DEFINITIONS

- A. "Access channel" means a government, education, or public channel which is carried on the cable system, but which is not part of any institutional network.
- B. "Authority" means the City of Erlanger.
- C. "Basic cable television service" means any service tier which includes the retransmission of local television broadcast signals.
- D. "City" means the City of Erlanger.
- E. "County" means the Kenton County Fiscal Court, Kentucky, or its lawful successor.
- F. "FCC" or "Federal Communications Commission" means the Federal administrative agency, or lawful successor, authorized to oversee cable television and other multichannel video provider regulation on a national level.
- G. "Federal" means the government of the United States, including its legislative, executive and judicial branches, and the statutes, rules and regulations enacted by those branches of government.
- H. "Franchise" means the initial non-exclusive authorization or subsequent renewal granted by the City which authorizes a person to construct, operate and maintain a cable system

in all or part of the City.

- I. “Franchisee” means the legal entity granted the cable television Franchise by the City and any entity having any rights, liabilities or interest to the Franchise whether by assignment, transfer or other means.
- J. “Pay-Per-View Event(s) or Pay-Per-View Movie(s)” means the delivery over the cable system of audio and video signals in an unintelligible form for a set fee or charge over and above the charge for standard or basic service and in addition to any premium channel on a per event or per movie basis where said unintelligible or unusable form is made intelligible for viewing only to subscribers paying a separate fee or charge for the viewing of the event or events.
- K. “Premium channel” means the delivery over the cable system of audio and video signals in an unintelligible form to subscribers for a monthly fee or charge (over and above the charge for standard or basic service) on a per channel basis where said unintelligible or unusable form for viewing is made intelligible only to subscribers paying a separate fee or charge for the viewing or use of the signals.
- L. “Public, Educational or Governmental access facilities” means:
 - 1. Channel capacity designated for public, educational or governmental use; and
 - 2. Facilities and equipment for the use of such channel capacity.
- M. “Rate” means the monthly price paid by a subscriber in order to receive cable service.
- N. “Service day” means every calendar day except Sundays and Federal Holidays.
- O. “Service outage” means the loss of picture or sound on all basic subscriber channels, or one (1) or more auxiliary programming channels (including tiers and pay programming), and which is not caused by the failure or malfunction of a subscriber’s television receiver or by the error of the subscriber.
- P. “State” means the Commonwealth of Kentucky.
- Q. “Subscriber” means a person lawfully receiving service delivered over a cable system by Franchisee.

SECTION 5. FAILURE OF THE CITY TO ENFORCE THIS FRANCHISE AGREEMENT

- A. Franchisee shall not be excused from complying with any of the requirements of this agreement, or any subsequently adopted amendments to this agreement, by any failure of the City on any one (1) or more occasions to seek, or insist upon, compliance with such requirements or provisions.

- B. This Agreement and the rights and responsibilities it imposes on Franchisee may not be unilaterally amended, except as otherwise expressly provided herein in Section 49, without the prior written consent of Franchisee.

SECTION 6. RESOLUTION OF INCONSISTENCIES WITH FEDERAL OR STATE RULES, REGULATIONS OR LAWS

In any case of an actual inconsistency between any provision or section of this agreement, and any provision or section of a Federal or State rule, regulation, or law, then the Federal or State rule, regulation, or law shall not only supersede the effect of the agreement, but also control in any local application.

SECTION 7. NOTICES

Both the City and Franchisee shall provide the other party with the name and address of the contact person designated to receive notices, filings, reports, records, documents, and other correspondence. All notices shall be delivered to each party's contact person by certified mail, return receipt requested, personal service with a signed receipt of delivery, or overnight with receipt verification. All other filings, reports, records, documents, and other correspondence may be delivered by any permissible means including, but not limited to: facsimile transmission ("faxing"); electronic mail ("email"); personal service; overnight mail or package delivery; or delivery via cable. The delivery of all notices, reports, records, and other correspondence shall be deemed to have occurred at the time of receipt (unless otherwise designated by State law).

SECTION 8. INDEMNITY

- A. To the extent permitted by law, Franchisee shall at all times defend, indemnify, protect, save harmless, and exempt the City, Mayor and City Council of Erlanger, their officers, and employees from any and all claims, suits, demands, causes of action, or award of damages whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might be claimed now or in the future, which may arise out of or be caused by (i) the construction, erection, location, products performance, operation, maintenance, repair, installation, replacement, removal or restoration of the system within the City or (ii) a wrongful or negligent act or omission of Franchisee, its agents or employees, contractors, subcontractors, independent contractors, or implied or authorized representatives. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees are included as those costs which may be recovered by the City.
- B. The City, Mayor, and City Council specifically reserve the right to retain counsel of their own choice, at their own expense.

- C. If Franchisee obtains counsel for the City, the Mayor, or the City Council, then any one of them shall have the right to approve counsel, provided, however, that the City shall not unreasonably withhold their approval of counsel.
- D. With respect to Franchisee's own defense of such actions noted in this Section, it is understood that such Franchisee reserves the right to select and retain, without the City's approval, counsel of the Franchisee's choice, at Franchisee's own expense.
- E. The City acknowledges that Franchisee shall not be required to indemnify the City for demands, claims, suits, actions, proceedings, liability and judgments for damages arising from the negligence of the City or its employees, agents, or representatives.

SECTION 9. LIABILITY INSURANCE

- A. Franchisee shall obtain, and by its acceptance of the Franchise specifically agrees that it will maintain throughout the term of the Franchise, liability insurance insuring the City as an additional insured, in the minimum amount of \$5,000,000 for bodily injury and/or property damage in any one occurrence. This limit may include a self-insured retention and may be increased by mutual agreement of the parties.
- B. The insurance policy obtained by the Franchisee in compliance with this section shall be issued by a company or companies duly licensed to do business in the State, carrying a rating by Best's, or some other nationally recognized rating service, of not less than A-.
- C. Copies of certificates of insurance for all policies required hereunder shall be filed and maintained with the City, or its designated agent during the term of the Franchise, and may be changed from time to time to reflect changing liability limits.
- D. Neither the provisions of this section nor any damages recovered by the City, thereunder, shall be construed to limit the liability of the Grantee under any franchise issued hereunder or for damages.
- E. Certificates of insurance must be provided to the City within thirty (30) days of the execution of this franchise.
- F. Certificates of Insurance for renewal or replacement insurance policies shall be delivered to the City at least fifteen (15) days before the expiration of the insurance which such policies are to renew or replace.
- G. Neither the provisions of this section nor any damages recovered by the City, hereunder, shall be construed to limit the liability of the Franchisee under any franchise issued hereunder or for damages.

SECTION 10. FURNISHING OF REPORTS

- A. Franchisee shall timely submit those reports, statements, and logs required by this Franchise.
- B. Franchisee shall submit a report to the City, within 90 days after the close of its fiscal year, which contains for the previous year:
 - 1. A subscriber complaint log which identifies service related complaints by subscribers and the resolution of those complaints;
 - 2. The number of additional subscribers to the system;
 - 3. Changes that have occurred in the programming offered by the system;
 - 4. Additional line extensions and construction activity;
 - 5. A compliance report on the system's compliance with the franchise's subscriber service standards; and
 - 6. A list of all reports and petitions filed by the system with the Federal Communications Commission.

SECTION 11. BOOKS AND RECORDS

- A. Franchisee shall fully cooperate in making available at reasonable times, and the City, or its designated agent, shall have the right to inspect, the books, records, maps, plans and other like materials of the Franchisee necessary for enforcement of this Franchise, at any time during normal business hours. However, when volume and convenience necessitate, the Franchisee may require inspection to take place on the Franchisee's premises at the local office.
- B. Confidentiality. The City shall maintain as confidential any information provided to it by Franchisee under the terms of this Franchise which Franchisee has designated as confidential. In the event that the City believes at any time that it is required by law to disclose such information to a third party, it will so notify Franchisee at a time prior to any such disclosure that affords Franchisee a reasonable opportunity to take such action as it deems necessary to prevent such disclosure, including seeking relief in court.
- C. Copies of all petitions, applications, communications and reports submitted by the Franchisee to the Federal Communications Commission, Securities and Exchange Commission (specifically 10K and 8K filings), or any other federal or state regulatory

commission or agency having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to the Franchise, shall be provided to the City, or its designated agent, upon its written request.

- D. Upon request, the Franchisee shall provide the City, or its designated agent, no later than one hundred and twenty (120) days after the end of the Franchisee's fiscal year, a copy of Franchisee' s or Franchisee' s parent company' s Form 10-K for the preceding twelve (12) month period. The City may hire an independent Certified Public Accountant to audit the Franchisee's revenue records related to Franchise Fees that may be collected directly by the City, in which case, the Franchisee shall provide all necessary records to the Certified Public Accountant.

SECTION 12. NOTIFICATION OF SUBSCRIBERS' AND FRANCHISEE'S RIGHTS AND RESPONSIBILITIES; GENERAL POLICY

- A. In order to provide Subscribers with the variety of information needed to make an informed decision and to ensure that subscribers are notified of the rights and responsibilities of the Subscriber and the Franchisee with respect to the cable system, Franchisee shall provide subscribers with a written or electronic "Notice of a Subscriber's and Franchisee's Rights and Responsibilities."
- B. Unless expressly prohibited by the Federal or State, Franchisee may comply with any notice requirements by providing said "Notice" by mail to the subscriber, through newspaper publication or over the cable system, on a channel clearly designated for the dissemination of such information -- (such a channel need not be solely designated for dissemination of such information, and may, in fact, be used at other times for any lawful purpose).

SECTION 13. NOTIFICATION OF SUBSCRIBERS' AND FRANCHISEE'S RIGHTS AND RESPONSIBILITIES; MINIMUM CONTENTS

- A. When the Franchisee provides a Notice to subscribers concerning their rights such "Notice" should contain the following:
1. an up-to-date listing of services provided;
 2. notification of a subscriber's ability to purchase or lease, from the Franchisee, parental control mechanisms, or other device which will prohibit the viewing of a particular program service during a period selected by the subscriber;
 3. a listing and explanation of rates and charges, credit refund policy, connection and involuntary disconnection policies;

4. the complaint resolution procedures;
5. a listing and explanation of billing options available (such as monthly or yearly, and/or discounts for prepayments);
6. the subscriber service office hours and telephone number(s);
7. the method of securing a voluntary disconnection; and
8. the equipment use and return policy together with any required security deposits.

B. The “Notice” shall be in plain, simple understandable English.

C. The “Notice” may be delivered to a subscriber via an insert in the subscriber’s periodic invoice, through a special mailing, by newspaper or publication over a channel clearly designated for the dissemination of such information.

SECTION 14. BILLING PRACTICES

A. Whenever there is a change in Franchisee’s billing practices or payment requirements, Franchisee shall notify subscribers within thirty (30) days of the effective date of such billing practices or payment requirements.

B. In any case where a subscriber requests a cancellation or reduction of service within thirty (30) days after the notification of a scheduled rate or charge adjustment, then the subscriber’s liability for the newly implemented rate or charge shall cease from the moment that the rate or charge adjustment becomes effective.

SECTION 15. BILLING CREDIT OR REFUNDS FOR SERVICE OUTAGES, INTERRUPTIONS; SUBSTANDARD SIGNAL OR PICTURE QUALITY OR UNSOLICITED SERVICE

Franchisee shall, upon request by a subscriber, provide that subscriber with a pro-rata credit for a service outage or interruption exceeding one service day in duration, provided that the outage is not caused or is not a result of matters beyond the immediate control of Franchisee.

SECTION 16. SUBSCRIBER SERVICE PERFORMANCE

A. Definitions

1. “Normal Business Hours” means those hours during which most similar businesses in the City are open to serve subscribers. This will include some evening hours (at least one night per week) and/or some weekend hours.

2. “Normal Operating Conditions” means conditions that are within the control of the operator. Those conditions which are not within the control of the operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe weather. Those conditions which are ordinarily within the control of the Franchisee 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 system.
3. “Service Interruption” means a service outage which is not caused by the failure or malfunction of a subscriber’s television receiver or by the error of the subscriber. This term affects the timing of when the Franchisee must respond to a service problem.

B. Subscriber Service Standards

1. The Franchisee will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.
 - (a) Trained Franchisee representatives will be available to respond to subscriber telephone inquiries during normal business hours.
 - (b) 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 trained Franchisee representatives on the next business day.
2. Under normal operating conditions, telephone answer time by a Franchisee 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. Franchisee shall not be required to acquire equipment or perform surveys to measure compliance with telephone answering standards unless an historical record of complaint indicates a clear failure to comply.
3. Under normal operating conditions, the Subscriber will receive a busy signal less than three percent (3%) of the time.
4. Customer service centers and bill payment locations will be open at least during normal business hours and will be conveniently located.

C. 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.

1. 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 150 feet from the existing distribution system.
2. Excluding conditions beyond the control of the operator, Franchisee will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known.
3. The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (Franchisee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the subscriber.)
4. Franchisee may not cancel an appointment with a subscriber after the close of business on the business day prior to the scheduled appointment.
5. If a Franchisee representative is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the subscriber.

D. Communications Between Cable Franchisee and Cable Subscribers

1. Notifications to subscribers:
 - (a) Franchisee 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:
 - (i) products and services offered;
 - (ii) prices and options for programming services and the conditions of subscription to programming and other services;
 - (iii) installation and service maintenance policies;
 - (iv) instructions on how to use the cable service;
 - (v) channel positions of programming carried on the system; and
 - (vi) billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

- (b) Subscribers will be notified of any changes in rates, programming service or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

2. Billing:

- (a) 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.
- (b) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty (30) days.

3. Refunds:

Refund checks will be issued promptly, but no later than either -

- (a) in the subscriber's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or
- (b) within thirty (30) days after return of equipment supplied by the cable operator.

4. Credits:

Credits for service will be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

SECTION 17. PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED

- A. Franchisee shall not, as to rules, regulations, rates, charges, provision of service, or use of facilities and equipment, make, allow, or grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage on the basis of age, race, creed, color, sex, national origin, handicap, religious affiliation, or location of residence.
- B. Franchisee shall not deny cable service, or the extension of cable service, to any group of potential residential cable subscribers because of the income of the residents or the local

area in which such group resides.

- C. This Section, however, does not prohibit Franchisee from offering a promotional or incentive discount rate or charge.
- D. This Section does not prohibit Franchisee from denying service based on location of residence, if that residence is outside the parameters for line extension as detailed herein.
- E. This Section does not prohibit Franchisee from denying service to a subscriber who is more than thirty (30) days delinquent in the payment of any service bill.
- F. This Section does not prohibit Franchisee from implementing a no-frills service tier for “lower income,” and/or fixed income individuals.
- G. This Section does not prohibit Franchisee from making agreements or entering into service agreements with multiple dwelling unit owners or commercial establishments (including hotel, motel, apartments, fraternities, sororities, and mobile home park owners) to provide service under a bulk billing or other type of arrangement.
- H. Franchisee will comply with all Federal and State laws regarding special service requirements on handicapped subscribers.

SECTION 18. USE OF EQUIPMENT, RETURN OF EQUIPMENT, SECURITY DEPOSITS, AND THEIR RETURN

- A. Franchisee may charge an appropriate security deposit provided that it shall comply with any and all applicable State rules concerning the imposition, retention, and return of security deposits and does not exceed the cost of replacement plus recovery.
- B. Franchisee may charge an appropriate security deposit in those instances where a subscriber is reconnected after an involuntary disconnection for non-payment or prior history of unsatisfactory payment.
- C. Franchisee shall return a security deposit after the equipment is satisfactorily returned or the subscriber maintains a satisfactory payment history (which is determined as no payment delinquencies within the preceding twelve (12) month period).
- D. A subscriber shall totally and fully reimburse Franchisee for any damage or loss to any of Franchisee’s equipment that is due to the subscriber’s failure to properly maintain and operate such equipment.
- E. A subscriber shall be relieved from any responsibility for reimbursing Franchisee for the repair of equipment which malfunctions or does not operate due to a hidden or latent defect in the equipment, or for equipment which fails to operate, or improperly operates

due to natural occurrences conditioned by the normal wear and tear of such equipment, however, subscriber shall still be obligated to return said equipment to Franchisee otherwise undamaged.

SECTION 19. SERVICE LOGS

- A. Franchisee shall be required to keep and maintain service logs, subject to any limitations imposed by State or Federal law, including any subscriber privacy limitations.
- B. The purpose of the service logs is to assist the City in assessing (in the aggregate) the type, degree, and resolution of subscriber trouble calls and written complaints.
- C. In addition to any other right of inspection that the City may possess, it shall have the right to review and inspect a compilation of such logs; provided, however, that Franchisee shall have no obligation to retain any log for more than three (3) years. However, the City shall not have the right of access, review, or inspection of any service logs or any information contained within service logs that are otherwise protected from access, review, or inspection by State or Federal law.
- D. This Section does not require Franchisee to maintain service logs on scheduled installations, upgrades and changes of service.

SECTION 20. RESTORATION OF A SUBSCRIBER'S PROPERTY

- A. Any time Franchisee disturbs the yard, residence, or other real or personal property of a subscriber, Franchisee shall ensure that the subscriber's yard, residence, or other personal property is returned, replaced, and/or restored to a condition that is sufficiently comparable to the condition that existed prior to the commencement of the work.
- B. The costs associated with both the disturbance and the return, replacement, and/or restoration shall be borne by Franchisee.
- C. The requirements imposed upon Franchisee shall extend to any subcontractor or independent contractor that Franchisee might employ to perform the tasks outlined in this Section.
- D. Provided, however, Franchisee has the authority to diligently trim trees of a private property owner (including a subscriber) which overhang or intrude into rights-of-way or easements, but only to the extent necessary to prevent the branches of the trees from coming in contact with Franchisee's cable television facilities.

SECTION 21. SERVICE REQUESTS, COMPLAINTS, AND RESPONSE TIMES

- A. Except in times of a natural or man-made emergency, or an appointment scheduled with the mutual consent of a subscriber, Franchisee shall respond to the service requests and complaints of subscribers within thirty-six (36) hours after the need for service becomes known. Moreover, except in emergency situations, Franchisee shall inform the subscriber whether the service call is scheduled for the morning, afternoon, or evening hours. If the service call has to be canceled or rearranged, unless the subscriber decides otherwise, Franchisee shall make every effort to notify the subscriber as soon as possible, and to re-schedule the service call.
- B. Franchisee may rank-order service calls in order of severity. Total outages will take precedence over area outages, area outages take precedence over a single home, and a multichannel problem takes precedence over a single channel problem.

SECTION 22. FRANCHISEE REQUIRED TO MAINTAIN SUFFICIENT REPAIR PARTS AND SUFFICIENT REPAIR PERSONNEL

- A. Except in times of a natural or man-made emergency, Franchisee shall at all times, have access to, and be able to secure sufficient maintenance and repair parts and equipment for the system, so that Franchisee can respond to, and correct, all subscriber service interruptions within the time periods specified in this agreement.
- B. Except in times of natural or man-made emergency, including severe weather conditions, or strike, Franchisee shall have sufficient maintenance and repair personnel, so that Franchisee can respond to, and correct, subscriber service interruptions within the time periods specified in this agreement.
- C. Notwithstanding the other requirements and provisions contained in this Section, Franchisee shall maintain at least one (1) service technician on call twenty-four (24) hours per day.

SECTION 23. NEW INSTALLATIONS; CONNECTIONS--REGULAR, PROMOTIONAL, SEASONAL, SHORT-TERM, AND PAY-PER-VIEW; RE-CONNECTIONS

- A. During non-rush periods, new standard installations, promotional, short-term, or seasonal connections, reconnections, and upgrades of service by Franchisee shall be performed and completed within seven (7) days of a subscriber requesting such. A standard installation is one that is located within one hundred fifty (150) feet from the existing distribution system. During rush periods new installations, promotional, short-term, or seasonal connections, reconnections, and upgrades of service by Franchisee shall be performed and completed within fourteen (14) days of a subscriber requesting such, if cable is built to the home.

- B. While Franchisee may charge a subscriber for installing, connecting, or re-connecting service, such charge must be explained to subscribers.
- C. In the case of a promotional or seasonal connection, any limitations, or restrictions should be explained prior to the promotional or seasonal connection.
- D. Franchisee may charge an appropriate re-connection charge or require a security deposit, in those instances where a subscriber is re-connected after an involuntary disconnection for non-payment or a prior history of unsatisfactory payment.

SECTION 24. DISCONNECTION FOR NON-PAYMENT

- A. A subscriber shall be considered delinquent in payment if payment is not made within ten (10) days after receipt of the bill. Franchisee shall not disconnect service prior to 30 days after a subscriber's receipt of the unpaid bill, however, Franchisee may charge a late fee for any payment which has not been made after the 10th day from receipt.
- B. Receipt of a dishonored check from a subscriber, in response to a written notice of disconnection, does not constitute payment, and the Franchisee need not give the subscriber further notice prior to disconnecting service.
- C. Franchisee may add a reasonable collection charge, subject to applicable state regulations to the subscriber's bill.

SECTION 25. VOLUNTARY DISCONNECTIONS AND DOWNGRADES

- A. At any time, a subscriber, who does not have a separate contract with the Franchisee, may request that a particular service tier, pay channel, premium channel, informational service, or the entire service be disconnected.
- B. A subscriber may request a downgrade from a particular level of service to a less comprehensive level of service or a less expensive level of service.
- C. From the date that such a subscriber makes such a request for either a disconnection or downgrade, the Franchisee shall have ten (10) days to disconnect or downgrade the service tier, pay channel, premium channel, informational service, or entire service. In the event that Franchisee does not, disconnect or downgrade service within this period, a subscriber's obligation to pay for such service shall cease, or in the case of a downgrade, a subscriber's obligation to pay for the more comprehensive and/or higher priced service shall cease ten (10) days from the date of the subscriber request.
- D. For a service tier, premium channel or informational service which is voluntarily

disconnected, a subscriber shall pay a pro rata share of the monthly rate for such service tier, premium channel or informational service.

- E. Once a valid connection to a pay-per-view event occurs, the Franchisee may collect the full advertised or quoted rate should the subscriber then attempt to disconnect the pay-per-view event.
- F. Provided that Franchisee does not have to make a trip or add additional equipment to the subscriber's location to perform a change in service, no separate disconnect or downgrade charge may be passed onto a subscriber if it chooses to take advantage of a lower-priced or less comprehensive service tier. However, to prevent subscriber abuse of this voluntary disconnection or downgrade policy, a subscriber shall be charged a minimum one (1) month's full rate for any one (1) service tier which is connected and then subsequently disconnected.
- G. If Franchisee's equipment is, or has been damaged by a subscriber, prior to disconnection, then Franchisee may charge the subscriber with the entire cost for such damage, provided that Franchisee notifies the subscriber within thirty (30) days of the disconnection. A subscriber shall not be required to pay for equipment failure if the circumstances fall within the normal wear and tear guidelines.
- H. Any refund due to a subscriber after disconnection (both for nonpayment and voluntary) shall be made within forty-five (45) days after such disconnection.

SECTION 26. RESOLUTION OF COMPLAINTS

In the event of a subscriber billing or repair complaint, the complaint will be handled as follows:

1. Franchisee shall have the initial response to a complaint occur no later than one (1) service day after receipt of the complaint;
2. Every attempt will be made to resolve the complaint within seventy-two (72) hours or three (3) service days, whichever is longer, after receipt of the complaint.

SECTION 27. CONTINUED USE OF INDIVIDUAL ANTENNAS PROTECTED

No person shall be required to receive cable service or to physically connect to the cable system.

SECTION 28. CONSTRUCTION OF GOOD QUALITY

During any phase of construction, installation, maintenance, and repair of the system, Franchisee shall use materials of good and durable quality and all such work shall be performed in a safe, thorough, and reliable manner. Such work shall comply with FCC and industry standards.

SECTION 29. CONDITIONS ON USE OF STREETS AND PUBLIC WAYS

- A. All wires, conduits, cable (coaxial, fiber, or functional equivalent), and other property and facilities of Franchisee shall be so located, constructed, installed, and maintained so as not to endanger or unnecessarily interfere with usual and customary use, traffic and travel upon the streets, rights-of-way, easements, and public ways of the City.
- B. In the event Franchisee's system creates a hazardous or unsafe condition or an unreasonable interference with property, then at its own expense, Franchisee shall voluntarily, or upon the request of the City, remove that part of the system that creates the hazardous condition from the subject property.
- C. Franchisee shall protect rights-of-way, easements, and support or temporarily disconnect or relocate in the same street or other public way, any property of Franchisee when necessitated by reason of:
 - 1. traffic conditions;
 - 2. public safety;
 - 3. a street closing;
 - 4. street construction or resurfacing;
 - 5. change or establishment of street grade; or
 - 6. installation of sewers, drains, water pipes, storm drains, lift stations, force mains, power or signal lines.
- D. It shall be the responsibility of Franchisee, within 72 hours of the request (acting alone or in conjunction with another person) to locate and mark or otherwise visibly indicate and alert others to the location of its underground cable (coaxial, fiber or functional equivalent) before employees, agents, or independent contractors of any entity with a valid permit installs cable or digs in the marked-off area.

Any restoration expense or any damage caused to Franchisee's facilities resulting from the failure of an entity to have Franchisee's facilities located and marked or as a result of an entity constructing or digging in a location where Franchisee's facilities have been marked, will be the sole responsibility and liability of such entity who damaged Franchisee's facilities.

- E. Franchisee shall, on the request of any person holding a building moving permit, temporarily remove, raise or lower the cable wires to allow the moving of the building. The expense of temporary removal shall be paid by the person requesting it, and Franchisee may require payment in advance. Franchisee shall be given not less than twenty-one (21) days notice of a contemplated move to arrange for temporary wire changes.

SECTION 30. CONSTRUCTION STANDARDS

- A. The methods of construction, installation, maintenance, and repair of the system shall comply and be consistent with good engineering practices for cable television systems of similar size and design, and consistent with FCC technical standards.
- B. Franchisee shall advise the City when a proof of performance test is scheduled so that the City may have an observer present if so desired.

SECTION 31. PERMITS AND LICENSES

Franchisee shall obtain, at its own expense, all permits and licenses required by law, rule, regulation, or ordinance, and maintain the same, in full force and effect, for as long as required.

SECTION 32. STANDBY POWER

Franchisee shall install automatic, activated standby power on its trunk-cable and at its headends, hubs and receive-sites associated with the distribution of cable service to and throughout the City.

SECTION 33. EMERGENCY ALERT/EMERGENCY OVERRIDE

Franchisee shall comply with all Federal Emergency Alert requirements.

SECTION 34. PUBLIC SERVICE INSTALLATION

The Franchisee shall, without charge for installation, maintenance or service, make single installations at the locations located on Appendix A if Franchisee has installed facilities capable of transmitting cable service to a subscriber premise or location and if the location is not already served by another cable television service provider.

All such public service installations shall be made at such reasonable locations as shall be requested by the respective units of government or educational institutions and shall include one addressable converter, without charge, per installation. Any charge for relocation of such installations shall, however, be charged at usual and customary fees. Additional installation at the same location shall be made at usual and customary fees.

SECTION 35. PREVENTIVE MAINTENANCE PROGRAM

The following shall be included as part of Franchisee's preventive maintenance program:

- a) Periodic inspection, and repair if needed, of the headend;
- b) Periodic inspection, and repair if needed, of the antenna tower;
- c) Periodic weather-proofing and protection of the antenna lead connectors, and on any other exposed fittings if needed;
- d) Periodic conducting of signal leakage tests that are in accord with FCC requirements;
- e) Periodic servicing, testing, and calibration of equipment including service vehicles, and field test equipment;
- f) Periodic testing of the Franchisee's emergency alert system if any; and
- g) periodic testing and recording of said test data for all signals (audio and video at the headend and system extremity points);
- h) periodic testing as required by Federal law and or regulations; and
- i) compliance with all operating parameters required by FCC rules and regulations, as such may be changed or amended from time to time.

SECTION 36. EXTENT OF GRANT OF FRANCHISE

- A. Franchisee may construct, erect, install, maintain, operate, repair, replace, remove, or restore a cable system within the geographical limits of the City.
- B. The cable system may be located in, upon, along, across, over, and under the streets, rights-of-way, easements, and public ways of the City and County.
- C. The cable system may be located on City and County owned poles at no charge.
- D. Franchisee, through a separate pole or utility easement agreement with an affected utility, may locate the cable system on, or within, the property of such utility company.

SECTION 37. TERM OF FRANCHISE

- A. The term of this renewal franchise shall be five (5) years, with an additional five (5) years per mutual consent, from the Effective Date of this Franchise Agreement. The

rights and privileges granted by this Franchise Agreement to Franchisee are not exclusive and nothing herein is intended to or shall be construed so as to prevent the City from granting other and similar rights, privileges and franchises to any other person, firm, association or corporation.

B. The City and Franchisee acknowledge and agree that the field of cable television is a rapidly changing one which may see many regulatory, technical, financial, marketing and legal changes during the term of this Franchise. Therefore, in order to provide for the maximum degree of flexibility in the Franchise, and to achieve a continued, advanced and modern cable television system, the following evaluation provisions will apply:

(i) The City and Franchisee mutually agree to participate in evaluation sessions at any time and from time to time during the term of this Franchise; provided, however, there shall not be more than one (1) evaluation session every five (5) years;

(ii) Topics which may be discussed at any evaluation session include, but are not limited to, channel capacity, system performance, programming, PEG access, municipal or educational uses of the system, subscriber complaints, judicial rulings and any other topics the City or Franchisee may deem relevant;

(iii) During an evaluation session, Franchisee and the City shall fully cooperate with one another and shall provide without cost such information and documents as are reasonably necessary to perform the evaluation;

(iv) The City and Franchisee, as the result of an evaluation session, may determine that an amendment of the terms or conditions of the franchise may be appropriate, that the requirements of the system or of the Franchise should be updated, changed or revised (collectively the "Proposed Modification"). If the Proposed Modification is consistent with the terms of this Franchise, the needs of the City, the then existing state-of-the-art technology and financially reasonable, Franchisee and the City will, in good faith, review the terms of the Proposed Modification and consider amending the Franchise.

SECTION 38. PAYMENT OF MULTICHANNEL VIDEO PROGRAMMING SERVICES TAX

A. Franchisee shall make payments at the times and in conformance with the requirements of KRS 136.600 - 136.660 ("Excise Tax") and said payments shall be in lieu of any Franchise Fees paid to the City. If the City elects to collect Franchise Fees in lieu of the Excise Tax, the Franchise Fee shall be in an amount equal to five percent (5%) of Franchisee's gross revenue derived from all sources from the operation of Franchisee's Cable Communications System to provide cable service within the territorial limits of the City ("Franchise Fee"). In such case, the Franchise Fee shall be payable as follows:

1. It shall be payable quarterly for each calendar quarter and the Franchisee

shall file a complete and accurate report, signed by and certified as accurate by a responsible representative of the Franchisee, of all applicable gross revenues received during the calendar quarter, and said payment shall be made to the City no later than forty-five (45) days after the expiration of the quarter. The gross revenue report from operations of the Franchisee within the Franchise area shall include a statement of gross revenue upon which the Franchise fee is based.

2. In the event that Franchisee pays a Franchise Fee under subsection (1), upon reasonable notice, the City shall have the right during normal business hours to inspect the Franchisee's records relevant to the payment of Franchise Fees at the Franchisee ' s local office and the right to audit and to re-compute any amounts determined to be payable under this Ordinance; provided, however, that such audit shall take place within twelve (12) months following the close of each of Franchisee's fiscal year for which the audit is (e.g. Fiscal Year = Jan 2023 – Dec 2023, Audit would have to occur prior to Dec 2024). If, as a result of such audit or review, the City and Franchisee agree that the Franchisee has underpaid its fees to the City in the Fiscal Year being audited or reviewed by ten percent (10%) or more, then , in addition to making full payment of the relevant obligation, the Franchisee shall reimburse the City for all of the reasonable costs associated with the audit or review, including costs for attorneys, accountants and other consultants. Any additional amount due to the City as a result of an audit or review shall be paid within the thirty (30) days following written notice to Franchisee by the City, which notice shall include a copy of the audit report and copies of all invoices for which the City seeks reimbursement.

No auditor engaged by the City shall be compensated on a success- based formula, e.g., payment based on a percentage of an underpayment, if any.

3. The City is not prohibited from collecting valid fees or taxes as set forth in KRS 136.660(3).

SECTION 39. RELIEF FROM THIS FRANCHISE AGREEMENT

- A. Franchisee may file a written petition, at any time, with the City seeking relief from one (1) or more provisions of this Franchise. The relief requested may specifically include the delay in implementation of one (1) or more provisions of this Franchise Agreement.
- B. If at any time during the existence of this Franchise, a competing multi-channel service, subject to regulation by the City, is granted more favorable term(s) than those established

for the Franchisee under this Franchise Agreement (including but not limited to lesser channel capacity, lesser requirements to provide public, educational, or government access, less onerous reporting requirements, less onerous subscriber notification requirements, less restrictive billing practices, less onerous subscriber service requirements, less responsibility to provide institutional networks or data transmission facilities or interconnection), then such term(s) shall also be simultaneously extended to the Franchisee so that no provider of multi-channel service, subject to regulation by the City, shall receive an unfair competitive advantage.

- C. City recognizes that potential competitors of the Franchisee, including but not limited to wireless broadcasters, video dial tone providers, and direct broadcast satellite services, may not be subject to regulation by the City. If at any time during the existence of this Franchise, a competing multi-channel service, not subject to regulation by the City, operates within the City under terms more favorable than those established for the Franchisee under this Franchise Agreement, (including but not limited to lesser channel capacity, lesser requirements to provide public, educational, or government access, less onerous reporting requirements, less onerous subscriber notification requirements, less restrictive billing practices, less onerous subscriber service requirements, less responsibility to provide institutional networks or data transmission facilities or interconnection, or less responsibility to pay a Franchise Fee), then the Franchisee or Franchisee shall be permitted to petition the City for relief from such term(s) so that no provider of multi-channel service, shall receive an unfair competitive advantage, provided, however, that the City is not obligated to provide the relief requested.

SECTION 40. ASSIGNMENT OR TRANSFER OF FRANCHISE

- A. Franchisee's franchise may not be assigned or transferred in whole, or in part, without the prior express written approval by the City.
- B. Any attempted assignment or transfer without such prior written consent shall constitute a default of such franchise.
- C. In the event of such a default, the City shall proceed according to the procedure set forth in this agreement, and any applicable State or Federal law.
- D. Franchisee shall petition in writing for the City's written consent for a proposed assignment or transfer.
- E. The City will not unreasonably withhold its consent to such an assignment or transfer. However, in making such a determination, the City may consider the following provided, however, that City will respond within 30 days:
1. experience of proposed assignee or transferee (including conducting an investigation of proposed assignee or transferee's service record in other

- communities);
 2. qualifications of proposed assignee or transferee;
 3. financial ability and stability of the proposed assignee or transferee;
 4. the character of proposed assignee or transferee; and
 5. the corporate connection, if any, between the Franchisee, and proposed assignee or transferee.
- F. Notwithstanding the foregoing, no consent shall be required for the Franchisee to hypothecate or mortgage Franchisee's assets or in the case of corporate reorganization where control of the corporation does not change.

SECTION 41. DEFAULT OF FRANCHISE, REVOCATION, TERMINATION OR CANCELLATION OF FRANCHISE

- A. In the event of any act or omission of the Franchisee in substantial violation of any material term or provision of this Franchise, to such a degree that the interests of either the City or subscribers are negatively affected thereby, and about which the Franchisee has not received any prior notice from the executive authority of the City about any prior violations thereof, the executive authority of the City shall notify in writing the Franchisee of such violation, and allow the Franchisee to discontinue, correct and cure such violation, within a period of no less than thirty (30) calendar days after such notice, which shall hereinafter be identified and referred to as the correction period.

Within the correction period, Franchisee must notify the executive authority of the City of any action it takes in response to the notice of violation. The executive authority of the City will thereafter notify Franchisee if the correction action taken by Franchisee is satisfactory.

- B. In the event that the corrective action of the Franchisee is not satisfactory to the executive authority of the City, the executive authority of the City shall notify the Franchisee of its decision, and of the time and place of a due process administrative hearing by the executive authority of the City in regard thereto, which shall be not less than thirty (30) nor more than sixty (60) days thereafter.
- C. At any administrative hearing, the Franchisee may present information on the current status of the alleged breach of the Franchise Agreement, including any resolution or steps are being taken to resolve the situation. Upon the conclusion of the hearing, the executive authority of the City may determine that the Franchisee has cured any non-compliance and thereby dismiss the matter, or may determine from the evidence presented that there is a continuation of such violation which could have been prevented by the Franchisee. The executive authority of the City shall notify the Franchisee as well as the legislative body of the City of any finding that the Franchisee violated a provision and failed to cure the violation within the correction period while having the ability to do so, along with the evidence in support of the conclusion. Upon such notice:

1. The executive authority of the City may direct the Franchisee to take corrective action within a specified period of time; and
 2. The executive authority of the City may impose on the Franchisee a penalty of up to One Hundred (\$100.00) Dollars per day for each day of a continuation of such violation, which shall be paid by the Franchisee within thirty (30) days after receipt thereby of an itemized bill therefor from the City; and
 3. The legislative body of the City may revoke, terminate or cancel the Franchise by repealing the ordinance by which it was granted, with an effective date of not less than six (6) months thereafter.
- D. Notwithstanding any other provision of this franchise, it is the intent of the City not to weigh any violation of this franchise against the Franchisee in any subsequent review of Franchise performance, or to subject the Franchisee to penalties, fines, forfeitures, or revocation of the Franchise in any of the following instances:
1. The violation was not intended by the Franchisee and the effect thereof on subscribers was de minimis; or
 2. The violation was reasonably beyond the control of the Franchisee; or
 3. There is no pattern of violation or the occurrence of repeated violations of the same matter over time after notification of the Franchisee thereof by the City.

SECTION 42. CAPACITY OF SYSTEM

- A. Franchisee and City recognize that the need for channel capacity is in part related to the community's demand for video and non-video programming. Both the City and Franchisee also recognize that accurate prediction of this demand is very difficult and that micro-management as regards to system capacity of the franchise operations is not in the best interest of the City. Accordingly, a requirement for excess unused capacity will unnecessarily increase the cost of cable service while insufficient capacity will hinder the long term growth of the system. Within these parameters, however, Franchisee's system shall have sufficient capacity to meet community needs efficiently.
- B. Provided, however, that cost to the Franchisee shall be taken into account should circumstances at that time cause Franchisee to not be able to justify expanding its system or programming services levels to the levels herein.
- C. Thereafter, Franchisee shall expand the channel capacity of the system, within a reasonable period of time, so that it can meet all future cable related needs of the community for which the cable subscribers are willing to pay. The desirability of additional channels shall be determined by a joint survey conducted by the Franchisee

and the City of a representative sample of the then existing cable subscribers. However, in no event shall Franchisee be required to expand the channel capacity of the system in an amount greater than the number of channels for which it can reasonably recover the cost of adding the channel capacity over the remaining life of the franchise.

SECTION 43. DESCRIPTION OF CABLE TELEVISION DISTRIBUTION SYSTEM

- A. The Franchisee will voluntarily provide service using either a 1GHz analog and digital RF system over a fiber optic infrastructure. Such service will include over two hundred (200) channels of digital content, as well as high-definition (HD) programming, digital video recorder (DVR) and video-on-demand (VOD) services.
- B. The system will be designed with the ability to pass a combination of standard NTSC analog television signals and digital signals on the forward passband. The system will be capable of bi-directional operation.

SECTION 44. PUBLIC, EDUCATIONAL, GOVERNMENTAL, AND LEASED ACCESS

- A. Franchisee shall make available sufficient channel capacity and the necessary electronics to provide:

At least five (5) non-commercial channels for local programming with one (1) channel for public access, two (2) channels for educational access, one (1) channel for governmental access, and one (1) channel for local origination programming. The number of channels available for local programming can be reduced in accordance with paragraph (B) below, or expanded in accordance with paragraphs (C) and CD) below, except that at no time shall there be less than three (3) channels available, distributed as follows: one (1) for public access, one (1) for educational access, and one (1) for governmental access.

- B. Both the City and the Franchisee shall review use after every twelve (12) months, including the percentage of use of the access channels. At the end of each twelve (12) month period, the City shall evaluate the response and actual use of such channels. If, after any twelve (12) month period, the percentage of use for the required access channel drops below twenty-five percent (25%) of the total time allocated, then the required number of hours shall be reduced to a number that most closely approximates the average hours of use per day. If the City determines the average hours of use per day for any required access channel is less than four (4) hours, after two consecutive review periods, then the requirement for that channel's availability shall cease, and Franchisee may use such channel for any lawful purpose.
- C. If, at any time, ninety percent (90%) of the total time allocated for any required access channel is consistently used five (5) days a week for a period of six (6) months, then

Franchisee shall make available an additional access channel.

- D. Provided, however, that Franchisee shall not be required to delete any channel(s) carried on basic cable and the total number of channels reserved for access by the Franchisee shall not exceed five (5) access channels whose use shall be used for:

Public Access
Governmental Access
Educational Access
Local Origination

- E. Public Access

Franchisee will make the Public Access channel available for use in accordance with the Public Access Operating Rules during the period 11:00 a.m. to 11:00 p.m. Monday through Saturday.

- F. Government Access

1. The government access channel will be shared by all municipal and county governments in Northern Kentucky. Franchisee shall schedule programming on this channel in a manner designed to provide all subscribers within the County with equal opportunity to view programs about or affecting the City. This channel shall be made available in order to increase the general public's awareness of local government.
2. The governmental access channel shall serve as a means for the Mayor, Judge/Executive, City and County Officials to communicate with the citizens of the City and County whenever they find it valuable.
3. Franchisee will schedule programming of the City at times which are as good as or better than those available to other governmental entities on Governmental Access channels.

- G. Educational Access

Franchisee shall provide channel capacity for the use of public, private and special schools in the City and the County during the period 9:00 a.m.- 11:00 p.m. Monday through Saturday.

- H. The above requirements do not require Franchisee to maintain separate channels for the City.

- I. Franchisee will provide support for public access, upon request of a City resident, by arranging to provide portable camera equipment, editing facilities and production space.

Provision of this service may be through Franchisee's own facilities or by leasing appropriate other facilities in order to make production possible. Residents requesting equipment or editing facilities must provide at least two (2) business days advance notice and residents requesting production space must provide at least five (5) business days advance notice to Franchisee.

- J. Franchisee will comply with Federal regulations requiring the provision of leased access channels.
- K. Franchisee shall be permitted to provide non-access programming on any of the above channels during any period. Such channel is not used for access programming.
- L. Franchisee will develop rules and procedures for the use of the access channels which will address scheduling, requirements and procedures, technical specifications, use of equipment, and facilities, as well as the rights and responsibilities of program producers and other access users.

SECTION 45. MISCELLANEOUS PROVISIONS—TAMPERING AND UNAUTHORIZED RECEPTION OF CERTAIN SERVICES

- A. No person shall intercept or receive, or assist in intercepting or receiving, any communications service offered over a cable system, unless specifically authorized to do so by Franchisee, or as may otherwise be specifically authorized by law.
- B. For the purpose of this Section, the term "assist in intercepting or receiving" shall include the manufacture or distribution of equipment intended by the manufacturer or distributor, as the case may be, for the unauthorized reception of service.
- C. Without securing permission from Franchisee, or making payment to Franchisee, then no person shall be authorized to make any connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the cable system for the purpose of receiving or intercepting, or assisting others to receive or intercept any cable service provided lawfully by Franchisee.
- D. No person shall be authorized to willfully tamper with, remove, or damage any cable, wires, equipment, or facilities used for the distribution of cable services.
- E. Violation of SubSection (A) above may be prosecuted under Federal, State and/or Local Law.

SECTION 46. EQUAL EMPLOYMENT OPPORTUNITY

Franchisee shall comply in all respects with the Federal Communications Commission

regulations governing equal employment opportunity. Furthermore, the Franchisee shall comply with all other applicable government regulations whether federal, state, or local.

Equal opportunity in employment shall be afforded to all qualified persons, and no person shall be discriminated against. because of race, color, religion, national origin, handicap, sex, or age.

SECTION 47. NATURE OF FRANCHISE AGREEMENT

This "Franchise Agreement" is a franchise to the Franchisee and may not be unilaterally amended except as otherwise provided herein.

SECTION 48. EFFECTIVE DATE

This Franchise Agreement shall be effective as soon as possible, according to law.

SECTION 49. BID

As the bid required by Section 164 of the Kentucky Constitution and K.R.S. 96.060, the Franchisee shall and hereby agrees to pay the sum of \$ 200 to the City with the submission of a copy of this Franchise Agreement signed by the Franchisee

Provided, however, that nothing contained herein shall obligate the Franchisee to provide dual cable in any service area where single cable is installed as of the date of issuance of this Franchise Agreement.

IN WITNESS WHEREOF, this Franchise Agreement has been signed on the ____ day of _____, as Mayor of the City of Erlanger, pursuant to the authorization of the City Council therefor; and also signed on the ____ day of _____ by _____ (PRINTED NAME OF SIGNATOR) as _____ (PRINTED CAPACITY OF SIGNATOR) of _____ (PRINTED NAME OF FRANCHISEE) pursuant to the authorization thereof of a Resolution of the Board of Directors thereof.

CITY OF ERLANGER

(PRINTED NAME OF FRANCHISEE)

By: _____
Jessica Fette, Mayor

By: _____
(SIGNATURE)

APPENDIX A

Lloyd High School
Tichenor Middle School
Arnett Elementary School
Lindeman Elementary School
Miles Elementary School
Kenton County Public Library
Erlanger Fire/EMS Station 1
Erlanger Fire/EMS Station 2
Erlanger Fire/EMS Station 3
Erlanger Police Department
Erlanger City Building
Erlanger Railroad Depot Museum
Erlanger 525 Graves Avenue
Erlanger Public Works Facility 1
Erlanger Public Works Facility 2