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Date	Ver.	Action By	Action	Result
9/18/2009	3	Mayor	Signed by the Mayor	
9/15/2009	3	City Council	Passed Finally, As Amended	Pass
9/15/2009	3	City Council	AMENDED	Pass
9/9/2009	1	Committee on General and Government Services	AMENDED	Pass
9/9/2009	2	Committee on General and Government Services	Affirmatively Recommended as Amended	Pass
9/2/2009	1	Committee on General and Government Services	Held in Committee	Pass
8/31/2009	1	Committee on Hearings	Public Hearing Held	
7/15/2009	1	Committee on General and Government Services	Held for Cablecast Post Agenda	Pass
7/15/2009	1	Committee on General and Government Services	Held for Cablecast Public Hearing	Pass
7/7/2009	1	City Council	Read and referred	

Resolution authorizing the City of Pittsburgh to enter into a cable television franchise agreement with Verizon Pennsylvania Inc.

WHEREAS, pursuant to Title VI of the Communications Act, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996, the regulations of the Federal Communications Commission and Pennsylvania law, the City of Pittsburgh ("City") is authorized to grant franchises to construct, operate and maintain a cable system utilizing public rights-of-way and properties within the City's jurisdiction; and

WHEREAS, the City desires to authorize competition in the City for the provision of cable services; and

WHEREAS, Verizon Pennsylvania Inc. ("Verizon") is in the process of installing a Fiber to the Premise

Telecommunications Network ("FTTP Network") in the City for the transmission of non-cable services pursuant to authority granted by the Commonwealth of Pennsylvania; and

WHEREAS, the FTTP Network will occupy the public rights-of-way within the City, and Verizon desires to use portions of the FTTP Network once installed to provide cable services in the City; and

WHEREAS, the City desires to protect and manage the public rights-of-way, require high standards of customer service, receive financial compensation for Verizon's use of the public rights-of-way as provided by federal law, preserve the City's public, educational, and governmental channels, enhance the City's Institutional Network, establish certain reporting and records access requirements, and provide for the future cable-related needs of its residents; and

WHEREAS, the City has determined Verizon to be financially, technically and legally qualified to operate the cable system to provide cable services; and

WHEREAS, the City has determined that the public interest would be served by granting a franchise to Verizon according to the terms and conditions contained in the Cable Franchise Agreement ("Agreement") negotiated with representatives of Verizon.

Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1. The City of Pittsburgh is authorized to enter into a cable television franchise agreement with Verizon Pennsylvania Inc. ("Verizon").

Section 2. The City hereby grants Verizon a non-exclusive cable franchise subject to and in accordance with the terms and conditions of the Agreement. A copy of the Agreement is attached hereto and made a part hereof as Exhibit A.

Section 3. Nothing in this Resolution, including the Agreement, shall alter the terms of any other franchise previously granted by the City, which shall remain in effect according to its particular terms and conditions.

Section 4. If any section, subsection, sentence, clause, phrase or word of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not render this Resolution invalid.

Section 5. Any acts consistent with and prior to the effective date of this Resolution are hereby ratified and confirmed.

Section 6. This Resolution shall take effect and be in force upon approval of a franchise agreement in form approved by the City Solicitor.

SEE ATTACHMENT

EXHIBIT A
CABLE FRANCHISE AGREEMENT

BETWEEN
CITY OF PITTSBURGH
AND
VERIZON PENNSYLVANIA INC.

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THIS CABLE FRANCHISE AGREEMENT (the "Franchise" or "Agreement") is entered into on this ____ day _____, 2009 (the "Effective Date") by and between the CITY OF PITTSBURGH, a validly organized and existing political subdivision of the Commonwealth of Pennsylvania (the "Local Franchising Authority" or the "City"), and VERIZON PENNSYLVANIA INC., a corporation duly organized under the applicable laws of the Commonwealth of Pennsylvania (the "Franchisee").

WHEREAS, the City desires to authorize competition in the City for the provision of Cable Service (as hereinafter defined);

WHEREAS, the City wishes to grant the Franchisee a nonexclusive franchise to construct, install, maintain, extend, and operate a Cable System throughout the entire territorial boundaries of the City in accordance with the terms of this Franchise;

WHEREAS, the City is a "local franchising authority" and the Franchisee is a "cable operator" in accordance with Title VI of the Communications Act (*see* 47 U.S.C. § 522(5)(10)) and the City is authorized to grant one or more nonexclusive cable franchises pursuant to applicable state law;

WHEREAS, the Franchisee is in the process of installing a Fiber to the Premise Telecommunications Network ("FTTP Network") in the City for the transmission of Non-Cable Services pursuant to authority granted by the Commonwealth of Pennsylvania;

WHEREAS, the FTTP Network will occupy the Public Rights-of-Way within the City, and the Franchisee desires to use portions of the FTTP Network once installed to provide Cable Services in the City;

WHEREAS, the City desires to protect and manage the Public Rights-of-Way, require high standards of customer service, receive financial compensation for Franchisee's use of the Public Rights-of-Way as provided by federal law, preserve the City's public, educational and governmental channels, enhance the City's Institutional Network, establish certain reporting and records access requirements, and provide for the future cable-related needs of its residents;

WHEREAS, the City has determined the Franchisee to be financially, technically, and legally qualified to operate the Cable System to provide Cable Services;

WHEREAS, the City has determined that the grant of a nonexclusive franchise to the Franchisee is consistent with the public interest;

WHEREAS, the City has determined that this Agreement and the process for consideration of this Agreement complies with all applicable federal, state and local laws and regulations; and

WHEREAS, the City and the Franchisee have reached agreement on the terms and conditions set forth herein, and the parties have agreed to be bound by those terms and conditions.

NOW, THEREFORE, in consideration of the City's grant of a franchise to the Franchisee, the Franchisee's promise to provide Cable Service to residents of the City pursuant to and consistent with the Communications Act, and in accordance with the terms and conditions set forth herein, the promises and undertakings herein, and other good and valuable consideration, the receipt and the adequacy of which are hereby acknowledged,

THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS

Except as otherwise provided herein, the definitions and word usages set forth in the Communications Act (as hereinafter defined) are incorporated herein and shall apply in this Agreement. In addition, the following definitions shall apply:

1.1 *Access Channel*: A video Channel that the Franchisee shall make available to the City without charge for Public, Educational, or Governmental use for the transmission of video programming as directed by the City.

1.2 *Affiliate*: Any Person who, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, the Franchisee.

1.3 *Basic Service*: Any service tier that includes the retransmission of local television broadcast signals as well as the PEG Channels required by this Franchise.

1.4 *Cable Service* or *Cable Services*: Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(6), which currently states: the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.5 *Cable System* or *System*: Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(7), meaning the Franchisee's 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: (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Public Rights-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of this Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with Section 653 of this title; or (E) any facilities of any electric utility used solely for operating its electric utility systems. The Cable System shall be limited to the optical spectrum wavelength (s), bandwidth, or future technological capacity that is used for the transmission of Cable Services directly to Subscribers within the Franchise Area and shall not include the tangible network facilities of a common carrier subject in whole or in part to Title II of the Communications Act or of an Information Services provider

1.6 *Channel*: Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(4), which currently states: a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.7 *City*: The incorporated area (entire existing territorial limits) of the City of Pittsburgh and such additional areas as may be included in the corporate (territorial) limits during the term of this Franchise, as illustrated in Appendix B hereto.

1.8 *Cable Ordinance*: City of Pittsburgh, Pennsylvania, Code of Ordinances, Chapter 425 (Cable Communications), as may be amended.

1.9 *Communications Act*: The Communications Act of 1934, as amended.

1.10 *Complaint*: Any written communication, including electronic mail, by a Subscriber expressing dissatisfaction with any aspect of Franchisee's Cable System or cable operations.

1.11 *Control*: The ability to exercise *de facto* or *de jure* control over day-to-day policies and operations or the management of the Franchisee's affairs.

1.12 *Educational Access Channel*: An Access Channel available for use of the City for educational purposes.

1.13 *FCC*: The United States Federal Communications Commission, or successor governmental entity thereto.

1.14 *Fiber to the Premise Telecommunications Network ("FTTP Network")*: The Franchisee's network that transmits Non-Cable Services pursuant to the authority granted under the laws of the Commonwealth of Pennsylvania and under Title II of the Communications Act, which Non-Cable Services are not subject to Title VI of the Communications Act, and provides Cable Services from the operation of a Cable System.

1.15 *Force Majeure*: An event or events reasonably beyond the ability of the Franchisee to anticipate and control. This includes, but is not limited to, the following: severe or unusual weather conditions, labor strikes, slowdowns or stoppages, lockouts, war or act of war (whether an actual declaration of war is made or not), insurrections, riots, acts of public enemy, including terrorist attacks, orders of the government of the United States or the Commonwealth of Pennsylvania, including actions or inactions of any government instrumentality including condemnation, accidents for which the Franchisee is not primarily responsible, fire, flood, or other acts of God, or work delays caused by waiting for utility providers to service or monitor utility poles to which the Franchisee's FTTP Network is attached, and unavailability of materials and/or qualified labor to perform the work necessary.

1.16 *Franchisee*: Verizon Pennsylvania Inc., and its lawful and permitted successors, assigns, and transferees.

1.17 *Government Access Channel*: An Access Channel available for the use by the City for governmental purposes.

1.18 *Gross Revenue*: All revenue, as determined in accordance with generally accepted accounting principles, which is derived by Franchisee and its Affiliates, directly or indirectly, from the operation of the Cable System to provide Cable Service in the City, including:

- (1) Basic Service fees;
- (2) fees charged to Subscribers for any service tier other than Basic Service;
- (3) fees charged for premium services, *e.g.* HBO, Cinemax, or Showtime;
- (4) fees charged to Subscribers for any optional, per-channel, or per-program services;
- (5) revenue from the provision of any other Cable Services;
- (6) charges for installation, additional outlets, relocation, disconnection, reconnection, and change-in-service fees for Cable Service;
- (7) fees for downgrading any level of Cable Service programming;
- (8) fees for service calls;
- (9) fees for sale or leasing of channels;
- (10) fees for rental or sale of any and all customer equipment, including digital video recorders, converters, and remote control devices;
- (11) foregone revenue that Franchisee chooses not to receive in exchange for trades, barter, services, or other items of value consistent Section 1.18.8 below;
- (12) any and all advertising revenues as set forth herein;
- (13) revenues or commissions from home shopping channels subject to Section 1.18.5 below;
- (14) fees for any and all music services that are deemed to be a Cable Service over the Cable System;
- (15) sales of program guides;
- (16) late payment fees;
- (17) NSF check charges;

- (18) fees for video-on-demand; and
- (19) Franchise Fees (as hereinafter defined).

Advertising commissions paid to independent third parties shall not be deducted from advertising revenue included in Gross Revenue.

Gross Revenue shall not include:

1.18.1 Revenues received by any Affiliate or other Person in exchange for supplying goods or services used by Franchisee to provide Cable Service over the Cable System;

1.18.2 Bad debts written off by Franchisee in the normal course of its business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period collected;

1.18.3 Refunds, rebates, or discounts made to Subscribers or other third parties;

1.18.4 Any revenues classified, in whole or in part, as Non-Cable Services revenue under federal or state law including, without limitation, revenue received from Telecommunications Services; revenue received from Information Services, including, without limitation, Internet Access service, electronic mail service, Internet-derived electronic bulletin board service, or similar online computer services; charges made to the public for commercial or cable television that is used for two-way communication that are classified by the FCC or a court of competent jurisdiction as Non-Cable Services; and any other revenues classified as Non-Cable Services in accordance with applicable laws or regulations;

1.18.5 Any revenue of Franchisee or any other Person that is received directly from the sale of merchandise through any Cable Service distributed over the Cable System, notwithstanding that portion of such revenue which represents or can be attributed to a Subscriber fee or a payment for the use of the Cable System for the sale of such merchandise, which portion shall be included in Gross Revenue;

1.18.6 The sale of Cable Services on the Cable System for resale in which the purchaser is required to collect cable franchise fees from purchaser's customer;

1.18.7 Any tax of general applicability imposed upon Franchisee or upon Subscribers by a city, state, federal, or any other governmental entity and required to be collected by Franchisee and remitted to the taxing entity (including, but not limited to, sales/use tax, gross receipts tax, excise tax, utility users tax, public service tax, communication taxes, and non-cable franchise fees);

1.18.8 Any forgone revenue that Franchisee chooses not to receive in exchange for its provision of free or reduced cost cable or other communications services to any Person, including without limitation, employees of Franchisee and public institutions or other institutions designated in the Franchise; provided, however, that such forgone revenue that Franchisee chooses not to receive in exchange for trades, barbers, services, or other items of value shall be included in Gross Revenue;

1.18.9 Sales of capital assets or sales of surplus equipment that are not deemed to be Cable Services;

1.18.10 Directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; and

1.18.11 Any fees or charges collected from Subscribers or other third parties for

any PEG grants provided under this Agreement.

1.19 *Information Services*: Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. §153(20).

1.20 *Internet Access*: Dial-up or broadband access service that enables Subscribers to access the Internet.

1.21 *Local Franchise Authority (City)*: The City of Pittsburgh or the lawful successor, transferee, or assignee thereof.

1.22 *Multiple Dwelling Units or MDUs*: Shall include any area occupied by dwelling units, appurtenances thereto, grounds and facilities, which dwelling units are intended or designed to be owned, occupied or leased for occupation, or actually occupied, as individual homes or residences for three (3) or more households. The term shall include mobile home parks.

1.23 *Non-Cable Services*: Any service that is not Cable Service as defined herein, including, but not limited to, Information Services and Telecommunications Services.

1.24 *Normal Business Hours*: Those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours. See C.F.R. § 76.309(c)(4)(i).

1.25 *Normal Operating Conditions*: Those service conditions that are within the control of the Franchisee. Those conditions that are not within the control of the Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions that 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 rebuild of the Cable System. See 47 C.F.R. § 76.309(c)(4)(ii).

1.26 *PEG*: Public, Educational and Governmental.

1.27 *Person*: An individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

1.28 *Public Access Channel*: An Access Channel available for use by the residents in the City.

1.29 *Public Rights-of-Way*: The surface and the area across, in, over, along, upon, and below the surface of the public streets, roads, bridges, sidewalks, lanes, courts, ways, alleys, and boulevards, including public utility easements and public lands and waterways used as Public Rights-of-Way, as the same now or may thereafter exist, which are under the jurisdiction or control of the City. Public Rights-of-Way do not include the airwaves above a right-of-way with regard to cellular or other nonwire communications or broadcast services.

1.30 *Service Interruption*: The loss of picture or sound on one or more cable channels.

1.31 *Subscriber*: A Person who lawfully receives Cable Service over the Cable System with the Franchisee's express permission.

1.32 *Telecommunications Facilities*: The Franchisee's existing Telecommunications Services and Information Services facilities and its FTTP Network facilities.

1.33 *Telecommunication Services*: Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(46).

1.34 *Title II*: Title II of the Communications Act, Common Carriers, as amended, which governs the provision of Telecommunications Services.

1.35 *Title VI*: Title VI of the Communications Act, Cable Communications, as amended, which governs the provision of Cable Services by Franchisee.

1.36 *Transfer of the Franchise*:

1.36.1 Any transaction in which:

1.36.1.1 an ownership control or other interest in the Franchisee is transferred, directly or indirectly, from one Person or group of Persons to another Person or group of Persons, so that control of the Franchisee is transferred; or

1.36.1.2 at least thirty percent (30%) of the equitable ownership of the Franchisee is transferred or assigned; or

1.36.1.3 the rights held by the Franchisee pursuant to this Agreement are transferred or assigned to another Person or group of Persons.

1.36.2 However, notwithstanding subsections 1.36.1.1, 1.36.1.2, and 1.36.1.3 above, a *Transfer of the Franchise* shall not include transfer of an ownership or other interest in the Franchisee to the parent of the Franchisee or to another Affiliate of the Franchisee; transfer of an interest in the Franchisee or the rights held by the Franchisee under the Franchise to the parent of the Franchisee or to another Affiliate of the Franchisee; any action that is the result of a merger of the parent of the Franchisee; or any action that is the result of a merger of another Affiliate of the Franchisee.

1.37 *Video Programming*: Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(20), which currently states: programming provided by, or generally considered comparable to programming provided by a television broadcast station.

2. **GRANT OF AUTHORITY; LIMITS AND RESERVATIONS**

2.1 *Grant of Authority*: Subject to the terms and conditions of this Agreement and applicable laws and regulations, the City hereby grants the Franchisee the right to own, construct, operate, and maintain a Cable System to provide Cable Services along the Public Rights-of-Way within the City, in order to provide Cable Service. No privilege or power of eminent domain is bestowed or waived by this grant; nor is such a privilege or power bestowed or waived by this Agreement.

2.2 *The City's Regulatory Authority*: The parties recognize that Franchisee's FTTP Network is being constructed and will be operated and maintained as an upgrade to and/or extension of its existing Telecommunications Facilities for the provision of Non-Cable Services. The jurisdiction of the City over Franchisee's Telecommunications Facilities is governed by federal and state law, and the City will not assert jurisdiction over Franchisee's FTTP Network in contravention of those laws. Therefore, as provided in Section 621 of the Communications Act, 47 U.S.C. § 541, the City's regulatory authority under Title VI of the Communications Act is not applicable to the construction, installation, maintenance, or operation of the

Franchisee's FTTP Network to the extent the FTTP Network is constructed, installed, maintained, or operated for the purpose of upgrading and/or extending Verizon's existing Telecommunications Facilities for the provision of Non-Cable Services. Neither this Section 2.2 nor this Agreement shall be construed to limit the existing regulatory authority the City has under federal and state law with respect to the FTTP Network facilities.

2.3 *Term:* This Franchise shall become effective on _____, 2009 (the "Effective Date"). The term of this Franchise shall be ten (10) years from the Effective Date (the "Term") unless the Franchise is earlier revoked as provided herein, and shall expire as of _____, 2019.

2.4 *Grant Not Exclusive:* The Franchise and the rights granted herein to use and occupy the Public Rights-of-Way to provide Cable Services shall not be exclusive, and the City reserves the right to grant other franchises for similar uses or for other uses of the Public Rights-of-Way, or any portions thereof, to any Person, or to make any such use themselves, at any time during the term of this Franchise. Any such rights that are granted shall not adversely impact the authority as granted under this Franchise and shall not interfere with existing facilities of the Cable System or the Franchisee's FTTP Network.

2.5 *Franchise Subject to Federal, State and Local Law:* This Franchise is subject to and shall be governed by all lawful and applicable provisions of federal, state and, subject to Sections 2.7, 2.8 and 14.6 of this Agreement, local laws and regulations. Notwithstanding the foregoing, the City acknowledges that the Cable Ordinance, as currently constituted, is inconsistent with the provisions of this Agreement. Without waiving any of its powers as described in Sections 2.2 or 2.8 hereof, the City agrees that to the extent any terms of this Agreement are inconsistent with the terms of the Cable Ordinance, this Agreement shall control. No future amendments to the Cable Ordinance in whole or in part will vary the terms of this Agreement.

2.6 *No Waiver:*

2.6.1 The failure of the City on one or more occasions to exercise a right or to require compliance or performance under this Franchise, the Communications Act, or any other applicable state or federal law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the City, nor to excuse the Franchisee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

2.6.2 The failure of the Franchisee on one or more occasions to exercise a right under this Franchise or applicable law, or to require performance under this Franchise, shall not be deemed to constitute a waiver of such right or of performance of this Agreement, nor shall it excuse the City from performance, unless such right or performance has been specifically waived in writing.

2.7 *Construction of Agreement:*

2.7.1 Nothing herein shall be construed to limit the scope or applicability of Section 625 Communications Act, 47 U.S.C. § 545.

2.7.2 Should any change to federal or state law have the lawful effect of materially altering the terms and conditions of this Agreement making it commercially impracticable for Franchisee to continue the provision of Cable Services in the City, then the parties shall modify this Franchise to the mutual satisfaction of both parties to ameliorate the negative effects on the Franchisee and the City of the material alteration. Any modification to this Franchise shall be in writing and signed by both parties. If the parties cannot reach agreement on the above-referenced modification to the Franchise, then, at the initiation of either party, the parties agree to submit the matter to binding arbitration in accordance with the commercial

arbitration rules of the American Arbitration Association.

2.8 *Police Powers*: Nothing in this Franchise shall be construed to prohibit the reasonable, necessary, and lawful exercise of the police powers of the City to adopt and enforce local laws, regulations and ordinances. However, if the reasonable, necessary, and lawful exercise of the police power results in any material alteration of the terms and conditions of this Franchise, making it commercially impracticable for Franchisee to continue providing Cable Services in the City pursuant to this Agreement, then the parties shall modify this Franchise to the mutual satisfaction of both parties to ameliorate the negative effects on the Franchisee of the material alteration. Any modification to this Franchise shall be in writing. If the parties cannot reach agreement on the above-referenced modification to the Franchise, then the Franchisee may terminate this Agreement without further obligation to the City or, at the Franchisee's option, the parties agree to submit the matter to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association.

3. PROVISION OF CABLE SERVICE

3.1 *Franchise Area*: The Franchisee shall offer Cable Service to all Subscribers in all residential areas of the City and may make Cable Service available to businesses in the City, within six (6) years of the Effective Date in accordance with the terms of Appendix B hereto, and subject to the following exceptions: (A) for periods of Force Majeure; (B) for periods of unreasonable delay caused by the City; (C) for periods of delay resulting from the Franchisee's inability to obtain authority to access rights-of-way in the City; (D) in areas where developments or buildings are subject to claimed exclusive arrangements with other providers; (E) developments, or buildings where the Franchisee cannot access under reasonable terms and conditions after good faith negotiation, consistent with the terms of 3.1.2 of this Agreement; (F) in areas, developments, or buildings where the Franchisee is unable to provide Cable Service for technical reasons or which require non-standard facilities which are not available on a commercially reasonable basis; and (G) in areas where the occupied residential household density does not meet the density requirements set forth in subsection 3.1.1.

3.1.1 *Density Requirement*: The Franchisee shall make Cable Services available to residential dwelling units in all areas of the City where the minimum density is twenty (20) occupied residential dwelling units per mile as measured in strand footage from the nearest technically feasible point on the active FTTP Network trunk or feeder line. Should an area within the City meet such density requirements after the time stated for providing Cable Service as set forth in subsection 3.1.1, the Franchisee shall provide Cable Service to such area within six (6) months of receiving notice from the City that the density requirements have been met.

3.1.2 *Service to MDU's*: The parties hereto acknowledge and agree that installation and provision of Cable Service to MDU's are subject to a separate negotiation between the landlord, owner or governing body of any such MDU and the Franchisee, which negotiations shall be conducted in accordance with the procedures set forth in Sections 3.1.2.1-3.1.2.3 below. Neither the Franchisee nor the City shall be responsible or liable for any failure to provide Cable Service to a lessee, landlord or condominium owner whose lessors or governing body, as the case may be, does not reach agreement with the Franchisee for the installation of such Cable Service. In each case where Franchisee receives a request for Cable Service from an occupant, landlord, owner or governing body of an MDU and such MDU is located in an area of the City where Franchisee is offering Cable Service at the time of such request, consistent with the requirements of Appendix B of this Agreement, Franchisee shall follow the following procedures:

3.1.2.1 Upon receipt of a request for Cable Service from an occupant, landlord, owner, or governing body, the Franchisee may initiate negotiations with the landlord, owner or

governing body of such MDU in order to obtain valid legal authority to provide Cable Service to units within such MDU.

3.1.2.2 In the event the Franchisee and the landlord, owner or governing body of such MDU are able to agree upon mutually acceptable terms and conditions for Franchisee's provision of Cable Service to units within such MDU, the Franchisee and the landlord, owner or governing body of such MDU may enter into a written agreement authorizing the Franchisee to provide Cable Service to units within such MDU.

3.1.2.3 In the event the Franchisee and the landlord, owner or governing body of such MDU are unable to agree upon mutually acceptable terms and conditions for Franchisee's provision of Cable Service to units within such MDU, Franchisee may either: (i) decline to provide Cable Service to such MDU; (ii) defer provision of Cable Service to such MDU; or (iii) decide that it will provide Cable Service and therefore invoke the applicable provisions of 68 P.S. § 250.504B.

3.2 *Availability of Cable Service:* The Franchisee shall make Cable Service available to all residential dwelling units and may make Cable Service available to businesses within the Franchise Area in conformance with Section 3.1 of this Agreement. In the areas in which the Franchisee shall provide Cable Service, the Franchisee shall be required to connect, at the Franchisee's expense, other than a standard installation charge, all residential dwelling units that are within one hundred twenty-five (125) feet of trunk or feeder lines not otherwise already served by the Franchisee's FTTP Network. The Franchisee shall be allowed to recover, from a Subscriber that requests such connection, no more than the actual costs incurred for residential dwelling unit connections that exceed one hundred twenty-five (125) feet and actual costs incurred to connect any non-residential dwelling unit Subscriber.

3.2.1. Franchisee agrees that, upon the request of the City, and with no less than thirty (30) days written notice to Franchisee, but no more than twice per calendar year, a representative of the Franchisee will meet with representatives of the City to provide additional information on the status of deployment of Cable Services in the Franchise Area (the "Service Availability Meeting"). The Service Availability Meeting may be attended only by representatives of the City, and will not be open to the public. City representatives shall be subject to the confidentiality requirements set forth in Section 9.1 of this Agreement with respect to any information Franchisee discloses at the Service Availability Meeting.

3.3 *Non-Discrimination:* Franchisee shall not discriminate between or among any individuals in the availability of Cable Service based upon income in accordance with 47 U.S.C. §541(a)(3) or based upon race or ethnicity.

4. **SYSTEM FACILITIES**

4.1 *Technical Requirement:* Franchisee shall operate, maintain, construct and extend the Cable System so as to provide high quality signals and reliable delivery of one-way and two-way Cable Services for all cable programming services throughout the City. The Cable System shall meet or exceed any and all applicable technical performance standards of the FCC, the National Electrical Safety Code, the National Electric Code and any other applicable federal laws and the laws, ordinances and construction standards of the Commonwealth of Pennsylvania to the extent not in conflict with federal law and regulations as determined by a final order of a court of competent jurisdiction.

4.2 *System Characteristics:* The Franchisee's Cable System shall meet or exceed the following requirements:

4.2.1 The System shall be initially designed with a digital carrier passband between 54 and 863 MHz.

4.2.2 The System shall be designed and maintained to be an active two-way plant that allows for Subscriber interaction, if any, required for the selection or use of Cable Service.

4.2.3 The System facilities and equipment shall be of good and durable quality, generally used in high-quality, reliable, systems of similar design.

4.2.4 The System shall be protected against outages due to electrical power failures. The System shall have back-up electrical power sources that are sufficient to operate the System for at least 24 hours without other electrical power.

4.2.5 All facilities and equipment for the System shall be designed, built and operated in a manner that protects the safety of System workers and the public.

4.2.6 *Interconnection:* The Franchisee shall design its Cable System so that it may be interconnected with other cable systems in the City. Interconnection of systems may be made by direct cable connection, microwave link, satellite, or other appropriate methods.

4.3 *System Tests and Inspections:* The Franchisee shall conduct any required tests as follows:

4.3.1 Proof of Performance tests on the Cable System at least once every six (6) months, or more frequently if required by FCC rules. In consultation with the City, Cable System monitor test points shall be established in accordance with good and sound engineering practices and consistent with FCC guidelines.

4.3.2 System tests may be supervised by a senior engineer of the Franchisee, who shall sign and provide records of all tests performed to the City.

4.3.3 The City shall have the right to designate a City employee (or a third party consultant to the City, provided that such third party consultant executes, in advance, a nondisclosure agreement in a form reasonably acceptable to Franchisee) to visually inspect Franchisee's Cable System in order to verify compliance with this Article 4, *System Facilities*, and to witness and/or review all Proof of Performance tests required under this Agreement. The Franchisee shall provide the City with at least ten (10) business days' notice of, and opportunity to observe, any such Proof of Performance Test performed on the Cable System.

4.3.4 Subject to the requirements of Section 9.1 of this Agreement, the Franchisee shall retain written reports of the results of any tests required by the FCC, and such reports shall be submitted to the City upon thirty (30) days prior written notice from the City; provided, however, that the Franchisee shall not be required to submit such reports more than two (2) times in any calendar year.

4.4 *Emergency Alert System:*

4.4.1 The Franchisee shall comply with the Emergency Alert System ("EAS") requirements of the FCC in order that emergency messages may be distributed over the System.

5. **PEG SERVICES**

5.1 *PEG Set Aside; Interconnection:*

5.1.1 In order to ensure universal availability of Public, Educational, and Government Access programming, the Franchisee shall provide, on the Basic Service Tier, **within one hundred eighty (180) days from the Effective Date, subject to Sections 5.1.3 and 5.1.4 (or, with respect to the Reserve Channels, such later date as prescribed in Section 5.1.6)**: one (1) dedicated Public Access Channel, two (2) dedicated Government Access Channels, (the "Initial Channels"), one (1) reserved dedicated Educational Access Channel and one (1) reserved dedicated Access Channel to be designated by the City as a Public, Educational, or Governmental Access Channel ("the Reserve Channels" and, together with the Initial Channels, the "PEG Channels") consistent with the terms of this Article 5.

5.1.2 The parties agree that Franchisee shall retain the right to utilize all such PEG Channels, in its sole discretion, during the Term of this Franchise until such time that Franchisee activates the PEG Channels pursuant to this Section 5.1 and/or if the City ceases to use the PEG Channels during the Term of this Agreement. The City or its designee shall comply with applicable law regarding the use of PEG Channels. Franchisee shall only be required to activate either or both of the Reserve Channels so long as the other cable operators in the City have also activated an equivalent number of PEG Channels.

5.1.2.1 Upon the signing of this Agreement, the City hereby notifies Franchisee of its intent to provide programming to be carried on the Public Access Channel and the Government Access Channels and Franchisee shall transmit such programming not later than the timeframes set forth in Section 5.1.3 hereof; such notification shall constitute authorization to the Franchisee to transmit such programming within and outside of the City.

5.1.2.2 The PEG Channels shall be used for community programming related to Public, Educational and/or Governmental activities. The City shall have complete control over the content, scheduling, and administration of the PEG Channels and may delegate such functions, or a portion of such functions, to an appropriate designee upon written notice from the City to Franchisee. The Franchisee shall not exercise any editorial control over PEG Channel programming.

5.1.3 Subject to the terms of this Section 5.1.3 and Section 5.1.4, the Franchisee shall install and provide, at its own cost and expense, direct video links and the City shall provide and ensure suitable video and audio signals to Franchisee for: (i) the Public Access Channel at the Pittsburgh Community TV studio located at 1300 Western Ave, Pittsburgh, PA 15233 and (ii) Governmental and/or Educational Access Channels and at the City/County Building located at 414 Grant Street, Pittsburgh, PA (the "PEG Channel Origination Sites") within one hundred eighty (180) days of the Effective Date. In addition, within one hundred eighty (180) days of Franchisee's receipt of written notice from the City, the City may require the Franchisee to install a direct video link for the establishment of a third (3rd) PEG Channel Origination Site, at Franchisee's own cost and expense, subject to this Section 5.1.3 and Section 5.1.4, at a mutually agreeable location within the City to accommodate the activation of one or more of the Reserve Channels, so long as such additional PEG Channel Origination Site is located along Franchisee's activated cable route and Franchisee's serving wire center is video-enabled. The Franchisee's obligations under this Section 5.1, including its obligation to provide upstream equipment, lines and facilities necessary to transmit those video and audio signals, shall be subject to the provision by the City, to the extent applicable and without charge to the Franchisee, of:

(1) access to the PEG Channel Origination Site facilities;

(2) access to any required PEG equipment within the PEG Channel Origination Site facility and suitable required space, environmental conditions, electrical power supply, access, and pathways

within the PEG Channel Origination Site facilities;

(3) video and audio signals in a mutually agreed upon format suitable for PEG Channel programming;

(4) any third-party consent that may be necessary to transmit PEG Channel signals (including, without limitation, any consent that may be required with respect to third-party facilities used to transmit PEG Channel content to the PEG Channel Origination Site from auxiliary locations); and

(5) any other cooperation and access to facilities as are reasonably necessary for the Franchisee to fulfill the obligations stated herein.

5.1.4 To the extent the above conditions in Section 5.1.3 are met, Franchisee shall, within one hundred eighty (180) days of written notice provide, install, and maintain in good working order the equipment necessary for transmitting the PEG Channel signal to Subscribers. Notwithstanding the foregoing, Franchisee shall not be obligated to provide the City with either cablecast equipment and facilities or personnel responsible for maintaining and operating such equipment and facilities used to generate any such PEG Channel signals.

5.1.5 The City shall have the right to relocate a single PEG Origination Site one time during the Term of this Franchise as follows: (1) the new location must be situated within two hundred (200) feet of one of Franchisee's active, video-enabled FTTP trunk or feeder lines in the Service Area, and the serving wire center must be video-enabled; (2) Franchisee's obligation shall be subject to the same conditions that apply to the PEG Origination Sites in Section 5.1.3 hereof; (3) the City shall provide access to such space at least ninety (90) days prior to anticipated use of the new PEG Origination Site; and (4) the City shall reimburse fifty percent of Franchisee's costs associated with the relocation of equipment necessary for transmitting the PEG signal, not to exceed Twenty Thousand Dollars (\$20,000).

5.1.6 The City may activate the Reserve Channels during the Term, so long as such requirement applies equally to all cable operators in the Franchise Area, by providing the Franchisee with written notice of the need for the Reserve Channels at least one hundred eighty (180) days prior to the date it intends to activate the Reserve Channels, demonstrated by a programming schedule for PEG programming on the existing Public, Government or Educational Access Channel, as applicable, consisting of at least six (6) hours per twenty-four (24) hour period, which programming for purposes of this calculation shall not include repeat programming generated per day or character-generated programming; such written notice shall authorize the Franchisee to transmit the Reserve Channel within and outside of the City.

5.1.7 The Franchisee shall use commercially reasonable efforts: (i) to maintain its initial PEG Channel assignments during the Term of this Agreement, and (ii) to establish initially and thereafter maintain PEG Channels in consecutive channel positions (numbers) on Franchisee's channel lineup. Notwithstanding the foregoing, the Franchisee specifically reserves the right to make or change channel assignments in its sole discretion subject to the terms of this Section 5.1.7, provided that such PEG Channels remain on the Basic Service Tier in accordance with the requirements of the Communications Act. In the event Franchisee deems changes in PEG channel positions to be necessary and changes the positions in accordance with this Section 5.1, the Franchisee shall comply with the following requirements: (i) the Franchisee shall give the City ninety (90) days written notice of such change (if commercially practicable) but in no event less than forty-five (45) days, and (ii) the Franchisee shall provide, free of charge, public announcements of such changes that shall include (A) to the extent Franchisee has advertising availability, advertising such PEG Channels changes on advertising inserts on local channels carrying non-satellite programming in prime time at

least thirty (30) seconds per day for the time period of thirty (30) to fifteen (15) days prior to such change and two (2) minutes per day for the fourteen (14) days prior to such change (provided, however, that if Franchisee does not have advertising availability at the commencement of the thirty (30) to fifteen (15) day period, as soon as advertising space becomes available, Franchisee shall then provide the advertising provided in this Section 5.1), and (B) providing notice of such changes in at least two monthly Subscriber bill inserts prior to such change (if commercially practicable) but in no event less than one monthly Subscriber bill insert; provided, however, that such bill inserts shall not be necessary in the event the Franchisee provides the requisite notice of such changes to all Subscribers in a letter separate from their bill.

5.1.8 Except for PEG Channel assignment relocations due to changes in the channel designation of must carry Channels or other federal or state legal requirements, if Franchisee relocates PEG Channel(s), then Franchisee shall pay the City Five Thousand Dollars (\$5,000) to assist in "rebranding" the PEG Channel(s). This is not a per Channel payment; rather, this is a payment per relocation instance.

5.1.9 *Complimentary Drops for PEG Channel Monitoring:* Franchisee shall provide at each PEG Origination Site a complimentary cable drop and Basic Tier Cable Service for purposes of monitoring the PEG programming content transmitted over Franchisee's System.

5.1.10 *PEG Channel Transmission:* Franchisee shall deliver the PEG Channel signals at a level of technical quality and reliability that complies with the levels of technical quality and reliability applied by the Franchisee for signals of commercial channels transmitted to Subscribers as a part of Basic Service; provided, however, that Franchisee shall have no responsibility to improve upon or modify the signal quality of any PEG Channels content provided to Franchisee by any PEG Channel programmer.

5.2 *Indemnity for PEG:* The City shall require all local producers and users of any of the PEG facilities or Channels to agree in writing to authorize the Franchisee to transmit programming consistent with this Agreement and to defend and hold harmless the Franchisee and the City from and against any and all liability or other injury, including the reasonable cost of defending claims or litigation, arising from or in connection with claims for failure to comply with applicable federal laws, rules, regulations, or other requirements of local, state, or federal authorities; for claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name, or service mark; for breach of contractual or other obligations owing to third parties by the producer or user; and for any other injury or damage in law or equity, which results from the use of a PEG facility or Channel. Such indemnification by local producers and users shall not include the technical signal quality of the PEG Channels.

5.3 *Annual PEG Grant:* In order to provide capital support for PEG Channel facilities, Franchisee shall pay to the City a per Subscriber/per month grant (the "Annual PEG Grant") during the Term of the Franchise, subject to Section 5.8 hereof and in accordance with the following schedule:

Period	Amount
Effective Date - December 31, 2009	\$.45 sub/mo
January 1, 2010 - December 31, 2010	\$.50 sub/mo
January 1, 2011 - December 31, 2011	\$.50 sub/mo
January 1, 2012 - December 31, 2012	\$.60 sub/mo
January 1, 2013 - December 31, 2013	\$.60 sub/mo
January 1, 2014 - December 31, 2014	\$.70 sub/mo
January 1, 2015 - December 31, 2015	\$.70 sub/mo
January 1, 2016 - December 31, 2016	\$.80 sub/mo
January 1, 2017 - December 31, 2017	\$.80 sub/mo

January 1, 2018 - December 31, 2018	\$.90 sub/mo
January 1, 2019 - December 31, 2019	\$.90 sub/mo

5.4 *City Allocation of Annual PEG Grant:* As of the Effective Date, the City has determined that it intends to allocate a portion of the Annual PEG Grant described above in Section 5.3 to the Cable Bureau of the City of Pittsburgh Department of Information Systems ("CIS") in accordance with the schedule set forth immediately below in this Section 5.4. Notwithstanding the foregoing, the City shall reserve the right to adjust its allocation of the Annual PEG Grants in its sole discretion. The allocation of the Annual PEG Grant contemplated in this Section 5.4 is solely for descriptive purposes and shall not be construed to entitle the City or any PEG Access entity providing PEG programming content to any additional grant amounts beyond the specific grant amounts specified in Section 5.3 above. The City intends to allocate the Annual PEG Grant as follows:

Period	Amount
Effective Date - December 31, 2009	\$.00 sub/mo
January 1, 2010 - December 31, 2010	\$.5 sub/mo
January 1, 2011 - December 31, 2011	\$.5 sub/mo
January 1, 2012 - December 31, 2012	\$.10 sub/mo
January 1, 2013 - December 31, 2013	\$.10 sub/mo
January 1, 2014 - December 31, 2014	\$.10 sub/mo
January 1, 2015 - December 31, 2015	\$.10 sub/mo
January 1, 2016 - December 31, 2016	\$.15 sub/mo
January 1, 2017 - December 31, 2017	\$.15 sub/mo
January 1, 2018 - December 31, 2018	\$.15 sub/mo
January 1, 2019 - expiration of the Term	\$.15 sub/mo

5.5 *Timing of Payments:* The Annual PEG Grant payments, along with a brief summary of the Subscriber information upon which it is based (subject to applicable privacy laws and regulations), shall be delivered to the City within sixty (60) days after the beginning of each calendar year during the Term of this Franchise (except for the first (1st) full calendar year of the Term, during which the Annual PEG Grant payments shall be delivered to the City within sixty (60) days of the close of each calendar quarter).

5.6 *Cable Bureau Grant:* In order to support the Government Access facilities and equipment administered by the Cable Bureau of the City of Pittsburgh Department of Information Systems ("CIS") as directed by the City, Franchisee shall pay a grant to CIS in the aggregate amount of Three Hundred Fifty Thousand Dollars (\$350,000)(the "Cable Bureau Grant") payable in five (5) installments as follows: 1) the first (1st) installment of the Cable Bureau Grant shall be payable within ninety (90) days of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000); 2) the second (2nd) installment of the Cable Bureau Grant shall be payable within ninety (90) days of the first (1st) anniversary of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000); 3) the third (3rd) installment of the Cable Bureau Grant shall be payable within ninety (90) days of second (2nd) anniversary of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000); 4) the fourth (4th) installment of the Cable Bureau Grant shall be payable within ninety (90) days of third (3rd) anniversary of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000); and 5) the fifth (5th) and final installment of the Cable Bureau Grant shall be payable within ninety (90) days of fourth (4th) anniversary of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000).

5.7 *Fixed PEG Grant:* In order to further the City's objective of funding PEG Access

facilities and other technological needs throughout the City, the Franchisee hereby agrees to pay to the City a grant in the aggregate amount of Three Hundred Fifty Thousand Dollars (\$350,000)(the "Fixed PEG Grant"), subject to Section 5.8, payable in five (5) installments as follows: 1) the first (1st) installment of the Fixed PEG Grant shall be payable within ninety (90) days of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000); 2) the second (2nd) installment of the Fixed PEG Grant shall be payable within ninety (90) days of the first (1st) anniversary of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000); 3) the third (3rd) installment of the Fixed PEG Grant shall be payable within ninety (90) days of second (2nd) anniversary of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000); 4) the fourth (4th) installment of the Fixed PEG Grant shall be payable within ninety (90) days of third (3rd) anniversary of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000); and 5) the fifth (5th) and final installment of the Fixed PEG Grant shall be payable within ninety (90) days of fourth (4th) anniversary of the Effective Date in the amount of Seventy Thousand Dollars (\$70,000)

5.8 *Competitive Equity:* Verizon shall not be obligated to remit the full payment of the Annual PEG Grant or the Fixed PEG Grant (together, the "Applicable Franchisee Grants") after June 30, 2010 unless any cable operator(s) providing cable service in the City of Pittsburgh provide a grant or grants that are substantially equivalent to the Applicable Franchisee Grants pursuant to a valid cable franchise agreement or renewal agreement, including any ancillary documents or agreements directly related thereto with the City (collectively, "Other Franchise Agreements"). In the event that any Other Franchise Agreement contains grant obligations that are not substantially equivalent to the Applicable Franchisee Grants, then Franchisee's Applicable Franchise Grant obligations shall be reduced to an amount that is substantially equivalent to the grant obligations contained in such Other Franchise Agreement. Before Franchisee reduces such Applicable Franchisee Grants after June 30, 2010, Franchisee shall notify the City and provide its conclusions in writing that any cable operator(s) in the City has not provided a grant or grants that are substantially equivalent to the Applicable Franchisee Grants. At the City's request, Franchisee and the City shall then meet to discuss Franchisee's claim. If, after such meeting, Franchisee continues to believe that any cable operator(s) has not provided a substantially equivalent grant, then Franchisee may reduce the Applicable Franchisee Grants to an amount that is substantially equivalent to the amount paid by the other cable operator or operators or, in the alternative, Franchisee will be allowed to deduct such reduced amount from any other grants provided under this Agreement.

5.9 *Recovery of Costs:* To the extent permitted by federal law, the Franchisee shall be allowed to recover the costs of the grants payable pursuant to this Article 5 or any other costs arising from the provision of PEG services from Subscribers and to include such costs as a separately billed line item on each Subscriber's bill. Without limiting the foregoing, if allowed under state and federal laws, the Franchisee may externalize, line-item, or otherwise pass-through interconnection costs to Subscribers.

6. INET SERVICES

Franchisee shall provide the City with the INET services pursuant to the terms set forth in Appendix D to this Agreement, which shall be binding on the parties. Pursuant to the Pennsylvania Right to Know Law, Act 3 (2009), §708(b)(2), (3), and (4), Appendix D is not a "public record" and is therefore exempt from public disclosure and shall be afforded confidential protection at all times.

7. FRANCHISE FEES

7.1 *Payment to the City:* The Franchisee shall pay to the City a Franchise fee of five percent (5%) of annual Gross Revenue (the "Franchise Fee"). In accordance with Title VI of the Communications Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise Fee shall be a calendar year. Such payments shall be made no later than forty-five (45) days following the end of each

calendar quarter. Specifically, payments shall be due and payable on or before May 15 (for the first quarter), August 15 (for the second quarter), November 15 (for the third quarter), and February 15 (for the fourth quarter). In the event that any Franchise Fee payment is not made on or before the applicable dates, then interest shall be added at the rate of five percent (5%) per year of the amount of Franchise Fee revenue due to the City retroactive to the date on which such Franchise Fee payment was due. No acceptance of any payment shall be construed as an accord that the amount paid is the correct amount. The Franchisee shall be allowed to submit or correct any payments that were incorrectly omitted, and shall be refunded any payments that were incorrectly submitted in connection with quarterly Franchise Fee remittances within ninety (90) days following the close of the calendar year for which such payments were applicable.

7.2 *Supporting Information:* Each Franchise Fee payment shall be accompanied by a brief report verified by a financial manager of the Franchisee showing the basis for the computation.

7.3 *Limitation on Franchise Fee Actions:* The parties agree that the period of limitation for recovery of any Franchise fee payable hereunder shall be five (5) years from the date on which payment by the Franchisee is due.

7.4 *Audits:* The City may conduct an audit or a Franchise Fee review of Franchisee's books and records not more than once in any calendar year during the Term. Any confidential information provided for review shall be afforded all confidential protection available under state and federal law. Within forty-five (45) days of Franchisee's receipt of a written request from the City, Franchisee shall make available, at a mutually agreeable location in Allegheny County, all records reasonably requested and necessary to conduct any such audit or Franchise Fee review. Subject to applicable state and federal privacy provisions, Franchisee shall provide the City with copies of audit or Franchisee records reasonably necessary to support an audit or Franchise Fee review's findings upon written request. Franchisee may redact any privileged or confidential information from such copies.

7.4.1 Each party shall bear its own costs of an audit; provided, however, that if the results of any audit indicate that Franchisee underpaid the Franchise Fee by five percent (5%) or more, then Franchisee shall pay the reasonable, documented, out-of-pocket costs of the audit up to Twenty-Five Thousand Dollars (\$25,000).

7.4.2 If the results of an audit indicate an underpayment of Franchise Fees, Franchisee shall remit such underpayment within forty-five (45) days; provided, however, that Franchisee shall be required to remit underpayments to City together with interest at five percent (5%) per annum of the amount correctly due from the date such underpayment would have been due. Notwithstanding the foregoing, Franchisee shall not be required to remit alleged underpayments until the City provides Franchisee with a copy of the audit report.

7.4.3 Any audit shall be conducted by an independent third party. Any entity employed by City that performs the audit or Franchise Fee review shall not be permitted to be compensated on a success based formula e.g. payment based on an underpayment of fees, if any.

7.5 *Bundled Services:* If Cable Services subject to the Franchise Fee required under this Article 7 are provided to Subscribers in conjunction with Non-Cable Services, the Franchise Fee shall be applied only to the value of the Cable Services, as reflected on the books and records of the Franchisee in accordance with FCC or state public utility regulatory commission rules, regulations, standards, or orders.

8. CUSTOMER SERVICE

8.1 Local Presence Center: Within six (6) months of the date on which Franchisee determines that it has achieved a Subscriber base in the City of ten thousand (10,000) Subscribers, Franchisee shall establish one (1) Local Presence Center (a "Local Presence Center") located in the City that is open during Normal Business Hours and that provides customer services such as: (i) bill payment; and (ii) equipment pick up or drop off.

8.2 Customer service requirements are set forth in Appendix C, which shall be binding on the parties.

9. **REPORTS AND RECORDS**

9.1 *Open Books and Records:* Upon thirty (30) days' written notice to the Franchisee, the City shall have the right to inspect the Franchisee's books and records pertaining to this Agreement or the Franchisee's provision of Cable Service in the City at any time during Normal Business Hours and at a mutually agreeable location in Allegheny County, as are reasonably necessary to ensure compliance with the terms of this Agreement. Such notice shall specifically reference the section or subsection of the Agreement that is under review, so that the Franchisee may organize the necessary books and records for appropriate access by the City. The Franchisee shall not be required to maintain any books and records for Franchisee compliance purposes longer than five (5) years. Notwithstanding anything to the contrary set forth herein, the Franchisee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose any of its or an Affiliate's books and records not relating to the provision of Cable Service in the City. If the Franchisee claims any information to be proprietary or confidential, it shall provide a written explanation as to the reason it is claimed to be confidential or proprietary. The City shall treat any information disclosed by the Franchisee as proprietary and confidential to the fullest extent permitted by applicable law, including, but not limited to, Section 67.708(a)(11) of the "Pennsylvania Right-to-Know Law", as may be amended from time to time (the "Right-to-Know Law"), and shall only disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. In the event the City receives a request for disclosure of information and such information has been designated by Franchisee as proprietary and confidential, the City shall provide Franchisee with notice and an opportunity to object to the disclosure of such information consistent with Section 67.707(b) of the Right-to-Know Law. Notwithstanding the foregoing, the Franchisee shall in no event be required to provide Subscriber information in violation of Section 631 of the Communications Act, 47 U.S.C. § 551.

9.2 *Records Required:* The Franchisee shall at all times maintain the following, which may be inspected pursuant to Section 9.1 above:

9.2.1 Records of all written complaints for a period of five (5) years after receipt by the Franchisee. Complaints recorded will not be limited to complaints requiring an employee service call;

9.2.2 Records of outages for a period of five (5) years after occurrence, indicating date, duration, area, and the number of Subscribers affected, type of outage, and cause;

9.2.3 Records of service calls for repair and maintenance for a period of five (5) years after resolution by the Franchisee, indicating the date and time service was required, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was resolved;

9.2.4 Records of installation/reconnection and requests for service extension for a period of five (5) years after the request was fulfilled by the Franchisee, indicating the date of request, date of acknowledgment, and the date and time service was extended; and

9.2.5 A map showing the area of coverage for the provisioning of Cable Services and estimated timetable to commence providing Cable Service.

10. **INSURANCE AND INDEMNIFICATION**

10.1 *Insurance:*

10.1.1 The Franchisee shall obtain and maintain, in full force and effect, at its sole cost and expense, during the Franchise Term, the following minimum insurance coverage. All policies must be on an "occurrence" basis and not on a "claims made" basis.

10.1.1.1 Commercial General Liability Insurance per occurrence and in the aggregate in the amount of three million dollars (\$3,000,000) combined single limit for property damage and bodily injury. Such insurance shall cover the construction, operation, and maintenance of the Cable System, and the conduct of the Franchisee's Cable Service business in the City.

10.1.1.2 Liability Insurance per occurrence and in the aggregate in umbrella form in the amount of five million dollars (\$5,000,000).

10.1.1.3 Automobile Liability Insurance per occurrence and in the aggregate in the amount of two million dollars (\$2,000,000) combined single limit for bodily injury and property damage coverage.

10.1.1.4 Workers' Compensation Insurance meeting all legal requirements of the Commonwealth of Pennsylvania.

10.1.2 The City, its officials and employees, shall be designated as additional insureds under each of the insurance policies required in this Article 11 except for Worker's Compensation Insurance.

10.1.3 The Franchisee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Section and without submitting insurance certificates to the City verifying that the Franchisee has obtained such alternative insurance. Franchisee shall provide the City with at least thirty (30) days prior written notice in the event there is an adverse material change in coverage or the policies are cancelled or not renewed.

10.1.4 Each of the required insurance policies shall be with insurance companies qualified to do business in the Commonwealth of Pennsylvania, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition or a Standard and Poor's rating of at least AA.

10.1.5 The Franchisee shall deliver to the City Certificates of Insurance showing evidence of the required coverage within thirty (30) days of the Effective Date of the Agreement and within ten (10) days of each renewal term.

10.2 The limits above may be satisfied with a combination of primary and excess coverage.

10.3 *Indemnification:*

10.3.1 The Franchisee agrees to indemnify, save, hold harmless, and defend the City, its elected and appointed officials, officers, agents, boards, and employees, from and against any and all claims

for injury, loss, liability, cost or expense arising in whole or in part from, incident to, or connected with any act or omission of Franchisee, its officers, agents, or employees, including the acts or omissions of any contractor or subcontractor of Franchisee, arising out of the construction, operation, upgrade, or maintenance of its Cable System or arising out of this Agreement, the performance Franchisee's obligations hereunder, or Franchisee's failure to comply with applicable federal or state laws or regulations. The obligation to indemnify, save, hold harmless and defend the City shall include, the obligation to pay judgments, injuries, liabilities, damages, penalties, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of such indemnification, provided, however, that the City shall give the Franchisee timely written notice of the City's request for indemnification pursuant to this Subsection. The City shall provide Franchisee with such written notice within a period of time that allows Franchisee to take action to avoid entry of a default judgment and does not prejudice Franchisee's ability to defend the claim or action. Notwithstanding the foregoing, the Franchisee shall not indemnify the City for any damages, liability, or claims resulting from the willful misconduct or negligence of the City, its officers, agents, employees, attorneys, consultants, independent contractors, or third parties or for any activity or function conducted by any Person other than the Franchisee, its officers, agents, employees, contractors or subcontractors in connection with PEG Access, EAS, or the distribution of any Cable Service over the Cable System.

10.3.2 With respect to the Franchisee's indemnity obligations set forth in subsection 10.2.1, the Franchisee shall provide the defense of any claims brought against the City by selecting counsel of the Franchisee's choice to defend the claim, subject to the consent of the City, which shall not unreasonably be withheld. Nothing herein shall be deemed to prevent the City from cooperating with the Franchisee and participating in the defense of any litigation by its own counsel at its own cost and expense, provided however, that after consultation with the City, the Franchisee shall have the right to defend, settle, or compromise any claim or action arising hereunder, and the Franchisee shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the terms of any such proposed settlement includes the release of the City, and the City does not consent to the terms of any such settlement or compromise, the Franchisee shall not settle the claim or action, but its obligation to indemnify the City shall in no event exceed the amount of such settlement.

11. **TRANSFER OF FRANCHISE**

11.1 Subject to Section 617 of the Communications Act, 47 U.S.C. § 537 and in accordance with 47 C.F.R. 76.502, and applicable federal regulations, no Transfer of the Franchise shall occur without the prior written consent of the City. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, by assignment of any rights, title, or interest of the Franchisee in the Franchise or Cable System in order to secure indebtedness, or for transactions otherwise excluded under Section 1.36 above. Franchisee shall make written application to the City of any Transfer and shall provide information required by FCC Form 394. The City shall, in accordance with 47 C.F.R. §76.502, have one hundred twenty (120) days from the receipt of FCC Form 394 to take action on the Transfer application. Any consent by the City for any Transfer shall not be effective until the proposed transferee or assignee shall have executed a legally binding document stating that it shall be bound by all the terms and conditions contained in this Agreement.

12. **RENEWAL OF FRANCHISE**

12.1 The City and the Franchisee agree that any proceedings undertaken by the City that relate to the renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the

Communications Act, 47 U.S.C. § 546.

13. **ENFORCEMENT AND TERMINATION OF FRANCHISE**

13.1 *Violations:*

13.1.1 *Notice of Non-Compliance:* If at any time the City believes that the Franchisee has not complied with any provision of this Agreement, it shall informally discuss the matter with the Franchisee. If these discussions do not lead to resolution of the problem in a reasonable time, the City shall then notify the Franchisee in writing of the exact nature of the alleged noncompliance (for purposes of this Article, the "Noncompliance Notice"). If the City does not notify the Franchisee of any violation of this Agreement, it shall not operate as a waiver of any rights of the City hereunder or pursuant to applicable law. Notwithstanding the foregoing, Franchisee shall not be prohibited from raising any applicable defenses under the law.

13.1.2 *Franchisee's Right to Cure or Respond:* The Franchisee shall have thirty (30) days from the receipt of the Noncompliance Notice to: (i) respond to the City in writing, if Franchisee contests (in whole or in part) the assertion of noncompliance; (ii) cure such noncompliance; or (iii) in the event that, by its nature, such noncompliance cannot be cured within such thirty (30) day period, initiate reasonable steps to remedy such noncompliance, diligently pursue such remedy to completion, and notify the City of the steps being taken and the date by which they are projected to be completed. Upon cure of any noncompliance, the City shall provide written confirmation to Franchisee that such cure has been effected.

13.1.3 *Failure to Cure:* If the violation has not been cured within the time allowed under subsection 13.1.2 above, then the City shall have the right to assess liquidated damages upon the Franchisee and in accordance with Section 13.2 below.

13.2 *Liquidated Damages:* Because the Franchisee's failure to comply with provisions of this Agreement will result in injury to the City and because it will be difficult to measure the actual extent of such injury, the City and Franchisee agree that the liquidated damages in the amounts set forth below are fair and reasonable compensation for such injuries provided the Franchisee has had an opportunity to cure in accordance with Section 13.1 above. Following the notice and opportunity to cure periods in Section 13.1 above, the City shall provide Franchisee with separate written notice that it intends to elect the liquidated damage remedies set forth herein. If the City elects to recover liquidated damages for any item set forth in this Section 13.2 (including customer service violations), the City agrees that such recovery shall be its exclusive remedy for the time period in which liquidated damages are assessed; provided, however, once the City has ceased to assess its liquidated damages remedy as set forth in this Section 13.2, it may pursue other available remedies.

13.2.1 Pursuant to Section 13.2, the following monetary damages shall apply:

13.2.1.1 For failure to comply with the system facilities standards as set forth in Article 4

\$350 per day for each day the violation continues;

13.2.1.2 For failure to provide PEG services as required by Article 5

\$350/day for each day the violation continues;

13.2.1.3 For failure to comply with the reports or records requirements as set forth by this Agreement within the time period required

\$350/day for each day the violation continues;

13.2.1.4 For failure to meet customer service requirements with regard to Sections 2, 3, and 4 of the Customer Service Standards set forth in Appendix C not met;

\$350 for each quarter in which such standards were

13.2.1.5 For failure to carry the insurance specified in Section 9.1.1

\$350/day for each day the violation continues;

13.2.1.6 For a Transfer specified in Article 10 without required approval

\$350/day for each day the violation continues;

13.2.1.7 For failure to complete installation of the Ethernet ELAN Service Sites sites as required pursuant to Section 4 of Appendix D

\$350/day for each day the violation continues; and

13.2.1.8 For failure to provide Cable Service in the specified time periods required under Article 3

\$350/day for each day the violation continues.

13.4 *Limitation of Damages:* The amount of all liquidated damages per annum shall not exceed Fifty Thousand Dollars (\$50,000) in the aggregate. With respect to the damages assessed pursuant to 13.3, all similar violations or failures from the same factual events affecting multiple subscribers shall be assessed as a single violation, and a violation or a failure may only be assessed under any one of the above-referenced categories. Violations or failures shall not be deemed to have occurred or commenced until they are not cured as provided in Section 13.1. The City may, at its sole discretion, take any lawful action that it deems appropriate to enforce City's rights under the Agreement in lieu of the imposition of liquidated damages. Such actions include, but are not limited to, making a demand upon the performance bond, seeking to restrain by injunction the continuation of the violation or pursuing any other remedy in law or equity.

13.5 *Performance Bond:*

13.5.1 Within thirty (30) days after the Effective Date, the Franchisee shall provide to the City security for the performance of its obligations under this Agreement in the amount of Five Hundred Thousand Dollars (\$500,000) (the "Security"), subject to Section 13.5.5 hereof. The form of this Security may, at the Franchisee's option, be a performance bond, letter of credit, cash deposit, cashier's check or any other security acceptable to the City. If the Franchisee posts a performance bond, it shall be substantially in the form of Appendix E attached hereto.

13.5.2 At the Franchisee's option the performance bond may be replaced with a substantially similar performance bond.

13.5.3 In the event that a performance bond provided pursuant to this Section is not renewed or is canceled, the Franchisee shall provide new Security pursuant to this Section within thirty (30) days of such cancellation or failure to renew.

13.5.4 Neither cancellation, nor termination, nor refusal by surety to extend the performance bond, nor inability of the Franchisee to file a replacement performance bond or replacement security for its obligations, shall constitute a loss to the City recoverable under the performance bond; provided, however, that this Section 13.5.4 shall not be construed as a waiver of any other legal or equitable rights the City may exercise in order to enforce the terms of this Article 13.

13.5.5 The Franchisee shall have the right to reduce the amount of the Security required under this Section 13.5 to One Hundred Thousand Dollars (\$100,000) on June 30, 2010, unless the City has entered into any Other Franchise Agreement with another cable operator providing cable service in the City and such Other Franchise Agreement includes a performance bond, letter of credit, or security fund in the amount of at least Five Hundred Thousand Dollars (\$500,000); provided, however, that within forty-five (45) days of the effective date of any Other Franchise Agreement, the Security required under this Section 13.5 shall be increased to the lower of: i) Five Hundred Thousand Dollars (\$500,000) or ii) the amount of the performance bond, letter of credit or security fund required pursuant to such Other Franchise Agreement.

13.6 *Revocation:*

13.6.1. In addition to the other rights, powers and remedies retained by the City under this Agreement, the City reserves the separate and distinct right to revoke this Franchise under the procedures specified in this Section 13.6. The City may revoke the Franchise for any of the following violations:

Franchisee repeatedly violates one or more of the material terms or conditions of this Agreement;

Franchisee practices any fraud or deceit upon the City in its operation of its Cable System or any other activities pursuant to this Agreement;

Franchisee ceases to provide Cable Service;

Franchisee fails to provide Institutional Network services as set forth in Section 6 and Appendix D of this Agreement;

Franchisee fails to pay Franchise Fees to the City as set forth in Section 7; and

Franchisee fails persistently to provide PEG financial support to the City as set forth in Section 5.

Franchisee fails to indemnify the City as set forth in Section 10.2;

13.6.2 Should the City seek to revoke this Franchise, it shall give written notice to the Franchisee of such intent. The notice shall set forth the specific nature of the noncompliance. Franchisee shall have sixty (60) days from receipt of such notice to object in writing and to state its reasons for such objection. In the event the City has not received a satisfactory response from Franchisee, it may then seek revocation of the Franchise at a public hearing. The City shall cause to be served upon Franchisee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Agreement.

13.6.3 At the designated public hearing, Franchisee shall be provided a fair opportunity for full participation, including the rights to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to request the relevant testimony of the officials, agents, or employees of City, to compel the testimony of other persons as permitted by law, and to question and/or cross examine witnesses. A complete verbatim record and transcript shall be made of such hearing.

13.6.4 Following the public hearing, Franchisee shall be provided up to thirty (30) days to submit its proposed findings and conclusions to the City in writing, and thereafter the City shall determine (i) whether a violation subject to revocation has occurred under this Agreement; (ii) whether such violation is excusable; and (iii) whether such violation has been cured by Franchisee. The City shall also determine whether it will revoke the Franchise based on the information presented or, in the discretion of City, grant additional time to Franchisee to effect any cure. If the City determines that it will revoke the Franchise, the City shall promptly provide Franchisee with a written determination setting forth City's reasoning for such revocation. Franchisee may appeal such written determination of the City to an appropriate court of competent jurisdiction. Franchisee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within the time frame permitted by law.

13.6.5 The City may, at its sole discretion, take any lawful action that it deems appropriate to enforce City's rights under the Agreement in lieu of revocation of the Franchise. Such actions include, but are not limited to, making a demand upon the performance bond, seeking monetary damages, seeking to restrain by injunction the continuation of the violation or pursuing any other remedy in law or equity.

14. MISCELLANEOUS PROVISIONS

14.1 *Actions of Parties:* In any action by the City or the Franchisee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner.

14.2 *Binding Acceptance:* This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors, and assigns.

14.3 *Change of Law:* In the event that there is a change in federal or state law, rules, or regulations preempt a provision or limit the enforceability of a provision of this Agreement, the provision shall be read to be preempted to the extent, and for the time, but only to the extent and for the time, required by law. In the event such federal or state law, rule, or regulation is subsequently repealed, rescinded, amended, or

otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City.

14.4 *Force Majeure*: The Franchisee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by a Force Majeure.

14.5 *Notices*: Unless otherwise expressly stated herein, notices required under the Franchise shall be mailed first class, postage prepaid, to the addressees below. Each party may change its designee by providing written notice to the other party.

14.5.1 Notices to the Franchisee shall be mailed to:

President

Verizon Pennsylvania Inc.

1717 Arch Street, Floor 17

Philadelphia, PA 19103

14.5.2 with a copy to:

Senior Vice President and General Counsel

- Telecom John F. Raposa, Senior Vice President & General Counsel

One Verizon Way, Ninth Floor, VC44E232

Basking Ridge, NJ 07920

14.5.3 Notices to the City shall be mailed to the following:

Director and Chief Information Officer-City of Pittsburgh
City Information Systems
City-County Building
414 Grant Street, Room 604
Pittsburgh, PA 15219

and

City Solicitor
City of Pittsburgh
Law Department

313 City-County Building
414 Grant Street
Pittsburgh, PA 15219

14.6 *Entire Agreement:* This Franchise and the Appendices and exhibits hereto constitute the entire agreement between the Franchisee and the City and supersedes all prior or contemporaneous agreements, representations, or understanding (whether written or oral) of the parties regarding the subject matter hereof. Any cable-related ordinances or parts of cable-related ordinances that conflict with the provisions of this Agreement are superseded by this Agreement.

14.7 *Amendments and Modifications:* Amendments and modifications to this Agreement shall be mutually agreed to by written instrument executed by the parties.

14.8 *No Third Party Beneficiaries:* Except as expressly provided in this Agreement, this Agreement is not intended to, and does not, create any rights or benefits on behalf of any Person other than the parties to this Agreement.

14.9 *Captions:* The captions and headings of articles and sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

14.10 *Severability:* If any section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term, or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

14.11 *Recitals:* The recitals set forth in this Agreement are incorporated into the body of this Agreement as if they had been originally set forth herein.

14.12 *FTTP Network Transfer Prohibition:* Under no circumstance including, without limitation, upon expiration, revocation, termination, denial of renewal of the Franchise, or any other action to forbid or disallow the Franchisee from providing Cable Services, shall the Franchisee or its assignees be required to sell any right, title, interest, use, or control of any portion of the Franchisee's FTTP Network including, without limitation, the Cable System and any capacity used for Cable Service or otherwise, to the City or any third party. The Franchisee shall not be required to remove the FTTP Network or to relocate the FTTP Network or any portion thereof as a result of revocation, expiration, termination, denial of renewal, or any other action to forbid or disallow the Franchisee from providing Cable Services. This provision is not intended to contravene leased access requirements under Title VI or PEG requirements set out in this Agreement. *Independent Review; Agreement:* The City and the Franchisee each acknowledge that they have received independent legal advice in entering into this Agreement. In the event that a dispute arises over the meaning or application of any term(s) of this Agreement, such term(s) shall not be construed by the reference to any doctrine calling for ambiguities to be construed against the drafter of the Agreement.

14.14 *Counterparts:* This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and the parties may become a party hereto by executing a counterpart hereof. This Agreement and any counterpart so executed shall be deemed to be one and the same instrument.

14.15 *Franchisee Representative:* Within thirty (30) days of the Effective Date, Franchisee shall assign a representative to be available to the City to address Franchise implementation issues. Within

such time period, Franchisee shall notify the City in writing of the name and contact information for such representative.

[SIGNATURE PAGE FOLLOWS]

AGREED TO THIS _____ DAY OF _____, 2009.

CITY OF PITTSBURGH

By:

Print: _____

Title: _____

VERIZON PENNSYLVANIA INC.

By:

Gale Given

President, Verizon Pennsylvania Inc.

APPENDICES

Appendix A: Franchise Area

Appendix B: Cable Service Deployment Schedule

Appendix C: Customer Service Standards

Appendix D: INET Services

Appendix E: Sample Form of Performance Bond

APPENDIX A

FRANCHISE AREA

APPENDIX B

DEPLOYMENT OF CABLE SERVICE

Section 1 - Citywide Service/Service Deployment Phases:

A. In accordance with the terms of Article 3 of this Agreement, Franchisee shall provide Cable Service to all residential dwelling units in the City within six (6) years of the Effective Date of this Agreement, subject to the exceptions set forth in Sections 3.1 and 3.2 of this Agreement. Franchisee shall make Cable Service available throughout the City in two (2) phases, each respectively consisting of the following wire centers serving areas of the City as described below and as more fully illustrated on Appendix A to this Agreement.

Phase One Wirecenters - 3 Years

Bellevue
Carnegie
Carrick
Dormont
Downtown
Northside
Sharpsburg

Phase Two Wirecenters - 6 Years

Allentown
Crafton
East Liberty
Homestead
McKee Rocks
Squirrel Hill
Westview
Wilkenburg
Oakland

Section 2 - Cable Service Deployment Schedule

A. Phase 1: Not later than the date which is three (3) years from the Effective Date of the Franchise (the "Year 3 Benchmark"), Franchisee shall offer Cable Service in each of the Phase 1 Areas. As of the Year 3 Benchmark, in no event shall the number of households throughout the City capable of receiving Cable Service from Franchisee constitute less than fifty percent (50%) of total households in the City that are not subject to an exception set forth in Sections 3.1 or 3.2 of this Agreement.

B. Phase 2: Franchisee shall commence deployment of Cable Service in the Phase 2 Areas not later than the date which is three (3) years from the Effective Date, and, not later than the date which is six (6) years from the Effective Date of the Franchise, Franchisee shall offer Cable Service to all households in the City that are not subject to an exception set forth in Section 3.1 or 3.2 of this Agreement.

APPENDIX C

CUSTOMER SERVICE STANDARDS

These standards shall, starting twelve after the Effective Date, apply to the Franchisee to the extent it is providing Cable Services over the Cable System in the City.

SECTION 1: DEFINITIONS

A. **Respond**: The Franchisee's investigation of a Service Interruption after receiving a Subscriber call by opening a trouble ticket, if required, and responding to the call.

B. **Significant Outage**: A significant outage of the Cable Service shall mean any Service Interruption lasting at least four (4) continuous hours that affects at least ten percent (10%) of the Subscribers in the City.

C. **Service Call**: The action taken by the Franchisee to correct a Service Interruption the effect of which is limited to an individual Subscriber.

D. **Standard Installation**: Installations where the Subscriber is within one hundred twenty five (125) feet of trunk or feeder lines.

SECTION 2: TELEPHONE AVAILABILITY

A. The Franchisee shall maintain a toll-free number to receive all calls and inquiries from Subscribers in the City and/or residents regarding Cable Service. The Franchisee representatives trained and qualified to answer questions related to Cable Service in the Franchise Area must respond to customer

telephone inquiries during Normal Business Hours. Such representatives must be available to respond to Service Interruptions twenty-four (24) hours a day, seven (7) days a week, and other inquiries at least forty five (45) hours per week. The Franchisee representatives shall identify themselves by name when answering this number.

B. The Franchisee's telephone numbers shall be listed, with appropriate description (e.g. administration, customer service, billing, repair, etc.), in the directory published by the local telephone company or companies serving the City, beginning with the next publication cycle after acceptance of this Franchise by the Franchisee.

C. The Franchisee may use an Automated Response Unit ("ARU") or a Voice Response Unit ("VRU") to distribute calls. If a foreign language routing option is provided, and the Subscriber does not enter an option, the menu will default to the first tier menu of English options.

After the first tier menu (not including a foreign language rollout) has run through three times, if customers do not select any option, the ARU or VRU will forward the call to a queue for a live representative. The Franchisee may reasonably substitute this requirement with another method of handling calls from customers who do not have touch-tone telephones.

D. Under Normal Operating Conditions, calls received by the Franchisee shall be answered within thirty (30) seconds. The Franchisee shall meet this standard for ninety percent (90%) of the calls it receives at all call centers receiving calls from Subscribers, as measured on a cumulative quarterly calendar basis. Measurement of this standard shall include all calls received by the Franchisee at all call centers receiving calls from Subscribers, whether they are answered by a live representative, by an automated attendant, or abandoned after thirty (30) seconds of call waiting.

E. Under Normal Operating Conditions, callers to the Franchisee shall receive a busy signal no more than three percent (3%) of the time during any calendar quarter.

F. At the Franchisee's option, the measurements above may be changed from calendar quarters to billing or accounting quarters. The Franchisee shall notify the City of such a change at least thirty (30) days in advance of any implementation. Franchisee shall 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 persistent failure to comply.

G. Upon request from the City but in no event more than once a quarter forty-five (45) days following the end of each quarter, the Franchisee shall report to the City the following for the applicable call center receiving calls from Subscribers in the City, except for temporary telephone numbers set up for national promotions:

(1) Percentage of calls answered within thirty (30) seconds as set forth in Subsection 2.D.

(2) Percentage of time customers received busy signal when calling the Franchisee service center as set forth in Subsection 2.E.

SECTION 3: INSTALLATIONS AND SERVICE APPOINTMENTS

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

supplied equipment and Cable Service.

B. The Standard Installation shall be performed within seven (7) business days after the placement of the Optical Network Terminal ("ONT") on the customer's premises or within seven (7) business days after an order is placed if the ONT is already installed on the customer's premises.

The Franchisee shall meet this standard for ninety five percent (95%) of the Standard Installations it performs, as measured on a calendar quarter basis, excluding customer requests for connection later than seven (7) days after ONT placement or later than seven (7) days after an order is placed if the ONT is already installed on the customer's premises.

C. The Franchisee shall provide the City with a written report upon request, but in no event more than once a quarter, noting the percentage of Standard Installations completed within the seven (7) day period, excluding those requested outside of the seven (7) day period by the Subscriber.

D. The Franchisee will offer Subscribers "appointment window" alternatives for arrival to perform installations, Service Calls, and other activities of a maximum four (4) hours scheduled time block during Normal Business Hours. At the Franchisee's discretion, the Franchisee may offer Subscribers appointment arrival times other than these four (4) hour time blocks, if agreeable to the Subscriber. These hour restrictions do not apply to weekends. The Franchisee may not cancel an appointment with a Subscriber after the close of business on the business day prior to the scheduled appointment. If a technician 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 that is convenient for the Subscriber.

SECTION 4: SERVICE INTERRUPTIONS AND OUTAGES

A. The Franchisee shall promptly notify the City of any Significant Outage of the Cable Service.

B. The Franchisee shall exercise commercially reasonable efforts to limit any Significant Outage for the purpose of maintaining, repairing, or constructing the Cable System. Except in an emergency or other situation necessitating a more expedited or alternative notification procedure, the Franchisee may schedule a Significant Outage for a period of more than four (4) hours during any twenty four (24) hour period only after the City and each affected Subscriber in the Franchise Area have been given fifteen (15) days' prior notice of the proposed Significant Outage. Notwithstanding the foregoing, the Franchisee may perform modifications, repairs, and upgrades to the System between 12.01 a.m. and 6 a.m. which may interrupt service, and this Section's notice obligations respecting such possible interruptions will be satisfied by notice provided to Subscribers upon installation and in the annual Subscriber notice.

C. The Franchisee representatives who are capable of responding to Service Interruptions must be available to Respond twenty four (24) hours a day, seven (7) days a week.

D. Under Normal Operating Conditions, the Franchisee must Respond to a call from a Subscriber regarding a Service Interruption or other service problems within the following time frames:

(1) Within twenty four (24) hours, including weekends, of receiving Subscriber calls respecting Service Interruptions in the City and shall diligently pursue to completion.

(2) The Franchisee must begin actions to correct all other Cable Service problems the next business day after notification by the Subscriber or the City of a Cable Service problem and shall diligently

pursue to completion.

E. Under Normal Operating Conditions, the Franchisee shall complete Service

Calls within seventy two (72) hours of the time the Franchisee commences to Respond to the Service Interruption, not including weekends and situations where the Subscriber is not reasonably available for a Service Call to correct the Service Interruption within the seventy two (72) hour period.

F. The Franchisee shall meet the standard in Subsection E of this Section for ninety percent (90%) of the Service Calls it completes, as measured on a quarterly basis.

G. The Franchisee shall provide the City with a written report upon request, but in no event more than once a quarter, noting the percentage of Service Calls completed within the seventy two (72) hour period not including Service Calls where the Subscriber was reasonably unavailable for a Service Call within the seventy two (72) hour period as set forth in this Section. At the Franchisee's option, the above measurements may be changed from calendar quarters to billing or accounting quarters. The Franchisee shall notify the City of such a change at least thirty (30) days in advance of any implementation.

H. Under Normal Operating Conditions, the Franchisee shall provide a credit upon Subscriber request when all Channels received by that Subscriber are out of service for a period of four (4) consecutive hours or more. The credit shall equal, at a minimum, a proportionate amount of the affected Subscriber(s) current monthly bill. In order to qualify for the credit, the Subscriber must promptly report the problem and allow the Franchisee to verify the problem if requested by the Franchisee. If Subscriber availability is required for repair, a credit will not be provided for such time, if any, that the Subscriber is not reasonably available.

I. Under Normal Operating Conditions, if a Significant Outage affects all Video Programming Cable Services for more than twenty four (24) consecutive hours, the Franchisee shall issue an automatic credit to the affected Subscribers in the amount equal to their monthly recurring charges for the proportionate time the Cable Service was out, or a credit to the affected Subscribers in the amount equal to the charge for the basic plus enhanced basic level of service for the proportionate time the Cable Service was out, whichever is technically feasible or, if both are technically feasible, as determined by the Franchisee provided such determination is non-discriminatory. Such credit shall be reflected on Subscriber billing statements within the next available billing cycle following the outage.

SECTION 5: CUSTOMER COMPLAINTS

Under Normal Operating Conditions, the Franchisee shall investigate Subscriber Complaints referred by the City within five (5) business days. The Franchisee shall notify the City of those matters that necessitate an excess of five (5) business days to resolve, but those matters must be resolved within fifteen (15) days of the initial Complaint. The City may require reasonable documentation to be provided by the Franchisee to substantiate the request for additional time to resolve the problem. For purposes of this Section, "resolve" means that the Franchisee shall perform those actions which, in the normal course of business, are necessary to investigate the Subscriber's Complaint and advise the Subscriber of the results of that investigation.

SECTION 6: BILLING

A. Subscriber bills shall be clear, concise, and understandable. Bills must be fully itemized to include all applicable service tiers and, if applicable, all related equipment charges. Bills shall clearly delineate activity during the billing period, including optional charges, rebates, credits, and aggregate late charges. The Franchisee shall, without limitation as to additional line items, be allowed to itemize as separate line items, Franchise fees, taxes, and/or other governmentally imposed fees. The Franchisee shall maintain records of the

date and place of mailing of bills.

B. A specific due date shall be listed on the bill of every Subscriber whose account is current. Delinquent accounts may receive a bill that lists the due date as upon receipt; however, the current portion of that bill shall not be considered past due except in accordance with Subsection 6.B. above.

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

- (1) The Subscriber pays all undisputed charges;
- (2) The Subscriber provides notification of the dispute to the Franchisee within five (5) days prior to the due date; and
- (3) The Subscriber cooperates in determining the accuracy and/or appropriateness of the charges in dispute.
- (4) It shall be within the Franchisee's sole discretion to determine when the dispute has been resolved.

D. Under Normal Operating Conditions, the Franchisee shall initiate investigation and resolution of all billing complaints received from Subscribers within five (5) business days of receipt of the complaint. Final resolution shall not be unreasonably delayed.

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

F. The Franchisee shall forward a copy of any Cable Service related billing inserts or other mailing sent to Subscribers to the City upon request.

G. The City hereby requests that the Franchisee omit the City's name, address, and telephone number from Subscriber bills as permitted by 47 C.F.R. § 76.952.

SECTION 7: RATES, FEES, AND CHARGES

A. The Franchisee shall not, except to the extent permitted by law, impose any fee or charge for Service Calls to a Subscriber's premises to perform any repair or maintenance work related to the Franchisee equipment necessary to receive Cable Service, except where such problem is caused by a negligent or wrongful act of the Subscriber (including, but not limited to a situation in which the Subscriber reconnects Franchisee equipment incorrectly) or by the failure of the Subscriber to take reasonable precautions to protect the Franchisee's equipment (for example, a dog chew).

B. The Franchisee shall provide reasonable notice to Subscribers of the possible assessment of a late fee on bills or by separate notice.

SECTION 8: DISCONNECTION /DENIAL OF SERVICE

A. The Franchisee shall not terminate Cable Service for nonpayment of a delinquent account unless the Franchisee mails a notice of the delinquency and impending termination prior to the proposed final termination. The notice shall be mailed to the Subscriber to whom the Cable Service is billed. The notice of

delinquency and impending termination may be part of a billing statement.

B. Cable Service terminated in error must be restored without charge within twenty four (24) hours of notice. If a Subscriber was billed for the period during which Cable Service was terminated in error, a credit shall be issued to the Subscriber if the Service Interruption was reported by the Subscriber.

C. Nothing in these standards shall limit the right of the Franchisee to deny Cable Service for non-payment of previously provided Cable Services, refusal to pay any required deposit, theft of Cable Service, damage to the Franchisee's equipment, abusive and/or threatening behavior toward the Franchisee's employees or representatives, or refusal to provide credit history information or refusal to allow the Franchisee to validate the identity, credit history, and credit worthiness via an external credit agency.

SECTION 9: COMMUNICATIONS WITH SUBSCRIBERS

A. All Franchisee personnel, contractors, and subcontractors contacting Subscribers or potential Subscribers outside the office of the Franchisee shall wear a clearly visible identification card bearing their name and photograph. The Franchisee shall make reasonable effort to account for all identification cards at all times. In addition, all Franchisee representatives shall wear appropriate clothing while working at a Subscriber's premises. Every service vehicle of the Franchisee and its contractors or subcontractors shall be clearly identified as such to the public. Specifically, Franchisee vehicles shall have the Franchisee's logo plainly visible. The vehicles of those contractors and subcontractors working for the Franchisee shall have the contractor's/subcontractor's name plus markings (such as a magnetic door sign) indicating they are under contract to the Franchisee.

B. All contact with a Subscriber or potential Subscriber by a Person representing the Franchisee shall be conducted in a courteous manner.

C. All notices identified in this Section shall be by either:

(1) A separate document included with a billing statement or included on the portion of the monthly bill that is to be retained by the Subscriber; or

(2) A separate electronic notification.

D. The Franchisee shall provide reasonable notice to Subscribers of any pricing changes or additional changes (excluding sales discounts, new products, or offers) and, subject to the foregoing, any changes in Cable Services, including channel line-ups. Such notice must be given to Subscribers and the City a minimum of thirty (30) days in advance of such changes if within the control of the Franchisee, and the Franchisee shall provide a copy of the notice to the City including how and where the notice was given to Subscribers.

E. The Franchisee shall provide information to all Subscribers about each of the following items at the time of installation of Cable Services, annually to all Subscribers, at any time upon request, and, subject to Subsection 9.D., at least thirty (30) days prior to making significant changes in the information required by this Section if within the control of the Franchisee:

(1) Products and Cable Service offered;

(2) Prices and options for Cable Services and condition of subscription to Cable Services.

Prices shall include those for Cable Service options, equipment rentals, program guides, installation,

downgrades, late fees, and other fees charged by the Franchisee related to Cable Service;

- (3) Installation and maintenance policies including, when applicable, information regarding the Subscriber's in-home wiring rights during the period Cable Service is being provided;
- (4) Channel positions of Cable Services offered on the Cable System;
- (5) Complaint procedures, including the name, address, and telephone number of the City, but with a notice advising the Subscriber to initially contact the Franchisee about all complaints and questions;
- (6) Procedures for requesting Cable Service credit;
- (7) The availability of a parental control device;
- (8) Franchisee practices and procedures for protecting against invasion of privacy; and
- (9) The address and telephone number of the Franchisee's office to which complaints may be reported.

A copy of notices required in this Subsection 10.F. will be given to the City at least fifteen (15) days prior to distribution to Subscribers if the reason for notice is due to a change that is within the control of the Franchisee and as soon as possible if not within the control of the Franchisee.

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

G. Notices of changes of Cable Services and/or Channel locations shall include a description of the new Cable Service, the specific channel location, and the hours of operation of the Cable Service if the Cable Service is only offered on a part-time basis. In addition, should the channel location, hours of operation, or existence of other Cable Services be affected by the introduction of a new Cable Service, such information must be included in the notice.

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

- (1) The name and address of the Subscriber whose account is delinquent;
- (2) The amount of the delinquency for all services billed;
- (3) The date by which payment is required in order to avoid termination of Cable Service;

and

(4) The telephone number for the Franchisee where the Subscriber can receive additional information about their account and discuss the pending termination.

SECTION 10: PRIVACY

The Franchisee shall at all times comply with the privacy provisions of Section 631 of the Cable Act and all other applicable federal and state privacy laws and regulations.

APPENDIX D

INET SERVICES

Pursuant to the Pennsylvania Right to Know Law, Act 3 (2009), §708(b)(2), (3), and (4), this Appendix D is not a "public record" and is therefore exempt from public disclosure and shall be afforded confidential protection at all times.

APPENDIX E

SAMPLE PERFORMANCE BOND

"Draft Sample- Definite Term" Franchise Bond

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS: That (name & address) (hereinafter called the Principal), and (name and address) (hereinafter called the Surety), a corporation duly organized under the laws of the State of (state), are held and firmly bound unto (name & address) (hereinafter called the Obligee), in the full and just sum of _____ Dollars (\$ _____), the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, their heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal and Obligee have entered into a Franchise Agreement dated _____ which is hereby referred to and made a part hereof.

WHEREAS, said Principal is required to perform certain obligations under said Agreement.

WHEREAS, the Obligee has agreed to accept this bond as security against default by Principal of performance of its obligations under said Agreement during the time period this bond is in effect.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal shall perform its obligations under said Agreement, then this obligation shall be void, otherwise to remain in full force and effect, unless otherwise terminated, cancelled or expired as hereinafter provided.

PROVIDED HOWEVER, that this bond is executed subject to the following express provisions and conditions:

1. In the event of default by the Principal, Obligee shall deliver to Surety a written statement of the details of such default within 30 days after the Obligee shall learn of the same, such notice to be delivered by certified mail to address of said Surety as stated herein.
2. This Bond shall be effective _____, 20____, and shall remain in full force and effect thereafter for a period of one year and will automatically extend for additional one year periods from the expiry date hereof, or any future expiration date, unless the Surety provides to the

"Draft Sample- Definite Term" Franchise Bond

Bond No. _____

3. Obligee no less than sixty (60) days advance written notice of its intent not to renew this Bond or unless the Bond is earlier canceled pursuant to the following. This Bond may be canceled at any time upon sixty (60) days advance written notice from the Surety to the Obligee.
4. Neither cancellation, termination nor refusal by Surety to extend this bond, nor inability of Principal to file a replacement bond or

replacement security for its obligations under said Agreement, shall constitute a loss to the Obligee recoverable under this bond.

- 5. No claim, action, suit or proceeding shall be instituted against this bond unless same be brought or instituted and process served within one year after termination or cancellation of this bond.
- 6. No right of action shall accrue on this bond for the use of any person, corporation or entity other than the Obligee named herein or the heirs, executors, administrators or successors of the Obligee.
- 7. The aggregate liability of the surety is limited to the penal sum stated herein regardless of the number of years this bond remains in force or the amount or number of claims brought against this bond.
- 8. This bond is and shall be construed to be strictly one of suretyship only. If any conflict or inconsistency exists between the Surety's obligations as described in this bond and as may be described in any underlying agreement, permit, document or contract to which this bond is related, then the terms of this bond shall supersede and prevail in all respects.

This bond shall not bind the Surety unless it is accepted by the Obligee by signing below.

IN WITNESS WHEREOF, the above bounded Principal and Surety have hereunto signed and sealed this bond effective this _____ day of _____, 2009.

Principal

Surety

By: _____

By: _____, Attorney-in-Fact

Accepted by Obligee: _____
(Signature & date above - Print Name, Title below)