



Government Affairs
1341 Crossways Boulevard
Chesapeake, Virginia 23320
757-369-4632

Via Federal Express

February 19, 2014

Steven D. Briglia
Vienna Town Attorney
127 Center Street, South
Vienna, VA 22180

RE: Franchise Agreement by and between the Town of Vienna and CoxCom, LLC

Dear Mr. Briglia,

Enclosed please find a final signed copy of the recently approved Franchise Agreement between CoxCom, LLC and Vienna for your files.

If you have any questions, please do not hesitate to contact me directly at 757-369-4632 or our Vice President of Public and Government Affairs, Kathryn Falk, at 703-480-5248. Thank you for your partnership.

Sincerely,

A handwritten signature in dark ink, appearing to read "Barrett Stork", written over a horizontal line.

Barrett Stork
Government Affairs Manager

CABLE FRANCHISE AGREEMENT
BETWEEN TOWN OF VIENNA, VIRGINIA
AND COXCOM, LLC, d/b/a COX COMMUNICATIONS NORTHERN VIRGINIA

Approved by the Town of Vienna Town Council on January 6, 2014

**CABLE FRANCHISE AGREEMENT
TOWN OF VIENNA, VIRGINIA**

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**CABLE TELEVISION FRANCHISE AGREEMENT
BETWEEN TOWN OF VIENNA, VIRGINIA
AND COXCOM, LLC, d/b/a COX COMMUNICATIONS NORTHERN VIRGINIA**

THIS CABLE FRANCHISE AGREEMENT (the "Franchise Agreement") is entered into by and between Town of Vienna, Virginia ("Town"), and CoxCom, LLC, d/b/a Cox Communications Northern Virginia ("Cox").

WHEREAS, Cox has asked the Town to renew Cox's nonexclusive Franchise (the "Prior Franchise") to own, install, construct, reconstruct, operate, maintain, dismantle, test, upgrade, repair, use, and remove a Cable System (as hereinafter defined) in the Town; and

WHEREAS, the installation, construction, reconstruction, operation, maintenance, dismantling, testing, upgrade, repair, use, and removal of such a system involves the occupation of and placement of private commercial facilities along, under, over, above, through, or across the Public Rights-of-Way or Public Land within the Town; and

WHEREAS, the Town has reviewed Cox's performance under the Prior Franchise and the quality of service during the term of the Prior Franchise, has identified the future cable-related needs and interests of the Town and its residents, has considered Cox's financial, technical and legal qualifications, has determined that Cox's plans for constructing, operating and maintaining its Cable System are adequate, and has determined that the foregoing meet the requirements of 47 U.S.C. § 546 in a full public proceeding affording due process to all parties; and

WHEREAS, the Town has relied on Cox's representations contained in this Franchise Agreement and has considered the information that Cox has presented to it; and

WHEREAS, based on Cox's representations in this Franchise Agreement, the Town Council has determined that, subject to the terms and conditions set forth herein and the

provisions of Chapter 24 of the Code of Ordinances, Town of Vienna, Virginia, known as the Vienna Cable Communications Ordinance (the "Communications Ordinance" or "Ordinance"), the grant of a new nonexclusive Franchise to Cox, to supersede the Prior Franchise, is consistent with the public interest; and

WHEREAS, the Town and Cox have reached agreement on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the Town's grant of a new Franchise to Cox; Cox's promise to provide Cable Service to residents of the Town pursuant to and consistent with the Communications Ordinance; 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

When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words “shall” and “will” are mandatory, and “may” is permissive. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in the Communications Ordinance, and words not defined in the Communications Ordinance shall be given the meaning set forth in Va. Code § 15.2-2108.19 or, if not in conflict, Title 47 of the United States Code, as amended, and if not defined therein, their common and ordinary meaning.

(a) *Affiliate:* Any Person who owns or controls, is owned or controlled by, or is under common ownership or control with Cox.

(b) *Basic Cable Service:* The HSN service tier which includes the following: at least (i) all domestic television broadcast signals carried in fulfillment of the requirements of 47 U.S.C. §§ 534 and 535 (except any signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by Cox’s Cable System); (ii) any public, educational, and governmental access programming required by the Franchise Agreement to be provided to Subscribers as basic cable service; and (iii) any additional video programming signals or service added to basic cable service by Cox.

(c) *Cable Act:* Title VI of the Communications Act of 1934 (47 U.S.C. § 521, et seq.) and any amendments thereto.

(d) *Cable Service*: (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(e) *Cable System*: A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (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 right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with 47 U.S.C. § 573; or (E) any facilities of any electric utility used solely for operating its electric utility system.

(f) *Communications Administrator*: The person so designated by the Town Council; and until such time as a Communications Administrator is designated by the Town Council, the Communications Administrator for the County shall serve as the Town Communications Administrator with the authority pertaining thereto, and such authority shall terminate upon appointment of a Communications Administrator by the Town Council.

(g) *Communications Ordinance*: Chapter 24 of the Code of Ordinances, Town of Vienna, Virginia, and any successor legislation.

(h) *Channel*: A portion of the electromagnetic frequency spectrum that is used in Cox's Cable System and that is capable of delivering a video signal as that term is defined by the FCC as of the Effective Date of this Agreement.

(i) *County*: The County of Fairfax, Virginia, for the purposes of submitting and processing a franchise application for the operation of an integrated cable television system serving both the Town and County, and for so long as a Cox holds a franchise from both the Town and the County serving both jurisdictions with one integrated cable television system. If Cox's cable television serves or should ever come to serve only the Town, the term "County" shall be synonymous with the term "Town".

(j) *Cox*: CoxCom, LLC, d/b/a Cox Communications Northern Virginia, a Delaware corporation, and its lawful and authorized successors, assigns, and transferees.

(k) *Cox's Cable System*: Cox's Cable System in the Town, which shall be subject to either the Prior Franchise or the Franchise, as the context requires.

(l) *Demarcation Point*: For purposes of the HSN as used in Section 7, a Demarcation Point for cable drops shall be a point agreed upon by Cox and the Town up to twelve inches inside the building wall and consistent with Cox's direction of approach to the building, consistent with the FCC's rules as of the Effective Date of this Agreement or as later amended. For purposes of the I-Net, a Demarcation Point shall have the meaning given that term in Appendix 1. For purposes of PEG upstream feeds, a Demarcation Point shall be the point at which the equipment owned by the PEG origination site operator interconnects with Cox's wiring and electronics.

(m) *Department of Cable and Consumer Services:* The Fairfax County Department of Cable and Consumer Services or any successor agency that is designated by the Fairfax County Board of Supervisors to perform the functions of that Department.

(n) *Educational Access Channel or Educational Channel:* Any Channel required by this Franchise Agreement to be provided by Cox to the Town on the HSN and set aside for educational use.

(o) *Effective Date:* January 21, 2014, subject to the conditions specified in 2(h).

(p) *Equitable Price:* Fair Market Value adjusted downward for the harm to the Town or Subscribers, if any, resulting from Cox's breach of this Agreement or violation of the Communications Ordinance which resulted in the revocation of the Franchise, and as further adjusted to account for any other equitable factors that may be considered consistent with 47 U.S.C. § 547.

(q) *Fair Market Value:* The price which property will bring when it is offered for sale by one who desires, but is not obligated, to sell it, and is bought by one who is under no necessity of having it.

(r) *Federal Communications Commission or FCC:* That Federal agency as presently constituted by the Communications Act of 1934, as amended, its designee, or any successor agency.

(s) *Force Majeure:* an event or events reasonably beyond the ability of Cox to control, including, but not limited to, severe or unusual weather conditions, strike, labor disturbance, lockout, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, action or inaction of any government instrumentality or

public utility including condemnation, accidents for which Cox is not primarily responsible, fire, flood or other act of God, sabotage, work delays because utility providers denied or delayed Cox access to utility poles to which Cox's Cable System is attached, and unavailability of materials and/or qualified labor to perform the work necessary if such acquisition of qualified labor would be commercially impracticable as defined in 47 U.S.C. § 545(f).

(t) *Franchise*: The franchise granted pursuant to this Agreement.

(u) *Franchise Agreement or Agreement*: This contract and any amendments, exhibits or appendices hereto.

(v) *Franchise Area*: The territorial boundaries of the Town and any area added thereto during the term of the Franchise (i) that is served by Cox as of the Effective Date of this Agreement or (ii) which Cox agrees to serve.

(w) *Franchise Fee*: This term shall have the meaning given to it in Section 8(a) herein.

(x) *Governmental Access Channel or Governmental Channel*: Any Channel required by this Franchise Agreement to be provided by Cox to Town on the HSN and set aside for government use.

(y) *Gross Revenues*: Any and all cash, credits, property or consideration of any kind or nature that constitute revenue in accordance with Generally Accepted Accounting Principles derived directly or indirectly from the operation of the Cable System to provide Cable Services in the Franchise Area.

(1) Consistent with the foregoing, the following, without limitation, shall be included in Gross Revenues to the extent derived from the operation of the Cable System to

provide Cable Services in the Franchise Area: monthly fees collected from Subscribers for any basic, optional, premium, per-channel, per-program service, or cable programming service; installation, disconnection, reconnection, and change-in-service fees; revenues from rentals or sales of converters or other equipment used to provide Cable Service over the Cable System; studio rental, production equipment rental, and personnel fees; fees from third-party unaffiliated programmers for leased access programming; advertising revenues after deducting agency commissions; revenues from the sale or carriage of other Cable Services over the Cable System in the Franchise Area; and revenues that Cox receives from home shopping channels for the use of the Cable System to sell merchandise.

(2) However, Gross Revenue shall not include:

(A) Revenues received by any Affiliate or other Person from Cox in exchange for supplying goods or services used by Cox to provide Cable Service over the Cable System;

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

(C) Revenues later refunded or rebated to Subscribers or other third parties;

(D) Revenues wholly generated by services that do not constitute Cable Service as defined herein over the Cable System in the Franchise Area, including, but not limited to, telecommunications services as defined in 47 U.S.C. § 153(46) and information services as

defined in 47 U.S.C. § 153(20) (which includes, but is not limited to, dial-up or broadband access service that enables Subscribers to access the Internet).

(E) Third-party revenues derived from the sale of merchandise over home shopping channels carried on the Cable System, regardless of whether the revenues are collected by the third party or collected by Cox on behalf of, and remitted back to, the third party; and revenue of Cox from its sale of merchandise over home shopping channels carried on the Cable System if the merchandise is unrelated to the operation of Cox's Cable System to provide Cable Service in the Franchise Area;

(F) Revenues from the sale of Cable Services on the Cable System to a reseller, when the reseller is required to pay Communications Sales and Use Tax on the resale of the Cable Services;

(G) Any tax of general applicability imposed upon Cox or upon Subscribers by a Town, state, federal, or any other governmental entity and that Cox is required to collect and remit 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 franchise fees for non-cable services);

(H) Any revenue foregone because Cox provides free or reduced cost cable or other communications services to any Person, including without limitation, employees of Cox; provided, however, that if Cox receives trades, barter, services, or other items of value instead of cash revenue, such items shall be included in Gross Revenue;

(I) Any revenue foregone as a result of Cox's provision of Cable Service or other services as required by this Agreement including, but not limited to, Cable Service to public institutions or other institutions as designated in the Franchise;

(J) Revenues from sales of capital assets or sales of surplus equipment;

(K) Program launch fees not paid directly to Cox;

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

(M) Any fees or charges collected from Subscribers or other third parties for PEG Grants and remitted to the PEG entities in accordance with this Agreement.

(3) Where Cox bundles, integrates, ties, or combines Cable Service with other services in a bundled package for which Subscribers pay a single fee, Gross Revenues for such bundled, integrated, or tied combination of services shall be determined based on the pricing for individual components billed or advertised to Subscribers by Cox or, if such pricing for individual components is not provided by Cox, based on a pro rata allocation among the services offered. Cox shall not use bundled package offerings as a means of evading the payment of PEG Grants or other financial obligations that are based on Cable Service revenue.

(z) *Home Subscriber Network or HSN:* Cox's Cable System serving Subscribers in the Franchise Area. The HSN shall include all facilities and equipment provided by Cox that are designed to provide Cable Service to Subscribers, including, but not limited to, converters and other terminal equipment.

(aa) *Homeowner*: The owner of a residential property where Cox is to provide service.

(bb) *Institutional Network or I-Net*: An institutional network constructed for the Town's use which is not generally available to Subscribers and which is more specifically described in Section 7 and Appendix I herein.

(cc) *Leased Access Channel or Commercial Access Channel*: Any Channel on Cox's Cable System designated or dedicated for use by a Person unaffiliated with Cox pursuant to 47 U.S.C. § 532.

(dd) *Normal Business Hours*: Those hours during which most similar businesses in the Town are open to serve their customers. "Normal business hours" shall include some evening hours at least one night per week and/or some weekend hours.

(ee) *Normal Operating Conditions*: The service conditions that are within the control of Cox, *i.e.*, not Force Majeure conditions. Conditions that are ordinarily within the control of Cox include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of Cox's Cable System.

(ff) *PEG*: Public, educational, and governmental.

(gg) *Person*: An individual, partnership, association, joint stock company, organization, corporation, or any lawful successor thereto or transferee thereof, but such term does not include the Town.

(hh) *Public Access Channel*: Any Channel required by this Franchise Agreement to be provided by Cox to Town on the HSN and set aside for use by the general public who are

residents of the Franchise Area, including groups and individuals, and which is available for such use on a non-discriminatory basis.

(ii) *Prior Franchise*: The cable television franchise approved by the Town Council that became effective on January 21, 1999.

(jj) *Public Land*: Real property owned by the Town (1) to the extent it is in use by Cox as of the Effective Date for its Cable System and to reach I-Net sites; or (2) to the extent after the Effective Date it must be used by Cox to reach the Demarcation Point to provide service to a Town facility or other public building, subject to the reasonable agreement of Cox and the Town regarding the placement of facilities; or (3) that is used by any other franchised cable provider in the Town; or (4) to the extent the Town and Cox mutually agree in writing after the Effective Date to treat a Town property as Public Land, for example, by grant of an easement or other authority to use Town property.

(kk) *Public Rights-of-Way*: The surface, the air space above the surface, and area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, concourse, bridge, tunnel, parkway, waterway, dock, bulkhead, wharf, pier, easements dedicated for public use, or other public way within the Town, which consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System.

(ll) *Service Interruption*: Loss of picture or sound on one or more cable Channels.

(mm) *Service Tier*: A category of Cable Service or other services provided by Cox's Cable System consisting of one or more Video Programming services that are offered as a package and for which a separate rate is charged by Cox.

(nn) *Subscriber*: A Person who contracts with Cox to receive or otherwise lawfully receives (except for resale) within the Franchise Area Cox's Basic Service and/or any one or more of such other Cable Services as may be provided on the HSN.

(oo) *Term*: The term of this Agreement as specified in Section 2(c).

(pp) *Town*: The Town of Vienna, Virginia.

(qq) *Town Code*: The Code of Ordinances, Town of Vienna, Virginia, and any successor legislation.

(rr) *Town Council*: The Town Council of the Town of Vienna, Virginia.

(ss) *Town Manager*: The chief administrative officer of the Town, or his or her designee or successor.

(tt) *User*: A Person or organization using a PEG Channel or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a Subscriber.

(uu) *Video Programming*: Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

2: GRANT OF AUTHORITY; LIMITS AND RESERVATIONS

2(a): Grant of Authority

2 GRANT OF AUTHORITY; LIMITS AND RESERVATIONS

(a) *Grant of Authority.* Subject to the terms and conditions of this Agreement and the Communications Ordinance, the Town hereby grants Cox the right to own, install, construct, reconstruct, operate, maintain, dismantle, test, upgrade, repair, use, and remove a Cable System along, under, over, above, through, or across or in any manner connected with the Public Rights-of-Way or Public Land within the Franchise Area, for the sole purpose of providing Cable Service. This Franchise shall grant no authority for Cox to use the Town's Public Rights-of-Way or Public Land for any purposes other than the provision of Cable Service, except to the extent other services may be provided pursuant to Section 7 herein or as hereinafter expressly provided. The consideration provided by Cox under this Agreement shall be the only consideration due or required from Cox to the Town for the right to use and occupy the Public Rights-of-Way and Public Land. No reference herein to a Public Right-of-Way shall be deemed to be a representation or guarantee by the Town that its interest or other right to control the use of such property is sufficient to permit Cox's use for specific purposes, and Cox shall be deemed to gain only those rights to use that are within the Town's power to convey. No privilege or power of eminent domain is bestowed by this grant or by this Agreement. This Agreement does not confer any rights other than as expressly provided herein or as implied under federal, state, or local law.

(b) *Area Served*

(1) The Franchise is granted for the Franchise Area defined herein.

2: GRANT OF AUTHORITY; LIMITS AND RESERVATIONS

2(c): Term

(2) Cox shall build and maintain Cox's Cable System so that it is able to provide service to all Subscribers and potential Subscribers passed by Cox's Cable System as of the Effective Date of this Agreement and to other Subscribers and potential Subscribers in accordance with Section 4.

(c) *Term.* The Franchise and this Franchise Agreement shall become effective at 12:01 a.m. on the Effective Date and shall expire at 12:01 a.m. on February 1, 2024, unless the Franchise is earlier revoked or its Term shortened as provided herein or in the Communications Ordinance, or unless the Franchise is renewed or extended by mutual agreement.

(d) *Grant Not Exclusive.* The Franchise and the right it grants to use and occupy the Public Rights-of-Way and Public Land shall not be exclusive. The Town reserves the right to grant other franchises, as consistent with state and federal law, for other uses of the Public Rights-of-Way and Public Land, or any portions thereof, to any Person, or to make any such use itself, at any time during the Term, with or without a franchise, but in no event inconsistent with the rights granted herein.

(e) *Franchise Agreement Subject to Other Laws.* This Franchise Agreement is subject to and shall be governed by all applicable provisions of federal, state, and local law.

(f) *Franchise Agreement Subject to Exercise of Police Powers.* All rights and privileges granted herein are subject to the exercise of the police powers of the Town and its rights under applicable laws and regulations to reasonably exercise its police powers to their full extent and to regulate Cox and the construction, operation, and maintenance of Cox's Cable System, including, but not limited to, the right to adopt and enforce additional ordinances and regulations as the Town shall find necessary in the exercise of its police powers, the right to

2: GRANT OF AUTHORITY; LIMITS AND RESERVATIONS

2(g): Material Alteration

adopt and enforce applicable zoning, building, permitting, and safety ordinances and regulations, the right to adopt and enforce ordinances and regulations relating to equal employment opportunities, and the right to adopt and enforce ordinances and regulations containing Public Rights-of-Way, telecommunications, and utility and cable television consumer protection and customer service standards.

(g) *Material Alteration.* Notwithstanding Section 2(i)(1) or 12(g)(2) herein, if Cox's rights, benefits, obligations, or duties expressly specified in this Agreement are materially altered as the result of changes in Town ordinances that are incorporated by reference or otherwise, then this Agreement shall be promptly amended so that the rights, benefits, obligations, and duties of Cox set forth in this Agreement as of the Effective Date are preserved or restored to the maximum extent possible, with such amendment to be effective as of the date of the material alteration. In the event that the parties are unable to agree upon an amendment, the scope of any amendment shall be determined by a court of competent jurisdiction.

(h) *Approval and Effective Date.* This Franchise Agreement shall become effective after the approval of the Town Council and the Town Manager's certification in writing of the Town's receipt, no later than January 20, 2014, and in a form acceptable to the Town, of (i) certificates of insurance for each insurance policy required by Section 11 of the Franchise Agreement; (ii) the performance bond required by Section 12(a) of the Franchise Agreement; (iii) the letter of credit required by Section 12(b) of the Franchise Agreement; and (iv) the Acceptance of Franchise, as set forth in Appendix 6 to the Franchise.

(i) *Effect of Acceptance.* By accepting the Franchise and executing this Franchise Agreement, Cox:

2: GRANT OF AUTHORITY; LIMITS AND RESERVATIONS

2(j): Claims Related to Prior Franchise

(1) accepts and agrees to comply with the Town Code, including each provision of the Communications Ordinance and this Agreement, except to the extent otherwise expressly provided herein, and waives its claim or right to claim as is required by Communications Ordinance Section 24-34;

(2) acknowledges and accepts the Town's legal right to grant the Franchise, to enter into this Franchise Agreement, and to enact and enforce ordinances and regulations related to the Franchise; and

(3) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law.

(j) Claims Related to Prior Franchise

(1) Cox shall remain liable for payments of all amounts owed to the Town under the Prior Franchise that are accrued but unpaid prior to the Effective Date. The audit provisions and review periods of the Prior Franchise shall continue to apply to any amounts owed pursuant to this section 2(j)(1). The grant of the Franchise shall have no effect on Cox's duty under the Prior Franchise to indemnify or insure the Town against acts and omissions that occurred during the period that the Prior Franchise was in effect; and to correct any construction violations for which (i) written notice identifying the nature and location of the violation with sufficient specificity to allow Cox to correct the violation has been given to Cox prior to the Effective Date of this Agreement and (ii) the violation has not been cured by the Effective Date of this Agreement.

(2) Except as provided in paragraph (1) above or in Section 5 of Appendix 1, as of the Effective Date of this Franchise Agreement, the Prior Franchise is superseded and is

2: GRANT OF AUTHORITY; LIMITS AND RESERVATIONS

2(k): No Waiver

of no further force and effect, and the Town and Cox mutually release each other from any claims each had, has or may have against the other under the Prior Franchise.

(k) No Waiver

(1) The failure of the Town on one or more occasions to exercise a right or to require compliance or performance under this Franchise Agreement, the Communications Ordinance or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the Town, nor to excuse Cox from complying or performing, unless such right or such compliance or performance has been specifically waived in writing by the Communications Administrator or designee.

(2) The failure of Cox on one or more occasions to exercise a right or to require compliance or performance under this Franchise Agreement, the Communications Ordinance or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by Cox, nor to excuse the Town from complying or performing, unless such right or such compliance or performance has been specifically waived in writing by Cox.

(3) No waiver by the Town of any breach or violation of any provision of this Franchise Agreement or the Communications Ordinance shall be deemed to be a waiver or a continuing waiver by the Town of any subsequent breach or violation of the same or any other provision. Neither the granting of the Franchise, nor any provision herein, nor any action by the Town hereunder shall constitute a waiver of or a bar to the exercise of any police right or power of the Town, including without limitation, the right of eminent domain.

2: GRANT OF AUTHORITY; LIMITS AND RESERVATIONS

2(l): Construction of Franchise Agreement

(4) No waiver by Cox of any breach or violation of any provision of this Franchise shall be deemed to be a waiver or a continuing waiver by Cox of any subsequent breach or violation of the same or any other provision. By its execution of this Franchise Agreement, Cox does not waive any rights it may have under federal or state law, in the event that the Town grants a franchise or other authorization to any other multichannel video programming provider after the Effective Date, as the result of a grant of such franchise or other authorization.

(l) *Construction of Franchise Agreement.* In the event of a conflict between the Communications Ordinance and this Agreement, this Agreement shall prevail. In the case of a conflict between the Communications Ordinance and Virginia Code Sections 15.2-2108, 19, et seq., the Virginia Code shall prevail. In the event a conflict does not exist between the Communications Ordinance and this Agreement, then only the terms and conditions of this Agreement shall be applicable to Cox, and Cox shall be deemed to be in compliance with the Communications Ordinance in effect on the Effective Date to the extent that the Communications Ordinance is not preempted by Virginia or federal law. Notwithstanding the foregoing, the Town retains its rights specified in Section 2(f).

(m) *Amendment of Franchise Agreement.* This Agreement may only be amended by mutual written consent of the Town and Cox, including but not limited to such consent and/or court order pursuant to Section 2(g) hereof.

3 TRANSFERS

(a) Town Approval Required

(1) A Franchise shall be a privilege that is held in the public trust, and personal to Cox. Cox's obligations under this Agreement involve personal services whose performance involves personal credit, trust, and confidence in Cox.

(2) Subject to the provisions of this Section 3, Cox shall apply to the Town for approval of any transaction in which any change is proposed with respect to ten percent (10%) or more for voting interests or twenty-five percent (25%) or more for non-voting interests of the ownership of Cox, the Cable System, the Cable System assets, or the Franchise (a "Transfer") by submitting FCC Form 394 or such other form as the FCC may prescribe for that purpose. The application shall be made at least 120 calendar days prior to the contemplated effective date of the transaction. Such application shall contain complete information on the proposed transaction, including details of the legal, financial, technical, and other qualifications of the transferee. At a minimum, the following information must be included in the application:

(A) all information and forms required under federal law;

(B) any shareholder reports or filings with the Securities and Exchange Commission that pertain to the transaction;

(C) a report detailing any changes in ownership of voting or non-voting interests of over five percent;

(D) other information necessary to provide a complete and accurate understanding of the financial position of the Cable System before and after the proposed transaction;

(E) complete information regarding any potential impact of the transaction on Subscriber rates and service; and

(F) any contracts that relate to the proposed transaction as it affects the Town and, upon request by the Town, all documents and information that are related or referred to therein and which are necessary to understand the proposed transaction; provided, however, that if Cox believes that the requested information is confidential and proprietary, then Cox must provide the following documentation to the Town: (i) specific identification of the information; (ii) statement attesting to the reason(s) Cox believes the information is confidential; and (iii) statement that the documents are available at Cox's designated offices for inspection by the Town.

(3) To the extent not prohibited by federal law, the Town Council may:

(i) grant; (ii) grant subject to conditions directly related to concerns relevant to the transactions; (iii) deny any such transactions; or (iv) not take action, in which case the transactions shall be subject to applicable law, including 47 U.S.C. § 537.

(A) For any transaction that the Town determines constitutes an assignment of the franchise, Town Council action shall be expressed by ordinance.

(B) For any transaction that the Town determines constitutes a significant transfer of control of the franchise, Town Council action shall be expressed by resolution.

3(b): Waiver of Transfer Application Requirements

Significant transfer of control means any change in the ownership of: (i) twenty percent (20%) or more of the voting interests or (ii) fifty percent (50%) or more of the non-voting interests.

(C) For any other transaction for which Cox has filed an application pursuant to Section 3(a), the Communications Administrator shall inform the Town Council not less than 30 days before such application would be deemed approved pursuant to Section 617 of the Communications Act, 47 U.S.C. § 537.

(b) *Waiver of Transfer Application Requirements.* To the extent consistent with federal law, the Town may waive in writing any requirement that information be submitted as part of the transfer application, without thereby waiving any rights the Town may have to request such information after the application is filed.

(c) *Transfers Securing Indebtedness.* Cox shall not be required to file an application or obtain the consent or approval of the Town for a transfer in trust, by mortgage, by other hypothecation, by assignment of any rights, title, or interest of Cox in the Franchise or Cable System in order to secure indebtedness. However, Cox will notify the Town within 10 days if at any time there is a mortgage or security interest granted on substantially all of the assets of the Cable System. The submission of Cox's audited financial statements prepared for Cox's bondholders shall constitute such notice.

(d) *Affiliate Transfers.* Cox shall not be required to pay an acceptance fee or file an application or obtain the consent or approval of the Town for any transfer of an ownership or other interest in Cox, the Cable System, or the Cable System assets to the parent of Cox or to another Affiliate of Cox; or any transfer of an interest in the Franchise or the rights held by Cox under the Franchise to the parent of Cox or to another Affiliate of Cox. However, Cox will

notify the Town within 30 days if at any time a Transfer occurs. Within a reasonable time after receiving notice of such transaction, the Town shall be responsible for furnishing Cox with an acknowledgement of the transaction and whether the Town is satisfied with the legal, financial, and technical qualifications of the transferee. Cox will guarantee all of obligations that this Agreement imposes on the holder of the Franchise until the Town provides Cox with the acknowledgement of the transaction and confirming that the Town has found the legal, financial, and technical qualifications of the transferee to be satisfactory.

(e) *Subsequent Approvals.* The approval of a Transfer in one instance shall not render unnecessary approval of any subsequent Transfer.

(f) *Approval Does Not Constitute Waiver.* Approval by the Town of a Transfer does not constitute a waiver or release of the rights of either Cox or the Town under this Agreement or the Communications Ordinance, whether arising before or after the date of the Transfer, nor does such approval constitute a waiver or release of the rights of the Town and the public in and to the Public Rights-of-Way or Public Land, or a release of any police powers.

4: PROVISION OF CABLE SERVICE

4(a): Availability of Cable Service

4 PROVISION OF CABLE SERVICE

(a) *Availability of Cable Service.* Cox shall make Cable Service available on the HSN in accordance with the terms of this Franchise Agreement to all residences, businesses, and other structures within the Franchise Area, including multiple dwelling unit buildings, whose owners or occupants request Cable Service, except as provided in Section 4(b)(4). Cox shall not discriminate between or among any individuals in the availability of Cable Service.

(b) *Line Extension Requirements*

(1) Cox shall make Cable Service available to residential and business units in the Franchise Area where the average density is equal to or greater than 30 occupied residential dwelling units per mile as measured in strand footage from the nearest technically feasible point on the active HSN trunk or feeder line. Should an area within the Franchise Area meet the density requirements described herein through new construction, Cox shall provide Cable Service to such area within six months of receiving notice that the density requirements have been met.

(2) Cox shall bear the costs of connecting residential dwelling units that are within 200 feet of the serving terminal or the edge of the property, whichever is less, if not otherwise already served by the HSN. When a connection exceeds such length, Cox may recover from that Subscriber any actual costs in connection attributable to the excess length.

(3) The costs of connecting commercial properties shall be based on published commercial rates for construction and installation costs.

4: PROVISION OF CABLE SERVICE

4(c): Continuity of Service

(4) Cox may refuse to provide Cable Service: (A) in areas where developments or buildings are subject to exclusive arrangements with other providers; (B) when it is unable pursuant to normal industry practice to obtain necessary programming, real property or other access rights; (C) in developments or buildings to which Cox is unable to provide Cable Service for technical reasons or which require non-standard facilities that are not available on a commercially reasonable basis; (D) when its prior service, payment, or theft of service history with a Person has been unfavorable; and (E) in areas where the occupied residential household density does not meet the density requirement set forth in Section 4(b)(1).

(5) The Communications Administrator or designee may waive in writing the requirements of this Section 4 with respect to a particular Subscriber or potential Subscriber, or a particular set of Subscribers or potential Subscribers, for good cause shown.

(c) Continuity of Service

(1) Cox shall operate Cox's Cable System pursuant to this Franchise without interruption, except as otherwise provided in this Franchise Agreement. If Cox ceases to operate Cox's Cable System, it shall ensure an orderly transfer of cable service to another franchise holder, without interruption of service to Subscribers.

(2) The Town may seek legal and/or equitable relief to enforce the provisions of this Section.

5 CONSTRUCTION AND MAINTENANCE

(a) Construction Standards

(1) The construction, operation, maintenance, and repair of Cox's Cable System shall be in accordance with the requirements of the Town Code and the specifications contained in this Agreement, shall conform to or exceed all applicable FCC technical performance standards, as amended from time to time, and shall be substantially in accordance in all material respects with any other technical performance standards lawfully established by the Town and all applicable sections of the following standards and regulations, to the extent that such standards and regulations remain in effect and are applicable to Cox's Cable System or to the construction, operation, maintenance, and repair of a Cable System:

(A) the Occupational Safety and Health Act of 1970, as amended;

(B) Occupational Safety and Health Administration (OSHA) Safety and Health Standards;

(C) the most current edition of the National Electrical Safety Code and National Electrical Code;

(D) Obstruction Marking and Lighting, AC 70/7460, *i.e.*, Federal Aviation Administration;

(E) Construction, Marking, and Lighting of Antenna Structures, Federal Communications Commission Rules Part 17;

(F) Bellcore Blue Book Manual of Construction Procedures;

(G) AT&T Blue Book Manual of Construction Procedures

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

(H) SCTE Recommended Practices for Coaxial Cable Construction and Testing;

(I) SCTE Recommended Practices for Optical Fiber Construction and Testing;

(J) SCTE Measurement Recommended Practices for Cable System;

(K) the Virginia Uniform Statewide Building Code;

(L) Virginia Department of Transportation rules and regulations;

(M) conditions embodied in Virginia Department of Transportation permits;

(N) Department of Public Works and Environmental Services permits and procedures;

(O) the National Cable Television Association Standards of Good Engineering Practices;

(P) Cox's Construction Procedures Manual;

(Q) any common shared easement or joint trenching arrangements to which Cox is a party;

(R) and other applicable federal, state, or local laws and regulations that may apply to the operation, construction, maintenance, or repair of a Cable System, including, without limitation, local zoning and construction codes and laws and accepted industry practices, all as hereafter may be amended or adopted.

(2) In the event of a conflict among such codes and standards, the most stringent applicable code or standard shall apply (except insofar as such practices, if

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

followed, would result in a Cable System that could not meet express requirements of federal, state, or local law, or in instances in which such practices are expressly preempted by other standards). Consistent with the foregoing, the Town may ensure that work continues to be performed in an orderly and workmanlike manner, reflecting any changes that may occur over the Franchise term.

(3) In the event any standard specified in section 5(a)(1) is repealed or eliminated, such standards or regulations shall no longer apply. To the extent permitted by applicable law, the Town reserves the right to adopt and impose such standards as it may deem necessary or appropriate, after notice to Cox and opportunity for Cox to participate.

(4) All wires, cable lines, and other transmission lines, equipment, and structures shall be installed and located consistent with cable industry practices, and where feasible without additional cost to Cox, in such a manner as to cause minimum interference with the rights and convenience of property owners (including the Town) and users of the Public Rights-of-Way and other public property. The Town may from time to time issue reasonable rules and regulations, after notice to Cox and opportunity for Cox to participate, concerning the construction, operation, and repair of Cox's Cable System as appropriate to ensure compliance with this Section.

(5) Without limiting the foregoing, antennae and their supporting structures (towers) shall be designed in accordance with the Virginia Uniform Statewide Building Code as amended, and shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

applicable state or local laws, codes, and regulations, all as hereafter may be amended or adopted.

(6) Without limiting the foregoing, all of Cox's plant and equipment, including, but not limited to, the antennae site, headend and distribution system, towers, house connections, structures, poles, wires, cable, coaxial cable, fiber optic cable, fixtures, and apparatuses shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained, and operated in accordance with good engineering practices, performed by experienced and properly trained maintenance and construction personnel.

(7) Cox shall maintain all wires, conduits, cables, and other real and personal property and facilities comprising Cox's Cable System in good condition, order, and repair. Consistent with Section 5(a)(1) above, all safety practices required by law shall be used during construction, maintenance, and repair of Cox's Cable System. Cox shall at all times employ at least ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents.

(8) No construction, upgrade, rebuild, reconstruction, maintenance, or relocation of Cox's Cable System, or any part thereof, within any Public Rights-of-Way or Public Land shall be commenced unless permits have been obtained from proper officials, except that in case of emergency, Cox may carry out such work to the extent necessary pending the issuance of such permits, as long as Cox acts to secure such permits as soon as possible.

(9) Upon request by the Town, prior to commencing any (i) significant alteration of the cable plant, (ii) other work that would require a construction permit, or (iii)

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

any work on public property, Cox shall provide the Town with 24 hours' prior notice of such work, when possible, so that the Town may perform appropriate inspections to ascertain compliance with applicable construction codes and standards. If 24 hours' prior notice cannot be furnished, Cox shall provide the Town with the maximum amount of notice feasible under the circumstances. If prior notice cannot be provided before commencing such work in the Public Rights-of-Way or other public property, Cox shall notify the Town as soon as possible thereafter. For purposes of this provision, notice shall where appropriate include the tax map location of the work proposed or performed, and the date such work will begin.

(10) Except in emergency situations, neither Cox nor any other Person acting as agent for Cox shall open or otherwise disturb or damage any street, sidewalk, driveway, Public Rights-of-Way or Public Land, public property, or private property for any purpose whatsoever without obtaining required authorization to do so, and shall, at its own cost and expense, restore, repair, and replace any property disturbed, damaged, or in any way injured by or on account of its activities substantially to its condition immediately prior to the disturbance, damage, or injury (including appropriate landscape restoration); provided, however, that with respect to landscape restoration efforts, Cox shall not be responsible for the maintenance and watering thereof, and Cox shall not be required to resod lawns where reseeding would, within a reasonable period of time, restore the lawn substantially to its condition immediately prior to the disturbance. Cox shall not be required to repave all or a substantial portion of a driveway if patching would be consistent with normal road repair requirements. Under Normal Operating Conditions, such repair or restoration shall be

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

completed at the later of 30 days from the date the damage is incurred or 30 days from when the work causing such damage is completed, weather permitting. Any restoration of private property by Cox shall be done in accordance with Cox's contractual obligation to affected landowners. Cox shall guarantee such restoration (other than landscaping restoration) for at least one year against defective materials and workmanship. In the event of a failure by Cox to complete any work required for the protection or restoration of the Public Rights-of-Way, Public Land, or any other property as required by this subsection 5(a)(10), within the time specified in this Franchise Agreement, the Town, following adequate written notice and a reasonable opportunity to cure, may cause such work to be done, and the Town shall submit an itemized list of such costs to Cox as well as any materials reasonably requested by Cox to verify such costs. Following Cox's receipt of such itemized list and supporting materials, Cox shall reimburse the Town the cost thereof within 30 days, or the Town may recover such costs through the performance bond or the letter of credit provided by Cox.

(11) Cox shall cooperate with all gas, electric, telephone, water, sewer, and other utilities in the placement of facilities, equipment, or fixtures, to minimize the costs and disruption caused by any construction activities.

(12) Cox shall seek to shore up, sling, support, protect, and make good, as directed, all water pipes, gas pipes, service pipes, sewers and sewer connections, conduits, ducts, manholes, drains, vaults, buildings, tracks or other structures, or sub-structures of public utility companies, and all service lines and structures, including sub-structures of private abutting owners, that are located within the lines of Cox's Cable System construction that may be liable to disturbance or injury during the progress of the construction. All

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

necessary supports and all labor and material necessary to reconnect and restore all such structures that become disturbed or damaged to substantially their original condition shall be provided by Cox at its own cost and expense.

(13) If the Town becomes aware of any relocation projects that may require Cox to protect, support, temporarily disconnect, relocate, or remove any of Cox's property, then the Town shall promptly notify Cox of the extent and likelihood of any such projects. Upon reasonable notice in accordance with the preceding sentence (except in the case of emergency repairs), Cox shall, by a time specified by the Town, protect, support, temporarily disconnect, relocate, or remove any of its property when reasonably required by the Town by reason of traffic conditions; public safety; Public Right-of-Way or Public Land construction; Public Right-of-Way or Public Land maintenance or repair (including resurfacing or widening); change of Public Right-of-Way or Public Land grade; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of government-owned communications system, public work or improvement or any government-owned utility ("Relocation of Cox Facilities"). If the Town Manager or other properly authorized administrative officer reasonably determines that it is necessary for the purpose of a Town public works project to require a Relocation of above ground Cox Facilities to underground construction, then Cox shall relocate its facilities accordingly, at no additional cost to the Town. Unless there is an existing franchise or license agreement with other Public Rights Rights-of-Way users with specific relocation cost provisions, in the event the Town has project funds or grants available to other Public Rights-of-Way users for relocation costs, such funds or grants shall be made available to Cox on an equal basis. Cox

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

shall have the right to appeal from the Town Manager's or other properly authorized administrative officer's decision to the Town Council

(14) If Cox abandons any portion of Cox's Cable System located in Public Rights-of-Way or on Public Land (i.e., permanently deactivates and leaves it in place), the Town may require that such plant be removed at Cox's expense, at any time (i) if necessary, to make room for other facilities or (ii) if required by sound engineering practices, or (iii) to remove potential safety hazards. If Cox requests to leave such an underground portion of Cox's Cable System in place, the Town shall grant such request upon a showing by Cox that its existing arrangements are safe and consistent with accepted underground utility practices as well as any other obligations it may have (such as pole attachment agreements).

(15) If any Person that is authorized to place facilities in the Public Rights-of-Way or on Public Land requests Cox to remove, relocate, protect, support, or temporarily disconnect its facilities to accommodate the construction, operation, or repair of the facilities of such other Person at any time during the Term, then Cox shall, upon request and reasonable notice from such party and consistent with applicable law, remove, relocate, protect, or alter Cox's Cable System, or any part thereof, and such Person shall reimburse Cox for Cox's costs and expenses; provided, however, that Cox may require such payment in advance when its prior payment history with the requesting Person has been unfavorable.

(16) In the event of an emergency, or where Cox's Cable System creates or is contributing to an imminent danger to health, safety, or property, or an unauthorized use of property, Cox shall remove or relocate any or all parts of Cox's Cable System at the request of the Town. If Cox fails to comply with the Town's request, the Town may remove or

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

relocate any or all parts of Cox's Cable System upon reasonable notice to Cox. If Cox's compliance with the Town's request pursuant to this subsection results in the breach of any of Cox's obligations under this Agreement, and Cox has so notified the Town before complying with the Town's request, Cox shall not be liable for its failure to satisfy such obligations.

(17) Cox shall, on the request of any Person holding a valid building moving permit issued by the Town, or on request of the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same, and Cox shall have the authority to require such payment in advance, except in the case where the requesting person is the Town, in which case Cox shall do so at its own expense. Cox shall be given reasonable advance notice in writing to arrange for such temporary wire changes.

(18) Subject to Town provisions for obtaining any necessary permit and notice to the Town, Cox shall have the authority to trim trees and shrubs, at its own expense, so as reasonably to prevent the branches of such trees or shrubs from coming in contact with the facilities, wires, and cables of Cox.

(19) Cox shall use, with the owner's permission, existing poles, conduits, and other facilities whenever feasible and consistent with the design of Cox's Cable System. Cox may not erect or emplace poles, conduits, or other facilities in Public Rights-of-Way or on Public Land without obtaining appropriate permits. Any such permits from the Town shall not be unreasonably withheld and shall be free of charge to Cox.

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

(20) Cox's Cable System cable and facilities may be constructed overhead where poles now exist and electric or telephone lines or both are now overhead, but where no overhead poles exist all cables and facilities, excluding passive or active electronics of Cox's Cable System that may be housed in low-profile, above-ground pedestals, shall be constructed underground. Whenever and wherever a property owner causes or requests electric lines and telephone lines to be moved from overhead to underground placement, all of Cox's Cable System cables shall likewise be moved underground and the cost of movement of its cable shall be paid for by the requesting party. Whenever and wherever the Town causes or requests electric lines and telephone lines to be moved from overhead to underground placement, all of Cox's Cable System cables shall likewise be moved underground, at no additional cost to the Town. In the event the Town has project funds or grants available to other Public Rights-of-Way users for relocation costs, such funds or grants shall be made available to Cox on an equal basis. Except as federal law may otherwise require, in any area where Cox would be entitled to install a drop above-ground, Cox shall provide a homeowner with the option of having the drop installed underground, and may charge the homeowner the difference between the actual cost of the above-ground installation and the actual cost of the underground installation, which cost shall be disclosed to the homeowner in advance if requested by the homeowner. Notwithstanding the foregoing, all underground new or replacement wiring installed after the Effective Date of this Agreement on Public Land not part of the Public Rights-of-Way shall be located in conduit composed of concrete or in PVC pipe or polyethylene pipe, or may be directly buried if enclosed in

5: CONSTRUCTION AND MAINTENANCE

5(a): Construction Standards

armored cable. New buried cable and facilities shall be capable of location using locating devices commonly available at the time of installation.

(21) Cox shall make available to other users of the Public Rights-of-Way and Public Land at a reasonable, non-discriminatory rental rate any of its excess conduits, so long as such conduits are in excess of any current or any future projected needs of operation of Cox or its affiliates.

(22) Cox shall be a member of the regional notification center for subsurface installations, which shall field mark the locations of its underground facilities upon request.

(23) Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of Cox's Cable System equipment shall be properly licensed under the laws of the Commonwealth of Virginia and all local ordinances, where applicable, and each contractor or subcontractor shall have the same obligations with respect to its work as Cox would have if the work were performed by Cox. Cox shall seek to employ contractors, subcontractors and employees to perform work for it who are trained and experienced. Cox shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with the Franchise and applicable laws, regulations, policies, and procedures, shall be fully responsible for all acts or omissions of contractors or subcontractors and shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor.

(24) The Town does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures.

5: CONSTRUCTION AND MAINTENANCE

5(b): System Tests and Inspections

(25) Upon request by the Town, Cox shall provide the Town with a current electronic copy of its Construction Procedures Manual (the "Manual") at execution of this Agreement and shall provide the Town with copies of any updates as such updates are added to the Manual.

(26) Except for emergency maintenance or repairs, Cox shall provide reasonable notice to residents in any construction area prior to first entering onto their property to perform any work in conjunction with Cable System construction or rebuild, and shall provide reasonable notice to affected residents in advance of any work which will involve excavation, or replacement of poles. Cox shall provide affected residents with an individual's name and phone number they can call to discuss Cox's actions.

(27) The Town shall not require descriptions, drawings, or maps for placement of towers, poles, or conduits, except in accordance with the conditions specified in this Agreement.

(b) System Tests and Inspections

(1) Cox shall perform all tests necessary to demonstrate compliance with the requirements of the Franchise, and to ensure that the HSN system components are operating as expected. All tests shall be conducted in accordance with federal rules, standards of the Society of Cable Television Engineers (SCTE), and the most recent edition of the *SCTE Measurement Recommended Practices for Cable System*, or if no relevant edition exists, such other appropriate manual as Cox may propose and the Town approve. In the event that the FCC's technical performance standards are repealed or are no longer applicable to Cox's

5: CONSTRUCTION AND MAINTENANCE

5(b): System Tests and Inspections

Cable System, such standards shall remain in force and effect until the Communications Administrator and Cox agree to new standards.

(2) Cox shall conduct tests as follows:

(A) proof of performance tests on Cox's Cable System at least once every six months or as required by FCC rules, whichever is more often, except as federal law otherwise limits Cox's obligation; and

(B) special tests of Cox's Cable System or a segment thereof when Subscriber or User complaints indicate tests are warranted.

(3) The Town shall have the right to witness and/or review tests of Cox's Cable System conducted pursuant to Section 5(b)(2), and any tests that affect the I-Net or service to sites connected pursuant to 7(f). Cox shall provide the Town with reasonable advance notice of tests the Town has the right to witness pursuant to this paragraph.

(4) A written report of test results under Section 5(b)(2) shall be filed with the Town within seven days of each test. Such reports shall, at a minimum, contain the information specified in the Communications Ordinance.

(5) If any test under Section 5(b)(2) indicates that any part or component of Cox's Cable System distribution network fails to meet applicable requirements, Cox, without requirement of additional notice or request from Town, shall take corrective action, retest, advise the Town of the action taken and results achieved, and supply the Town with copies of the results within 30 days from the date corrective action was completed.

(6) The Town may make independent performance tests of Cox's Cable System, but shall not alter the operation of Cox's Cable System without Cox's approval.

Cox shall cooperate with the Town in conducting such tests. Such independent tests shall be at the Town's expense.

(7) Tests shall be supervised by Cox's engineer, who shall sign all records of tests provided to the Town.

(8) The Town may conduct inspections of construction areas and Subscriber installations, including but not limited to inspections to assess compliance with Cox's construction and installation requirements. The Town shall notify Cox of any violations found during the course of inspections, identifying the locations with particularity and stating the specific nature of the violation. Cox shall bring violations specified in the notice that are within Cox's control into compliance as follows: (i) safety violations shall be made safe within 48 hours of receiving notice of the violation; (ii) Virginia Department of Transportation violations shall be brought into compliance within five days of receiving notice of the violation; and (iii) all other violations shall be brought into compliance within 30 days of receiving notice of the violation. If requested by the Town, Cox shall submit a written response, which may be via e-mail, to the Town describing the steps it has taken to bring itself into compliance. Inspection does not relieve Cox of its obligation to build in compliance with all provisions of the Franchise.

(c) Publicizing Proposed Construction Work

(1) Cox shall notify affected parties prior to commencing any proposed construction or general preventive maintenance that will significantly disturb or disrupt private property, public property, Public Rights-of-Way, or Public Land, or have the potential to present a danger or affect the safety of the public generally. Where possible, Cox shall

5: CONSTRUCTION AND MAINTENANCE

5(d): System Maintenance

publicize proposed construction or general preventive maintenance work at least five calendar days prior to commencement of that work by notifying those residents and others in the immediate vicinity of where work is to be done and most likely to be affected by the work in at least one of the following ways: by telephone, in person, by mail, by distribution of door hangers or flyers to residences, by publication in local newspapers, or in any other manner reasonably calculated to provide adequate notice. Notice to affected Persons shall include the name of the department and a local telephone number for a Cox representative who is qualified to answer questions concerning proposed construction or general preventive maintenance.

(2) If requested by a homeowner and to the extent practicable, above-ground pedestals placed on private property shall be placed at a reasonable location selected by the homeowner within the applicable easement or Public Rights-of-Way.

(3) If Cox must enter a residence, it shall schedule an appointment at the reasonable convenience of the owner or resident.

(d) *System Maintenance.* Cox shall, when practicable, schedule and conduct maintenance on Cox's Cable System so that interruption of service is minimized and occurs during periods of minimum Subscriber use of Cox's Cable System. Cox shall provide reasonable prior notice to Subscribers and the Town before interrupting service for planned maintenance or construction, except where such interruption is expected to be one hour or less in duration. Such notice shall be provided by methods reasonably calculated to give Subscribers actual notice of the planned interruption.

6: SYSTEM FACILITIES, EQUIPMENT, AND SERVICES

6(a): System Characteristics

6 SYSTEM FACILITIES, EQUIPMENT, AND SERVICES

(a) *System Characteristics.* The HSN generally shall have at least the following characteristics:

(1) modern design as of the Effective Date, using an architecture that will permit additional improvements necessary for high-quality and reliable service throughout the Franchise Term, including but not limited to a usable bandwidth of at least 860 MHz;

(2) protection against outages due to power failures, so that back-up power is available at a minimum for at least 24 hours at each headend, four hours at each hub, and conforming to industry standards, but in no event rated for less than two hours, at each power supply site;

(3) facilities and equipment of good and durable quality, generally used in high-quality, reliable systems of similar design;

(4) facilities and equipment sufficient to cure violations of FCC technical standards and to ensure that Cox's Cable System remains in compliance with the standards specified in Section 5(a)(1);

(5) such facilities and equipment as necessary to maintain, operate, and evaluate Cox's Cable System to comply with FCC technical standards, as such standards may be amended from time to time;

(6) status monitoring capability to monitor the Cable System's performance, including signal level and distortion parameters, and, among other things, alert Cox when and where back-up power supplies are being used;

6: SYSTEM FACILITIES, EQUIPMENT, AND SERVICES

6(a): System Characteristics

(7) all facilities and equipment designed to be capable of continuous 24-hour daily operation in accordance with FCC standards except as caused by a Force Majeure condition;

(8) all facilities and equipment designed, built, and operated in such a manner as to comply with all applicable FCC requirements regarding (i) consumer electronic equipment and (ii) interference with the reception of off-the-air signals by a Subscriber;

(9) all facilities and equipment designed, built, and operated in such a manner as to protect the safety of Cox's Cable System workers and the public;

(10) sufficient trucks, tools, testing equipment, monitoring devices, and other equipment and facilities and trained and skilled personnel required to enable Cox to substantially comply with applicable law, including applicable customer service requirements and including requirements for responding to Cable System outages;

(11) all facilities and equipment required to properly test the Cable System and conduct an ongoing and active program of preventive maintenance and quality control and to be able to quickly respond to Subscriber complaints and resolve Cable System problems;

(12) design capable of interconnecting with other broadband communications networks (including but not limited to wireless systems) as set forth in Section 6(f) of this Agreement;

(13) antenna supporting structures (towers) designed in accordance with the Virginia Uniform Statewide Building Code, as amended, painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation

6: SYSTEM FACILITIES, EQUIPMENT, AND SERVICES

6(b): Hearing-Impaired Subscribers

Administration, the Federal Communications Commission, and all other applicable codes and regulations;

(14) facilities and equipment at the headend allowing Cox to transmit or cablecast signals in substantially the form received, without substantial alteration or deterioration. For example, the headend should include equipment that will transmit color video signals received at the headend in color, stereo audio signals received at the headend in stereo, and a signal received with a secondary audio track with both audio tracks;

(15) Cox shall provide adequate security provisions in its Subscriber site equipment to permit parental control over the use of Cox's Cable Service. Such a system will at a minimum offer as an option that a Person ordering programming must provide a personal identification number provided by Cox only to a Subscriber; provided, however, that Cox shall bear no responsibility for the exercise of parental controls and shall incur no liability for any Subscriber's or viewer's exercise or failure to exercise such controls;

(16) Cox shall comply with all FCC regulations regarding closed captioning and other regulations applicable to providing services to disabled Subscribers.

(b) *Hearing-Impaired Subscribers.* Cox shall comply with all requirements of federal, state, or local law regarding persons with disabilities, including but not limited to 47 U.S.C. § 255. Cox shall publish a TTY contact number and cooperate with any service used by hearing-impaired Subscribers to assist them in contacting Cox by telephone.

(c) *Integration of Advancements in Technology.* During the Franchise Term, Cox shall maintain and improve its existing facilities in accordance with accepted cable industry practices.

6: SYSTEM FACILITIES, EQUIPMENT, AND SERVICES

6(d): No Redlining

(d) No Redlining

(1) Access to Cox's Cable Service shall not be denied to any group of potential residential cable subscribers because of the income level of any portions of the Franchise Area.

(e) Leased Access Channels. Cox shall provide leased access channels as required by federal law.

(f) Interconnection.

(1) Cox shall design Cox's Cable System so that it is capable of interconnecting with other broadband communications networks (including but not limited to wireless systems) at suitable locations as determined by Cox. Interconnection capabilities shall be provided for the exchange of all PEG signals designated in Section 7 herein carried on the HSN. Interconnection of systems may be made by direct fiber connection or other appropriate methods. Such interconnection shall preserve the quality of the PEG signals so that there is no significant degradation between the signals as received by Cox and the signals as transmitted to the interconnecting system.

(2) At the request of the Communications Administrator, Cox shall, to the extent permitted by applicable law and its contractual obligations to third parties, use every reasonable effort to negotiate an interconnection agreement with any other franchised Cable System in the Town of Vienna for the PEG channels on the HSN. Cox will continue to interconnect with any other franchised cable operator that is operating in the Town as of the Effective Date. Nothing in this Agreement shall determine the extent to which Cox or the interconnecting system shall bear the costs of interconnection.

6: SYSTEM FACILITIES, EQUIPMENT, AND SERVICES

6(g): Emergency Alert System

(3) Any Town I-Net connections to other broadband networks will be the Town's sole responsibility and made at the Town's expense, but Cox will assist in any such effort as reasonably requested.

(4) Cox shall in good faith cooperate with the Town in implementing interconnection of PEG Cable Service with communications systems beyond the boundaries of the Town.

(g) *Emergency Alert System.* Cox shall comply with the federal Emergency Alert System ("EAS") regulations, 47 C.F.R. Part 11.

(h) *Home Wiring.* Cox shall comply with all applicable FCC requirements, including any notice requirements, with respect to home wiring. Prior to a Subscriber's termination of Cable Service, Cox will not restrict the ability of a Subscriber to remove, replace, rearrange, or maintain any cable wiring located within the interior space of the Subscriber's dwelling unit, so long as such actions are consistent with FCC standards. Cox may require a reasonable indemnity and release of liability in favor of Cox from a Subscriber for wiring that is installed by such Subscriber.

(i) *Periodic Performance Evaluation.* The Town may schedule periodic review sessions to evaluate the performance of Cox. Cox shall cooperate with the Town in any such evaluation to the maximum extent feasible.

7: CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE

7(a): Access Channels

7 CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE(a) *Access Channels*

(1) Cox will deliver up to 15 PEG Channels in the aggregate to Subscribers in the Town, including up to 14 Channels as specified by the County and one Channel as specified by the Town, though Cox reserves the right to use for its own purposes any such Channels not used for PEG purposes.

(2) Cox shall make these PEG Channels available to all Subscribers residing within the Town, which Channels shall be in addition to any capacity provided on the Institutional Network pursuant to Section 7(j). The Channels identified in subsections (A) through (F) below shall be provided as specified by the County in its franchise agreement with Cox and subject to waiver or adjustment solely by the County.

As specified by the County:

(A) County governmental access: 1

(B) Fairfax County Public Schools: 3

(C) George Mason University: 1

(D) Northern Virginia Community College: 1

(E) Public access: 4

(F) Reserved: 4

As specified by the Town:

7: CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE

7(b): Access Channel Assignment

(G) 1 PEG access use as allocated by the Town. This channel may be referred to herein as the "Town's PEG Channel." The Town's PEG Channel shall be carried in a digital format.

(3) If Cox makes changes to Cox's Cable System that require improvements to access facilities and equipment, Cox shall provide any necessary additional headend and distribution facilities or equipment within 30 days so that PEG facilities and equipment may be used as intended with respect to the PEG channel specified in Section 7(a)(2)(G), including, among other things, so that live and recorded programming can be cablecast efficiently to Subscribers. Cox shall provide the Town with at least 90 days' prior notice of any such changes that would require the Town to incur significant costs. This provision may be waived by the Town by written notice after receiving the required notice of the change.

(4) At any time beginning five years after the Effective Date or when 80% of Subscribers in the Town subscribe to high-definition television ("HDTV") programming, whichever occurs first, the Town may at its sole discretion, and upon 120 days' advance notice to Cox, require Cox to carry the Town's PEG Channel in HDTV format (e.g., 1080i [1920 x 1080 interlaced], or some other HDTV format), that is supported by Cox on the Cable System, including the Cox terminal device(s) provided to Subscribers for HDTV use. If Cox supports more than one such resolution, the Town shall specify which of those supported by Cox shall be used for the Town's PEG Channel.

(b) Access Channel Assignment

(1) Each PEG Channel shall be processed and delivered over the HSN with transmission quality equal to the processing and transmission quality of any similar

7: CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE

7(c): Grants for PEG Access

commercial Channel of the same format. Cox shall not be responsible for the quality of the original programming provided by a PEG User.

(2) Cox shall not arbitrarily or capriciously change the Town's PEG Channel assignment, and Cox shall take reasonable steps to minimize the number of such changes. Cox may change the Town's PEG Channel assignment as it deems appropriate so long as (i) Cox gives the Town 90 days' notice of such change, and (ii) Cox provides the Town with advertising time, free of charge, to make 30-second public service announcements of such changes. Such advertising time shall be provided for two minutes per day in prime time for the 30 days prior to such change.

(c) Grants for PEG Access

(1) Cox shall provide capital grants in amounts in the aggregate totaling 3% for each quarter of Cox's Gross Revenues for that quarter ("PEG Grants"). The PEG Grants may be used for any purpose permitted under federal and state law and the Town, at its sole discretion, shall determine how the PEG Grants are distributed.

(2) The PEG Grants shall be paid to the Town on a quarterly basis with such payments being made no later than 30 days following the end of each quarter.

(3) If Cox and the Town disagree at any time as to the amounts due under this subsection (2), Cox shall continue paying the specified grants in the amounts paid in the last undisputed payment during the period of any such dispute, provided, however, that the Town shall return any such amounts paid to the Town that are later determined to be in excess of the correct amounts.

7: CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE

7(d): Return Feed from Facilities

(4) Cox shall not make any reduction in the PEG Grants based on non-cash benefits provided pursuant to the Franchise.

(5) The Town Manager shall provide Cox with an annual written statement, no later than January 31 of each year, confirming that all funds received by the Town from the PEG Grants used during the preceding calendar year have been used in a manner consistent with federal and state law.

(d) Return Feed from Facilities

(1) Cox shall provide without charge signal transport by means of dedicated, fully fiber optic links between the Cox headend and Town Hall, located at 127 Center St. S., so that signals from Town Hall can be routed onto the Town's PEG Channel. Such signal transport shall be in addition to any required capacity on the HSN and shall not be part of the I-Net specified in Section 7(j), although the fiber links may at Cox's option be emplaced together with those carrying the I-Net. Such signal transport provided by Cox shall include all equipment necessary for amplification, optical conversion, receiving, transmitting, switching, and headend processing of signals from Town Hall to the Cox headend.

(2) All such equipment, including but not limited to the fiber electronics at Town Hall, shall be installed, repaired, and maintained in good working order by Cox on Cox's side of the Demarcation Point in such a manner as to comply with FCC technical standards and with no significant deterioration in the quality of the Town's PEG Channel signal, using dedicated capacity sufficient for high-quality transmission of the format used by the Town. However, Cox shall not be responsible for the cost of repairing any damage caused by the Town's PEG Channel studio or its agents or invitees.

7: CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE

7(e): Use of PEG Channels, Facilities and Equipment

(3) Cox's obligation with respect to such signal transport shall be dependent on the Town providing Cox, without charge, with such space, electrical power supply, access, and other facilities and cooperation as shall be necessary to allow Cox to fulfill its duties under this Agreement with respect to such signal transport. The dedicated channels may be multiplexed into backbone fiber rings at the hub or node nearest to the origination site for return to the headend.

(4) The Town shall determine the programming delivered to Cox from Town Hall for placement on the Town's PEG Channel, and shall be responsible for providing, operating and maintaining any switching equipment necessary to deliver a single signal from the Demarcation Point at Town Hall to Cox's headend.

(e) Use of PEG Channels, Facilities and Equipment

(1) The Town, or the entity that manages the Town's PEG Channel, shall be able to establish and enforce rules and procedures for use of the Town's PEG Channel pursuant to Section 611(d) of the Cable Act, 47 U.S.C. § 531(d). The Town shall decide any disputes among PEG users regarding allocation of Town's PEG Channel.

(2) Cox will provide headend and distribution facilities for downstream transmission of the Town's PEG Channel on the HSN at no charge to the Town or other PEG access programmers.

(3) The Town or its licensees, assigns, or agents shall not transmit on the Town's PEG Channel commercial programming or commercial advertisements to the extent that they would constitute competition with Cox for such commercial programming or commercial advertisements, subject to the following:

7: CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE

7(f): Connections to Government Facilities

(A) For purposes of this subsection, "commercial programming or commercial advertisements" shall mean programming or advertisements for which the Town receives payment from a third party (a party other than the Town or Cox), but shall not include announcements indicating that programming is underwritten by a commercial entity, such as the underwriting announcements typically displayed by the Public Broadcasting System.

(B) For purposes of this Section 7(c)(3), the Town shall be deemed to include the Fairfax County Public Schools.

(f) Connections to Government Facilities

(1) Cox will provide the following, at no charge, at each fire station, public school, police station, public library, and such buildings used for public purposes as may be designated by the Town; provided, however, that if it is necessary to extend Cox's trunk or feeder lines more than 300 feet solely to provide service to any such school or public building, the Town shall have the option of paying the lower of any contract Cox may have with the County for such services or Cox's costs for such extension in excess of 300 feet itself, or of releasing Cox from or postponing Cox's obligation to provide service to such building:

(A) one service drop of the HSN;

(B) one HSN Subscriber converter per site; and

(C) Basic Cable Service and the most highly subscribed tier of non-basic service (not including any video programming offered on a per channel or per program basis).

(2) Cox shall deliver all HSN signals to each such HSN drop at 15 dBmV or better, measured at the Demarcation Point.

7: CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE

7(g): Backup Facilities and Equipment

(3) The Town shall be responsible for the cost of converters that are in addition to those required in 7(f)(1)(B) and any “terminal equipment,” including TV monitors, recording devices, and/or computers.

(4) The cost of inside wiring, additional drops or outlets, and additional converters requested by the Town within these specified facilities, including those drops or outlets in excess of those currently installed, are the responsibility of the Town. Cox shall not be responsible for any violations of FCC technical standards on the Town’s side of the Demarcation Point. After reasonable notice under the circumstances, Cox may temporarily disconnect its service to a Town site that does not correct such violations of FCC technical standards until such time as such violations are corrected.

(5) Subject to the limitations set forth in this subsection 7(f), whenever required by changes in Cox’s technology, Cox shall upgrade all equipment provided at Cox’s expense pursuant to this subsection 7(f), in order to ensure that the Town can continue to receive the services offered by Cox to the Town pursuant to this Franchise Agreement.

(g) *Backup Facilities and Equipment.* Cox shall design, build, and maintain PEG signal transport links so that such feeds function as reliably as Cox’s Cable System as a whole, and are no more likely to fail than is Cox’s Cable System to fail as a whole.

(h) *Editorial Control.* Except as expressly permitted by federal law, Cox shall not exercise any editorial control over the content of programming on the Public, Educational and Governmental Access Channels (except for such programming as Cox may cablecast on such Channels).

7: CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE

7(i): Carriage of PEG Programming

(i) *Carriage of PEG Programming.* Except as otherwise provided herein, or by agreement between Cox and the Town, Cox shall provide any PEG Channels as part of Basic Cable Service throughout the life of the Franchise. If there is no Basic Cable Service, Cox shall provide the PEG Channels as part of the service provided to every Subscriber, at no additional charge to Subscribers or the Town. If Channels are selected through a menu system, the PEG Channels shall be displayed as prominently as commercial programming choices offered by Cox. Cox shall provide the PEG Channels with the same functionality that it provides for commercial Channels, except for viewership tracking capabilities.

(j) *Institutional Network*

(1) Cox shall construct and maintain the institutional network, an integral part of Cox's Cable System, which shall be paid for by the Town, linking public, educational, and governmental facilities in the Town (the "Network" or "I-Net"), in accordance with the conditions set forth in Appendix 1 and this Franchise Agreement.

(2) The parties stipulate that the Recurring Maintenance Charge defined in Appendix 1 is a capital cost required by the franchise to be incurred by the cable operator for public, educational, or governmental access facilities for purposes of 47 U.S.C.

§ 542(g)(2)(C).

(k) *Costs and Payments Not Franchise Fees.* Cox waives any claims that any costs to Cox associated with the provision of support for PEG access (including the I-Net) pursuant to this Franchise Agreement, including but not limited to the PEG Grants and the Recurring Maintenance Charge defined in Appendix 1, constitute franchise fee payments within the meaning of 47 U.S.C. § 542.

7: CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND
GOVERNMENTAL USE

7(k): Costs and Payments Not Franchise Fees

8 PAYMENTS BY COX

(a) Payment to Town

(1) The parties acknowledge that as of the Effective Date of this Agreement, the Town is prohibited by state law from imposing a Franchise Fee, as described in 47 U.S.C. § 542, as long as cable services are subject to the Virginia Communications Sales and Use Tax (§ 58.1-645 et seq.) (the “Communications Sales and Use Tax”).

(2) Cox shall comply with the provisions of the Communications Sales and Use Tax in its current form and as it may be amended.

(3) If at any time during the Term state law allows the imposition of a Franchise Fee on cable operators in Virginia, the Town may, to the extent allowable under applicable law, upon 60 days’ written notice, or as otherwise provided by law, require Cox to pay to the Town, on a quarterly basis, a Franchise Fee of five percent of Gross Revenues, or such other sum as permitted under law. Such payments shall be made no later than 30 days following the end of each quarter. Cox shall not be required to pay such Franchise Fee unless the obligation is imposed on all franchised cable operators in the Town to the extent permitted under law.

(b) Supporting Information. Each PEG Grant or Franchise Fee payment to the Town or PEG Grant payment pursuant to Section 7(c)(1) shall be submitted with supporting detail and a statement certified by Cox reflecting the total amount of monthly Gross Revenues for the payment period and a breakdown by major revenue categories (such as basic service, cable

programming service, and premium service). An example of such detail is shown in Appendix 5. The Town shall have the right to reasonably require further supporting information.

(c) *Late Payments.* In the event any payment by Cox due and owing to the Town is not made on or before the required date, Cox shall pay any applicable penalties and interest charges computed from such due date, according to the terms below.

(1) In the event that any payment amount less than Five Thousand Dollars is not made on or before the required date, interest shall be charged from the due date at an annual rate equal to the commercial prime interest rate of the Town's primary depository bank during the period the unpaid amount is due.

(2) In the event that any payment amount totaling Five Thousand Dollars or more is not paid by the due date, then interest shall accrue to the Town from the due date at a rate equal to the interest rate then chargeable for unpaid federal income taxes (26 U.S.C. § 6621).

(3) In addition to the foregoing, the failure of a Grantee to make a timely payment (as defined by Va. Code § 6.1-330.80) of any amount required under this Section shall subject a Cox to an additional late charge of five percent of the amount of such payment. However, for good cause shown, the Communications Administrator may waive the provisions of this Subsection for a period not to exceed five business days.

(d) *Audit*

(1) The Town shall have the right to inspect books and records and to audit and recompute any amounts determined to be payable under this Agreement, whether the records are held by Cox, an Affiliate, or any other agent of Cox.

(2) Cox shall be responsible for making available to the Town all records necessary to confirm the accurate payment of the PEG Grant or Franchise Fees, as applicable, without regard to by whom they are held. Such records shall be made available pursuant to the requirements of Sections 9(a) and 9(f) herein.

(3) The Town's audit expenses shall be borne by the Town unless the audit discloses an underpayment of more than three percent of any quarterly payment, in which case the Town's reasonable out-of-pocket costs of the audit shall be borne by Cox as a cost incidental to the enforcement of the Franchise. Any additional undisputed amounts due to the Town as a result of the audit shall be paid within 30 days following written notice to Cox by the Town of the underpayment, which notice shall include a copy of the audit report. If recomputation results in additional amounts to be paid to the Town, interest will be due pursuant to Section 8(c).

(4) The Town shall have three years from the time the Town receives a PEG Grant or Franchise Fee payment to question that payment, and if the Town fails to question the payment within that time period, the Town shall be barred from questioning it after that time period. If the Town gives written notice to Cox within that three-year period, the three-year period shall be tolled for one year to allow the Town to conduct an audit. Any legal action by either party relating to a PEG Grant or Franchise Fee payment will toll the remaining term, if any, of the three-year time period and the one-year audit period with respect to that payment.

(e) No Limitation on Taxing Authority

(1) Nothing in this Agreement shall be construed to limit any authority of the Town to impose any tax, fee, or assessment of general applicability.

(2) Any Franchise Fee payments imposed pursuant to Section 8(a)(3) shall be in addition to any and all taxes of a general nature or other fees or charges which Cox shall be required to pay to the Town or to any state or federal agency or authority, as required herein or by law, all of which shall be separate and distinct obligations of Cox. Cox shall not have or make any claim for any deduction or other credit of all or any part of the amount of any such Franchise Fee payments from or against any of said Town taxes or other fees or charges which Cox is required to pay to the Town, except as required by law or provided for in this Franchise Agreement. Cox shall not apply nor seek to apply all or any part of the amount of any such Franchise Fee payments as a deduction or other credit from or against any of said Town taxes or other fees or charges, each of which shall be deemed to be separate and distinct obligations of Cox. Nor shall Cox apply or seek to apply all or any part of the amount of any of said taxes or other fees or charges as a deduction or other credit from or against any of its Franchise obligations, each of which shall be deemed to be separate and distinct obligations of Cox. Cox may designate any Franchise Fee as a separate item in any bill to a Subscriber of Cox's Cable System, but shall not designate or characterize it as a tax. If applicable federal or state law requires any such Franchise Fee to be treated otherwise than as specified in this paragraph, then such applicable law shall control.

(f) No Accord and Satisfaction. The acceptance of any payment by the Town pursuant to this Agreement shall not be construed as an acknowledgment or an accord and satisfaction that the amount paid is the correct amount due, nor shall such acceptance of payment

be construed as a release or waiver of any claim which the Town may have for additional sums due and payable. However, the Town's acceptance of full payment of the amount determined to be due by the Town through an audit shall be construed as an accord and satisfaction.

9 REPORTS AND RECORDS

As long as Fairfax County has been designated by the Town to administer all or part of the Town's franchise hereunder, Cox shall have satisfied its obligations with respect to the Town by providing to the County any notice, report or record set forth in this Section 9; provided, however, that if the Town specifically notifies Cox that it desires a particular notice, report or record to be separately filed with the Town, Cox shall thereafter make such separate filing.

(a) Books and Records

(1) Subject to applicable law, and upon written notice, which shall include a reasonable time to respond, Cox shall expeditiously provide the Town with information contained in any books, maps, records, or other documents, in whatever form maintained, including electronic media ("books and records") held by Cox or an Affiliate, to the extent such books and records relate to Cox's Cable System or to Cox's provision of Cable Service to Subscribers in the Town. Such a request shall specify the purpose of the request. Cox shall not be required to process information to create a report, summary, or digest of information contained in its books and records, other than those required by Section 9(c) through 9(e). "Reasonable time to respond" may be up to 30 days depending on the complexity of the response.

(2) The Town may require Cox to provide copies of documents containing the requested information. If the Town's request involves voluminous copies, Cox may instead provide the Town access to review the documents at Cox's local business office in the County.

(3) The Town shall take reasonable steps to protect proprietary and confidential information or books and records provided by Cox to the extent Cox designates such information or books and records as such. To the extent that such books and records are proprietary and/or confidential pursuant to the Virginia Uniform Trade Secrets Act or other applicable law, the Town shall have the right to inspect them, and Cox shall provide them, at a mutually agreed location within the County.

(4) Cox shall keep complete and accurate books of account and records of its business and operations under and in connection with this Franchise Agreement.

(5) Unless otherwise provided in this Agreement, all materials and information specified in this Section shall be maintained for a period of five years.

(6) Notwithstanding the foregoing, nothing in this Section 9 shall require Cox to violate federal or state laws protecting subscriber privacy.

(b) *Communication with Regulatory Agencies:* Within 15 days, Cox shall file with the Town a copy of any document filed by Cox with a regulatory agency (other than publicly available information) that materially and expressly pertains to the Town with respect to the provision of Cable Service. In addition, Cox must provide the Town (upon request) any document Cox files or receives from any regulatory agencies.

(c) *Annual Report.* Unless this requirement is waived in whole or in part by the Communications Administrator, no later than April 30th of each year during the Term, Cox shall submit a written report to the Town, in a form reasonably satisfactory to the Town, which shall include the following information for the year just ended:

(1) a summary of complaints, identifying both the number and nature of the complaints received and an explanation of their dispositions, as such records are kept by Cox. Where Cox has identified recurring Cable System problems, the nature of any such problems and the corrective measures taken or to be taken shall be identified;

(2) A copy of Cox's then-current rules, regulations, and policies that are (A) available to Cox's Subscribers or (B) considered by Cox to be legally binding on Subscribers, including but not limited to (i) all Subscriber rates, fees, and charges; (ii) a copy of Cox's service agreement, or the equivalent, for Cable Services; and (iii) a copy of, or a detailed summary of, Cox's policies concerning (a) the processing of Subscriber complaints; (b) delinquent Subscriber disconnect and reconnect procedures; and (c) Subscriber privacy;

(3) the number of Subscribers receiving Cox's Basic Cable Service as of the end of each calendar quarter;

(4) If applicable, a list of Persons, including all entities controlling such Persons, holding five percent or more of the voting stock or interests of Cox, or its parents, or Cox's subsidiaries, if any;

(5) A list of officers and members of the Board of Directors of Cox, or similar officers if Cox is not a corporation;

(6) A copy of Cox's annual report, if there is such a report, and those of Cox's parents and subsidiaries, if any; and

(7) To the extent that such information is publicly available on Cox's website or has been previously provided to the Town, Cox may satisfy the requirement by including in the report hyperlinks or other references identifying where that information may be found.

(d) *Quarterly Report.* Unless this requirement is waived in whole or in part by the Communications Administrator, no later than 30 days after the end of each calendar quarter during the Term, Cox shall submit a written report to the Town, in a form reasonably satisfactory to the Town, which shall include:

(1) A report showing the number of service calls received by type during that quarter, including any property damage to the extent such information is available to Cox, and any line extension requests received during that quarter, as such records are kept by Cox.

(2) A report showing the number of outages for that quarter, and identifying separately each planned outage of one or more nodes for more than one hour at a time, the time it occurred, its duration, and the tax map area and, when available to Cox, number of homes affected; and, when Cox can reasonably determine that at least 500 homes were affected, each unplanned outage affecting more than 500 homes for more than one hour, the time it occurred, the reason for the disruption and its causes, its estimated duration and the tax map area and, when available to Cox, the number of homes affected.

(3) A report showing Cox's performance with respect to all applicable customer service standards. Cox shall keep such records as are reasonably required to enable the Town to determine whether Cox is substantially complying with all such customer service standards, and shall maintain adequate procedures to demonstrate such substantial compliance.

(4) To the extent that such information is publicly available on Cox's website or has been previously provided to the Town, Cox may satisfy the requirement by including

in the Report hyperlinks or other references identifying where that specific information may be found.

(e) *Special Reports.* Unless this requirement is waived in whole or in part by the Town, Cox shall deliver the following special reports to the Town not more than 10 business days after the occurrence of the event:

(1) A copy and full explanation of any notice of deficiency, forfeiture, or other document relating to Cox issued by any state or federal agency if such notice or other document would require Securities and Exchange Commission Form 8(k) disclosure or would require footnote disclosure in the annual financial statements of Cox or a parent.

(2) A copy and brief explanation of any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by Cox or by any partnership or corporation that owns or controls Cox directly or indirectly.

(f) *Records Required*

(1) Cox shall maintain, in accordance with its normal record retention policies, those records required to support the reports required by Sections 9(c) through 9(e) hereof, including but not limited to:

(A) Records of all complaints. The term "complaints" as used herein and throughout this Agreement refers to complaints recorded through Cox's normal procedures about any aspect of Cox's Cable System or Cox's operations, including, without limitation, complaints about employee courtesy. Complaints recorded may not be limited to complaints requiring an employee service call.

9: REPORTS AND RECORDS

9(g): Waiver of Reporting Requirements

(B) A full and complete set of plans, records, and "as built" maps showing an accurate location for all equipment of Cox's Cable System installed or in use in the Town, exclusive of Subscriber service drops.

(C) Records of outages, indicating date, duration, tax map area, and the estimated number of homes affected, type of outage, and cause.

(D) Records of service calls for repair and maintenance indicating the date and time service was required, the date and time service was scheduled (if it was scheduled), and the date and time service was provided.

(E) Records of installation/reconnection and requests for service extension, indicating date of request, and the date and time service was extended.

(F) Records sufficient to enable Town review of all allocation of Gross Revenues among bundled services, for the time period specified in Section 9(a)(5).

(2) Notwithstanding Section 24-21(c) of the Communications Ordinance, the record retention provisions in this Agreement shall govern upon expiration of the Prior Franchise.

(g) Waiver of Reporting Requirements

(1) The Communications Administrator or his designee may, at the sole discretion of the Administrator or the Administrator's designee, waive in writing the requirement of any particular report specified in this Section 9.

10 CUSTOMER SERVICE STANDARDS AND CONSUMER PROTECTION**(a) *Generally***

(1) This Section 10 sets forth minimum customer service standards that Cox must satisfy. In addition, Cox shall at all times satisfy any additional or stricter requirements established by FCC regulations, or other applicable federal, state, or local law or regulation, as the same may be adopted or amended from time to time.

(2) Nothing in this Agreement may be construed to prevent or prohibit:

(A) the Town and Cox from agreeing to customer service requirements that exceed the standards set forth in this Agreement;

(B) the Town from enacting or enforcing any customer service or consumer protection laws;

(C) the establishment or enforcement of any Town law concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by, the standards set forth in this Agreement or federal, state, or local law; or

(D) the Town from waiving, for good cause, requirements established in this Section 10.

(3) Cox acknowledges the Town may enact and enforce customer service or consumer protection laws pursuant to the Cable Act.

(b) *Definitions*

(1) *Next Billing Cycle:* As used in 47 C.F.R. § 76.309(c)(3)(i)-(ii) and in this Agreement, means the Subscriber's next available billing cycle.

10: CUSTOMER SERVICE STANDARDS AND CONSUMER PROTECTION

10(c): Compliance with Federal Law

(2) *Resolution of the Request*: As used in 47 C.F.R. § 76.309(c)(3)(i)(A), means determination by Cox of the Subscriber's right to a refund.

(3) *Return of the Equipment*: As used in 47 C.F.R. § 76.309(c)(3)(i)(B), a Subscriber's equipment is considered returned when Cox has accepted the condition of the equipment and billed for any outstanding charges, all of which shall be completed no later than the Subscriber's Next Billing Cycle.

(4) *Standard Installation*: Installations where the Subscriber's premises are within 200 feet of the serving terminal, or the edge of the property, whichever is less.

(c) *Compliance with Federal Law*

(1) Cox shall comply with the customer service standards set forth in 47 C.F.R. §§ 76.309(c), 76.1602, 76.1603, and 76.1619, as such standards may be amended from time to time.

(2) Measurement of the standard in 47 C.F.R. § 76.309(c)(1)(ii) may include all calls received by Cox at all call centers receiving calls from Subscribers, whether they are answered by a live representative, by an automated attendant, or abandoned after 30 seconds of call waiting.

(3) For purposes of 47 C.F.R. § 76.309(c)(1)(ii), if a call is answered by an automated attendant, the call transfer time standard shall be satisfied for a given call if the automated attendant system includes an option to speak to a service representative, that option is presented to the caller within the first 90 seconds from the time the call is answered by the automated attendant, and the caller is not required to wait more than 30 seconds to be

10: CUSTOMER SERVICE STANDARDS AND CONSUMER PROTECTION

10(d): Additional Requirements

connected to a service representative after exercising the option to speak to a service representative.

(d) Additional Requirements

(1) No increase in rates or charges shall be implemented unless each Subscriber subject to the increase in rates and charges has been notified of the change at least 60 days in advance of the change. In lieu of providing 60 days written or electronic notice to each Subscriber subject to the increase, notification may be cablecast to Subscribers by Cox in a manner approved by the Communications Administrator, which approval shall not unduly be delayed or withheld; but in the event a cablecast notice is provided to Subscribers, Cox also shall give each Subscriber subject to the increase written notice of the increase no less than 30 days before the increase is implemented. In addition, Cox shall provide oral or written notification of any pending increases to rates and charges to any Person who requests Cable Service or becomes a Subscriber after any approval of increases to rates and charges but before the rate increase becomes effective.

(2) Cox shall employ an operator or maintain a telephone answering device twenty-four hours per day, each day of the year, to receive Subscriber complaints and answer inquiries during Normal Business Hours.

(3) Cox shall maintain a location within the County that shall be open and accessible to the public to make payments, to pick up or drop off equipment, and to make inquiries during Normal Business Hours. In order to allow Cox to efficiently pick up equipment and for Subscribers to easily drop off Cox's equipment, Cox may satisfy the foregoing pick-up and drop-off requirement by having a Cox representative go to the

10: CUSTOMER SERVICE STANDARDS AND CONSUMER PROTECTION

10(d): Additional Requirements

Subscriber's residence, by using a pre-paid mailer, or by establishing a local business office in the County.

(4) Cox shall establish maintenance service capable of promptly locating and correcting a system malfunction that would require the report of an unplanned outage pursuant to Section 9(d)(2).

(5) Cox shall maintain a publicly-listed, local toll-free telephone number that shall be available to Subscribers to request service calls, twenty-four hours per day, each day of the year. Under Normal Operating Conditions, Cox shall respond not later than the next business day after a service call is received, and corrective action shall be completed as promptly as practicable. Appropriate records shall be made of service calls, showing when and what corrective action was completed.

(6) If requested by a mobility-limited Subscriber, Cox shall arrange for pickup and/or replacement of converters or other Cox equipment at the Subscriber's address or by a satisfactory equivalent.

(7) In the event that Cox fails to provide service to Subscribers for more than twenty-four hours, Cox shall provide the affected Subscribers with a pro rata credit or rebate of the Subscriber's fees paid or payable, upon request by a Subscriber.

(8) Cox shall establish a clear procedure for resolving complaints filed by Subscribers. Complaints may be made orally or in writing, at the complainant's option.

(9) Cox shall provide an initial response to a complaint within five days of its receipt and a final response within 30 days after a written complaint is received. At the time

10: CUSTOMER SERVICE STANDARDS AND CONSUMER PROTECTION

10(c): Virginia Consumer Protection Act

of installation, upon request, and annually, Cox shall provide all Subscribers the Communications Administrator's contact information.

(10) Cox shall, when practicable, schedule and conduct maintenance on the Cable System so that interruption of service is minimized and occurs during periods of minimum Subscriber use of the Cable System. Cox shall provide reasonable prior notice to Subscribers and the Town before interrupting service for planned maintenance or construction, except where such interruption is expected to be two hours or less in duration. Such notice shall be provided by methods reasonably calculated to give Subscribers actual notice of the planned interruption.

(11) If the Town or a Subscriber requests a cost estimate for a line extension or drop installation, Cox shall provide such estimate within 30 business days, without charge to the Subscriber or the Town. Such an estimate shall include the calculation of density, a design, and a breakdown of the cost, including but not limited to materials and labor, as worked out by Cox.

(e) *Virginia Consumer Protection Act.* The customer service standards set forth herein shall be in addition to the rights and remedies provided by the Virginia Consumer Protection Act of 1977, as amended.

11 INSURANCE, SURETY, AND INDEMNIFICATION*(a) Insurance Required*

(1) Cox shall maintain, and by its acceptance of the Franchise specifically agrees that it will maintain, throughout the entire length of the Franchise period, at least the following liability insurance coverage insuring the Town and Cox: (i) commercial general liability insurance with respect to the construction, operation, and maintenance of Cox's Cable System, and the conduct of Cox's business in the Town, in the minimum amounts of \$2,000,000 per occurrence; \$2,000,000 aggregate for each occurrence; and (ii) copyright infringement insurance in the minimum amount of \$2,000,000 for copyright infringement occasioned by the operation of Cox's Cable System.

(2) Such commercial general liability insurance shall include coverage for all of the following: comprehensive form, premises-operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, and personal injury.

(3) The Town may review these amounts and shall have the right to require reasonable adjustments to them consistent with the public interest.

(4) Cox shall be solely responsible for the payment of premiums due for each policy of insurance required pursuant to this Agreement and the Communications Ordinance.

(b) Endorsements. All insurance policies and certificates maintained pursuant to this Agreement shall contain the following endorsement:

11: INSURANCE, SURETY, AND INDEMNIFICATION

11(c): Qualifications of Insurers

It is hereby understood and agreed that this insurance coverage may not be canceled by the insurance company nor the intention not to renew be stated by the insurance company until at least 30 days after receipt by the Town Communications Administrator, by registered mail, of a written notice of such intention to cancel or not to renew.

(c) *Qualifications of Insurers.* All insurance policies shall be with insurers qualified to do business in the Commonwealth of Virginia, with an A-1 or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition.

(d) *Policies Available for Review.* Cox shall submit to the Town certificates of insurance for each policy required herein.

(e) *Additional Insureds.* All commercial general liability insurance policies shall name the Town, its elected and appointed officials, officers, boards, authorities, commissions, committees, commissioners, agents, and employees as additional insureds.

(f) *Indemnification*

(1) Cox shall, at its sole cost and expense, indemnify, hold harmless, and defend the Town, its elected and appointed officials, officers, boards, authorities, commissions, committees, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of Cox's Cable System (to the extent that Cox has operation or maintenance responsibilities pursuant to this Agreement or applicable law); copyright infringements or a failure by Cox to secure consents from the owners, authorized distributors, or franchisees of programs to be delivered by Cox's Cable System (other than PEG content or I-Net content); the conduct of Cox's business in the Town; or in any way arising out of Cox's enjoyment or exercise of the Franchise, unless such specific act or

11: INSURANCE, SURETY, AND INDEMNIFICATION

11(f): Indemnification

omission has been authorized by the Town or is the result of any act or omission by the Town or its elected and appointed officers, boards, authorities, commissions, committees, commissioners, agents, or employees which results in personal injury or property damage. A general statement of authorization pursuant to the Communications Ordinance or this Agreement shall not be construed to be such an authorization.

(2) Specifically, Cox shall fully indemnify, defend, and hold harmless the Town, and in its capacity as such, the elected and appointed officials, officers, agents, boards, authorities, commissions, committees, commissioners, and employees thereof, from and against any and all claims, suits, actions, liability, and judgments, whether for damages or otherwise, subject to 47 U.S.C. § 558, arising out of or alleged to arise out of the installation, construction, operation, or maintenance of Cox's Cable System, including but not limited to any claim against Cox for invasion of the right of privacy, defamation of any Person, firm or corporation, or the violation or infringement of any copyright, trade mark, trade name, service mark, or patent, or of any other right of any Person, firm, or corporation. This indemnity does not apply to PEG programming, or programming carried on Channels leased pursuant to 47 U.S.C. § 532, or any content on the I-Net, or to PEG or I-Net operations to the extent such operations are carried out by a person other than Cox or its agents.

(3) In the event that Cox fails, after notice, to undertake the Town's defense of any claims brought pursuant to subsections (1) and (2) above, Cox's indemnification shall include, but is not limited to, the Town's reasonable attorneys' fees incurred in defending against any such action, claim, suit, or proceeding, any interest charges arising from any action, claim, suit, or proceeding arising under this Agreement or the Communications

11: INSURANCE, SURETY, AND INDEMNIFICATION

11(g): No Limit of Liability

Ordinance, the Town's out-of-pocket expenses, and the reasonable value of any services rendered by the Town Attorney, or Town staff or employees.

(g) *No Limit of Liability.* Neither the provisions of this Section nor any damages recovered by the Town shall be construed to limit the liability of Cox or its subcontractors for damages under the Franchise Agreement or the Communications Ordinance or to excuse the faithful performance of obligations required by this Franchise Agreement, except to the extent that any monetary damages suffered by the Town have been satisfied by a financial recovery under this section or other provisions of this Franchise Agreement or the Communications Ordinance.

(h) *Town to Assume No Liability.* The Town shall at no time be liable for any injury or damage occurring to any Person or property from any acts or omissions of Cox in the construction, maintenance, use, operation, or condition of Cox's Cable System, to the extent that Cox has responsibilities for such maintenance, use, operation, or condition pursuant to this Agreement or applicable law. It is a condition of this Agreement that the Town shall not and does not by reason of this Agreement assume any liability whatsoever of Cox for injury to Persons or damage to property.

(i) *Application Of Section.* Notwithstanding Section 24-18 of the Communications Ordinance, this Section 11 shall govern.

12 PERFORMANCE GUARANTEES AND REMEDIES

(a) Performance Bond

(1) Cox shall obtain and maintain during the entire Term of the Franchise, and any renewal or extensions thereof, a performance bond in the Town's favor in the amount of \$25,000, to ensure Cox's faithful performance of its obligations.

(A) The form and content of the performance bond shall be approved by the Town.

(B) Notwithstanding Section 24-18(b)(4) of the Communications Ordinance, the Town reduces Cox's performance bond to the amount specified in this Section 12(a)(1).

(2) The performance bond shall provide the following conditions:

(A) There shall be recoverable by the Town from the principal and surety, any and all fines and penalties due to the Town and any and all damages, losses, costs, and expenses suffered or incurred by the Town resulting from the failure of Cox to faithfully comply with the material provisions of this Agreement, the Communications Ordinance, and other applicable law, to comply with all orders, permits, and directives of any Town agency or body having jurisdiction over its acts or defaults, to pay fees, penalties, or liquidated damages due to the Town, or to pay any claims, taxes, or liens due the Town. Such losses, costs, and expenses shall include but not be limited to reasonable attorney's fees and other associated expenses.

(B) The total amount of the performance bond required by this Agreement shall be payable to the Town in the event:

12: PERFORMANCE GUARANTEES AND REMEDIES

12(b): Letter of Credit

- (i) Cox abandons Cox's Cable System at any time during the Term of its Franchise or any extension thereto; or
- (ii) Cox carries out a Transfer without the express written consent of the Town as provided in Section 3 of this Agreement.

(C) The bond may not be cancelled by the surety due solely to bankruptcy of Cox or any Affiliate.

(3) The performance bond shall be issued by a surety with an A-1 or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition; shall be in a form satisfactory to the Town Attorney; and, shall be subject to the approval of the Town.

(4) The bond shall provide for 30 days' prior written notice to the Town of any intention on the part of Cox to cancel, fail to renew, or otherwise materially alter its terms.

(5) Cox shall file with the Town a complete copy of the bond (including all terms and conditions applying to the bond or to draws upon it) prior to its effective date, and keep such copy current with respect to any changes over the life of the franchise.

(6) Right to Require Additional or Other Bonds. The Town shall have the right, at any time that it reasonably deems itself insecure, to require that any bond be replaced by such other bond as the Town may reasonably require, and that the amount be increased to a total not to exceed \$100,000, notwithstanding the fact that the Town may have indicated its acceptance or approval of any bond(s) submitted with this Agreement.

(b) Letter of Credit

12: PERFORMANCE GUARANTEES AND REMEDIES

12(c): Draw Procedures

(1) In addition to the performance bond, Cox shall file and maintain with the Town an irrevocable letter of credit ("LOC") from a financial institution reasonably acceptable to the Town, to serve the same purposes set forth in Section 12(a) in the amount of \$10,000. The form and content of the LOC shall be approved by the Town.

(2) Cox and its surety shall be jointly and severally liable under the terms of the LOC.

(3) The LOC shall provide for 30 days' prior written notice to the Town of any intention on the part of Cox to fail to renew.

(4) Cox shall file and keep current with the Town the original of the LOC in the same way as is indicated in Section 12(a)(5) with respect to the bond.

(c) *Draw Procedures.* The following procedures shall apply to drawing on the bond or the letter of credit:

(1) If the Town notifies Cox of any amounts due to the Town pursuant to this Agreement or applicable law, and Cox does not make such payment within 30 business days, the Town may draw the amount in question, with any applicable interest and penalties, from the bond or LOC after providing written notice to Cox and the issuing financial institution, specifying the amount and purpose of such draw; provided, however, that if Cox files a legal action disputing the Town's claim, the ten-business-day notice period shall be tolled as to that claim until the claim is resolved by order of the trial court.

(2) Within three days of a draw on the bond or LOC, the Town shall mail, by certified mail, return receipt requested, written notification of the amount, date, and purpose of such draw to Cox.

12: PERFORMANCE GUARANTEES AND REMEDIES

12(d): Rights Cumulative

(3) If at the time of a draw on the bond or LOC by the Town, the amount available is insufficient to provide the total payment of the claim asserted in the Town's draw notice, the balance of such claim shall not be discharged or waived, but the Town may continue to assert the same as an obligation of Cox to the Town.

(4) No later than 30 days after mailing of notification to Cox by certified mail, return receipt requested, of a draw on the bond or LOC, Cox shall restore the amount of the bond or LOC to its original amount as specified in this Agreement.

(5) Upon termination of the Franchise and satisfaction of all outstanding obligations of Cox under the Franchise, the bond may be canceled by Cox and the Town shall release the issuing bank of its obligations under the LOC, provided that there is then no outstanding default on the part of Cox. Upon renewal of the Franchise, the bond and LOC may be canceled and replaced, as applicable, by any similar instrument that may be required upon such renewal.

(d) *Rights Cumulative.* The rights reserved to the Town in this Section 12 are in addition to all other rights of the Town, whether reserved herein or authorized by applicable law, and no action, proceeding or exercise of a right with respect to a performance bond or the LOC shall affect any other right the Town may have. Neither the making of the performance bond or LOC, nor the receipt of any damages recovered by the Town thereunder, shall be construed to excuse the faithful performance by Cox or limit the liability of Cox under the terms of its Franchise for damages, either to the full amount of the performance bond and LOC or otherwise; provided, however, that the amount of any damages recovered by the Town through these instruments shall be offset against any damages otherwise recoverable by the Town.

12: PERFORMANCE GUARANTEES AND REMEDIES

12(e): Remedies

(e) *Remedies.* In addition to any other remedies available at law or equity, the Town may revoke the Franchise for a material violation as set forth in Section 13(l)(2) of this Agreement pursuant to the procedures specified in this Agreement.

(f) *Liquidated Damages.* Because Cox's failure to comply with provisions of the Franchise and this Franchise Agreement will result in injury to the Town, and because it will be difficult to estimate the extent of such injury, the Town and Cox agree to the following liquidated damages to be effective during the Term for the following violations of the Franchise and of this Agreement, which represent both parties' best estimate of the damages resulting from the specified violation. The Communications Administrator, or designee, shall have the authority to waive or reduce the liquidated damage amounts herein for good cause. Cure periods listed below shall begin to run at the time Cox is notified in writing of a violation by the Town, unless otherwise specified below. Such damages shall not be a substitute for actual performance by Cox of a financial payment, but shall be in addition to any such actual performance. The Town's election of liquidated damages in a given case shall take the place of any right to obtain actual damages or penalties in that case over and above the payment of any amounts otherwise due. Liquidated damages shall be assessed in the following manner:

(1) For a Transfer without approval as specified in Section 3: \$2,000/day for each violation for each day the violation continues;

(2) For failure to substantially comply with requirements for public, educational and governmental use of the System pursuant to Sections 7(a), 7(b), 7(d), 7(e), 7(f): \$1,000/day for each violation for each day the violation continues after a 14-day cure

12: PERFORMANCE GUARANTEES AND REMEDIES

12(f): Liquidated Damages

period, if Cox has not undertaken substantial corrective action to cure the violation within that 14-day period;

(3) For failure to provide to the Town information, reports, or filings lawfully required under the Franchise Agreement or applicable law or by the Town: \$200/day for each violation for each day the violation continues after a 30-day cure period. The cure period shall begin to run on the due date of any regularly scheduled report, and on the date of a deadline reasonably set by the Town for any report or information request not regularly scheduled, unless Cox shows that it was not in fact aware of the requirement in question, in which case the 30-day cure period shall begin to run upon written notice of such requirement by the Town to Cox;

(4) Customer Service Standards:

(A) For each day during which the Town determines that Cox has violated each of the customer service obligations pursuant to Section 10 of this Agreement or applicable law or regulation, except for those obligations for which compliance is measured on a quarterly basis, and following a 10-day cure period except that such cure period does not apply to customer service standards that themselves provide a specific cure period: \$200 per violation;

(B) A separate violation under subsection (A) shall be deemed to occur whenever the Town reasonably determines that one of the above separate customer service violations has occurred on one day. Thus, for example, if Cox fails to extend service to one Subscriber for two days pursuant to governing law or regulation, there would be two violations; if Cox fails to keep an appointment pursuant to governing law or regulation with one Subscriber on one day and on that same day, independent of the missed appointment, Cox fails to disclose

12: PERFORMANCE GUARANTEES AND REMEDIES
12(g): Shortening, Revocation, or Termination of Franchise

price terms to that same Subscriber, then there would be two violations. However, Cox shall not be charged with multiple violations for a single act or event affecting a single Subscriber or for a single act or event affecting multiple Subscribers on the same day. For example, Cox's failure to send out its annual notice to multiple Subscribers for one day would constitute a single violation.

(5) Cox shall be deemed to cure such a violation if it provides appropriate compensation, as agreed to by the Town and Cox, to all affected subscribers as to which the Town has given such notice.

(6) When the Town determines that Cox has failed to comply with customer service obligations pursuant to Section 10 of this Agreement, when compliance is measured on a quarterly basis: \$500 for each quarter in which such standards were not met if the failure was by less than 5%; \$1,000 for each quarter in which such standards were not met if the failure was by 5% or more but less than 15%; and \$2,000 for each quarter in which such standards were not met if the failure was by 15% or more;

(7) For failure to file, obtain or maintain the required performance bond or letter of credit pursuant to Section 12(a) or 12(b) in a timely fashion: \$200 per day following a 14-day cure period;

(8) For failure to bring into compliance any violation of construction standards within the appropriate time periods as specified in Section 5(b) of this Agreement: \$200 per violation; and

(9) For violation of technical standards established by the FCC or other lawful authority: \$100 per day for each day the violation continues after a 30-day cure period after the Town gives Cox notice of such violation;

12: PERFORMANCE GUARANTEES AND REMEDIES
12(g): Shortening, Revocation, or Termination of Franchise

(g) Shortening, Revocation, or Termination of Franchise

(1) Upon completion of the Term of any Franchise granted under this Agreement, if a new, extended, or renewed Franchise is not granted to Cox by the Town, Cox's right to occupy the Public Rights-of-Way and Public Land shall terminate, subject to applicable federal law.

(2) The Town shall have the right to revoke the Franchise, or to shorten the Term of the Franchise to a Term not less than 36 months from the date Cox receives written notice from the Town of the Town's decision to act pursuant to Section 12(g)(3) herein concerning the Town's shortening action, for Cox's material violation of this Agreement pursuant to Section 13(l)(2).

(3) To invoke the remedies of Section 12(g)(2), the Town shall give Cox written notice of the default in its performance. If within 60 calendar days following such written notice from the Town to Cox, or such other period as this Franchise Agreement shall require or Cox and the Town shall agree, Cox has not taken corrective action to the reasonable satisfaction of the Town, the Town may give written notice to Cox of its intent to revoke or shorten the Term of the Franchise, stating its reasons; provided that no opportunity to cure shall be provided where Cox is shown to have defrauded or attempted to defraud the Town or its Subscribers in connection with this Agreement or Cable Service in any way that has a material adverse effect on Cox's provision of Cable Services pursuant to this Agreement.

(4) Prior to shortening the Term of or revoking the Franchise, the Town shall hold a public hearing, after providing 30 days' written notice to Cox, specifying its reasons

for shortening or revoking the Franchise, at which time Cox and the public shall be given an opportunity to be heard. Following the public hearing, the Town may determine whether to shorten the Franchise Term or to revoke the Franchise based on the information presented at the hearing, and other information of record, or, where applicable, grant additional time to Cox to effect any cure. If the Town determines to shorten the Term of or revoke the Franchise, it shall adopt an ordinance that shortens the Term of or revokes the Franchise and sets forth the reasons for its decision. A copy of such ordinance shall be transmitted to Cox.

(5) If the Town revokes the Franchise, or if for any other reason Cox terminates the Franchise, the following procedures and rights are effective:

(A) The Town may require Cox to remove its facilities and equipment located in the Public Rights-of-Way or on Public Land at Cox's expense and to restore such affected sites as required in Section 5(a)(10) or permit Cox to abandon such facilities in place, subject to the provisions of Section 5(a)(14). If Cox fails to remove its facilities within a reasonable period of time after the Town orders it to do so, and such removal is necessary to make room for other facilities or to remove potential safety hazards as required by sound engineering practices, then the Town may have the removal performed at Cox's and/or surety's expense.

(B) The Town may require Cox to continue operating Cox's Cable System and ensure an orderly transfer of cable service as specified in Section 4(c).

(C) In the event of revocation, the Town, in accordance with state law, may acquire ownership of or effect a transfer of Cox's Cable System at an Equitable Price.

12: PERFORMANCE GUARANTEES AND REMEDIES

12(h): Condemnation

(h) *Condemnation.* This Franchise Agreement shall not limit any authority of the Town in accordance with state law to condemn, in whole or in part, the Franchise and/or any other property of Cox, provided that Cox shall receive whatever condemnation award Cox would normally be entitled to recover as a matter of state law. Partial condemnation of Cox's Franchise or property shall not terminate this Agreement except in accordance with the terms of this Agreement.

(i) *Application Of Section.* Notwithstanding Section 24-18 of the Communications Ordinance, this Section 12 shall govern.

13 MISCELLANEOUS PROVISIONS

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

(b) *Severability.* If any term, condition, or provision of this Agreement shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. If the terms of this Agreement are materially altered due to changes in governing law, then the parties shall negotiate in good faith to reconstitute this Agreement in a form that, to the maximum extent possible, is consistent with the original intent of Cox and the Town and preserves the benefits bargained for by each party.

(c) *Preemption.* In the event that federal or state laws, rules, or regulations preempt a provision or limit the enforceability of a provision of this Agreement, then 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 that any provision of this Agreement is preempted or enforcement limited by any such provision of federal or state law, then the parties shall negotiate in good faith to reconstitute this Agreement in a form that, to the maximum extent possible, is consistent with the original intent of Cox and the Town and preserves the benefits bargained for by each party. Finally, 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 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 Town.

(d) *Equal Treatment.* The Town shall comply with all state and federal laws regarding equal treatment of Cox and other entities.

(e) *Compliance with Applicable Laws.* Cox shall, at all times during the Term, including any extensions thereof, substantially comply with all applicable federal, state, and local laws and regulations.

(f) *Force Majeure.* Notwithstanding any other provision of this Agreement, Cox shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due, directly or indirectly, to Force Majeure conditions. In the event that any such delay in performance or failure to perform affects only part of Cox's capacity to perform, Cox shall perform to the maximum extent it is able to perform and shall take all reasonable steps within its power to correct such cause(s) in as expeditious a manner as possible.

(g) *Governing Law.* This Franchise Agreement shall be governed in all respects by the law of the Commonwealth of Virginia.

(h) *Notices.* Unless otherwise provided by applicable law or this Agreement, all notices or other written communications required to be given to the Town under any provision of this Agreement or the Communications Ordinance shall be deemed served when regularly mailed, postage prepaid, or delivered by hand in writing to the Town Manager. All notices or written communications required to be given to Cox under any provision of this Agreement or the Communications Ordinance shall be deemed served when regularly mailed, postage prepaid, or delivered by hand in writing to Cox at Cox's last known address, to the attention of the following, or to such other Persons or addresses as Cox may subsequently specify by notice:

13: MISCELLANEOUS PROVISIONS

13(i): Time of Essence

Cox Communications – Virginia
ATTN: Vice President/General Manager
1341 Crossways Rd.
Chesapeake, VA 23320

With copies to:

Cox Communications – Northern Virginia
ATTN: Government Affairs
3080 Centreville Rd.
Herndon, VA 20171

Cox Communications, Inc.
ATTN: Law & Policy
1400 Lake Hearn Dr.
Atlanta, GA 30319

(i) *Time of Essence.* In determining whether a party has substantially complied with this Franchise Agreement, the parties agree that time is of the essence.

(j) *Captions and Headings.* The captions and headings of sections set forth herein are intended solely to facilitate reading and reference to the sections and provisions of this Franchise Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

(k) *No Oral Modifications.* This Franchise Agreement shall not be changed, modified, or amended, in whole or in part, unless an appropriate written instrument is executed by the Town and Cox.

(l) *Rights and Remedies*

(1) The rights and remedies reserved to both parties herein are cumulative and shall be in addition to all other rights and remedies which either party may have with respect

to the subject matter of this Agreement, whether reserved herein or authorized by applicable law.

(2) The following violations by Cox of this Agreement are material for purposes of Section 12(g)(2):

(A) Transfer without approval pursuant to Section 3, or failure to notify pursuant to Section 3(c);

(B) repeated or flagrant failure to satisfy line extension requirements pursuant to Section 4(b);

(C) repeated or flagrant failure to satisfy construction standards pursuant to Section 5;

(D) repeated or flagrant failure to meet FCC technical standards;

(E) failure to maintain the Emergency Alert System pursuant to Section 6(g) in the event of an emergency;

(F) substantial failure to provide PEG Grants pursuant to Section 7(c)(2);

(G) substantial failure to provide PEG facilities or equipment pursuant to Section 7(a);

(H) substantial failure to provide PEG facilities or equipment pursuant to Section 7(d);

(I) substantial failure to provide PEG facilities or equipment pursuant to Section 7(f);

(J) substantial failure to provide I-Net facilities or equipment pursuant to Section 7(j);

13: MISCELLANEOUS PROVISIONS

13(m): Obligations to Continue Throughout Term

(K) substantial failure to pay Franchise Fees pursuant to Section 8, if applicable;

(L) repeated or flagrant failure to meet reports and records requirements in a timely manner pursuant to Section 9;

(M) substantial failure to satisfy insurance requirements pursuant to Section 11(a);

(N) substantial failure to maintain a bond or letter of credit pursuant to Section 12;

(O) repeated or flagrant violation of consumer protection requirements pursuant to applicable law;

(P) repeated or flagrant violation of Subscriber privacy requirements pursuant to 47 U.S.C. § 551 or other applicable law;

(Q) repeated or flagrant discrimination among Subscribers in violation of applicable law.

(m) Obligations to Continue Throughout Term. Unless specifically designated otherwise, all of Cox's obligations under this Agreement and the Franchise shall continue throughout the entire Term specified in Section 2(c) or any extension hereof.

(n) Cooperation in Obtaining and Implementing Grants. Cox and the Town agree to cooperate fully with each other in applying for or implementing any federal or state grants or other funds to be applied to Cox's Cable System.

(o) Prohibition Against Discrimination. Cox shall adhere to the Equal Employment Opportunity regulations of the FCC and to all federal, state, and local laws, and executive orders

pertaining to discrimination, equal employment opportunity, and affirmative action, that are applicable to Cox.

(p) Connections to the Cable System

(1) Cox shall comply with FCC regulations and applicable law governing the ability of Subscribers to attach any lawful equipment to Cox's Cable System.

(2) Cox shall not, as a condition of providing Cable Service, require a Subscriber to remove any existing antenna or disconnect an antenna, or prohibit or discourage a Subscriber from installing an antenna switch, provided that such equipment and installations are consistent with applicable codes and technically able to shield Cox's Cable System from any interference.

(q) Police Powers of the Town. Nothing in this Agreement shall preclude the Town from exercising its police powers to enact, amend, or supplement any law governing cable communications within the Town of Vienna.

(r) Cox Bears Its Own Costs. Unless otherwise expressly provided in this Agreement, all acts that Cox is required to perform shall be performed at Cox's own expense.

(s) Town Bears Its Own Costs. Unless otherwise expressly provided in this Agreement, all acts that the Town is required to perform shall be performed at the Town's own expense.

(t) Rights of Third Parties. Nothing herein shall be construed to give any Person other than Cox or the Town a right to assert any claim or cause of action against Cox or the Town, its employees, elected or appointed officials, officers, boards, authorities, commissions, committees, commissioners, or agents.

(u) *Appendices.* The appendices to this Agreement (the "Appendices"), attached hereto, and all portions thereof and exhibits thereto, are, except as otherwise specified in such Appendices, incorporated herein by reference and expressly made a part of this Agreement. The procedures for approval of any subsequent amendment or modification to said Appendices shall be the same as those applicable to any amendment or modification hereof, except as specified in such Appendices or elsewhere in this Agreement.

(v) *Entire Agreement.* This Agreement embodies the entire understanding and agreement of the Town and Cox with respect to the subject matter hereof and merges and supersedes all prior representations, agreements, and understandings, whether oral or written, between the Town and Cox with respect to the subject matter hereof, including, without limitation, any and all written or oral statement or representations by any official, employee, agent, attorney, consultant, or independent contractor of the Town or Cox.

(w) *Authority.* Each person executing this Agreement on behalf of a corporation or other legal entity warrants and represents that he or she holds the position indicated beneath his or her signature and that he or she has been duly authorized by said corporation or other legal entity to execute this Agreement on its behalf. Each party warrants and represents that this Agreement is a valid, binding and enforceable obligation of that party and does not violate any law, rule, regulation, contract, or agreement applying to that party.

13: MISCELLANEOUS PROVISIONS

13(w): Authority

IN WITNESS WHEREOF, the parties have set their hands and seals on the date below.

THE TOWN OF VIENNA, VIRGINIA

BY: _____
Mayor

DATE: _____

Attest:

BY: _____
Town Clerk

COXCOM, LLC, d/b/a
COX COMMUNICATIONS NORTHERN VIRGINIA

BY:  _____

DATE: 1-22-14

Title: SVP and General Manager.

APPENDIX 1: I-NET APPENDIX

1 THE APPENDIX AND THE FRANCHISE AGREEMENT

(a) *The I-Net Appendix.* This Appendix ("Appendix") is an integral part of a Franchise Agreement effective January 21, 2014, between The Town of Vienna, Virginia ("Town"), and CoxCom, LLC, d/b/a Cox Communications Northern Virginia ("Cox").

(b) *Integral Whole.* The Appendix is intended to be an integral whole and shall be interpreted as internally consistent.

(c) *Definitions.* When a word, term or phrase is used in this Appendix, it shall be interpreted or construed as follows: First, as defined in this Appendix or in the body of the Franchise Agreement; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage. As used in this Appendix, the terms set forth below shall have the following meanings:

(1) "Demarcation Point": a demarcation point to be agreed upon by Cox and the Town consistent with Cox's direction of approach to the building and consistent with the FCC's rules as of the effective date of this Appendix or as later amended.

(2) "Institutional Network" or "I-Net" means the PEG facility consisting of a network of IRU Fibers, constructed by Cox and paid for by the Town, related to and, to the extent deemed feasible by Cox, collocated with Cox's Cable System, and not generally available to Subscribers of Cox's Cable System. As used in this Appendix, the term "I-Net" shall not include any electronics or other equipment needed to activate IRU Fibers.

(3) "I-Net Headend" means the Town's origination point for its I-Net, which as of the Effective Date is located at Cox's Tysons Corner STC facility at 2128 Gallows Road, Vienna, Virginia.

(4) "IRU Fibers" means the fiber optic strands constituting the I-Net, in which the Town has an IRU as defined in Section 5.

(5) "Maintenance" means any action required to preserve or restore physical fiber optic connectivity on Cox's side of the Demarcation Point to the performance standards specified in Section 2.

(6) "Prime Rate" means, as of any relevant date, the interest rate most recently published in the Money Rates Section of The Wall Street Journal as the prime rate. If such rate shall cease to be published, Cox and the Town shall designate a successor rate to be used in place of the Prime Rate.

(7) "Secondary Telecommunications Center" or "STC" means Cox's Tysons Corner STC facility located as of the Effective Date at 2128 Gallows Road, Vienna, Virginia.

2 I-NET FACILITIES AND EQUIPMENT

(a) *I-Net Characteristics.* Cox shall keep in operation the I-Net constructed under the Prior Franchise and in operation as of the Effective Date, together with any additional I-Net facilities subsequently constructed, so that it has the following minimum characteristics:

(1) The I-Net shall be a bidirectional, fully fiber-optic network designed and constructed with single-mode fiber, in a design so that each of the designated service locations can originate and receive fully interactive video, data, and voice signals.

(2) Cox shall collocate I-Net fiber with HSN fiber whenever reasonably feasible based on cable industry practices. The I-Net fibers shall be separate from any fibers used for the HSN, and the Town shall have only such property rights in the I-Net fibers as are set forth in Section 5.

(3) Cox's construction of the I-Net shall be in conformance with the County's "I-Net Construction Requirements Manual" ("I-Net Manual"), that is incorporated herein by reference.

(4) At the I-Net Headend, the Town's I-Net fibers shall be terminated in accordance with the I-Net Manual within a separate locked area segregated from the County's I-Net equipment and non-I-Net equipment on Cox's STC property (the "I-Net Headend Service Area"). The I-Net Headend Service Area shall have building security and sufficient heating and air conditioning. 48 V DC and 120 V AC power shall be available for the I-Net Headend Service Area, including backup power. Backup power shall include both an uninterruptible power supply (UPS) and a generator with fueling arrangements sufficient

to support the equipment in the I-Net Headend Service Area for as long as Cox's STC remains in operation. Cox shall also provide fire suppression and snow removal, and maintain the building in good repair. Town personnel shall have access 24 hours a day, seven days a week, to the I-Net Headend Service Area, and the Town shall be able to restrict access to the I-Net Headend Service Area to specifically authorized personnel, except that Cox shall have access to the I-Net Headend Service Area as required to ensure safety and security.

(5) The I-Net Headend Service Area shall be shared by (i) the County and (ii) the Town of Vienna, if so authorized by these municipalities to which Cox has provided an I-Net. If any such other local government's equipment is collocated at a site with the Town's, then Cox shall make all reasonable efforts to configure the assigned space so that all equipment required by such collocated parties can readily be accommodated.

(6) At least one set of at least six single-mode fibers each shall run to each I-Net site designated by the Town as specified in this Section, in addition to any fibers provided for return feeds from PEG Origination Sites under the Franchise Agreement. At each I-Net site, fibers shall be constructed in accordance with the I-Net Manual.

(b) *Additional Construction.* The Town may use a contract with Cox for Extensions and Modifications to the I-Net, Contract 4400002361 ("I-Net Construction Agreement"). The purpose of the I-Net Construction Agreement is to allow the County to order, and Cox to build, extensions and modifications to the I-Net, including but not limited to connecting additional I-Net sites.

(c) *Warranty.* The IRU Fibers installed by Cox pursuant to this Appendix and the I-Net Construction Agreement shall be warranted against defects in materials and workmanship for 12 months after acceptance. Cox's warranty excludes any remedy for change or defect caused by abuse, modifications not executed by Cox, improper maintenance not performed by Cox, improper operation, or normal wear and tear under normal usage. This warranty is in addition to, and does not relieve Cox from, its maintenance responsibilities pursuant to this Appendix.

(1) If any of the IRU Fibers do not operate within the specifications herein and in the I-Net Manual, and Cox has determined in its reasonable business judgment that it is technically or economically infeasible to restore one or more of the affected IRU Fibers to proper operation, Cox may in its discretion elect to provide for the Town to use equivalent substitute fibers along the same route (or a mutually agreed-upon substitute route) with the same or greater useful life ("Replacement Fibers"). To the extent Cox elects to provide the Town Replacement Fibers, the Town shall have an IRU in such Replacement Fibers, and they shall be deemed IRU Fibers hereunder, and shall become subject to the terms and conditions of this Appendix applicable to the IRU Fibers and the Town's IRU herein.

(2) If within 30 days from the date that the IRU Fibers first ceased operating within such specifications, Cox is unable to provide Replacement Fibers that will permit the uses by the Town contemplated by this Agreement, the Town may procure substitute assets at Cox's expense payable within 30 days of receipt of notice from the Town with the pre-approval by Cox of the Town's expenses, where such approval shall not be unreasonably

I-NET APPENDIX

2: I-NET FACILITIES AND EQUIPMENT

2(c): Warranty

withheld, and this Appendix shall continue in full force and effect as to the remaining IRU

Fibers.

3 RELOCATION, ABANDONMENT, AND PLANT CHANGES

(a) *Relocation.* In the event that any portion of Cox's Cable System that includes the IRU Fibers needs to be relocated, replaced, or rebuilt for any reason, Cox shall notify the Town as soon as possible of the anticipated schedule, the reason(s) for the relocation, replacement or rebuilding, and the impact said relocation, replacement, or rebuilding is expected to have on the IRU Fibers and the I-Net.

(1) The precise location of Cox's Cable System and the IRU Fibers may change from time to time. However:

(A) Any changes must provide the Town with substantially the same quality of fiber and approximately the same route as existed before the IRU Fibers were moved. In no event may the number of fibers that the Town is authorized to use pursuant to this Appendix be reduced, nor may any change prevent the Town from exercising its rights pursuant to this Appendix.

(B) The costs of any changes to or relocations of the IRU Fibers, including any costs incurred by the Town in moving its equipment or the IRU Fibers or in extending its network to the extent made necessary by such change or relocation, shall be borne by Cox, unless the change is required by a change to facilities or property of an Authorized User, in which case the Authorized User shall bear the cost.

(C) Cox and the Town will work together in good faith to (i) effectuate any changes required to be made at the direction of any regulator, governmental agency, or condemnor with legal authority to issue such direction; (ii) settle or avoid a bona fide threatened

3: RELOCATION, ABANDONMENT, AND PLANT CHANGES

3(b): Title and Ownership

or filed condemnation action; (iii) reduce the likelihood of physical damage to Cox's Cable System; and (iv) appropriately address damage or changes resulting from a Force Majeure event.

(2) In the event of a relocation, Cox shall use all commercially reasonable efforts to minimize any disruption of the functionality of the IRU Fibers. If a proposed relocation would result in a material adverse effect on the Town's rights, Cox shall use commercially reasonable efforts to provide substitute assets at Cox's expense pursuant to Section 2(c), so as to ensure the Town's uninterrupted use of the rights granted under this Appendix.

(3) Should any portion of the IRU Fibers be acquired by eminent domain, nationalization, or expropriation by any authority or entity possessing such power, or sold to such authority or entity under threat of eminent domain, nationalization, or expropriation (either of which will constitute a "Taking"), any awards resulting from the proceeding or otherwise provided shall be fairly apportioned between the parties in accordance with such interests. As between Cox and the Town, the provisions of Section 3(a)(1)(C) shall apply to any relocation resulting from a Taking.

(b) *Title and Ownership.* Legal title to the IRU Fibers shall remain with Cox at all times, unless transferred to the Town as provided in Section 3(c) herein. In the event of Cox's bankruptcy or insolvency, any action to terminate this Appendix shall not affect the prior, indefeasible transfer to the Town of its beneficial ownership interest in the IRU Fibers. The parties acknowledge that the IRU constitutes an indefeasible grant to the Town of an exclusive beneficial ownership interest in the IRU Fibers and that the grant of the IRU is intended to be non-executory in nature. Moreover, in the event of Cox's bankruptcy or insolvency, any action

3: RELOCATION, ABANDONMENT, AND PLANT CHANGES

3(c): Abandonment

to terminate or reject this Appendix shall give the Town the right to access the IRU Fibers at their connection points for the limited purpose of using the IRU Fibers as contemplated in this Appendix, including the placement and maintenance of the Town's equipment in the I-Net Headend Service Area. The Parties agree and acknowledge that denying the Town access to the IRU Fibers at the connection points under such circumstances would render the Town's IRU in the IRU Fibers nugatory.

(c) *Abandonment.* In the event that Cox decides or acts to abandon any portion of its Cable System that includes IRU Fibers, the Town's right to use such IRU Fibers shall not be affected. Prior to any such abandonment, Cox shall transfer to the Town legal title to the cable in which the IRU Fibers are located or, to the extent fibers other than those subject to this IRU are in the cable, legal title to the IRU Fibers.

(d) *Permanence of IRU*

(1) Notwithstanding any default by the Town, or any other legal duty or obligation imposed by any other contract, by the law of torts, or by federal or state laws, rules, regulations, orders, or standards, Cox shall have no right to revoke or restrict in any manner or to any degree whatsoever, through injunctive relief or otherwise, the IRU granted to the Town pursuant to this Appendix.

(2) In the event that Cox acts to sell or otherwise transfer the IRU Fibers or the cables containing the IRU Fibers or any interest in any of the foregoing, Cox shall ensure that any such sale shall explicitly be made subject to the IRU and the Town's rights hereunder.

3: RELOCATION, ABANDONMENT, AND PLANT CHANGES

3(d): Permanence of IRU

(3) In all circumstances addressed in this Section 3, Cox agrees to reasonably cooperate with the Town to take such action as is required to maintain and preserve the Town's use and enjoyment of the IRU Fibers.

4 FEES AND ELIGIBILITY FOR FUNDING

(a) *Universal Service.* Cox shall reasonably cooperate with the Town in taking the steps necessary so that the I-Net is, to the maximum extent consistent with applicable law, eligible for funding pursuant to the universal service provisions of the Telecommunications Act of 1996, 47 U.S.C. § 254, and the implementing regulations of the Federal Communications Commission, 47 C.F.R. Part 54, provided, however, that neither party shall be required to take any such steps that would adversely affect its rights under this Appendix, materially alter the cost or time for performance under this Appendix, or prevent it from obtaining the benefits of this Appendix.

(b) *Pole Attachment Fees.* The Town shall cooperate with Cox in obtaining any necessary pole attachment arrangements for the I-Net. Where I-Net and HSN fiber optic sheaths are bundled together, Cox shall be responsible for any pole attachment costs attributable to the I-Net. The Town shall use its best efforts, upon Cox's request, to support Cox in taking the position that, as part of public, educational, and governmental access provided pursuant to a cable franchise, the I-Net would not result in any incremental pole attachment fees pursuant to applicable law, provided, however, that neither party shall be required to take any such steps that would adversely affect its rights under this Appendix, materially alter the cost or time for performance under this Appendix, or prevent it from obtaining the benefits of this Appendix.

5 INDEFEASIBLE RIGHT OF USE

(a) Perpetual IRU

(1) Cox hereby acknowledges the Town's exclusive indefeasible right of use of, for the purposes and subject to the limitations described herein, the I-Net (the "IRU"). The Town's IRU shall be perpetual, unless terminated by mutual consent, and shall survive the termination or this Appendix or the Franchise Agreement.

(2) The Town's IRU shall apply to all the IRU Fibers, provided pursuant to Section 7(j) of the Franchise Agreement ("I-Net Description"), including additional I-Net fibers constructed pursuant to the I-Net Construction Agreement.

(A) By executing the Franchise Agreement, Cox certifies that the I-Net Description is complete and accurate as of the Effective Date.

(B) If Cox discovers any error in the I-Net Description, Cox shall notify the Town as soon as possible and take the necessary steps to rectify the error. Cox shall rectify any error in the I-Net Description at its own sole cost.

(b) Fees, Costs, and Charges. Except for the Recurring Maintenance Charges described in Section 6(b), there shall be no other fees, costs, or charges imposed by Cox upon the Town under this Appendix 1 during the term of the Franchise Agreement. Any charges imposed by Cox pursuant to the I-Net Construction Agreement shall be governed by that agreement.

(c) Required Rights. Cox agrees to obtain and maintain in full force and effect all rights, licenses, franchises, permits, authorizations, rights-of-way, easements, pole attachment agreements, and other agreements which are necessary in order to permit Cox to construct, install

and keep installed, and maintain the I-Net in accordance with this Appendix I and to provide the Town with the IRU (collectively, the "Required Rights").

(d) *Quiet Enjoyment.* Cox shall provide the Town with quiet enjoyment of the IRU granted hereunder, free and clear of any liens or encumbrances.

(e) *Exclusive Right.* Cox grants the Town an exclusive right to use a portion of Cox's Cable System associated with the IRU that is necessary to give effect to the grant of the IRU to the Town.

(f) *I-Net Equipment*

(1) The Town shall not adversely affect the use by any other Person of the Cox Cable System and/or any electronic or optronic equipment used by such Person in connection therewith. Cox shall not allow any other authorized users of the Cox Cable System and/or electronic or optronic equipment used by such Person in connection with the Cable System to adversely affect the use of the I-Net by the Town.

(2) Neither Cox nor the Town shall have any limitations on the types of electronics or technologies employed to use its fibers, subject to Cox's safety procedures and so long as such electronics or technologies do not interfere with the use of or present a risk of damage to any portion of the other party's system.

(3) The Town acknowledges and agrees that Cox is not supplying nor is Cox obligated to supply to the Town any optronics or electronics or optical or electrical equipment for the IRU Fibers, all of which are the sole responsibility of the Town.

(g) *Substitution of Fibers by Cox.* Upon not less than 120 days' written notice from Cox to the Town, Cox may at its option, subject to Town's prior written approval (which

approval shall not be unreasonably delayed or withheld), substitute for the IRU Fibers an equal number of alternative fibers within the Cable System or portion thereof, provided that in such event, such substitution (i) shall be in accordance with County's applicable specifications set forth in the I-Net Manual and for Replacement Fibers in this Appendix; (ii) shall be effected at the sole cost of Cox, including, without limitation, all disconnect and reconnect costs, fees and expenses; (iii) shall be tested in accordance with and shall satisfy the acceptance testing procedures set forth in the I-Net Manual; and (iv) shall be coordinated with the Town and accomplished with the least possible interruption of operation or the Town's I-Net use, at a time and for a period reasonably agreed to by Cox and the Town.

6 MAINTENANCE

(a) *Maintenance of I-Net.* Cox shall maintain the I-Net in accordance with maintenance requirements and procedures that ensure that the I-Net meets the specifications set forth in the I-Net Manual, and such maintenance shall be performed in a first-class workmanlike manner consistent with industry standards. Such maintenance shall include all routine and preventive maintenance and all repairs to damage, whether I-Net fibers run separately or in a common sheath with Cox's HSN fibers.

(b) *Recurring Maintenance Charge.* Subject to the adjustment described in Section 6(c)(2) herein, the Town shall pay Cox quarterly. Cox shall invoice the Town pursuant to Section 6(d) commencing on January 1, 2014, for the calendar quarter ending March 31, 2014, together with any pro-rated amount from the Effective Date through December 31, 2013, and continuing until the expiration of the Term, for the recurring maintenance charges set forth on Exhibit A (the "Recurring Maintenance Charge"). The obligation of the Town to pay the Recurring Maintenance Charge is subject to appropriations by the Town Council to satisfy payment of such obligations. If the Town Council should fail to appropriate funds, then the Town will provide Cox with written notice of non-appropriation of funds within 30 calendar days after action is completed by the Town Council, but the Town's failure to provide such notice shall not extend the Town's obligation to pay the Recurring Maintenance Charge.

(c) *Adjustment of Recurring Maintenance Charge.* The Recurring Maintenance Charge shall be reviewed and adjusted no earlier than 45 days from the third anniversary of the Effective Date, and thereafter not sooner than every three years, by the adjustment, if any, of:

6(d): Payment of Recurring Maintenance Charge

(1) the total I-Net miles of individual IRU Fiber strands; and,

(2) the charge-per-fiber-mile adjusted by the Consumer Price Index, All Urban Consumers (CPI-U), U.S. City Average, published by the United States Department of Labor, Bureau of Labor Statistics (1982-84 = 100), for the preceding 12-month period. If such index shall cease to be computed or published, Cox and the Town shall designate a successor index to be used in determining any adjustment to the Recurring Maintenance Charge. In no event shall the adjustment to the Recurring Maintenance Charge for any applicable year(s) be reduced from the prior year or shall the adjustment in 6(c)(2) for any applicable year(s) exceed 4%.

(d) Payment of Recurring Maintenance Charge

(1) Cox shall send the Town invoices for payments of the Recurring Maintenance Charges, and the Town shall pay such invoiced amounts within 30 days after the date of such invoice by Cox. Notwithstanding anything in this Franchise Agreement to the contrary, no payment due hereunder is subject to reduction, set-off, offset or adjustment of any nature by the Town. Disputes shall not be cause for the Town to delay payment of the undisputed balance to Cox according to the terms outlined in this Appendix. Any sums not paid by the Town when due shall bear interest at the Prime Rate.

(2) Cox shall invoice the Town for the quarterly Recurring Maintenance Charge for each upcoming quarter no later than the first day of each quarter during the Term. With respect to the first month of the Term, the quarterly Recurring Maintenance Charge shall be pro-rated based on the number of days in such month that this Appendix was in

effect, and such pro-rated invoice shall be provided to Town as soon as reasonably practicable.

(e) *Right of Access.* If at any time Cox fails to provide maintenance services for the IRU Fibers in connection with this Appendix, the Town shall have a right of access to the IRU Fibers, itself or by its qualified contractors, for the purpose of performing such services on its own behalf. Such right of access by the Town is conditioned upon the Town's giving written notice of its intention to exercise such right no less than 10 days prior to such event, except in cases of emergency, in which case the written notice shall be given in the maximum amount of time that is reasonable under the circumstances. Cox shall reimburse the Town for the provision of such maintenance services at commercially reasonable market-based costs.

7 I-NET SERVICE LEVEL AGREEMENT

(a) Service Outages; Outage Categories

(1) For purposes of this Appendix, the term "Service Outage" shall mean any condition or damage affecting the I-Net plant that precludes or substantially impairs the transmission of information on the I-Net or a portion thereof.

(2) Response and restoration times are determined by the category of Service Outage as follows:

(A) Major Outage: Total loss of service to an I-Net Site.

(B) Minor Outage: Loss of service on a single fiber to any I-Net Site.

(C) Service Interruption: Reduction in signal throughput to the point where the signal on a circuit falls below acceptable standards.

(3) Notwithstanding the foregoing classifications, the Town may, in its discretion, reclassify any specific service outage affecting I-Net plant upon notice to Cox, and such reclassification shall govern response and restoration times.

(b) Response to Outages and Interruptions. The response time (the point at which Cox is engaged in restoration of service) for all Service Outages, whether reported to Cox by the Town or independently identified by Cox, shall be as specified in Section 7(d). Upon identification of a Service Outage, Cox shall, within such response time, have qualified personnel on site to investigate the outage, assess the cause and commence necessary repairs. To the extent that necessary repairs resulting in restoration of connectivity on the I-Net can be immediately accomplished, Cox shall effect such repairs in connection with its investigation of

the cause of the Service Outage. To the extent that repairs cannot be immediately effected, Cox shall, within the response time, inform the Town of the apparent cause of the Service Outage, and the anticipated time to restore connectivity.

(c) Restoration of Service

(1) Cox shall, to the maximum extent practicable, restore connectivity of any category of service alarm involving I-Net plant that is bundled together with HSN plant at the same time as restoration of co-located HSN plant.

(2) Cox shall restore connectivity of I-Net plant that is not bundled together with HSN plant as promptly as practicable within the estimated restoration times reported to the Town pursuant to Section 7(d) and shall use its best efforts to effect such restoration within the service objectives set forth in Section 7(d); provided, however, that in the case of any Service Outage affecting I-Net plant that is not bundled together with HSN plant, the Town may, pursuant to a work order issued to Cox ("Work Order"), require Cox to engage the services of one or more subcontractors to effect such restoration.

(3) In the case of a Service Outage involving more than one category of Service Outage or multiple service outages involving more than one category of Service Outage, Cox shall restore connectivity in the order specified in Section 7(a)(2), or such other order of priority as the Town reasonably requires. In all cases involving Service Outages resulting from I-Net plant that is bundled together with HSN plant, Cox shall give priority to restoration of the I-Net plant.

(d) Response and Restoration Times. The standards for response and restoration of service as specified in Sections 7(b) and 7(c) are:

(1) **Major Outage:** Response within two hours during normal business hours, two hours otherwise; temporary repair completed within four hours, permanent repair within two business days.

(2) **Minor Outage:** Response within two hours during normal business hours, next business day otherwise; temporary repair completed within four hours, permanent repair within three business days.

(3) **Service Interruption:** Response within two hours during normal business hours, next business day otherwise; temporary repair completed within 24 hours, permanent repair within five business days.

(4) Where, for reasons beyond Cox's control, restoration of service cannot be completed in the above time periods even with the exercise of all due diligence, Cox shall complete the restoration of service in the shortest time possible.

(e) *Third-Party Damage.* If any IRU Fiber should be cut or damaged, and the responsible party is identified, then the Town shall support Cox's claims for damages against the responsible party.

(f) *Town's Costs.* Notwithstanding the foregoing provisions, all I-Net wiring on the Town's side of the Demarcation Point, all I-Net Headend electronics, and I-Net Site electronics are the sole responsibility of the Town, except to the extent that Cox's negligence or willful action may adversely affect such equipment or facilities. All costs associated with locating or repairing any failure which is reported to Cox but which subsequently is determined to have occurred on the Town's side of the Demarcation Point shall be paid for by the Town.

8 USE OF THE I-NET

(a) Authorized Users

(1) Parties authorized to use the I-Net ("Authorized Users") shall include, to the extent approved by the Town:

- (A) the Town and all public schools within the Town and their agencies and subdivisions;
- (B) The Town's Boards, Authorities, Commissions, and Committees;
- (C) at the Town's sole discretion, Federal, State, or local governments and any governmental instrumentality, including but not limited to the governmental participants in NCRnet and FirstNet;
- (D) at the Town's sole discretion, organizations within the County and the Cities of Falls Church and Fairfax or the Towns of Clifton, Herndon, and Vienna that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

(b) Third-Party Traffic

(1) The Town shall not use or permit any third party to use the I-Net for resale or for the transmission of third-party traffic.

(2) For purposes of this subsection 8(b), "third-party traffic" shall mean communications not involving at least one Authorized User, except that, to the extent the I-Net is connected to the Internet and communications not involving at least one Authorized User pass through but do not terminate at I-Net sites or components in accordance with the

normal processes by which communications are propagated on the Internet, such communications shall not be considered third-party traffic.

(3) Use by the public of facilities having I-Net connections at libraries, community centers, and similar public buildings shall not be considered third-party traffic.

(c) *Liability.* Cox shall have no control, responsibility, or liability for the signals distributed over the fiber optic components of the I-Net by the Town or other Authorized Users or for their benefit.

9 **THE GRANTEE**

(a) *Damages.* In no event shall Cox be liable for special, consequential, exemplary, or punitive damages as a result of its performance or non-performance in design, construction, installation, repair, or maintenance of the I-Net or in the transmission of any service, information, data, voice, or any other transmission provided under this Appendix.

(b) *Known Errors.* If Cox performs any work under this Appendix knowing it involves a recognized and material error, inconsistency or omission in this Appendix without notice to and approval of the Town, Cox shall bear the cost of correction. If the Town permits Cox to perform any such work knowing it involves a recognized and material error, inconsistency, or omission in this Appendix without notice to and approval of Cox, the Town shall bear the cost of correction. Cox's provision of its plans to the Town shall not be construed to render the Town responsible for Cox's planning or execution or for detecting any errors, inconsistencies, or omissions therein, except to the extent specifically set forth herein.

(c) *Supervision.* Cox shall supervise and direct all work under this Appendix, using Cox's skill and attention in accordance with accepted industry practices. Cox shall be solely responsible for and have control over maintenance means, methods, techniques, sequences, and procedures and for coordinating all portions of the work under this Appendix, unless this Appendix provides for other specific instructions concerning these matters.

(d) *Contacts.* Cox shall provide to the Town, and update as necessary, a list of contact persons to ensure that the Town can reach the necessary Cox staff regarding I-Net matters.

(e) *Taxes.* To the extent to which any taxes apply to any aspect of the I-Net or the IRU Fibers, Cox shall be solely responsible for such taxes.

10 REPRESENTATIONS AND WARRANTIES

(a) *Authorizations and Consents.* Cox represents, warrants, and covenants that it has all authorizations and consents, including but not limited to the Required Rights, necessary to enable it to construct, install, and maintain the IRU Fibers and to grant the Town the IRU in the IRU Fibers.

(b) *Good Title.* Cox represents, warrants, and covenants that it holds and will continue to hold good record and marketable legal title to the Cable System and the IRU Fibers, without any encumbrances or liens thereon.

(c) *Compliance with Specifications.* Cox represents, warrants, and covenants that as of the Effective Date, the IRU Fibers complied with the specifications set forth herein and in the I-Net Manual.

11 MISCELLANEOUS

(a) *Assignment and Sublease.* This Appendix is binding upon and shall inure to the benefit of the parties and their respective successors and assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party.

Notwithstanding anything to the contrary contained in this Franchise Agreement, the Town covenants and agrees that as long as Cox lawfully operates a cable system in the Town, the Town shall not, and Cox may enjoin the Town from, any attempt to assign, sell, lease, sublease, transfer, grant an indefeasible right of use or other similar right or interest in the IRU or the I-Net to anyone.

EXHIBIT A
Recurring Maintenance Charge

The Recurring Maintenance Charge is as follows:

Recurring Maintenance Charge Per Fiber Mile	\$70.00
Fiber Miles	41.73 Miles
Annual Net Recurring Maintenance Charge ⁱ	\$2921.12
Quarterly Recurring Maintenance Charge ⁱ	\$730.28

ⁱ In accordance with Section 6(c) herein, the Recurring Maintenance Charge will be adjusted periodically to account for changes in the I-Net mileage and the CPI.

APPENDIX 2: PEG ORIGINATION SITE APPENDIX

Account name	Address
Town Hall	127 Center St, N, Vienna, Virginia

APPENDIX 3: I-NET SITE APPENDIX

I-NET Name	Address
Bowman House	211 Center St, S
Freeman House	131 Church St, NE
Glyndon Park	300 Glyndon St, NE
Meadow Lane Park	400 Courthouse Rd, SW
Northside Maintenance Yard	600 Mill St
Northside park	500 Glyndon St, NE
Nutley Street Property Yard	247 Nutley St
Southside Park	1315 Ross Dr, NW
Vienna Community Center	120 Cherry St
Vienna Police Dept	215 Center St, S
Vienna Town Hall	127 Center St, N

APPENDIX 4: SAMPLE PEG GRANT PAYMENT DETAIL

Example of supporting detail for PEG grant or franchise fee payments, pursuant to Section 8(b):

	January	February	March	Quarter Total
Monthly recurring cable service charges (<i>e.g.</i> , basic, expanded basic, premium, equipment rental)				
Usage-based charges (<i>e.g.</i> , pay-per-view, installation)				
Advertising, gross				
Less agency commissions				
Advertising, net				
Home shopping				
Miscellaneous				
Less bad debt				
Total Gross Revenues				
PEG Grant percentage	3%	3%	3%	3%
PEG Grants paid				

SAMPLE LINE EXTENSION ESTIMATE

APPENDIX 6: SAMPLE LINE EXTENSION ESTIMATE

Example of supporting detail for line extension estimate, pursuant to Section 10(d)(11):

	Cost
Engineering	\$
Construction Labor (ft. x \$ per foot)	\$
Materials	\$
Total cost:	\$
Cox Communications contribution (first 200 feet)	\$
Amount due from homeowner	\$

APPENDIX 7: ACCEPTANCE OF FRANCHISE

ACCEPTANCE OF FRANCHISE

CoxCom, LLC, d/b/a Cox Communications Northern Virginia ("Cox") hereby accepts the franchise to erect, construct, maintain, and operate a cable system offered by Ordinance of the Town of Vienna, Virginia ("Town") (the "Granting Ordinance"). By this acceptance, Cox agrees that, as set forth in the franchise and the Franchise Agreement, it shall be bound by the terms and conditions of the Franchise Agreement, any amendments thereto, the Granting Ordinance, and Chapter 24, of the Vienna Town Code, and any amendments thereto (collectively, the "Franchise Documents").

By accepting the franchise, Cox further: (1) acknowledges and accepts the Town's legal right to issue and enforce the franchise; (2) agrees that it will not oppose the Town's intervention in any proceeding affecting Cox's Cable System; (3) accepts and agrees to comply with each and every provision of the Franchise Documents; (4) agrees that the franchise shall not be effective until and unless all conditions precedent are satisfied; and (5) agrees that the franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

Cox declares that it has carefully read all of the terms and conditions of the Franchise Documents, and accepts and agrees to abide by the same.

Upon the franchise's becoming effective, Cox shall be immediately bound to maintain and operate the Cable System under the terms, conditions, and limitations set forth in the

Franchise Documents and other applicable law, as of the time and date it files this written acceptance with the Town.

AGREED TO THIS 6th DAY OF January, 2014.

CoxCom, LLC

By:

[Signature]
Its: SVP and General Manager

COMMONWEALTH OF VIRGINIA:

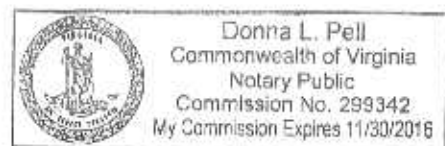
I HEREBY CERTIFY, that on this 19th day of February, 2014, before me, the subscriber, a Notary Public of the Commonwealth of Virginia, in and for Fairfax County, Virginia, aforesaid personally appeared Gary T. McCollum of CoxCom, LLC and acknowledged the foregoing Acceptance of Franchise by Cox in Fairfax County, Virginia, to be the act and deed of said company.

Chesapeake
Fairfax County, Virginia

AS WITNESS my hand and Notary Seal

Donna L. Pell
Notary Public 299342

My Commission Expires: November 30, 2016



Town of Vienna

By: M. Jane Seeman
M. Jane Seeman
Its: Mayor

COMMONWEALTH OF VIRGINIA:

I HEREBY CERTIFY, that on this 5th day of February, 2014, before me, the subscriber, a Notary Public of the Commonwealth of Virginia, in and for Fairfax County, Virginia, aforesaid personally appeared M. Jane Seeman of Vienna, VA and acknowledged the foregoing Acceptance of Franchise by Cox in Fairfax County, Virginia, to be the act and deed of said company.

Fairfax County, Virginia

AS WITNESS my hand and Notary Seal

Melanie J. Clark
Notary Public

My Commission Expires: June 17, 2017

