

**A SUMMARY OF ORDINANCE NO. 968 ENTITLED
“CABLE TELEVISION ORDINANCE - AN ORDINANCE CREATING A
 FRANCHISE NOT TO EXCEED TEN (10) YEARS, NON-EXCLUSIVE
 FRANCHISE FOR A CABLE TELEVISION SYSTEM WITHIN THE CONFINES
 OF THE CITY OF LONDON”**

An Ordinance creating a franchise not to exceed ten (10) years, non-exclusive franchise for a cable television system within the confines of the city of London, said franchise providing for: full financial and shareholder disclosure; indemnification by the franchise grantee and adequate insurance coverage; a performance bond; payment of costs to the government; establishment of a franchise fee of 3% of grantee's gross annual revenue; requirements for completing construction, providing data, testing the system and meeting minimum operational standards and providing penalties for violations thereof; conditions of road occupancy, use of poles and minimal construction standards; minimum requirements for extending the system; interconnection; public benefit services; access to community facilities; public educational and government access channels; emergency alert override; antenna switches; stand-by power; testing and analyzing the system and proof of performance; establishment of consumer services standards, establishment of standards for billing practices; establishment of a complaint procedure; refunds to subscribers for failure of service; approval required for a transfer of control; standards and procedures established for forfeiture of the franchise and valuation of the system; foreclosure and receivership provisions; reserving government rights in the franchise; assurances of nondiscrimination and equal opportunity in employment; protections of subscriber privacy; and government access to property and records.


BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONDON:

1. That this Ordinance be and hereby is adopted as the “Cable Television Ordinance” for the City of London. The entire text of this Ordinance is available for inspection at the office of the City Clerk of the City of London. This is the entire document attached hereto and is intended and is hereby incorporated as a part of this Ordinance. This document is intended only as a summary of this Ordinance.
2. That all Ordinances and parts of Ordinances in conflict with this Ordinance are repealed.
3. That this Ordinance shall become effective upon publication.



 Mayor Kenneth Smith

Attested:


 Connie McKnight, City Clerk

First Reading: December 6, 1999
 Second Reading: January 3, 2000
 Publication Date: January 7, 2000

COMMONWEALTH OF KENTUCKY
CITY OF LONDON
ORDINANCE NO. 968

CABLE TELEVISION ORDINANCE - AN ORDINANCE CREATING A
FRANCHISE NOT TO EXCEED TEN (10) YEARS, NON-EXCLUSIVE
FRANCHISE FOR A CABLE TELEVISION SYSTEM WITHIN THE CONFINES
OF THE CITY OF LONDON

TABLE OF CONTENTS

1. DEFINITIONS
2. FINANCIAL, CONTRACTUAL, SHAREHOLDER AND SYSTEM DISCLOSURE
3. APPLICATIONS FOR NEW FRANCHISES
4. GRANT OF NON-EXCLUSIVE AUTHORITY
5. DURATION AND ACCEPTANCE OF FRANCHISE
6. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES
7. LIABILITY AND INSURANCE
8. PERFORMANCE BOND
9. PAYMENT TO THE GOVERNMENT
10. VIOLATIONS
11. CONDITIONS OF ROAD OCCUPANCY
12. ERECTION, REMOVAL AND COMMON USES OF POLES
13. CONSTRUCTION STANDARDS AND SPECIFICATIONS
14. LINE EXTENSIONS
15. INTERCONNECTION
16. PUBLIC BENEFIT SERVICES
17. ACCESS TO COMMUNICATIONS FACILITIES
18. PUBLIC, EDUCATIONAL AND GOVERNMENT (PEG) ACCESS CHANNELS
19. EMERGENCY ALERT OVERRIDE
20. ANTENNAS AND ANTENNA SWITCHES
21. STANDBY POWER
22. PROOF OF PERFORMANCE - TESTING
23. PROOF OF PERFORMANCE RECORDS
24. PERFORMANCE EVALUATION SESSIONS
25. OPERATIONAL STANDARDS
26. CONSUMER SERVICE STANDARDS
27. COMPLAINT PROCEDURE
28. REFUNDS TO SUBSCRIBERS AND USERS
29. DISCONNECTION
30. PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED: BILLING PRACTICES
31. TRANSFER OF CONTROL

32. FORFEITURE OF FRANCHISE
33. FORECLOSURE
34. RECEIVERSHIP
35. GOVERNMENT RIGHTS IN FRANCHISE
36. REPORTS AND FILINGS
37. FRANCHISE RENEWAL
38. RIGHTS OF INDIVIDUALS
39. TWO-WAY CAPABILITY
40. UPGRADE PERFORMANCE BOND
41. RATES, MINIMUM TIMING OF REQUESTS AND CITY COUNCIL DETERMINATION OF AUTHORITY
42. RATE CHANGE PROCEDURES
43. CABLE TELEVISION ADVISORY COMMITTEE
44. SUPERVISION OF THE FRANCHISE
45. GOVERNMENT'S RIGHT OF INTERVENTION
46. FURTHER AGREEMENT AND WAIVER BY GRANTEE
47. PUBLICATION COSTS
48. TIME IS OF THE ESSENCE
49. LAW GOVERNS
50. SEVERABILITY
51. EFFECTIVE DATE

Section 1. DEFINITIONS

- (a) "Applicant" means a person or party which is applying for a new franchise. Grantees submitting proposal for franchise renewals shall not be considered applicants.
- (b) "Basic Cable Service" means any service tier which includes the retransmission of local television broadcast signals
- (c) "Cable Service" or "Cable Television Service" means the transmission to subscribers of (i) video programming, (ii) other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- (d) "Cable System" or "Cable Television System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designated to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (1) a facility that services only to retransmit the television signals of one or more television broadcast stations; (2) a facility that services subscribers without using any public right-of-way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of the Federal Communications Act, 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 provided interactive on-demand services; (4) an open video system that complies with Section 653 of the Federal Communications Act, 47 U.S.C.

- § 573; or (5) any facilities of any electric utility used solely for operating its electric utility systems.
- (e) "Commencing operation" or "commence operating" means that time and date, as certified by the Grantee and approved by the Government, when the operation of the Cable Television System is considered to have commenced, which is when sufficient distribution facilities have been installed so as to permit the delivery of Cable Television Service to at least 25% of the households within the initial service area.
- (f) "City Council" means the City Council of the City of London.
- (g) "Converter" means an electronic device which converts signals to a frequency within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view signals delivered at designated dial locations.
- (h) "Communications Act" means the Communications Act of 1934, as amended from time to time (47 U.S.C. 151 et seq.).
- (i) "Distribution Plant" means those portions of the Cable System devoted exclusively to transmitting Cable Service or Non-Cable Services from Cable System trunk lines, fiber-optic lines, or any other primary transport facilities to subscriber premises, and includes only feeder lines with active electronics and coaxial lines running from the demarcation point, as defined by 47 C.F.R. § 76.5 (mm), to the Cable Systems' feeder lines.
- (j) "Equipment and apparatus" means any manholes, underground conduits, poles, cables, boxes, wires, fixtures, conductors, or other facilities necessary, essential, used or useful to and operated by the Cable Television System.
- (k) "FCC" means the Federal Communications Commission, or its lawful successor.
- (l) "Franchise fee" means for the purposes of this ordinance the fee imposed on Grantee by Section 9 of this ordinance as compensation for Grantee's use of public right-of-way and roads. Use of this definition in this ordinance is without prejudice to any rights Grantee or Government may have under the Communications Act as it may be amended.
- (m) "Government" means (unless otherwise specified) the City of London, a municipal corporation created pursuant to the Kentucky Revised Statutes, as it now exists in its present territorial limits, or may hereafter be extended, and its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest.
- (n) "Grantee" is defined as a party to which a franchise under this ordinance granted by the City Council, its successors and assigns.
- (o) "Gross Revenues" means any and all compensation collected from Cable Service and Non-Cable Services subscribers within the City of London. Further, "Gross Revenues" means any and all, compensation, in whatever form, exchange or otherwise and derived by the Grantee from the operation of the Cable System with the City of London. Gross Revenues includes but, is not limited to, revenues from Subscriber rates, pay television, premium channels, service tiers, institutional networks, advertising, installations, or rebates or commissions received from home shopping services, and commercial leased access.
- (p) "Headend" means the control center of a Cable Television System, where incoming signals are amplified, converted, processed, and combined into a common cable, along with any origination cable-casting, for transmission to subscribers.
- (q) "Monitoring" means observing a communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever.
- (r) "Non-Cable Services" means any lawful communications services provided by Grantee over the Cable System other than Cable Service.
- (s) "Normal Business Hours" means 8:00 a.m. to 5:00 p.m. Monday through Friday.
- (t) "Normal Operating Conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, utility company maintenance on poles, vehicular accidents which involve utility equipment, severing of Cable Television System distribution plant by third parties, strikes or other labor action other than those involving the employees of the Grantee and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but

are not limited to, special promotions, pay-per-view events, rate increases (other than other "external costs" as defined by FCC rules) regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

- (u) "Person" or "Party" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- (v) "Road" shall mean the surface of and the space above and below any public road, street, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the Government for the purpose of public travel and shall include other easements or right-of-way as shall be now held or hereafter held by the Government which shall, within their proper use and meaning entitle the Government and its Grantee to the use thereof for the purpose of installing or transmitting Cable Television System transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a Cable Television System.
- (w) "Service Interruption" means the loss of picture or sound on one or more channels. The term "Service Interruption" shall not include (i) the interruption of any service provided over the Cable System by the supplies of such service; or (ii) a failure of any equipment at the subscribers premises that is not installed or otherwise furnished by the Grantee.
- (y) "Shall" is mandatory, not merely directive
- (z) "Subscriber" means a person who is legally receiving Cable Television Service.

Section 2. FINANCIAL, CONTRACTUAL, SHAREHOLDER AND SYSTEM DISCLOSURE

- (a) No franchise will be granted or renewed unless all requirements of this Ordinance and applicable federal law regarding financial, contractual, shareholder and system disclosure have been met.
- (b) Applicants, including shareholders and parties with a controlling interest in the Applicant, shall provide, access to all agreements and understandings, with any person, firm, group, association or corporation with respect to the ownership of this franchise and the proposed Cable Television System. This section shall include, but not limited to, any agreements between local Applicants and national companies with respect to the ownership of this franchise.
- (c) Applicants, including shareholders and parties with a controlling interest in the Applicant, shall submit all requested information as provided by the term of this ordinance or the application documents, which are incorporated herein by reference. The requested information must be complete and verified as true by the applicant.
- (d) Applicants, including shareholders and parties with a controlling interest in the Applicant, shall provided access to the numbers of share of stock, and the holders thereof.
- (e) Applicants, including, shareholders and parties with a controlling interest in the Applicant, shall disclose any information required by the application documents regarding other Cable Systems in which they hold an interest of any nature, including, but not limited to the following:
 - (1) locations of all other franchises and the dates of award for each location;
 - (2) estimated construction costs and estimated completion dates for each system where construction is incomplete as of the date of application.
 - (3) estimated number of miles of construction and number of miles completed in each system as of the date of this application;
 - (4) date for completion of construction as promised in the application for each system.
- (f) Applicants, including shareholders and parties with a controlling interest in the Applicant, shall disclose any information required by the application documents regarding pending applications for other Cable Systems, including but not limited to the following:

- (1) location of other franchise applications and date of application for each system;
- (2) estimated dates of franchise awards;
- (3) estimated number of miles of construction; and
- (4) estimated construction costs.

Section 3. APPLICATIONS FOR NEW FRANCHISES. The provisions of this Section shall not apply to renewal applications.

(a) All applications received by the Government from the applicants will become sole property of the Government.

(b) The Government reserves the right to reject any and all applications and waive informalities, and/or technicalities where the best interest of the Government may be served.

(c) All questions regarding the meaning or intent of the ordinance or application documents shall be submitted to the Government in writing. Replies will be issued by Addenda mailed or delivered to all parties recorded by the Government as having received the application documents. The Government reserves the right to make extensions of time for receiving applications as it deems necessary. Questions received less than fourteen (14) days prior to the date for the opening of applications will not be answered. Only replies to questions by written Addenda will be binding. All applications must contain an acknowledgment of receipt of all Addenda.

(d) Applications must be submitted at the time and place indicated in the application documents. Applications may be modified at any time prior to the opening of the applications, provided that any modifications must be duly executed in the manner that the Applicant's application must be executed.

(e) Before submitting his application, each applicant must (i) examine the Ordinance and the application documents thoroughly, (ii) familiarize itself with local conditions that may in any manner affect performance under the franchise, (iii) familiarize itself with federal, state and local laws, ordinances, rules and regulations affecting performance under the franchise, and (iv) carefully correlate its observations with the requirements of the ordinance and the application documents.

(f) The Government may make such investigations as it deems necessary to determine the ability of the Applicant to perform under the franchise, and the Applicant shall furnish to the Government all such information and data for this purpose as the Government may request. The Government reserves the right to reject any application if the evidence submitted by, or investigation of, such Applicant fails to satisfy the Government that such Applicant is properly qualified to carry out the obligations of the franchise and to complete the work contemplated therein. Conditional applications will not be accepted.

(g) The Applicant shall prepare a technical report that describes details of the Cable System construction plans. The technical report shall include the following details and be submitted and approved by the Government before construction:

A. Justification of the site selected, including:

- ◆ listing of television and FM radio stations carried on the system
- ◆ location of microwave terminals or headend
- ◆ location of local origination centers
- ◆ location of antenna site
- ◆ distance from antenna site to farthest area served by the system
- ◆ height of tower
- ◆ height of antenna site in relation to average terrain
- ◆ accessibility of antenna site all year round
- ◆ local construction restrictions on tower
- ◆ power availability for antenna site
- ◆ location of antenna arrays on the tower
- ◆ direction of desired signal sources
- ◆ analysis of potential sources of interference in the nearby environment.

B. System information, including:

- ◆ statement of adherence to construction standards
- ◆ as-built drawings of the system
- ◆ description of local origination equipment
- ◆ identification of trunk and feeder cables

Section 4. GRANT OF NON-EXCLUSIVE AUTHORITY

(a) Any franchise granted pursuant to this Ordinance shall confer to the Grantee the right and privilege to construct, erect, operate, and maintain in, upon, along, across, above, over, and under the roads now laid out or dedicated and all extensions thereof, and additions thereto within the territorial limits of the City of London, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation within the territorial limits of the City of London of a Cable Television System for the origination, interception and distribution of Cable Service and Non-Cable Services.

(b) The right to use and occupy said roads for the purposes herein set forth shall not be exclusive, and the City Council reserves the right to grant a similar use of said roads to any party at any time during the period of the franchise.

(c) Upon the annexation of any territory to the City of London, the right and franchise hereby granted shall extend to the territory so annexed to the extent the Government has authority and all facilities owned, maintained or operated by the Grantee located within, under and over streets and roads of the territory shall hereafter be subject to all terms hereof.

(d) Nothing in this Ordinance shall (i) abrogate the right of Grantee to perform any public works or public improvements of any description; (ii) be construed as a waiver of any codes or ordinances of the Government or of the Government's right to require Grantee or any person utilizing the Cable System to secure the appropriate permits or authorizations for such use, or (iii) be construed as a waiver or release of the rights of the Government in and to the rights-of-way.

Section 5. DURATION AND ACCEPTANCE OF FRANCHISE

(a) The franchise and the rights, privileges and authority hereby granted shall take effect and be in force from and after final passage thereof, as provided by law, and shall continue in force and effect for a term not to exceed ten (10) years, provided that within fifteen (15) days after the date of the passage of the franchise the Grantee shall file with the Clerk of the City of London, its unconditional acceptance of the franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed and sworn to by, or on behalf of the Grantee, before a notary public or other officer authorized by law to administer oaths.

Section 6. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

(a) The Grantee shall, at all times during the life of the franchise, be subject to all lawful exercise of the police power by the Government and to such regulation as the Government shall hereafter deem appropriate; provided, however, that such regulation shall conform to applicable federal and state law, including without limitation the rules of the FCC.

(b) If federal or state regulations alter the required services, fees, costs, conditions or standards upon which the Cable System is to operate, the Government shall have the right to amend this ordinance to make it consistent with the modified federal or state laws. Any such amendment shall be limited to the specific change in federal or state law.

(c) The Mayor of the City of London, with the approval of the City Council, may designate the appropriate Departments, Divisions, Offices, Boards or Commissions to act on behalf of the Government to carry out the duties, responsibilities or functions of the Government in the regulation of the franchise and the enforcement of this Ordinance.

Section 7. LIABILITY AND INSURANCE

(a) General

The Grantee understands and agrees that the Liability and Insurance provisions of this franchise define the responsibilities of the Grantee to the Government.

As used in these Liability and Insurance provisions, the term "Government" is defined as follows:

"Government" means the City of London and its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest.

(b) Indemnity

Grantee agrees to indemnify, hold harmless, and defend the Government from any and all losses or claims of whatever kind that arise from or are alleged to have arisen, directly or indirectly, in whole or in part from the execution, performance or breach of this franchise by Grantee, its employees, agents, servants, owners, principals, contractors and subcontractors. This indemnity agreement shall in no way be limited by any financial responsibility, insurance, or loss control requirements below and shall survive forever.

For purposes of this Indemnity provision:

(1) The word "defend" includes, but is not limited to, investigating, handling, responding to, resisting, providing a defense for, and defending claims, at Grantee's expense. Grantee shall consult with the Government regarding the defense of all claims against the Government, which shall include consultation regarding the choice of attorneys.

(2) The word "claims" includes, but is not limited to, claims, demands, liens, suits, notices of violation from governmental agencies and other causes of action of whatever kind.

(3) The word "losses" includes, but is not limited to: attorneys' fees and expenses; costs of litigation; court or administrative agency costs; judgments; fines; penalties; interest, all environmental cleanup and redemption costs of whatever kind; and any liability arising from death, injury or damage of any kind to any person, including employees and agents of Grantee, its servants, owners, principals, contractors and subcontractors or the Government, and damage to or destruction of any property, including the property of the Government.

(c) Insurance Requirements

Grantee shall procure and maintain for the duration of this franchise the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance hereunder by the Grantee:

(1) General Liability Insurance insuring Grantee in the minimum of:

- A. \$500,000.00 for property damage per occurrence;
- B. \$1,000,000.00 for property damage aggregate;
- C. \$1,000,000.00 for personal bodily injury or death to any one person; and
- D. \$3,000,000.00 for bodily injury or death aggregate per single accident or occurrence.

Such general liability insurance must include coverage for all of the following: comprehensive form, premises-operations, explosion and collapse hazard, underground hazard, product/completed operations hazard, contractual insurance, broad form property damage, and personal injury. Additionally, such insurance shall contain:

A. Endorsement, listing as additional insureds, "The City of London, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest."

B. Endorsement that Grantee's insurance coverage shall be primary insurance as respects the Government. Any insurance or self-insurance maintained by the Government shall be excess of the Grantee's insurance and shall not contribute with it.

C. Endorsement that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, to the Government.

- (2) Comprehensive Automobile Liability Insurance insuring Grantee for owned, non-owned, or rented vehicles in the minimum amount of
- A. \$1,000,000.00 for bodily injury and consequent death per occurrence;
 - B. \$1,000,000.00 for bodily injury and consequent death to any on person; and
 - C. \$500,000.00 for property damage per occurrence.
- (3) Workers' Compensation Insurance as required by the Kentucky Revised Statutes.
- (4) The Grantee shall abide by all local, state, and federal insurance regulations.

(d) Acceptability of Insurers

Insurance is to be placed with insurers with a rating classification of no less than "A VIII", as defined by the most current Best's Key Rating Guide.

(e) Evidence of Insurance

Prior to written acceptance of this Ordinance as required by Section 5, the Government is to be furnished Certificates of Insurance reflecting the above coverages, and Grantee agrees to provide the Government, the following:

- (1) Signed renewal Certificates for expiring policies; and
- (2) New Certificates of Insurance if policies or carriers change during terms of this franchise, showing compliance with the above Insurance Requirements.

(f) Right to Review, Audit and Inspect

Grantee understands and agrees that the Government may, upon thirty (30) days written notice, review, audit, and inspect any and all of Grantee's records to insure compliance with these Insurance requirements.

(g) Safety and Loss Control

Grantee shall adhere to and comply with all Federal, State and Local safety and environmental laws, regulations and ordinances. The Grantee shall provide all safeguards, safety devices and protective equipment action necessary to protect the life, health, safety and property of all persons on the job site, the public and the owner as required by applicable Federal, State and local law.

The Federal Occupational Safety and Health Administration standards 1910.268, the current Kentucky Occupational Safety and Health Standards for the Construction Industry, 29 C.F.R. Part 1926 as adopted by 803 K.A.R. 2:030 and the Kentucky Occupational Safety and Health Standard for General Industry, 29 C.F.R. Part 1910 as adopted by K.A.R. 2:020, and as promulgated by the Kentucky Occupational Safety and Health Standards Board and as amended or modified, are hereby incorporated into and made an integral part of this franchise. The Grantee shall comply with said requirements.

(h) Maintenance of Insurance

By acceptance of a franchise hereunder, Grantee agrees that the requirements of Section 7(c) are a material provision within the meaning of Section 32(a)(1) of this ordinance. As an alternative to the remedies provided by Section 32, the Government may purchase on behalf of the Grantee insurance in accordance with Section 7(c) and charge Grantee the premiums for any comparable insurance coverage purchased if Grantee fails to maintain the insurance coverage required by Section 7(c).

Section 8. PERFORMANCE BOND

(a) Within thirty (30) days after the grant and acceptance of this franchise, the Grantee shall arrange for, and shall maintain throughout the term of this franchise, a performance bond for the protection of the Government, with a corporate surety and trust company acceptable to the Government. The performance bond shall be in a face amount of not less than thirty thousand dollars (\$30,000.00). The performance bond shall be used to ensure that the operation of the System continues in an orderly and uninterrupted manner in the event of a default by the Grantee, and to indemnify the Government from any loss or damage to any Governmental property arising out of the construction, operation, or maintenance of System by the Grantee.

(b) The performance bond shall be maintained at thirty thousand dollars (\$30,000.00) during the entire term of this franchise, even if amounts are withdrawn pursuant to subdivision (a) or (c) of this section.

(c) If the Grantee fails, after receipt of twenty-one (21) days written notice, to pay to the Government any compensation due pursuant to this franchise, any taxes due and unpaid, or any damages, costs, or expenses which the Government is compelled to pay by reason of any act or default by the Grantee in connection with this franchise, the Government may immediately request payment of the amount thereof from the performance bond. Upon such request for payment, the Government shall notify the Grantee of the amount and date thereof.

(d) The performance bond shall contain the following endorsement:

"It is hereby understood and agreed that this bond may not be canceled or not renewed by the surety nor the intention to cancel or not to renew be stated by the surety until thirty (30) days after written notice to the Government of surety's intention to cancel or not to renew"

Section 9. PAYMENT TO THE GOVERNMENT

(a) Within thirty (30) days after receipt of a written request for payment, The Grantee shall remit to the Government the reasonable and verifiable costs, up to a maximum of \$5,000.00, which the Government may incur in connection with the transfer or change in control of a franchise granted hereunder. The thirty (30) day period shall be begin unless and until the Grantee receives copies of all invoices for which the Government seeks reimbursement. Any and all payments made pursuant to this subsection shall constitute franchise fees pursuant to federal law and FCC rules; provided, however, that Grantee shall neither credit such payments against any franchise fees due under Section 9 (b) hereof nor pass such fees through to Subscribers unless and until the total amount of franchise fees remitted to the Government by the Grantee exceeds five percent (5%) of Grantee's annual Gross Revenue received from Subscribers within the City of London.

(b) For the reason that the roads of the Government to be used by the Grantee in the operation of its system within the boundaries of the Government are valuable public properties, acquired and maintained by the Government at great expense to its taxpayers, and that the grant to the Grantee to use said roads is a valuable property right without which the company would be required to invest substantial capital in right-of-way costs and acquisitions, the Grantee shall pay to the Government a franchise fee in an amount equal to three percent (3.0%) of Grantee's Gross Revenue attributable to the Cable Service and Non-Cable Service operations of the Grantee within the territorial limits of the City of London.

(c) The Government reserves the right to review the amount of the franchise fee annually and to increase it up to the maximum fee or tax on Grantee's Gross Revenue permitted by federal or state law. The Government shall give the Grantee sixty (60) days notice before raising the franchise fee.

(d) The payment of the franchise fee shall be in addition to any other tax or payment owed to the Government by Grantee.

(e) The franchise fee shall be payable quarterly to the Government and the Grantee shall file a complete and accurate report, signed by and certified as accurate by an officer of the Grantee, of all gross subscriber revenues received within the territorial limits of the City of London during the previous three (3) month period, and said payment shall be made to the Government no later than forty-five (45) days after the expiration of the quarter when due. The Gross Revenue report from operations of the Grantee within the franchise area shall be prepared by a qualified financial officer in accordance with the Codification of Statements on Auditing Standards promulgated by the American Institute of Certified Public Accountants and shall include: a schedule of Gross Revenue by category by month; a schedule of the number of subscribers by category of service by month; and a schedule of Gross Revenue upon which the franchise fee is based.

(f) Upon fifteen (15) days written notice, the Government shall have the right during Normal Business Hours to inspect the Grantee's income records at the Grantee's regional office, right to audit and to re-compute any amounts determined to be payable

under this Ordinance; provided, however, that such audit shall take place within twelve (12) months following the close of each of the Grantee's fiscal years. If, as a result of such audit or review, the Government determines that Grantee has underpaid its fees in any twelve (12) month period by five percent (5%) or more, then, in addition to making full payment of the relevant obligation, Grantee shall reimburse the Government for all of the verifiable costs associated with the audit or review, including costs for attorneys, accountants and other consultants. Any additional amount due to the Government as a result of an audit or review shall be paid with the thirty (30) days following written notice to the Grantee by the Government, which notice shall include a copy of the audit report and copies of all invoices for which the Government seeks reimbursement.

(g) In the event that any franchise payment or recomputed amount is not made on or before the applicable dates heretofore specified, interest shall be charged from such date at the rate of three quarters of one percent (0.75%) per month, compounded monthly, for the period of delinquency.

(h) The Government reserves the right to require the Grantee to collect any consumer or other tax or other fee that may be imposed by the Government, the Commonwealth of Kentucky, or the federal government on Cable Service and/or additional subscriber services.

(i) No acceptance of any payment by the Government shall be construed as an accord and satisfaction that the amount paid is in fact the release of any claim that the Government may have for further or additional sums payable under this Ordinance.

Section 10. VIOLATIONS

(a) For violation of any of the following provisions of this ordinance, the penalties may be recoverable from the performance bond as follows:

(1) For failure to complete construction and installation of the system, complete line extensions, or provide service in accordance with this Ordinance and the Grantee's application as incorporated herein, unless the City Council specifically approves the delay by resolution, Grantee shall forfeit five hundred dollars (\$500.00) per day or part thereof that the violation continues.

(2) For failure to provide data and reports as requested by the Government and as required in Sections 9 and 36, Grantee shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues.

(3) For failure to comply with the operational standards following the City Council's resolution directing Grantee to make improvements pursuant to Section 25, Grantee shall forfeit two hundred dollars (\$200.00) per day or part thereof that the violation continues.

(4) For failure to test, analyze and report on the performance of the system following the request of the Government pursuant to Sections 22 and 23, Grantee shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues.

(5) For failure to pay the franchise fee when due pursuant to Section 9, Grantee shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues.

(6) For failure to comply within thirty (30) days of any City Council resolution directing compliance with any other provisions of this ordinance, Grantee shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues.

(b) Before the Government may assess any penalties under this section and before any sums are withdrawn from the performance bond; the Government shall give the Grantee written notice and an opportunity to be heard in accordance with the following procedure:

(1) The Government shall notify the Grantee, in writing, of an alleged failure to comply with a provision of this Ordinance as outlined in this Section 10(a), which notice shall specify the alleged failure.

(2) The Grantee shall, within twenty-one (21) days after receipt of the notice or such longer period as the Government may specify in such notice, either cure the alleged failure or, in a written response to the City Council, either present facts and arguments in refutation or excuse of such alleged failure or state that the alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

(3) The City Council shall determine (i) whether a failure to comply with a provision of the franchise has occurred; (ii) whether such failure is excusable; and (iii) whether such failure has been or will be cured by the Grantee.

(4) If the City Council determines that a failure to comply with a provision of the franchise has occurred and that such failure is not excusable and has not been or will not be cured by the Grantee in accordance with a schedule satisfactory to the City Council, the City Council shall hold a public hearing to determine whether the penalties specified in this section shall be imposed on the Grantee. The City Council shall provide twenty-one (21) days written notice of the public hearing to the Grantee. During the public hearing, Grantee shall have the right to call and to cross examine witnesses and to present evidence. If, based on the evidence presented during the public hearing, the City Council determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule satisfactory to the City Council or that the failure is excusable, such determination shall conclude the investigation.

(5) Following the public hearing and majority vote of the City Council finding that a failure to comply with a provision of the franchise has occurred and that such failure is not excusable and has not been or will not be cured by the Grantee in accordance with a schedule satisfactory to the Government, the City Council may issue a written decision ordering penalties in accordance with this section. Such decision shall be served on the Grantee and shall be subject to judicial review as provided by law.

(6) Any other provision of this franchise notwithstanding, the Grantee shall not be held liable for a delay in the performance of, or failure to perform, in whole or in part, its obligations pursuant to this Ordinance or any franchise granted hereunder due to strike or other labor action other than those involving the employees of the Grantee, war or act of war (regardless of whether an actual declaration of war is made), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, equipment malfunction, sabotage or other events, where the Grantee has exercised all due care in the prevention thereof and to the extent that such causes or other events are beyond the Grantee's control. Notwithstanding the other provisions in this subsection (6), Grantee shall be held liable for equipment malfunctions identifiable using standard industry testing techniques.

(c) The Grantee shall replenish the performance bond within thirty (30) days after a final decision is rendered by a court of competent jurisdiction which affirms or upholds the action taken by the City Council pursuant to this section.

(d) Grantee shall not be excused from complying with any of the terms and conditions of this Ordinance by any failure of the Government, upon any one or more occasions, to insist upon the Grantee's performance or to seek Grantee's compliance with any one or more of such terms or conditions. Payment of penalties shall not excuse non-performance under this Ordinance.

Section 11. CONDITIONS OF ROAD OCCUPANCY

(a) (1) The Grantee acquiring this franchise shall have the right and privilege of constructing, erecting, operating and maintaining a Cable Television System, equipment and apparatus, upon, through, along, under and over the roads within the territorial limits of the City of London subject to the provisions hereof and to all powers (including police power) inherent in, conferred upon or reserved to said government.

(b) (1) No pavement, sidewalks, curbs, gutters, or other such road installations shall be disturbed and no excavation in any of the said roads will be made, except with the written permission of the Government and all equipment and apparatus shall be located in such portion of said roads as may be designated by the Government.

(b) (2) When an emergency arises which requires immediate repair, the Grantee may disturb or excavate a road without first obtaining written permission from the Government, provided that the Government is notified in writing of said repair within five (5) days. This notification shall include at least the time, date, location and extent of excavation or other work performed.

(b) (4) In the construction or reconstruction or maintenance or removal of any of said equipment and apparatus, the Grantee shall have due regard for the rights of the Government and others, and shall not interfere with, or in any way injure the property of

the Government or others, under, on, or above the ground. Said Grantee shall comply with all the laws of the Commonwealth of Kentucky and ordinances of the Government as to placing lights, barricades, flags, danger signals or warning signs and shall be liable for any and all damage that may arise by reason of its failure or neglect to comply with such ordinances and laws. Work by the Grantee hereunder shall be done in a workmanlike manner and so as not to unnecessarily interfere with public use of any of said roads.

(c) (1) Whenever the Government or any of its departments, agencies and/or agents, servants or employees shall grade, regrade, construct, reconstruct, widen or alter any road or shall construct, reconstruct, repair, maintain or alter any other municipal public works (including but not limited to storm sewers, sanitary sewers and street lights) therein, it shall be the duty of the Grantee, after receiving notice by the Government, to change, remove, relay and relocate its equipment and apparatus, poles, wires, cables, conduits and other fixtures, in the road at its own expense so as to conform to the established grade or line of such road and so as not to interfere with such municipal public works to constructed, reconstructed or altered.

(c) (2) The Grantee shall be given access to road plans and specifications possession of the Government.

(d) The Grantee shall, at the request of any person holding a moving permit issued by the Government, 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 the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary wire changes.

(e) The Grantee shall have the authority to trim trees upon and overhanging public roads so as to prevent the branches of such trees from coming in contact with wires and cables of the Grantee. Any trimming, removal or other disturbance of trees shall conform to all ordinances, requirements and directives of the Government.

(f) In all areas within the territorial limits of the City of London where the cables, wires, and other like facilities of public utilities are placed underground, the Grantee shall place its cable, wires, or other like facilities underground, provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of signal quality. If any public utility shall be located underground after the Grantee has previously installed its system, the Grantee shall at the same time or immediately thereafter remove and relocate its facilities underground to the extent that such removal and relocation is economically feasible and provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of signal quality.

(g) In addition to the provisions contained in this section, Grantee shall comply with all local ordinances pertaining to road occupancy.

Section 12. ERECTION, REMOVAL AND COMMON USE OF POLES

(a) Grantee shall not erect or authorize or permit others on its behalf to erect any poles except when absolutely necessary to service subscribers. Poles may not be erected by the Grantee solely because it is more convenient, economical and/or profitable for Grantee to so operate. No poles or other wire-holding structures shall be erected by the grantee without prior approval of the Government with regard to need, location, height, type and any other pertinent aspect. However, no location of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the Government determines that the public health, welfare and/or safety would be enhanced thereby.

(b) Where poles or other wire-holding structures already existing for use in serving the City of London are available for use by the Grantee, but it does not make arrangements for such use, the Government may require the Grantee to use such poles and structures if it determines that the public health, welfare and/or safety would be enhanced thereby.

(c) Where the Government or a public utility serving the Government desires to make use of the poles or other wire-holding structures of the Grantee, but agreement thereof with the Grantee cannot be reached, the City Council may require the Grantee to

permit such use for consideration consistent with applicable law, if the City Council determines that the use would enhance the public health, welfare and/or safety.

(d) As further consideration for the granting of this franchise, the Grantee shall permit the Government, to utilize Grantee pole space and conduit duct and/or raceway space when such space is vacant, and/or available at the time of the request for space by the Government; provided, however, that the facilities of the Government shall not interfere with the Grantee's technical operations and/or performance. This space may be used for police and fire alarm systems, traffic control and traffic signal interconnection systems, and municipal data processing interconnection systems and for other municipal purposes at no charge.

Section 13. CONSTRUCTION STANDARDS AND SPECIFICATIONS

(a) Within the three (3) years after the enactment of this Ordinance, the Grantee shall have upgraded the Cable system as described in this Ordinance. The upgraded Cable System shall be designed, spaced and constructed to a 750 MHz design by a date that is no later than three (3) years, or sooner if possible, from the effective date of this franchise. The fiber system shall have a maximum of five hundred (500) subscribers to the node. Where technically advisable, the system shall use all new fiber optics, coaxial cable and electronic and passive devices. Within thirty (30) days of the commencement of construction, Grantee shall furnish to the government a map indicating the sequence of the fiber optic network construction schedule.

(b) The Cable System, upon completion of the upgrade, shall have a fully activated capacity of carrying outbound from the central distribution point at least one hundred (100) channels of television to all subscribers located within the confines of the City of London.

(c) Where the signal of a music channel or a service provided on a per channel or per view basis originates in stereo, the Grantee shall provide stereo retransmission of those signals.

(d) The Grantee shall at all times comply with the latest published version of the following codes and standards to the extent that such codes and standards are consistent with local law: (I) National electrical Safety Code (published by National bureau of Standards);(ii) National electrical code (published by National bureau of Fire Underwriters);(iii) Standards of good Engineering Practices for Cable Measurements on Cable Television systems (published by National Cable Television Association); (iv) Standards of the Occupational Safety and Health Administration and (v) Standards for Steel Antenna Towers and Antenna supporting Structures (published by Engineering department of the Electronic Industry Associations). To the extent that such codes and standards are inconsistent with other provisions of this franchise or with local law, the latter govern.

(e) Installation and physical dimensions of any tower constructed for use in the Cable Television System shall comply with all appropriate Federal Aviation Agency regulations.

(f) Any antenna structure in the Cable Television System shall comply with Construction, Marketing and Lighting of Antenna Structure, 47 C.F.R. 17.1 et. Seq., September 1967.

(g) The Grantee shall at all times use ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(h) The Grantee shall construct and operate the system and related facilities in accordance with all generally accepted related industry codes and standards that are applicable.

(i) The Grantee shall use the most advanced engineering practices and equipment generally employed in similar circumstances to maximize off-air signal reception, to eliminate power line interference, ghost cancellation and co-channel interference. At all times, The Grantee shall take prompt and diligent action to resolve problems with off-air signal reception.

Section 14. LINE EXTENSIONS

(a) Grantee is hereby authorized to extend the Cable System as necessary, as desirable or as required pursuant to the terms hereof within the City of London. Whenever Grantee shall receive a request for service from at least (10) households, within 2,640 feet (one-half mile) of its Distribution Plant, it shall extend its Cable System to such Subscribers at no cost other than the usual connection fees for all Subscribers, provided that such extension is technically feasible and will not adversely affect the operation, financial condition or market development of the Cable System. When counting the number of potential subscriber household requesting service under this provision, households then subscribing to a satellite direct-to-home service will be counted as one fourth (1/4) household.

(b) No subscriber shall be refused service arbitrarily. However, for special circumstances (such as a Subscriber's request to located the cable drop underground, or the need for under-highway crossings, or the existence of more than two hundred fifty (250) feet between the Distribution Plant and the Subscriber connection, or a density of less than ten (10) households within 2,640 feet of Distribution Plant), Cable Service may be made available on the basis of a capital contribution in aid of construction, including the cost of material, labor and easements. When counting the number of subscriber households within 500 feet of the Distribution Plant under this provision, households then subscribing to a satellite direct-to-home service shall be counted as one fourth (1/4) household. For the purpose of determining the amount of capital contribution in aid of construction to be borne by Grantee and Subscribers in the area in which Cable Service may be extended, Grantee will contribute an amount equal to the construction and other cost per 500 feet, multiplied by a fraction whose numerator equals the actual number of Potential subscribers desiring service within 500 feet of this Distribution Plant and whose denominator equals (10) Subscribers. Potential subscribers will bear the remainder of the construction and other costs on a pro-rata basis. Grantee may require that the payment of the capital contribution in aid of construction to be borne by such potential subscribers be made in advance.

(c) Under Normal Operating Conditions, extensions of the Cable System made pursuant to this Section 14 shall be completed within forty-five (45) days after the condition specified herein have been met and all necessary approvals and equipment, including without limitation, pole attachment agreements, governmental permits, and make-ready work, have been obtained or completed. Grantee shall submit applications, purchase orders, etc. necessary for such approvals with ten (10) business days after the conditions specified have been met.

Section 15. INTERCONNECTION

(a) The Grantee may be required to interconnect its system with any other broadband communications facility to the extent such interconnection is commercially practicable, economically viable, and technically feasible. The interconnection shall, be accomplished according to generally accepted industry practices. Any interconnection shall be subject to and conditioned upon financial arrangements which are mutually acceptable to Grantee and the other broadband communication facility. Grantee shall pursue such negotiations in good faith.

Section 16. PUBLIC BENEFIT SERVICES

(a) The Grantee shall, upon written request, provide one (1) cable drop and all Cable Service except premium, optional digital, and other channels provided on a per-channel or per-view basis to the following locations that are within five hundred (500) feet of the Distribution Plant: all public schools, public universities, public libraries, senior centers, law enforcement stations, fire stations, and all other nonresidential buildings owned, leased or controlled by the Government, including without limitation all Government office buildings. Each party receiving the above mentioned services shall be responsible for all interior wiring of their respective buildings.

(b) Within three (3) years after the granting of the franchise under this Ordinance, the Grantee shall provide, upon written request and without cost at the following facilities that are located within five hundred (500) feet of the distribution Plan, one (1) cable modem and internet access, to all schools, public libraries, senior centers, law enforcement stations and fire stations, and all other nonresidential buildings owned, leased or controlled by the government, including without limitation all Government buildings. All interior wiring of such buildings shall be performed at the expense of the Government.

Section 17. ACCESS TO COMMUNICATIONS FACILITIES

(a) The Grantee shall provide TDD (or equivalent) equipment or means at the Grantee's office that will allow such subscribers to contact the Grantee for any reason relating to the system.

Section 18. PUBLIC, EDUCATIONAL AND GOVERNMENT (PEG ACCESS CHANNELS).

(a) The Grantee shall provide to the City one (1) activated downstream access channel on the Cable System which the City may elect to use, in whole or part, for non-commercial, educational and/or governmental access use to provide video programming. Once the access channel initially provided is "sufficiently utilized", the Grantee will activate one (1) additional access channel. For the purposes of this Section, "sufficiently utilization" will be deemed to exist when the access channel initially provided by the Grantee carries nonduplicated locally produced access programming, one of which is character generated, continuously during the hours of 2:00PM and 10:00 PM for a period of ninety (90) consecutive days. As each access channel provided to the City becomes "sufficiently utilized", the Grantee will activate one (1) additional access channel up to a maximum of three (3) access channels

(b) If any unused time (fallow time) exists on any access channel and the Grantee or any affiliate of the Grantee desires to distribute any service over such channel during such unused time, the Grantee shall so notify the City in writing. An access channel, or access channel time, shall be deemed unused only if such channel or time has not been used for the purposes described in Subsection (a) hereof during the thirty (30) day period immediately preceding the date of the notice described in the foregoing sentence. The Grantee's notice to the city shall describe the Grantee's or its affiliate's plans for use of the access channel. The Grantee or its affiliate may commence the distribution of the planned service over the access channel(s) at the end of the thirtieth (30th) day after receipt of such notice, unless the City authorizes a shorter period or unless, within such thirty (30) day period, the City notifies the Grantee in writing, that the City does not consent to the planned use of the access channel(s) because they are being used for the purposes described in Subsection (a) hereof. In the event that the Grantee or its affiliate is using an access channel or any access channel time pursuant to this Section, the Grantee or its affiliate shall relinquish such promptly, but in no event later than ninety (90) days following the City's written request for same.

(c) The channels designated for PEG access purposes shall be available for PEG access programming on a 24-hour basis subject to the provisions of this section. Neither the Grantee, the Government, nor any access corporation shall engage in any program censorship or other control of the content of the access programming on the Cable System, except as otherwise permitted or required by law.

(d) Grantee shall provide without charge to the City of London the assistance, advice and technical aid necessary to provide maximum utilization of the governmental and educational channels, including but not limited to, the assistance, advice and technical aid necessary to establish a studio at the Laurel County Community Center including installation of a return line at the facility.

(e) In addition to the franchise fee, The Grantee shall provide capital funding for access equipment and facilities, including but not limited to the establishment of a studio at the Laurel county community Center, necessary to support utilization of public access channel(s), or other municipal purposes. Capital funding shall be provided in the following amounts:

Within thirty (30) days after the initial grant of a franchise hereunder	\$30,000
Within one year after the initial grant of a franchise hereunder	\$15,000
Within two years after the initial grant of a franchise hereunder	\$15,000
Total capital funding during the duration of a franchise granted hereunder	\$60,000

To the extent consistent with federal law and regulations, Grantee agrees that payments made pursuant to this subsection shall not be treated as franchise fees.

Section 19. EMERGENCY ALERT OVERRIDE

(a) Upon completion of the upgrade, the Grantee shall incorporate into its Cable Television System, the capability which will permit the Mayor (or his/her designee) in times of emergency, to override, by remote control, the audio of all channels simultaneously.

(b) The availability of this service is provided for the benefit of the community and neither the Government nor the Grantee nor any of their agents, employees, or officers shall be liable in any manner for failure to use or for misuse of the override system. To the extent that federal law or regulations provide standards for the provision or use of emergency override services, such law or regulations shall supersede the requirements of this section.

(c) The Grantee shall cooperate with the Government in the use and operation of the emergency alert override system.

Section 20. ANTENNAS AND ANTENNA SWITCHES

(a) The Grantee shall not, as a condition to providing Cable Television Service, require any subscriber, or potential subscriber, to remove any existing antenna for the receipt of over-the-air television signals.

(b) The Grantee shall install, upon request of the subscriber, an A/B or antenna switch at Grantee's established charges for installation and equipment.

Section 21. STANDBY POWER

Upon completion of the upgrade, the Grantee shall install and maintain equipment capable of providing standby power for headend, transportation and trunk amplifiers for a minimum of two (2) hours.

Section 22. PROOF OF PERFORMANCE - TESTING

(a) Test and measurements to ensure compliance with technical standards shall be performed in a manner that is consistent with the provisions of 47 C.F.R. 76.609, et seq., and as amended from time to time.

(b) (1) The Government shall have the right and authority to compel the Grantee to produce copies of the reports of testing performed to comply with Section 22(a) above with respect to the performance of the Cable Television System of the Grantee or to test, analyze and report on the performance of the system. Such test or tests shall be made, and the reports of such test or tests shall be delivered to the Government no later than thirty (30) days after the Government formally notifies the Grantee in writing that such tests or reports are required.

(b) (2) The Government's right under this provision shall include, but not be limited to, requiring tests, analyses, and reports covering specific subjects and characteristics based on said complaints or other evidence when and under such circumstances as the Government has grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard Cable Service and Non-Cable Services; provided, however, that the Government's right under this provision shall be limited to requiring no more than one (1) such test, analysis, or report in any twelve (12) month period.

(b) (3) Said tests and analyses shall be supervised by a qualified person, not on the permanent staff of the Grantee and selected by the Government, with all costs to be borne by the Grantee only if the testing indicates that the Cable Television System is not in compliance with this ordinance, the Communications Act and/or FCC rules and/or

regulations. The aforesaid person shall sign all records of special tests and forward to the Government such records with a report interpreting the results of the tests and recommending actions to be taken by the Government.

Section 23. PROOF OF PERFORMANCE RECORDS

The results of all tests and measurements required to be taken by the Grantee in Section 22 of this Ordinance shall be delivered to the Government within thirty (3) days after such tests or measurement are performed.

Section 24. PERFORMANCE EVALUATION SESSIONS

(a) The Government may hold performance evaluation sessions no more than once annually, after providing written notice to Grantee no less than thirty (30) days prior to such evaluation sessions. All such evaluation sessions shall be open to the public.

(b) Special evaluation sessions may be held at any time during the term of the franchise at the request of the Government or the Grantee subject to the provisions of Section 24 (a). In addition, members of the general public may request a special evaluation session by presenting the City Clerk with a petition bearing the valid signatures of twenty (20) or more subscribers of the Grantee in the City of London. If a special evaluation session is requested by petition, said session shall be held during a regularly scheduled meeting of the City Council.

(c) All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with legal notice. The publication expense shall be borne by the party requesting the session or divided equally if the session is held by mutual agreement.

(d) Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to; application of new technologies; system performance; customer complaints; privacy; amendments to this Ordinance; judicial and FCC rulings.

(e) Members of the general public may add topics either by working through the negotiating parties or by presenting a petition. If such a petition bears the valid signatures of twenty (20) or more subscribers of the Grantee in the City of London, the proposed topic or topics shall be added to the list of topics to be discussed at the evaluation session.

Section 25. OPERATIONAL STANDARDS

(a) The Grantee shall put, keep, and maintain all parts of the system in good condition throughout the entire franchise period.

(b) Upon the request for service by any person located within the City of London, the company shall, furnish the requested service to such a person within terms of the line extension policy in Section 14 of this ordinance.

(c) The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(d) Grantee shall not allow its cable or other operations to interfere with television reception of persons not serviced by Grantee, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents within the confines of the City of London.

(e) The Grantee shall continue, through the term of the franchise, to maintain the technical standards and quality of service set forth in this Ordinance.

(f) The Grantee shall maintain the following broad categories of video programming: (1) television broadcast signals; (2) educational television broadcast signals; (3) non-commercial governmental, educational and community access programming; (4) commercial and non-commercial local community programming; (5) sports programming; (6) news and public affairs programming; (7) general entertainment programming; (8) weather programming; (9) music programming; and (10) family programming.

(g) Within thirty (30) days after the initial grant of a franchise hereunder, the Grantee shall submit to the Government a schedule of the video and audio programming that is proposed to be offered on the Cable System and the channel assignment for each. Thereafter, Grantee may not add, substitute or delete any programming or change any channels without first affording the Government at least thirty (30) days notice.

Section 26. CONSUMER SERVICE STANDARDS

(a) Office Hours and Telephone Availability

(1) The Grantee will maintain a customer service office within the confines of the City of London which shall be open during Normal Business Hours and a local and toll-free telephone access line which will be available to its subscribers twenty four (24) hours a day, seven days a week.

(i) At least one (1) trained representative of the Grantee will be available at the customer service office within the City of London to respond to customer inquires during Normal Business Hours. Each such representative shall be trained to perform efficiently the various tasks, including responding to customer inquires and complaints, necessary to provide consumer services in a responsible and courteous manner.

(ii) After Normal Business Hours, the telephone access line may be answered by a service or an automated response system, including an answering machine. Inquires received after Normal Business Hours must be responded to by a trained representative of the Grantee within twenty four (24) hours after receipt of complaint.

(2) Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under Normal Operating Conditions.

(3) Under Normal Operating Conditions, the customer will receive a busy signal less than three (3%) percent of the time.

(b) Installation Outages and Service Calls: Under Normal Operating Conditions, each of the following standards will be met no less than ninety five (95%) percent of the time measured on a quarterly basis:

(1) Installation with 250 feet of the existing Distribution System will be performed within five (5) days after an order has been placed unless scheduled at a later time by customer request.

(2) Installation located with 250 feet from the existing Distribution Plant and that are not pre-wired for Cable Service shall be performed within seven (7) days after an order has been placed unless scheduled at a later time by customer request.

(3) Grantee will begin working on "service interruptions" promptly and in no event later than twenty four (24) hours after the interruption becomes known. The Grantee must begin actions to correct other service problems the next business day after notification of the service problem. Under Normal Operating Conditions, all repairs must be completed within forty-eight (48) hours. If conditions exist which are not within the control of the Grantee, as defined by Section 10 (b) (6) of this Ordinance, repairs must be completed as soon as reasonably possible.

(4) When a subscriber requests a change in the type of Cable Service he/she is currently receiving, the Grantee must begin action to change the type of service provided the next business day after notification. If the desired change is not made within seven (7) days of the notification, and the change would decrease the subscriber's bill, the Grantee shall credit the subscriber's bill despite the fact that the service has not been changed.

(5) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (The Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the expressed convenience of the customer.)

(6) The Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(7) If a representative of the Grantee is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(c) Communications Between Grantee and Cable Subscribers

(1) Notification to subscribers -

(i) The Grantee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (A) Products and services offered;
- (B) Prices and options for programming services and conditions of subscription to programming and other services;
- (C) Installation and service maintenance policies;
- (D) Instructions on how to use the Cable Service and Non-Cable Service;
- (E) Channel positions of programming carried on the system;
- (F) Billing and complaint procedures, including the address and telephone number of the Government's cable officer;
- (G) A description of Grantee's policies concerning credits for outages and reception problems, consistent with these consumer protection standards; and

(H) The local or toll-free numbers for Grantee's subscriber service telephone system.

(ii) Customers will be notified of any change in rates, programming services or channel positions as soon as possible through announcements on the Cable System and in writing using any reasonable means at the Grantee's sole discretion. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Grantee. In addition, the Grantee shall notify subscribers thirty (30) days in advance of any significant changes in other information required by the preceding paragraph.

(2) Billing--

(i) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(ii) In cases of billing dispute, the Grantee must respond to a written complaint from a subscriber within thirty (30) days.

(iii) The Grantee shall not assess a late fee on subscribers' bills which are paid within thirty (30) days of the due date.

(3) Refunds - Refund checks will be issued promptly, but no later than either:

(i) The customers' next billing cycle following resolution of the request or thirty (30) days, whichever is earlier,

(ii) The return of the equipment supplied by the Grantee if service is terminated.

(4) Credits-

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

(ii) When the use of service or equipment furnished by the Grantee is interrupted due to any cause other than the negligence or willful act of the subscriber or the failure of equipment provided by the subscriber, a pro rata adjustment of the fixed monthly charges involved will be allowed, upon the request of the subscriber, for the service and equipment rendered useless and inoperative by reason of the interruption during the time said interruption continues in excess of four (4) hours from the time it is reported to or detected by the Grantee. For purpose of this section, every month is considered to have thirty (30) days.

Section 27. COMPLAINT PROCEDURE

(a) Government Official Responsible. The Cable Communications Officer is designated by the Government as having primary responsibility for the continuing administration of the franchise and implementation of complaint procedures.

(b) Complaint Response. The Grantee shall maintain a repair and maintenance crew capable of responding to subscriber complaints within twenty four (24) hours after receipt of the complaint. Charges may be made, as permitted by applicable law, to the subscriber for this service if the service call is not a result of a Cable Television System malfunction.

(c) Subscriber Notice of Complaint Procedures. The Grantee shall establish procedures for receiving, acting upon, and resolving subscriber technical, customer service, Cable Service, Non-Cable Services and billing complaints. The Grantee shall furnish a notice of each procedures to each subscriber at the time of initial subscription to the system.

(d) Complaint Records. The Grantee shall maintain a written record or "log", listing date and time of customer technical, customer service, Cable Service, Non-Cable Services, and billing complaints, describing the nature of the technical, customer service, Cable Service, Non-Cable Services, and billing complaints and when and what action was taken by the Grantee in response thereto; such record shall be kept at Grantees regional office, reflecting the operations to date for a period of at least three (3) years, and shall be available for inspection by the Government. The complaint log shall be sent to the Cable Communications Officer annually for the first five (5) years of this franchise. After the initial five (5) year period the complaint log shall be made available upon twenty-one (21) days written request.

Section 28. REFUNDS TO SUBSCRIBERS AND USERS

(a) If the Grantee fails to provide service to a subscriber, the Grantee shall, after being afforded an opportunity to provide the service, refund all deposits or advance charges paid for the service in question by said subscriber. This provision does not alter the Grantee's responsibility to subscribers under any separate contractual agreements the Grantee might have with subscribers or relieve the Grantee of liability for fines under this Ordinance that may be assessed by the Government or damage that might result to the Government or any subscriber because the Grantee's failure to provide a service as promised.

(b) If any subscriber terminates, for personal reasons, any monthly service prior to the end of a prepaid period, a pro-rata portion of any prepaid subscriber service fee, using the number of days as a basis, shall be refunded to the subscriber by the Grantee, in accordance with Section 26(c)(3).

Section 29. DISCONNECTION

(a) If a subscriber has failed to pay properly due monthly fees or if a subscriber disconnects for seasonal periods, the Grantee may require, in addition to full payment of any delinquent fees, a reasonable fee for reinstatement.

(b) No disconnection shall occur for a least forty-five (45) days after the due date of said monthly fee or charge. The forty-five (45) days period shall include five (5) days written notice to the delinquent subscriber of the intent to disconnect.

(c) After disconnection, upon payment in full of the delinquent fee or charge and the payment of a reconnection charge, the Grantee shall promptly reinstate the subscriber's Cable Service and/or Non-Cable Services.

Section 30. PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED: BILLING PRACTICES

The Grantee shall not, as to rates, charges, service, services facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage to any party, nor subject any party to any prejudice or disadvantage. Provided, however,

that this section shall not prohibit bona fide promotional activities of the Grantee not the provision of free service to employees of Grantee.

Section 31. TRANSFER OF CONTROL

(a) No transfer of control of the Cable System shall take place, whether by forced or voluntary sale, lease, assignment, or any other form of disposition, without prior notice to an approval by the City Council. The notice shall include full identifying particulars of the proposed transaction, and the City Council shall act by resolution. The City Council shall have one hundred twenty (120) days within which to approve or disapprove a transfer of control and if not action is taken within such one hundred twenty (120) days, approval shall be deemed to have been given unless the requesting party and the Government agree to an extension of time.

(b) In making a determination on whether to grant an application for a transfer of a franchise, the City Council may consider the financial, technical and other qualifications of the transferee to operate the system; whether the incumbent cable operator is in compliance with this ordinance and, if not, the proposed transferee's commitment to cure such noncompliance; and whether operation by the transferee would adversely affect Cable Services to subscribers, or otherwise by contrary to the public interest.

(c) The consent or approval of the City Council to any assignment, lease, transfer, or sub-lease, of the Grantee shall not constitute a waiver or release of the rights of the Government in and to the roads.

(d) Corporate reorganizations which do not change the ultimate controlling entity and interfamilial transactions are not considered transfers of control for purposes of this section.

Section 32. FORFEITURE OF FRANCHISE

(a) In addition to all other rights and powers pertaining to the Government by virtue of the franchise or otherwise, the Government, by and through its City Council, reserves the right to terminate and cancel the franchise and all rights and privileges of the Grantee hereunder in the event that the Grantee:

(1) Violates any material provision of the franchise or any material rule, order, or determination of the Government made pursuant to the franchise, except where such violation is without fault or through excusable neglect;

(2) Attempts to evade any material provision of the franchise or practices any fraud or deceit upon the Government;

(3) Fails to begin or complete construction as provided under the franchise and the Grantee's proposal as incorporated herein,

(4) Knowingly makes a material misrepresentation of any application, proposal for renewal, or negotiation of the franchise; or

(5) Willfully abandons the Cable System, in whole or in part, without the prior written approval of the Government. For purposes of this Section 32, "abandonment" means the cessation, by the Grantee's act, of the provision of all Cable Services and Non-Cable Service then being provided over the Cable System in the City of London for ninety-six (96) or more consecutive hours, except if due to an event beyond the Grantee's control as set forth in Sections 10(b)(6) and 32(b)(6) hereof.

(b) Forfeiture Procedure.

(1) The Government shall notify the Grantee in writing of an alleged failure to comply with the provisions of this ordinance as outlined in Section 32 (a), which notice shall specify the alleged failure with particularity.

(2) The Grantee shall, within twenty-one (21) days after receipt of the notice or such longer period as the Government may specify in such notice, either cure the alleged failure or, in a written response to the Government, either present facts and arguments in refutation or excuse of such alleged failure or state that the alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

(3) The City Council shall determine (i) whether a failure to comply with a provision of the franchise has occurred; (ii) whether such failure is excusable; and (iii) whether such failure has been or will be cured by the Grantee.

(4) If the City Council determines that a failure to comply with a material provision of the franchise has occurred and that such failure is not excusable and has not been or will not be cured by the Grantee in accordance with a schedule satisfactory to the City Council, the City Council shall hold a public hearing to determine whether the franchise shall be terminated and forfeited or whether other penalties shall be imposed on the Grantee. The City Council shall provide at least twenty-one (21) days written notice of the public hearing to the Grantee. During the public hearing, Grantee shall have the right to call and to cross examine witnesses and to present evidence. If the City Council determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule satisfactory to the City Council or that the failure is excusable, such determination shall conclude the investigation.

(5) Following the public hearing and majority vote of the City Council finding that a failure to comply with a provision of the franchise has occurred and that such failure is not excusable and has not been or will not be cured by the Grantee in accordance with a schedule satisfactory to the Government, the City Council may issue a written decision ordering termination and forfeiture of the franchise or imposing other penalties. Such decision shall be served on the Grantee and shall be subject to judicial review as provided by law.

(6) Any other provision of this ordinance notwithstanding, the Grantee shall not be liable of delay in performance of, or failure to perform, in whole or in part, its obligation pursuant to this Ordinance or any franchise granted hereunder due to strike or other labor action other than those involving the employees of the Grantee, war or act of war (regardless of whether an actual declaration of war is made), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, equipment malfunction, sabotage of other events, where the Grantee has exercised all due care in the prevention thereof and to the extent that such causes or other events are beyond the Grantee's control. Notwithstanding the other provisions in this subsection (6), Grantee shall be held liable for equipment malfunctions identifiable using standard industry testing techniques.

(c) In the event of said revocation the Grantee shall have two (2) years from the date on which it ceases operations to remove, at its own expenses, all portions of its Cable Television System from all roads within the confined of the City of London, and shall restore said roads to a condition reasonably satisfactory to the Government within such period of time.

Section 33. FORECLOSURE

Upon the foreclosure or other judicial sale of all or a substantial part of the system, or upon the termination of any lease covering all or a substantial part of the system, the Grantee shall immediately notify the Government of such fact, and such notification shall be treated as a notification that a change in control of the Grantee has taken place, and the provisions of Section 34 of the Ordinance, governing the consent of the City Council to such change in control of the Grantee, shall apply.

Section 34. RECEIVERSHIP

The City Council shall have the right to cancel this franchise one hundred and twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:

(1) Within one hundred and twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Ordinance and remedied all defaults thereunder; and,

(2) Such receiver or trustee, within said one hundred and twenty (120) days shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this ordinance and the franchise granted to the Grantee.

Section 35. GOVERNMENT RIGHTS IN FRANCHISE

(a) If a renewal of this franchise is denied or the franchise is revoked for cause pursuant to the appropriate provision of this ordinance and the Government acquires ownership of the Cable System any such acquisition shall be at fair market value determined on the basis of the Cable System valued as a going concern, but excluding any valuation being made for "goodwill" or any right or privilege granted by this Ordinance.

(b) If a renewal of this franchise is denied or the franchise is revoked for cause pursuant to the appropriate provisions of this Ordinance and the Government effects a transfer of ownership of the Cable System to another person any such transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern, which shall include the original cost of all tangible and intangible property, and which shall take into consideration salvage value, book value, replacement cost, cash flow and other factors.

(c) It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify or sell the system, or the City Council terminates this franchise, or the City Council elects to purchase the system, the Grantee shall ensure that all subscribers receive continuous, uninterrupted service regardless of circumstances.

(d) The right is hereby reserved to the Government to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in exercise of the police power.

(e) Upon twenty (21) days written notice, the Government shall have the right to inspect during Normal Business Hours the books, records, maps, plans, income tax returns, and other like materials of the Grantee for its five (5) most recent years of operation.

(f) The Government shall have the right, during the life of the franchise, to install and maintain free of charge upon the poles of the Grantee any wire and pole fixtures necessary for a police and fire alarm system, on the conditions that such wire and pole fixtures do not interfere with the cable television operations of the Grantee, and are installed and maintained in accordance with the National Safety Code, and that the Government pay all "make ready" charges associated therewith.

(g) The Government shall have the right to make such inspections it shall find necessary to ensure compliance with the terms of the franchise and other pertinent provisions of law.

(h) Upon termination and cancellation of the franchise granted hereunder, as provided for herein, the Government shall have the right to require the Grantee to remove at its own expense all portions of the Cable Television System from all roads within the confines of the City of London.

(i) In the event the Grantee fails to operate the Cable Television System for five consecutive days without prior approval of the Government, except for strikes, acts of God, or other circumstances beyond the control of the Grantee, the Government, its agent or contractor, shall have the right to operate the Cable Television System until such time that the Grantee again operates the system or until a new operator is selected, in the event of revocation. If the Government is required to fulfill this obligation for the Grantee, the Grantee shall reimburse the Government for all costs or damages that are the result of the Grantee's failure to perform.

Section 36. REPORTS AND FILING

(a) Copies of all petitions, applications, and communications submitted by the Grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to the franchise, shall be submitted to the Government upon twenty-one (21) days written request.

(b) If requested by the Government in writing, Grantee shall make available to the Government the following current information for inspection at Grantee's office during normal business hours:

(1) construction information indicating the number of homes passed and the number of cable plant miles constructed.

(2) information indicating, where technologically possible and economically feasible, the number of calls received, number of calls abandoned, number of calls receiving a busy signal, and number of customer service representatives staffed to handle telephone calls.

(3) installation information indicating: the number of total standard installations performed; the number of standard installations performed within seven days; number of service interruptions responded to within 24 hours; number of other service problems reported; number of other service problems responded to within 36 hours, and all other information necessary to monitor the licensee's compliance with the subscriber protection standards of this ordinance.

(4) information indicating the number of subscribers for each type of Cable Service and Non-Cable Service offered;

(5) a current copy of the subscriber service agreement; a current list of all rates, charges, and available services, and a current channel list.

(6) a summary of the previous year's activities in the development of the system, including, but not limited to, services begun or dropped, the previous year's constructions activities, and a summary of any policy changes taking effect during the year;

(7) a copy of all Grantee's published rules and regulations applicable to subscribers and users of the Cable System; and a summary of the licensee's hours of operation;

(8) subject to section 631 of the Communications Act, 47 U.S.C. § 551, a summary of subscriber or consumer complaints, identifying complaints by number and category, and their disposition; and, where complaints involve recurrent system problems, the nature of each problem and what steps have been taken to correct them;

(9) a copy of updated maps depicting the location of all trunks.

Proprietary maps, shall be afforded confidentiality protection by an agreement mutually acceptable to the parties;

(10) a listing of Grantee's closings or holidays for the year;

(11) if the Grantee is a corporation, a list of officers and members of the board, a copy of the Grantee's report to its shareholders (if it prepared such a report), a list of the board members of any parent corporation; and where a parent corporation's stock is publicly traded, that corporation's annual report;

(c) All reports shall be certified as correct by an officer of Grantee and there shall be submitted along with them such other information as the Government may request with respect to the Grantee's properties and expenses related to its cable television operations within the confines of the City of London.

Section 37. FRANCHISE RENEWAL

The franchise granted under this ordinance may be renewed under the authority of 47 U.S.C. § 546 as it may be amended.

Section 38. RIGHTS OF INDIVIDUALS

(a) Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, or sex. Grantee shall comply at all times with all other applicable federal, state and local laws, and all executive and administrative orders relating to nondiscrimination. Grantee shall not deny service, deny access, or otherwise discriminate against persons owning or renting apartment units.

(b) The Grantee shall comply with all applicable non-discrimination and affirmative action requirements of any laws, regulations and executive directives of the United States, the Commonwealth of Kentucky, and the Government.

(c) The Grantee shall not discriminate in its employment practices against any employee or applicant for employment because of race, color, religion, national origin, ancestry, sex, age or physical handicap. The Grantee shall take affirmative action to ensure that employees are treated, during employment, without regard to their age, sex, race, color, national origin, ancestry, or physical handicap. This condition includes, but is not limited to the following: recruitment advertising, employment interviews, employment rates of pay, upgrading, transfer, demotion, layoff, and termination.

(d) The Grantee shall submit to the Government, upon request, its plan and/or report for the implementation and enforcement of its equal opportunity and affirmative action policies. This submission shall include a definitive narrative which demonstrates that equal opportunity and affirmative action policies are being applied and enforced at all levels of management. This requirement shall be satisfied with a submission of a copy of the Grantee's EEO submissions required to be filed with the FCC.

(e) Grantee shall comply with all privacy laws of the state or federal government. Grantee shall strictly observe the privacy and property rights of subscribers. The subscriber's rights of privacy shall be protected at all times by the Grantee.

(f) Neither the Grantee nor the Government shall tap or monitor or arrange for the tapping or monitoring, or permit, either expressly or by implication, any person to tap or monitor any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever, without the express written permission of the subscriber, provided, however, that the Grantee shall be entitled to conduct system-wide or individually addressed "sweeps" for the purpose of verifying system integrity, controlling return-path transmission, or billing for pay services.

Section 39. TWO-WAY CAPABILITY

(a) The Cable System shall have two-way capability. This means that the head end, amplifiers and other technical components of the system facility have been designed and constructed to be easily upgraded to active two-way transmission over the system, such that all that is required is the installation of equipment.

(b) Two-way activation shall occur with three (3) years of the granting of this franchise.

Section 40. UPGRADE PERFORMANCE BOND

(a) Within thirty (30) days after the award of this franchise, the Grantee shall file with the Government a performance bond in the amount of one million five hundred thousand dollars (\$1,500,000) in favor of the Government.

(b) In the event the Grantee fails to fulfill and perform its obligation to upgrade the Cable System in accordance with the terms and conditions of this franchise, there shall be recoverable, jointly and severally, from the principle and surety of the bond, any damages or loss suffered by the Government as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee, plus attorney's fees and costs, up to the full amount of the bond.

(c) Upon the Grantee's demonstration to the Government that upgrade construction has been 25%, 50%, and 75% completed, the City Council shall waive that portion of the bond.

(d) The City Council will, upon completion of construction of the 750 MHz fiber optic system, waive the requirement of the Grantee to maintain said bond. However, the City Council shall require a performance bond to be posted by the Grantee for any construction subsequent to the completion of the 750 MHz fiber optic system, in an amount and upon such terms as determined by the City Council.

(e) The bond shall contain the following endorsement:

"It is hereby understood and agreed that this bond may not be canceled by the surety nor the intention not to renew be stated by the surety until thirty (30) days after receipt by the Government, via registered mail, a written notice of such intent to cancel or not to renew."

Section 41. RATES, MINIMUM TIMING OF REQUESTS AND CITY COUNCIL DETERMINATION OF AUTHORITY

(a) Any franchise granted or transferred pursuant to this Ordinance, Grantee shall maintain with the Government a complete listing of fees, charges, deposits and associated terms and conditions of services.

(b) The Government reserves the right to regulate rates for Cable Services and Non-Cable Services to the fullest extent permitted by federal, state, and local law and in accordance with such law.

(c) The Government shall follow the rate regulations promulgated by the FCC and shall provide an opportunity for the consideration of the views of interested parties regarding rate regulations.

(d) If the City Council declines rate regulation authority, then rates may be changed by the Grantee by filing with the Clerk of the City Council a schedule of rates proposed and by notifying its subscribers in writing at least thirty (30) days prior to implementation of the rate change.

Section 42. RATE CHANGE PROCEDURES

Providing that the City Council assumes rate regulation authority in Section 42, all rate changes shall be governed by applicable FCC rules.

Section 43. CABLE TELEVISION ADVISORY COMMITTEE

(a) There may be established a citizens advisory committee entitled the London Cable Television Advisory Committee (hereinafter referred to as the "Advisory Committee"). The Advisory Committee shall consist of the Mayor and at least two (2) City Council members and two (2) members, whom are appointed by the Mayor and whom shall serve without remuneration. Appointments to the Advisory Committee shall be made without regard to race, creed, color, sex, national origin or religion and appointees may not be employed by, or have interest in, the broadcasting, cable, DBS, SMATV or telephone industries. Appointees must be cable television customers residing within Laurel County.

(b) Appointed members shall serve for four (4) years, except that the terms of two (2) of the first appointed members shall be for two (2) years.

(c) The Advisory Committee shall have the following duties and responsibilities:

(1) Advising the Government regarding general policy relating to the services provided to subscribers by Grantee;

(2) Encouraging the use of access channels among the widest range of institutions, groups and individuals within the City of London;

(3) Advising the Government on matters which may constitute grounds for revocation and/or termination of the franchise granted herein;

(4) Advising the Government as to the advisability of granting or denying applications for new franchises or for authorization to transfer ownership of an existing franchise and

(5) Advising the Government on the establishment of additional advisory committees to address specific issues relating to the operation of this franchise. Nothing in this franchise is intended to prohibit the establishment of such committees to supervise the accessibility and operation of access channels.

(d) The Advisory Committee may recommend to the City Council the employment of staff and consultants and the appropriation of funds necessary to perform its duties and responsibilities.

(e) The Advisory Committee shall meet from time to time as necessary. All meetings of the Advisory Committee shall be open to the public.

Section 44. SUPERVISION OF THE FRANCHISE

(a) The Mayor or his/her designee shall serve as Cable Communications Officer.

(b) Notwithstanding other provisions of this ordinance, the Cable Communications Officer shall have the following duties and responsibilities to supervise the provisions of this ordinance:

- (1) Serve as liaison between the Government, the Cable Television Advisory Committee and the Grantee
- (2) Monitor Grantee's adherence to construction and installation schedule and line extension policy;
- (3) Assure compliance of applicable laws and ordinances;
- (4) Monitor operation standards as contained in this ordinance;
- (5) At the City Council's direction, arrange tests and analysis of equipment and performance;
- (6) Monitor road and traffic disruptions for construction and repair purposes;
- (7) Assure continuity in service;
- (8) Receive, examine and recommend action on the monthly log of citizen complaints;
- (9) Assist in evaluating uses of access channels;
- (10) Receive for examination all data and reports required by this ordinance;
- (11) Serve as a non-voting member of the London Cable Television Advisory Committee; and
- (12) Perform tasks as specified by the City Council.

Section 45. GOVERNMENT RIGHT OF INTERVENTION

The Grantee agrees not to oppose intervention of the Government in any suit or proceeding arising out of the Grantee's performance hereunder.

Section 46. FURTHER AGREEMENT AND WAIVER BY GRANTEE

(a) The Grantee agrees to abide by all provisions of this Ordinance and further agrees that such provisions as presently written are neither unreasonable, arbitrary, nor void. Grantee's right to challenge the application of any provision of this Ordinance as a violation of applicable federal or state law shall be specifically reserved. Notwithstanding the foregoing, however, if the FCC or any federal or state court or agency declares any paragraph, subparagraph, sentence, clause, or phrase to be invalid or unenforceable, then such paragraph, subparagraph, sentence, clause, or phrase may be renegotiated by the Grantee and the Government.

(b) Grantee shall have no recourse whatsoever against the Government for any loss, cost, expense or damage arising out of the provisions or requirements of this Ordinance or because of the enforcement thereof by the Government nor failure of the Government to have the authority to grant all or part of the franchise.

(c) Grantee expressly acknowledges that, upon accepting the franchise, it does so relying upon its own investigation and understanding of the power and authority of the Government to grant the franchise.

(d) Grantee, by acceptance of this franchise, acknowledges that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the Government or by any third person concerning any terms and conditions not expressed in this Ordinance.

(e) Grantee shall conduct the work to be performed pursuant to this Ordinance independent contractor and not as an agent of the Government.

Section 47. PUBLICATION COSTS

The Grantee shall assume the cost of publication of the franchise as such publication is required by law and such is payable upon the Grantee's filing of acceptance of the franchise.

Section 48. TIME IS OF THE ESSENCE

Whenever this Ordinance sets forth a time period in which any act shall be performed, such time shall be deemed of the essence, and failure to perform within the allotted time shall be sufficient grounds to invoke the remedies available pursuant to this Ordinance or applicable law. Provided, that either the Grantee or the Government may waive any time period by failing to provide written notification to the other of its intent to invoke such remedies within twelve (12) months after the occurrence of a failure to timely perform any act required by this Ordinance.

Section 49. LAW GOVERNS

In any controversy or dispute under this Ordinance, the law of the Commonwealth of Kentucky shall apply.

Section 50. SEVERABILITY

If any section, sentence, clause or phrase of the ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the ordinance.

Section 51. EFFECTIVE DATE

This Ordinance shall become effective on the date of its passage.

PASSED CITY COUNCIL OF THE CITY OF LONDON:



Mayor Ken Smith

ATTESTED:



Connie McKnight, City Clerk

: