

FRANCHISE AGREEMENT

BETWEEN

THE COUNTY OF HUMBOLDT

AND

COXCOM, INC.

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ORDINANCE NO. _____

**ORDINANCE OF THE COUNTY OF HUMBOLDT GRANTING A CABLE
COMMUNICATIONS SYSTEM FRANCHISE TO COXCOM, INC.**

NOW THEREFORE, be it ordained by the County Board of Supervisors of the County of Humboldt, California, as follows:

SECTION 1. GRANT OF FRANCHISE

1.1 Grant. The County of Humboldt, California (hereinafter called "County") enters into this Agreement with CoxCom, Inc. (hereinafter "Grantee") for the provision of cable service within its boundaries for the benefit of the residents of the County and to ensure that Grantee meets the cable-related needs and interests of the County. The County hereby grants to Grantee a non-exclusive Franchise to operate a Cable System to provide cable service in the County, and to use the streets and public ways to install, construct, repair, reconstruct, maintain in, on, over, under, upon, across and along any street or highway, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to said Cable System for that purpose, subject to the terms and conditions of this Agreement, and applicable law.

1.2 Term. The Franchise granted hereby shall expire eight (8) years after its effective date unless lawfully terminated in accordance with its terms or other applicable law, or altered in accordance with Section 13.

1.3 Effective Date. This Franchise shall become effective on the 31st day following its adoption, provided that prior to that date the Grantee: (a) accepts in writing this Franchise Agreement; and (b) provides all warranties, proofs, and other documents required by the Franchise. If Grantee has not satisfied these conditions prior to the 31st day following its adoption, then the County may, at its option, declare the Franchise forfeited, and of no force or effect.

1.4 Franchise Area. The Franchise Area for which this Franchise is granted consists of all areas in the unincorporated portions of the County that the Grantee is serving on the effective date of this Agreement as documented in Exhibit A which is attached hereto. (Exhibit A is intended to be a best-efforts representation of Grantee's service area on the effective date of this Agreement. If discrepancies are identified between Exhibit A and where the Grantee actually provided services on the effective date of the Franchise, the actual location of Grantee's Cable System on that date shall govern.) The Grantee shall also be obligated to serve all areas adjacent to the areas described above that meet the line extension policy described in Section 7.10.B.2

herein. The Grantee shall not be obligated to serve remote pockets of Subscribers where the density described in Section 7.10.B.2 has been achieved but where the nearest cable plant is more than one mile from that remote pocket of Subscribers unless the Subscriber(s) agree to participate in a cost sharing arrangement as described in Section 7.10.B.2.

1.5 Effect of Acceptance. By accepting the Franchise, the Grantee: (a) acknowledges and accepts the County's legal right to issue and enforce the Franchise; (b) agrees that it will not oppose intervention by the County in any proceeding affecting the enforcement of its rights under this Franchise; (c) accepts and agrees to each and every provision contained herein; and (d) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and agrees that it will not raise any claim or defense to the contrary.

1.6 Rights Reserved. The rights granted in this Franchise are subject to the County's exercise of its police and other powers, and nothing in this Franchise shall be read to limit the exercise of those powers. The County, among other things, does not waive requirements of various codes, ordinances, and resolutions, including zoning codes and codes regarding building permits and fees, or time or manner of construction, all of which shall apply. Any fees or charges paid, so long as generally applicable and not discriminatory, shall be paid in addition to the Franchise Fee required under this Franchise.

1.7 Grantee Compliance. Unless otherwise provided herein, the Grantee agrees to comply with and is subject to all the terms, conditions, and provisions of Humboldt County Code Title VIII Division 5, Cable Systems and Open Video Systems and all other existing and future ordinances and regulations of the County, including but not limited to zoning ordinances, and ordinances establishing construction standards or procedures for use of the streets.

1.8 Affiliates Must Comply. Any affiliate or joint venture or partner of the Grantee involved in the management or operation of the Cable System in the County that would constitute a "cable operator" (as defined in federal law) of the Cable System is subject to the limitations of, and shall comply with, the terms and conditions of the Enabling Ordinance and this Agreement. The Grantee shall be fully liable for any act or omission of an affiliate that controls the Grantee or is responsible in any manner for the management of the Cable System that results in a breach of this Agreement or a violation of the Cable Ordinance, as if the act or omission was the Grantee's act or omission.

1.9 Legal Qualifications. The Grantee affirms that it meets all the legal qualifications set forth in Section 852-5 of the Humboldt County Code and in 47 U.S.C. § 533.

SECTION 2. SHORT TITLE AND DEFINITIONS

2.1 This Franchise Agreement shall be known and be cited as the "Humboldt County and CoxCom, Inc. Franchise Agreement." The definitions set forth in Humboldt County Code Title VIII Division 5, Cable Systems and Open Video Systems pertain to this Franchise Agreement and shall be relevant to the purposes and meaning of this Franchise Agreement. In addition, the following terms, phrases, words and their derivations have the meaning given herein.

"County" when used to refer to a geographic area, means the County of Humboldt, a political subdivision of the State of California, in its present form or in any later recognized, consolidated, or enlarged form; when used to refer to an action taken by an entity, the term refers to the governing body of the County of Humboldt, or any entity authorized to act on its behalf.

"Enabling Ordinance" means the Ordinance of the Board of Supervisors of Humboldt County known as Humboldt County Code Title VIII Division 5, Cable Systems and Open Video Systems.

"Franchise Agreement" or **"Agreement"** shall refer to this contract between the County and the Grantee, entered into in accordance with the terms of the Humboldt County Code.

"Grantee" means CoxCom, Inc., the person to whom this Cable Franchise is granted by the County Board of Supervisors, and its lawful and permitted successors, assigns, and transferees.

2.2 All words appearing in this Agreement which are identical to the words defined in Section 2.1 shall have the meanings set forth in Section 2.1. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined herein shall be given the meanings set forth in the Enabling Ordinance, or if not defined therein, the meaning set forth in the Cable Act, and, if not defined therein, shall be given their common and ordinary meaning.

SECTION 3. FRANCHISE -- LIMITATIONS

3.1 The Franchise does not confer rights other than as provided by this Franchise Agreement, or as mandated by federal or state law.

3.2 No privilege or exemption is granted or conferred except those specifically prescribed herein.

3.3 The County may delegate its authority except as prohibited by state law.

3.4 In addition to any immunities that the County may have under federal or state law, the Grantee shall have no recourse against the County for any loss, cost, expense, or damage arising out of any provision or requirement of this Franchise Agreement or Enabling Ordinance, or because of the enforcement or non-enforcement thereof.

3.5 The Grantee shall at all times be subject to the exercise of the police power of the County, and its other lawful authority. The County may exercise appropriate regulatory authority under the provisions of this Franchise and applicable law, as amended from time to time.

3.6 This Franchise is only for the provision of Cable Services. It shall not act as a bar or in any respect prevent imposition of additional or different conditions, including additional fees related to the provision of, or the use or occupancy of the Rights-of-Way to provide, non-Cable Services. Nothing in this Section is intended to expand or restrict the County's rights to regulate non-Cable Services or Grantee's right to provide lawful services over its Cable System.

3.7 Nothing in this Franchise Agreement shall be read to create an expectancy of renewal or to entitle in any respect the Grantee to renewal or extension of this Franchise, except as may be expressly required by applicable law.

3.8 Any privilege claimed under any Franchise by the Grantee in any street or other public property shall be subordinate to any prior lawful occupancy of the streets or other public property, subject to Section 851-13 of the Enabling Ordinance.

SECTION 4. NON-EXCLUSIVE FRANCHISE

4.1 This Franchise Agreement and the right it grants to use and occupy the public right of way is not exclusive and does not explicitly or implicitly preclude the issuance of other franchises to operate Cable Systems within the County, affect the

County's right to authorize use of the public right of way by other persons to operate Cable Systems, or affect the County's right to itself construct, operate or maintain a Cable System.

4.2 If at any time during the term of this Franchise Agreement the County grants a franchise or other operating authority to another Person to provide cable service or operate a Cable System, the material terms and conditions of such additional franchise or operating authority shall be reasonably comparable to the terms and conditions of this Franchise Agreement, taking into account any applicable legal limitations on the County's authority.

SECTION 5. NO WAIVER

5.1 The failure of the County, upon one or more occasions, to exercise a right or to require compliance or performance under this Franchise Agreement or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing.

5.2 Waiver of a breach of this Franchise Agreement or the Enabling Ordinance is not a waiver of any similar or different breach. Neither the granting of this Franchise nor any provision herein shall constitute a waiver or bar to the exercise of any governmental right or power of the County, including without limitation the right of eminent domain.

SECTION 6. CUSTOMER PROTECTION

6.1 Customer Protection. The Grantee hereby represents and warrants that it meets or exceeds the customer service standards established by the Federal Communications Commission (47 C.F.R. §76.309). The County reserves its rights to enforce the customer services standards contained in Appendix A of the Enabling Ordinance upon ninety (90) days written notice. The Grantee agrees that it shall abide by the terms and conditions therein, as the same may be amended or supplemented from time to time and be subject to the remedies set forth in Sections 14 through 16 of this Agreement for violations of the customer protection standards, as amended or supplemented.

6.2 Privacy. The County and the Grantee shall comply with all applicable federal and state obligations with respect to Subscriber privacy.

6.3 Sale of Subscriber Lists and Personalized Data.

A. The Grantee shall be subject to the provisions of federal law regarding limitations on the Grantee's collection and use of personally identifiable information, and the protection of Subscriber privacy.

B. Nothing in this Franchise shall be read to limit the County's right to adopt other consumer/customer protection laws, and to apply those laws to Grantee consistent with applicable law.

6.4 Maintenance and Complaints.

A. The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.

B. Grantee shall maintain a record of complaints and concerns related to Subscribers, including those related to billing, employee courtesy, programming, safety, or the Grantee's operational policies, outages, signal quality, service disruptions, and other issues. The Grantee will maintain records of complaints for three (3) years. Copies of the complaint records shall be provided to the County on request.

C. The Grantee shall maintain a repair force of technicians sufficient to comply with this Franchise and the County's Customer Service Standards under normal operating conditions and to respond to Subscriber complaints, loss of service, or requests for service. The Grantee shall have in place at all times the equipment necessary to locate and correct Cable System malfunctions.

D. All Subscribers and members of the general public in the County may direct complaints and inquiries regarding the Grantee's service or performance to the County.

6.5 Non-Discrimination and Equal Employment Opportunity.

A. Throughout the term of this Franchise, the Grantee shall fully comply with the equal employment opportunity requirements of federal, state, and local law and, in particular, FCC rules and regulations relating thereto. Upon request by the County, the Grantee shall furnish the County a copy of the Grantee's annual statistical report filed with the FCC, along with proof of the Grantee's annual certification of compliance. In the event the Grantee is at any time determined by the FCC not to be in compliance with said FCC rules or regulations, the Grantee shall notify the County within fifteen (15) business days of its notice of such noncompliance from the FCC.

B. The Grantee shall not, in its rates or charges, or in the availability of the services or facilities of its Cable System, or in any other respect, make or grant undue preferences or advantages to any Subscriber, potential Subscriber, or group of

Subscribers or potential Subscribers, nor shall the Grantee subject any such persons or group of persons to any undue prejudice or any disadvantage. However, the Grantee may offer temporary, promotional discounts in order to attract or maintain Subscribers provided that such discounts are offered on a non-discriminatory basis to similar classes or types of Subscribers throughout the County. Subject to FCC rules and regulations, this section shall not prohibit the Grantee from publishing different rates for different classes of Subscribers, so long as the rates are identical for every Subscriber in each class. The Grantee shall not deny, delay, or otherwise burden service or discriminate against Subscribers within its Franchise Area on the basis of age, race, creed, religion, color, sex, national origin, marital status, sexual orientation, physical or mental disability, or political affiliation. Different rates may be offered to commercial or bulk rate Subscribers, and provided further that reduced rates may be offered to the disabled and economically disadvantaged senior citizens

C. The Grantee shall not deny cable service to any group of potential Subscribers because of the income of the residents of the area in which the group resides.

D. The Grantee shall ensure that its services are accessible, as far as reasonably practical, to people with disabilities as required by applicable federal, state, and local laws. All programming received by the Grantee with closed-captioning shall be retransmitted by the Cable System including the closed-caption signal as required by law.

6.6 Parental Control Device. Upon request, the Grantee shall provide parental control devices to any Subscriber in accordance with the obligations set forth in 47 U.S.C. Sections 544(d)(2) and 560, and California Government Code Section 53066.4, and as such obligations may be amended in the future. As of the effective date of this Agreement Grantee agrees to sell or lease to any requesting Subscriber a "lockbox" device that will permit Subscribers to prohibit viewing of any channel on which objectionable programming may appear. Grantee also agrees to fully scramble or block the audio and video portions of programming services not specifically subscribed to by a household, free of charge, upon the Subscriber's request.

SECTION 7. SYSTEM FACILITIES, EQUIPMENT, AND SERVICES

7.1 Cable System Design and Functionality.

A. System Design. Grantee and the County agree that at the time of the grant of this Franchise Agreement, the Grantee's Cable System serving the County meets the following specifications.

1. The System uses a fiber to the node architecture.
2. Each node serves no more than an average of 1,000 or fewer Subscribers.
3. The System is able to divide or segment nodes as needed to provide quality services to Subscriber.
4. All active electronics replaced or added after the effective date of this Franchise will be 870 MHz capable equipment, or equipment of higher bandwidth. All passive components replaced or added after the effective date of this Franchise will be at least 1 GHz capable equipment. Provided, however, that Grantee may use certain equipment or components, including but not limited to traps, filters, isolators, and driver amplifiers, with lower bandwidth capacity where such equipment or components are not designed to handle higher bandwidth capacity due to the limited purpose for which they are employed or where such use is standard industry practice, so long as the use of such equipment does not diminish the overall System bandwidth capacity.
5. Two-way activated capacity supporting interactive services, including but not limited to digital video recorders, has been installed and is being utilized in the Cable System.
6. The headend has 24-hour backup power supplies. Each node power supply has a minimum two-hour backup and hub sites and optical transfer nodes have six-hour backup power supplies. Such equipment has been constructed and will be maintained so as to cut in automatically upon failure of the commercial utility power, and to revert automatically to a standby mode when alternating current power returns, and complies with all utility and other safety regulations to prevent the alternate power supply from powering a "dead" utility line in order to prevent injury to any person. Grantee shall monitor power to nodes remotely at such time when the Cable System is used to offer a service on which the California Public Utility Commission imposes service quality standards for network reliability (e.g., CPUC General Order 133-B applies).

B. System Functionality.

1. As designed, upgraded and/or rebuilt and maintained, the facilities and equipment on the Cable System shall deliver high quality signals that meet FCC technical quality standards regardless of the particular manner in which the signal is transmitted.
2. Headend equipment shall allow the Grantee to transmit signals in substantially the form received, without substantial alteration or deterioration

(for example, the headend should include equipment that will transmit color video signals received at the headend in color). Grantee shall install equipment so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Grantee shall install equipment so that all local signals received in stereo or with secondary audio tracks (broadcast and PEG access) are retransmitted in those same formats.

3. At the bandwidth capacity described in Section 7.1.A.4., the Grantee's Cable System as upgraded can deliver at least two hundred (200) analog or digital channels of video programming services to Subscribers. Until such time as it is technologically and economically feasible, in Grantee's judgment, or the Grantee is to required by applicable law to offer the basic tier in digitally compressed form, the Grantee shall provide at least the basic tier of the channels on the Cable System in analog form.

4. The Grantee shall comply with all applicable laws concerning system compatibility with Subscribers' consumer electronics equipment. The Grantee shall make its services (including its customer services) reasonably accessible to persons with disabilities in accordance with applicable state and federal law.

C. Pre-Existing PEG Access Links.

1. On the effective date of this Agreement the Grantee provides and maintains dedicated fiber optic PEG Access links including associated plant, headend, and transmission equipment located in/on the plant, headend, and at each originating location from the following locations to Grantee's Wabash Avenue headend:

- a. Arcata City Hall;
- b. Arcata Community Center to Arcata City Hall;
- c. Humboldt State University to Arcata City Hall;
- d. Eureka City Hall;
- e. Humboldt County Courthouse;
- f. Fortuna River Lodge;
- g. College of the Redwoods; and
- h. Humboldt County Office of Education.

2. Upon request, Grantee shall provide, at no cost to the County, activated upstream and downstream bandwidth for video and audio transmissions from the Arcata Library, Fortuna Library, County Main Library (in Eureka), the County Courthouse and Information Technology Department, and County Office of Emergency Services to the Grantee's headend. Grantee shall construct the physical connections to the facilities necessary to provide the bandwidth, but shall not be

required to provide the electronics necessary to transmit the audio and video signals at the facilities. The Grantee shall provide the equipment necessary at its headend to receive the signals and distribute them over the PEG channels.

D. PEG/Headend Links. The County of Humboldt and the Cities of Eureka, Arcata, Fortuna, Ferndale, Blue Lake and Rio Dell intend to work cooperatively to facilitate a collaborative approach to the delivery of PEG Access services and Institutional Network Services. To that end, the Grantee shall provide inter and intra City PEG Access Links as described below.

1. The Grantee shall provide and maintain through the term of this Agreement at no cost to the County, the PEG Links that were in place on the effective date of the Franchise as set forth in subsection C above.

2. The Grantee shall, at no cost to the County, install, replace as necessary, and maintain dedicated activated upstream and downstream fiber links for PEG Use between the following locations and either Grantee's headend or the Community Media Center ("CMC"), to permit signals to be transmitted to and from these locations: Wharfinger Building, Adorni Community Center, Memorial Hall (in Eureka), Fortuna City Hall, Ferndale City Hall, Blue Lake City Hall, and Rio Dell City Hall. The signals shall be transmitted to the Grantee's headend or the CMC. The Grantee's direct cost to provide such connectivity shall not exceed seventy thousand dollars (\$70,000). The Grantee shall complete any necessary construction within eighteen (18) months of the effective date of this Franchise Agreement.

3. The Grantee shall, at no cost to the County, install, replace as necessary, and maintain a dedicated bi-directional optical fiber link between the primary CMC which shall be located on the campus of Eureka High School in the building located at J Street and Humboldt Street (or other location which will require no greater construction costs to install) and the Grantee's headend. Such link between the CMC and the System headend shall be completed within twelve (12) months of the effective date of this Franchise, or the date the CMC is operational, whichever is later. The dedicated link shall be designed so that the CMC can: (a) send signals to the headend on multiple channels simultaneously; (b) receive signals from other locations on multiple channels simultaneously; (c) remotely route or direct signals originated at the CMC or at other locations onto any Access or Institutional use channel(s) on the Cable System; and (d) otherwise control the signals to allow for smooth breaks, transitions, and insertion of station identification messages and other material. The Grantee shall provide plant, headend, and PEG access center equipment necessary to accomplish these functions, including but not limited to laser transmitters, modulators, processors, and switchers. The Grantee's direct costs to provide such connectivity and capabilities shall not exceed twenty five thousand dollars (\$25,000). The obligation to provide the equipment and functionality described in this Section shall be in addition to

all other obligations to provide PEG access equipment and facilities contained in this Franchise.

7.2 Interconnection.

A. Interconnection with Grantee's Systems. On the effective date of this Agreement, the Cable System serving the County of Humboldt and the Cities of Eureka, Arcata, Fortuna, Ferndale, Blue Lake and Rio Dell are served from a common headend and are physically and functionally interconnected. The Grantee agrees that it shall at minimum maintain the level of interconnectivity described herein throughout the term of this Franchise. The Cable System shall be capable of receiving and delivering PEG access programming to and from the interconnected communities. There shall be no charge for the interconnection for PEG Access programming.

B. Interconnection with Other Systems Serving the County. Upon request, the Grantee shall take all necessary technical and construction steps to ensure that its Cable System which serves the County of Humboldt and the Cities of Eureka, Arcata, Fortuna, Ferndale, Blue Lake and Rio Dell is interconnected with: (1) any other Cable Systems serving the County of Humboldt or the Cities of Eureka, Arcata, Fortuna, Ferndale, Blue Lake and Rio Dell that are contiguous to the Grantee's system, and; (2) any Open Video System (established pursuant to Section 653 of the Cable Act, unless federal law is amended to no longer require such interconnection) serving the County of Humboldt.

C. Interconnection Functionality, Timing, and Costs.

1. The Grantee and the County agree that on the effective date of this Agreement there are no Cable Systems or Open Video Systems, not owned by the Grantee, operating within the County that are contiguous to the Grantee's Cable System. However, if in the future a Cable System or Open Video System is constructed in the County that falls within the description set forth in Subsection B above, the County may direct the Grantee to interconnect its Cable System with such other Cable System or Open Video System for the exchange of PEG and Institutional Network access programming pursuant to this Section.

2. The County and the Grantee agree that as of the effective date of this Franchise the anticipated point of interconnection shall be at a location designated by the County at the CMC. So long as Grantee maintains an active PEG Access Link as required in Sections 7.1.C-D and so long as the interconnection point continues to be located at the CMC, the Grantee shall have fulfilled its obligation to interconnect with other Cable Systems or Open Video Systems serving the County.

3. If during the term of this Franchise the Grantee and the County agree to an interconnection point at a location other than the CMC, Grantee

shall promptly enter into negotiations with operators of other Cable Systems or Open Video Systems providers providing service in the County to determine where an interconnection point shall be located, how costs for the interconnection will be shared, and a schedule for prompt interconnections. The Grantee shall construct the interconnection using optical fiber or other technology providing equivalent capacity and functionality. The interconnection shall be capable of receiving and delivering PEG Access programming and Institutional Network services to and from the interconnected systems. The Grantee may also use the functionality and capacity provided by the interconnection for its business purposes so long as they do not interfere with the designated PEG Access and Institutional Network purposes. The parties shall have one hundred twenty (120) days to reach agreement. There shall be no charge to the County for the use of the interconnections for PEG Access and Institutional Network purposes.

D. Cooperation. The County understands that interconnection requires cooperation from other Cable System operators. The County shall make every reasonable effort to assist Grantee in achieving the cooperation necessary to realize interconnection.

E. Grantee Not a Common Carrier. Nothing in this Agreement shall be deemed to require the Grantee to assume the status of a common carrier as defined under applicable law.

7.3 Institutional Network. Grantee shall not be required to provide Institutional Network capacity or services pursuant to this Franchise. In the event the County enters into a separate agreement to provide Institutional Network capacity or services, such agreement shall govern the provision of such capacity or services. Provided, however, that any such capacity shall be interconnected with the PEG links described in Section 7.1.C-D of this Agreement consistent with a contract for I-Net capacity or services between the Grantee and the County.

7.4 System Design Review Process.

A. As of the effective date of this Franchise, the Grantee had commenced and substantially completed a Cable System rebuild of the Franchise Area. If during the term of this Franchise Grantee embarks on an upgrade or rebuild of its Cable System (other than construction or maintenance performed in the ordinary course of business) to increase the bandwidth capacity of the network, Grantee shall notify the County of such an upgrade not less than 120 days prior to the date construction on the rebuild or upgrade of any portion of the system is scheduled to begin. Such notice shall include a description of the project to be undertaken, the area of the County affected, and the projected timetable for construction. The notice required herein is in addition to any other notice or filing required pursuant to County construction ordinances.

B. If requested by the County, representatives of the County and Grantee shall meet within thirty (30) days of the notice required in Subsection A, above, to review the project. At that meeting, Grantee shall provide information about the project including designs and maps, equipment to be installed, and the resulting additional capability the project will provide.

C. The County shall have thirty (30) days from the date of the meeting to submit comments on the project. The Grantee shall submit a written response to the comments and provide any additional information regarding the project, if appropriate, within ten (10) days of the date it receives the County's comments.

D. Notwithstanding Section 851-13(o) of the Humboldt County Code, Grantee may charge the County reasonable rates for the use of any Grantee-owned conduit, wire or pole fixtures.

7.5 Cable System Testing. The Grantee shall perform all tests necessary to demonstrate compliance with the requirements of this Franchise and other performance standards established by law or regulation. All ongoing Cable System tests shall be conducted in accordance with federal regulations.

A. Continuing Tests. The Grantee shall perform F.C.C. Proof of Performance Tests in conformance with testing required by 47 C.F.R. 76 subpart K. Where Subscriber complaints indicate additional tests are warranted, Grantee and the County shall perform mutually agreed upon tests to determine if, and the degree to which, Cable System performance problems exist which negatively impact the quality of service to Subscribers. The County will be permitted to witness the tests. A written report of the test results shall be filed with the County within (30) days of the test. If a location fails to meet performance specifications as outlined in 47 C.F.R. 76 subpart K, the Grantee shall, without requirement of additional notice or request from the County, take corrective action, retest the locations, and advise the County of the action taken and results achieved. The County shall have the right to conduct additional testing of its own choosing and at its own cost that it may believe necessary from time to time during the term of the Franchise. The County may select test locations and the Grantee will cooperate with the County during the testing procedures. If the tests show non-compliance with FCC standards or terms and conditions, or terms and conditions of this Franchise, the Grantee will pay the costs of such additional tests.

7.6 System Inspections. The County may inspect the Grantee's Cable System at any time to determine compliance with the Franchise Agreement, Enabling Ordinance, and applicable federal, state and local laws. The County shall provide five (5) business days written notice to the Grantee of such inspection, which need not include the specific locations to be inspected. Any testing or inspections shall only be performed in the presence of an authorized employee of the Grantee and only after reasonable advance notice to the Grantee. The Grantee shall be notified in writing of

any violations found during the course of inspections and shall be provided an opportunity to cure any alleged violations. This provision is subject to any federal law limitations on the County's authority.

7.7 Other Construction Procedures.

The Grantee:

A. shall design and construct its Cable System plan consistent with its obligations under this Franchise, and use the equipment specified, if any specification is provided, or substitute equipment of equivalent or better quality, in its distribution system design plan and construction plan (except insofar as those plans, if carried out, would result in construction of a system which would not meet requirements of federal, state, or local law; and except for such minor modifications as are typical in the industry);

B. shall use equipment of good and durable quality;

C. shall, if requested, provide a regular construction report to the County in a form and on a schedule reasonably acceptable to the County when major construction projects, such as Cable System upgrades, rebuilds, or interconnection projects are being undertaken;

D. shall notify County residents in any construction area at least one day in advance before first entering onto property to perform any work in conjunction with Cable System construction, and shall additionally notify affected residents in advance of any work which will involve excavation, replacement of poles, or tree trimming;

E. shall ensure that any contractor or subcontractor used for work and construction, operation, or repair of Cable System equipment must be properly licensed under laws of the state and all applicable local ordinances, and each contractor or subcontractor shall have the same obligations with respect to its work as Grantee would have under this Agreement and applicable law if the work were performed by Grantee; and

F. shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with this Franchise Agreement and applicable law, shall be responsible for all acts or omissions of contractors or subcontractors, shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and shall implement a quality control program to ensure that the work is properly performed. (This section is not meant to alter tort liability of Grantee to third parties).

7.8 System Maintenance.

A. Interruptions to be Minimized. Whenever possible the Grantee shall schedule maintenance so that activities likely to result in an interruption of service are performed during periods of minimum Subscriber use of the Cable System. The Grantee shall make best efforts to minimize interruptions of service consistent with reasonable and customary construction practices.

B. Maintenance Practices. In addition to its other obligations, the Grantee shall (a) use replacement components of good and durable quality, with characteristics better or equal to replaced equipment; and (b) follow the more stringent of industry maintenance standards or corporate maintenance standards.

7.9 System Performance. The Cable System shall meet or exceed the standards set forth in 47 C.F.R. 76 subpart K ("FCC Standards"), as those standards may be in effect at all times. If the FCC Standards are eliminated and not replaced, the County, to the extent permitted by law may continue to enforce the standards which existed prior to the date of elimination. If the County has authority to establish standards, standards may be amended or added as permitted by law.

7.10 Line Extension.

A. The Grantee shall build its Cable System and provide service to any Person or any government building within the Franchise Area as defined in Section 1.4 of this Agreement, in accordance with Section 7.10.B herein.

B. System Extension Requirements.

1. Franchise Area Boundaries. Within the Franchise Area as it existed on January 1, 2006 the Grantee shall provide service upon request to any Person for no charge other than the then-prevailing normal installation charge and a the long drop charge, if applicable.

2. New Areas.

a. For areas adjacent to the Franchise Area as it existed on January 1, 2006, the Grantee shall extend its trunk and distribution system to serve Subscribers requesting service after the date hereof at the then-prevailing normal installation charge and the long drop charge, if applicable, unless the Grantee demonstrates to the County's satisfaction that extraordinary circumstances justify a waiver.

b. Cost Sharing. In the event that a new Subscriber requesting service is not located within three hundred (300) feet or the equivalent of 20

Subscriber Units per mile from the nearest existing Cable System plant, the Grantee shall extend its Cable System on request based upon the cost sharing formula below. A "Subscriber Unit" means: (1) a single family residence, or (2) an apartment or dwelling unit in a multi-dwelling unit building, or (3) a building housing one or more businesses. For purposes of the formula described below, a building housing one or more businesses shall be counted as a "Subscriber Unit" only if the building owner has agreed to allow Grantee access to the building on terms reasonably acceptable to Grantee.

- i. $\frac{\text{Total Cost to Construct Extension}^1}{\text{Cable Miles of Extension}}$ = Cost Per Cable Mile of Extension
- ii. $\frac{\text{Cost Per Cable Mile of Extension}}{20}$ = Grantee's Share of Cost Per Subscriber Unit
- iii. Grantee's Share of Cost Per Subscriber Unit Times Number of Subscriber Units Passed = Grantee's Share of Total Cost of Extension
- iv. Total Cost to Construct Extension Minus Grantee's Share of Total = Total Subscriber's Share
- v. $\frac{\text{Total Subscriber Share}}{\text{Number of Subscribers Requesting Service}}$ = Cost Per Subscriber

c. Rebate of Cost. Where the Grantee and a Subscriber enter into a cost sharing agreement consistent with the formula above, the agreement shall include a provision to allow the reimbursement of a pro-rata share of the Subscriber's costs in the event Grantee provides service to additional Subscribers via the system extension within two (2) years of its activation. Subscribers who have previously paid a proportionate share under the extension formula shall be reimbursed pro rata for their contribution or a proportionate share thereof. In such case, the Subscriber share shall be recalculated and each new Subscriber shall pay the new pro rated share, and all Subscribers who previously paid a proportionate share shall receive pro rata refunds or credits.

d. Extraordinary Circumstances: Grantee shall not be penalized for delays caused by the failure of a governmental entity to issue a permit necessary for a line extension on a timely basis so long as the permit application is

¹ "Total Cost to Construct Extension" is defined as the actual turnkey cost to construct the entire extension including electronics, pole make-ready charges, and labor, but not the cost of the Subscriber drop.

timely submitted by Grantee. Nothing herein shall be deemed a waiver of Grantee's right to contest a mandatory line extension as violating California Government Code §52066.2(b).

C. Subscriber Drops. The Grantee shall not assess any additional cost, other than a standard installation charge, for service drops of one hundred fifty (150) feet or less unless the Grantee demonstrates to the County's satisfaction that extraordinary circumstances justify a higher charge. Where a drop exceeds one hundred fifty (150) feet in length, the Grantee may charge the Subscriber for the difference between the Grantee's actual costs associated with installing a one hundred fifty (150) foot drop and the Grantee's actual cost of installing the longer drop (a "long drop charge").

D. Undergrounding of Drops. In any area where the Grantee would be entitled to install a drop above-ground, the Grantee shall provide the Subscriber the option to have the drop installed underground, but may charge the Subscriber the difference between the actual cost of the above-ground installation and the actual cost of the underground installation.

E. Time for Extension. The Grantee shall extend service as described herein to any Person who requests it:

1. If the Person is located in the Franchise Area and service can be provided by activating or installing a standard drop to that location, service shall be provided within seven (7) business days of the request;

2. If the Person is located in an area adjacent to the Franchise Area as it existed after January 1, 2006, service shall be provided in accordance with the following timelines and conditions.

a. If the Person is located in an area where service can be provided by activating or installing a standard drop, service shall be provided within seven business (7) days of the request.

b. If the Person requests service where a System Extension of 2,640 cable-bearing strand feet (one-half [$\frac{1}{2}$] cable mile) or less is required (weather and ground conditions permitting), Grantee must provide service according to the following timeline:

i. If cost-sharing is required pursuant to 7.10.B.2.(b), the Grantee shall, within fifteen days of a receipt of a written request for services, provide to the Person a written estimate of the cost of providing service.

ii. Within fifteen (15) days of its receiving an executed cost sharing agreement consistent with Subsection B, above, the Grantee

shall apply for any required permits and shall file such permits with the appropriate local or state agency or office, and;

iii. Grantee shall provide service to that location within thirty (30) business days from the date that the Grantee has obtained any required permits for such construction to the Person's location.

c. If the Person requests service where a System Extension of more than 2,640 cable-bearing strand feet (one-half [$\frac{1}{2}$] cable mile) is required, Grantee must provide service according to the following timetable (weather and ground conditions permitting):

i. If cost sharing is required pursuant to Section 7.10.B.2.b, the Grantee shall, within fifteen (15) business days of a receipt of a written request for service, provide to the Person a written estimate of the cost of providing service.

ii. Within fifteen (15) days of its receiving an executed cost sharing agreement consistent with Subsection B above, Grantee shall apply for any required permits and shall file such permits with the appropriate local or state agency or office, and

iii. Grantee shall provide service to that location within six (6) months from the date that the Grantee has obtained any required permits for such construction to the Person's location.

7.11 Public, Educational, and Government Use

A. PEG Access Channels Capacity. On the effective date of this Franchise, the Grantee provides certain downstream and upstream capacity for PEG Access purposes on its Cable System serving the County of Humboldt and the Cities of Eureka, Arcata, Fortuna, Ferndale, Blue Lake and Rio Dell. More specifically, the Grantee provides three (3) downstream analog channels utilizing eighteen (18) MHz of spectrum to cable Subscribers for PEG Access. Those channels include Channels 8, 10 and 12. The Grantee also provides certain upstream and dedicated two-way fiber links for PEG Use purposes as further described in Section 7.1.C-D of this Agreement. Grantee shall throughout the term of this Agreement continue to provide a minimum of three (3) downstream PEG Access channels and the dedicated two-way fiber PEG Access Links described in Section 7.1.C-D. Additional downstream channel capacity for PEG Access Use shall be provided when the channel usage trigger in Section 7.11.B has been achieved.

1. Definition of PEG Spectrum. The PEG Access channel capacity provided pursuant to this Franchise Agreement shall be capable of transmitting

signals in any format and can be used to transmit video and audio signals only, or other information, including, by way of example and not limitation any associated secondary audio, text, digital information, high definition signals, or compressed video and audio signals. PEG signals, other than the digital channels provided pursuant to Section 7.11.B.3, must be receivable by all Subscribers, whether they receive digital or analog service, or a combination, without the need for any equipment other than the equipment that a Subscriber requires to receive the lowest cost tier of service. The PEG Access capacity provided shall function with the same quality level and with the same functionality as commercial channels on the service tier where the PEG Access channel is located.

2. Digital Conversion of PEG Channel(s). Grantee shall be required to deliver PEG Access channels to Subscribers in the same format as all other channels on the tier of service on which the PEG Access channel is located. Any digital capacity provided for PEG must be of a type and quality comparable to that provided for commercial channels. At such time that Grantee provides all channels on its Cable System in digital format the Grantee shall provide the necessary transmission and reception equipment (but not production or recording equipment) to allow the County or its designated Access Management Organization to deliver PEG Access programming to the Grantee and to Subscribers in a digital format. Nothing in this Subsection shall require the County or the Access Management Organization to produce or transmit PEG Access programming to the Grantee in digital format and Grantee shall maintain the equipment necessary to convert analog signals to the appropriate format for airing on its Cable System.

B. Additional PEG Access Channel(s). The Grantee shall provide the following additional channels for PEG Use as follows:

1. One (1) analog channel upon six (6) months written notice by the County. Such channel shall not be activated until the second anniversary of the effective date of this Franchise.

2. One (1) analog channel when the conditions set forth in Subsection C are met.

3. Up to two (2) additional channels which shall be located on a digital tier upon ninety (90) days written notice to the Grantee by the County.

C. Additional PEG Channel Trigger. The second additional analog PEG Access channel (provided in Subsection B) may be requested when the level of programming on one of the existing PEG Access channels meets or exceeds the following conditions

1. During sixteen (16) consecutive weeks, a pre-existing channel designated for the same purpose as the channel requested (public or

educational or governmental access) cablecasts at least seventy (70) hours per week of "qualified" programming. For purposes of calculating the 70 hours per week of qualified programming, a program may be counted only when it is initially aired and for two (2) subsequent repeat airings during the 16 week "test" period.

2. "Qualified programming" includes any locally produced material carried on the Access channels, except for "bulletin board" material where the same text (or video and text) screen is sent simultaneously to all Subscribers. For purposes of this Section B.2, "locally produced programming" is defined as:

a. Programming produced in the County of Humboldt and the Cities of Eureka, Arcata, Fortuna, Ferndale, Blue Lake and Rio Dell Cities; or

b. Programming produced by any resident of the County of Humboldt and the Cities of Eureka, Arcata, Fortuna, Ferndale, Blue Lake and Rio Dell (or any local public or private agency which provides services to residents located in the County or those Cities), regardless of where the programming is physically produced.

D. Requirements Regarding Rules and Procedures for use of PEG Access Channels.

1. The County shall designate an access management organization(s) ("Access Management Organization(s)" or "AMO") to manage the use of the PEG Channels under the Franchise. The entity initially designated as the Access Management Organization shall be Humboldt Area Access.

2. Humboldt County and the Cities of Eureka, Arcata, Fortuna, Ferndale, Blue Lake and Rio Dell have agreed to collaborate with regard to the development of the initially designated public, educational, and government (PEG) access management entity which shall be a non-profit Access Management Organization and serve the County and the Cities. The non-profit organization developed through this collaboration shall be the initially designated Access Management Organization.

3. The Access Management Organization shall establish and enforce rules for the non-commercial use of the PEG Access channels (i) to assure non-discriminatory access to the channels to eligible users; and (ii) to promote the use and viewing of the channels, consistent with the obligation to provide non-discriminatory access to eligible users. The AMO, or its successor entity, shall be responsible for establishing and enforcing reasonable rules and regulations for the use of the PEG Access channels.

4. The Grantee shall not exercise any editorial control over the content of programming on the designated PEG Access channels (except for such programming the Grantee may produce and cablecast on the same basis as other PEG Access channel users) except to ensure compliance with Federal Law.

5. Other than the channels provided pursuant to Section 7.11.B.3, PEG Access channels shall be located on Grantee's lowest cost tier of service. The PEG Access channels shall be made available at no charge to the County and the Access Management Organization.

6. PEG Access channels may not be used for the cablecast of a program whose primary purpose is commercial and for profit.

E. PEG Access Grants. The funds being provided pursuant to this Section are intended to satisfy the community cable related needs and interests of Humboldt County and the Cities of Eureka, Arcata, Fortuna, Ferndale, Blue Lake and Rio Dell (the "Franchising Authorities"). The Franchising Authorities intend to provide for PEG through the creation and designation of an Access Management Organization pursuant to Section 7.11.D.1 and to provide the AMO a facility for the production of programming and for other PEG Uses (the "Community Media Center" or "CMC") as a match to the funds provided by Grantee. The PEG funds set forth in this Section 7.11.E. represent the financial support that Grantee agrees to provide to the seven communities cumulatively. The Grantee shall pay the funds set forth below to either the Franchising Authorities, or the Access Management Organization designated by the Franchising Authorities, for PEG Access purposes in the amount and on the timetable set for the below.

1. On the effective date of the Franchise, Grantee shall pay Five Hundred Thousand Dollars (\$500,000). Grantee agrees not to recover the cost of this grant as a line item on Subscriber bills; and

2. On the first anniversary of the effective date of the Franchise, Grantee shall pay Two Hundred Fifty Thousand Dollars (\$250,000). Grantee agrees not to recover the cost of this grant as a line item on Subscriber bills.

3. At the end of the first quarter after the effective date of the Franchise, Grantee shall pay thirty-three thousand, three hundred thirty-three dollars (\$33,333.00). Each calendar quarter thereafter during the term of the Franchise (on the same schedule as the Franchise Fee payment required in Section 10), the Grantee shall pay fifty thousand dollars (\$50,000.00). Grantee may, at its discretion consistent with applicable law, recover the cost of this grant as a line item on Subscriber bills.

F. Promotion. In order to help develop and maintain (a) awareness of the PEG Access resources and services, and (b) viewership of the PEG Access

channels by County cable Subscribers, the Grantee shall, throughout the term of this Agreement, provide the following promotional services to the County or its designated Access Management Organization(s), free of charges:

1. Program schedule information for each PEG Access channel shall be listed in all print and electronic program guides provided by the Grantee to Subscribers, in the same manner that program schedule information for other cable channels is listed. The Grantee shall provide the PEG Access Management Organization(s) access to third party providers to include PEG Access channel listings in their print and electronic program guides provided by Grantee to its Subscribers. The Access Management Organization(s) shall be responsible for the timely updating of these listings.

2. One (1) bill insert created at the PEG Access Management Organization's expense, to be inserted into all Subscriber statements within the Grantee's Cable System in the County once a year. The insert shall conform to Grantee's policies regarding size and weight. The costs for insertion and postage shall be provided by the Grantee. The Grantee has final approval on the dates for insertion.

3. A total of up to twenty (20) "run of system" thirty (30) second ad avails per week on the cable programming services in which advertising is inserted. The "ad" must be provided by the Access Management Organization or the County. The Grantee shall have the authority to approve all advertising content consistent with its general advertising policies. Ad avails that are unused will not accrue to subsequent years.

G. PEG Channel Locations. As of the effective date of this Agreement, the numerical locations for the three (3) PEG Access Use channels are Channels 8, 10 and 12. Grantee agrees not to change the numerical location of these existing PEG Access channels during the term of this Franchise except as necessary to comply with federal law requirements specific to broadcast "must carry" obligations. In the event one or more additional PEG Access channels are activated pursuant to Section 7.11.B (except for a channel placed on a digital tier), Grantee shall place such additional PEG Access channel(s) in a consecutive or near consecutive channel location within the lowest cost tier of service. If such locations are not possible, Grantee may, with approval of the County, relocate all PEG Access channels to new locations in the lowest cost tier of service in a consecutive or near consecutive block. The Grantee shall provide the County and the AMO sixty (60) days written notice of any proposed change (including, without limitation, a change due to must-carry obligations). The Grantee agrees to reimburse the Access Management Organization up to \$5,000 per affected PEG Access Channel for documented costs associated with publicizing the change in channel position and for other expenses directly related to the channel relocation.

1. Cooperation on Channel Locations. Grantee will cooperate to help promote the use and viewership of the PEG channels. Consistent with this cooperative approach, and at the request of the County or the AMO, the Grantee will cooperate with other Cable Systems and Open Video Systems serving the County to assure that PEG Access channels are located on the same channel number on all Cable Systems or Open Video Systems serving the County.

H. Complimentary Cable Drops and Cable Service to Public Buildings and Community Media Center. The Grantee shall provide one free standard cable drop, installation of that drop, any necessary equipment (converter, etc.), and subscription to the lowest cost tier of Cable Service (Basic Cable Service) and Cable Programming Service tier (CPST) to each K-12 public school building or campus, Humboldt County Office of Education, City and County building, public library, CMC, one building at the College of the Redwoods, and one building at Humboldt State University. If a converter or other device is necessary to receive the Basic and CPST tiers of service, the Grantee will provide one such device to each facility. Each location receiving such free drop and service may extend that service to other locations within each building and/or campus, without an additional service charge. Internal video distribution systems or other equipment used by such public facilities must comply with the FCC's signal leakage and signal quality standards and must not interfere with or adversely affect the Cable System.

I. General.

1. If Grantee makes changes to its Cable System that necessitate modifications to PEG signal transmission facilities and equipment (including but not limited to the upstream paths), Grantee shall provide sixty (60) days advance notice of such changes to the County and its designated Access Management Organization and provide any additional or modified facilities or equipment necessary to implement such modifications within thirty (30) days of the date that the Cable System changes are to be made, so that PEG signal transmission facilities and equipment may be used and operated as intended and without interruption, including, among other things, so that transmissions of live and taped communications can be cablecast efficiently to Subscribers.

2. Any downstream and upstream digital PEG channels provided pursuant to this Agreement may be transmitted in a digital format at the sole discretion and sole expense of the County or the designated Access Management Organization, provided however, that the County or Access Management Organization shall coordinate with Grantee to attempt to minimize any perceptible adverse effects on the performance of Grantee's Cable System, and shall take no action directly or indirectly causing Grantee to be unable to satisfy the performance requirements specified by the Franchise.

3. The Grantee agrees not to make or join as a party any legal or other challenge on the grounds that support for PEG Access pursuant to this Agreement, or any payments made to the County pursuant to Section 7.11.E of this Agreement, constitute Franchise Fees within the meaning of 47 U.S.C. § 542, nor claim any offset against Franchise Fees on the basis of such use.

7.12 No County Control. During the term of this Franchise, the County shall not prohibit the Grantee from providing any program or class of programs, or otherwise censor communications over the Cable System; except that, nothing in this Section shall be read to authorize the Grantee to engage in communications which are prohibited by law.

7.13 Emergency Alert System.

A. The Grantee shall install and maintain an Emergency Alert System (EAS) fully compliant with FCC requirements (47 C.F.R. Part 11).

B. In addition to the federal EAS system, the Grantee shall install and maintain equipment to allow the Humboldt County Emergency Management Office to air audio and video messages on the Cable System to alert Subscribers to emergency situations. This additional capability shall be remotely activated without the assistance of the Grantee and shall allow a representative of the County to override the audio and video on all channels except those where Grantee has, consistent with FCC regulations, agreed with the broadcaster not to override the channel for EAS messages. Grantee shall notify the County of such agreements. Testing of the local alert capability shall occur at times consistent with F.C.C. Emergency Alert System requirements that will cause minimal Subscriber inconvenience.

C. The County shall permit only appropriately trained and authorized persons to operate the emergency messaging equipment. Except to the extent expressly prohibited by law, the County shall hold the Grantee, its employees, officers and assigns harmless from any claims arising out of the Emergency Alert System or the emergency use of its facilities by the County.

SECTION 8. CONSTRUCTION STANDARDS

8.1. This Franchise does not confer the right to place or maintain facilities in any particular location, or in any particular manner, or at all times in the rights of way or any other property occupied pursuant to this Franchise.

8.2. Grantee shall move, relocate or remove its Cable System as required by the Enabling Ordinance.

8.3. The construction, installation, operation, and maintenance of the Cable System and all parts thereof shall be performed in accordance with the following safety, construction, and technical specifications, codes and standards, as they may now exist or be amended or adopted hereafter:

- A. Occupational Safety and Health Administration (OSHA) Safety and Health Standards;
- B. National Electrical Code;
- C. National Electrical Safety Code (NESC);
- D. Obstruction Marking and Lighting, AC 70/7460 i.e., Federal Aviation Administration;
- E. Construction, Marking and Lighting of Antenna Structures, FCC Rules 47 C.F.R. Part 17;
- F. all federal, state and municipal construction requirements, including FCC Rules and Regulations and environmental regulations;
- G. all building and zoning codes, and all land use restrictions and local safety codes;
- H. the Enabling Ordinance; and
- I. State or local standards for Vehicular Traffic Control.

In the event of a conflict among codes and standards, the most stringent code or standard shall apply (except insofar as those standards, if followed, would result in a Cable System which could not meet requirements of federal, state, or local law; and except for such minor modifications as are typical in the industry). The County may adopt reasonable additional standards after consultation with the Grantee as required to ensure that work continues to be performed in an orderly and workmanlike manner, or to reflect changes in standards which may occur during the Franchise term.

SECTION 9. RATE REGULATION

9.1 The County reserves the right to regulate Grantee's rates and charges subject to applicable federal and state law.

9.2 The Grantee shall notify Subscribers of any proposed increase at least thirty (30) days before said increase is to become effective and shall notify the County at least forty-five (45) days before said increase is to become effective.

SECTION 10. FRANCHISE FEES

10.1 The Grantee shall pay to the County an amount equal to five (5) percent of the gross revenues derived from the operation of its Cable System to provide cable services in the County, or the maximum amount permitted by federal or state law, if larger. At the time of granting of this Franchise, the County and the Grantee disagree as to whether launch fees and marketing support fees (accounted for by Grantee as contra-expenses) should be included in the computation of Franchise Fees. Notwithstanding Section 851-2(r) of the Humboldt County Code, Grantee's "gross revenues" shall not include items characterized as launch fees or marketing support fees that Grantee accounts for as contra-expenses, until a court of competent jurisdiction or the FCC rules that such monies may be considered as a part of a cable operator's gross revenues for purposes of computing Franchise Fees, or rules that a local government is not prohibited from including such monies as part of the operator's gross revenues for the purpose of computing Franchise Fees.

10.2 In the event that the Grantee, during the term of the Franchise, offers bundled, tied, or combined Cable Services (which are subject to the Franchise Fee) with non-Cable Services (which may not be subject to the Franchise Fee) to individual Subscribers, the combined revenues from such bundled services shall be allocated consistent with Section 852-6 of the Humboldt County Code.

10.3 Pursuant to Section 851-22 of the Humboldt County Code, Franchise Fee payments due the County under this provision shall be computed at the end of each calendar quarter and shall be due and payable no later than forty-five (45) days after the end of the calendar quarter. Each payment shall be accompanied by (a) a statement of gross revenue for the quarter in connection with the operation of the Grantee's Cable System in the County and (b) a report showing the basis for computation of fees. The reports shall list a line item for each source of revenue from the operation of the Grantee's Cable System subject to the Franchise Fee.

10.4 No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of payment be construed as a release of any claim the County may have for further or additional sums payable under the Franchise by the Grantee.

10.5 The Grantee shall submit to the County a late fee on Franchise fee payments which are submitted after the due dates as described in Section 10.3, except that the Grantee shall be granted a five day "grace" period. Any Franchise fee payment submitted after the five-day grace period shall be subject to a late fee. The late fee shall be consistent with Section 851-22(e) of the Humboldt County Code which shall be at an interest rate equal to three percent (3%) above the rate for three-month Federal Treasury Bills at the most recent United States Treasury Department sale of such Treasury Bills occurring prior to the due date of the Franchise fee payment.

10.6 The Franchise Fee shall be paid in addition to fees, charges, or assessments required by the County, unless such fee, charge, or assessment falls within the definition of a Franchise Fee under the Cable Act. Grantee does not waive its right to contest the imposition of any fee by the County as falling within the definition of a "Franchise Fee;" provided, however that the payments made in support of PEG Access including the PEG Access Grant made pursuant to Section 7.11E of this Franchise, do not fall within the definition of Franchise Fee under the Cable Act, consistent with 47 U.S.C. § 542(g)(2)(c). Payments in support of PEG Access required by Section 7.11.E. of this Franchise shall not be included in the computation of Franchise Fees.

10.7 Audits to verify Franchise Fee payments may be conducted by the County. Grantee will provide the records required by the County to conduct the audit to the County, at a location directed by the County. If such audit indicates a Franchise Fee underpayment of three percent (3%) or more, the Grantee shall assume all reasonable costs of such an audit.

10.8 When the Franchise terminates for any reason (other than through the issuance of a renewal or superseding Franchise), the Grantee shall file with the County within ninety (90) calendar days of the date its operations in the County cease, a financial statement, certified by a certified public accountant or the Grantee's chief financial officer, showing the gross revenues received by the Grantee since the end of the previous fiscal year. Adjustments will be made at that time for Franchise Fees due to the date that the Grantee's operations under the terminated Franchise ceased.

SECTION 11. PROTECTION OF COUNTY AND ENFORCEMENT --
PERFORMANCE BOND

11.1 Notwithstanding Section 851-14(f) of the Humboldt County Code, the Grantee shall establish in the County's favor a performance bond in an amount of five hundred thousand dollars (\$500,000) to insure the faithful performance of Grantee's duties and obligations herein. The performance bond shall be issued by a corporate surety authorized to transact a surety business in California.

11.2 Any damages or loss suffered by the County as a result of violation of this Franchise by Grantee, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee, or the cost of completing or repairing the Cable System construction, upgrade, rebuild, or other work, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond shall be recoverable, jointly and severally from the principal and the surety of the bond.

11.3 The performance bond shall contain the following endorsement or a similar endorsement acceptable to the County:

"This bond may not be canceled, or allowed to lapse, until sixty (60) days after receipt by the County, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

11.4 The performance bond required by this Section is in addition to, and not in lieu of, any bonds required consistent with the County's normal practices for similar construction projects.

SECTION 12. PROTECTION OF COUNTY AND ENFORCEMENT -- APPROVAL
OF SURETIES: RELATION TO OTHER REMEDIES

12.1 The insurance, bonds, and letter of credit required by this Franchise and the Enabling Ordinance shall be issued, respectively, by an admitted insurer in California, acceptable to the County, and by a financial institution located in California acceptable to the County.

12.2 Recovery by the County of any amounts under this Franchise and the Enabling Ordinance shall not in any respect limit the Grantee's duty to indemnify the County as provided in the Enabling Ordinance for any unrecoverable amounts due the County; nor shall recovery of any amounts in any respect prevent the County from imposing penalties under California law, or exercising any other right or remedy it may have under the Franchise or at law or equity.

SECTION 13. TERMINATION, REVOCATION, FORFEITURE

13.1 The remedies reference herein are subject to the County procedures found in Section 851-15(a) of the Humboldt County Code.

13.2 In addition to all other rights, powers, and remedies reserved by the County, the County shall have the additional, separate, and distinct rights to revoke the Franchise, or to shorten the term of the Franchise to a period not shorter than thirty (30) months from the date of the County's action shortening the term, or if the remaining term is thirty-six (36) months or less, half the remaining Franchise term, if:

A. the Grantee has defrauded or attempted to defraud the County or Subscribers;

B. the Grantee has violated any material provision of the Enabling Ordinance, this Franchise or any material rule, order, or regulation enacted by the County Board of Supervisors in accordance with this Franchise; or

C. the Grantee abandons its Franchise (the Grantee shall be deemed to have abandoned its Franchise if it willfully refuses to operate the Cable System as required by its Franchise, when there is no event beyond the Grantee's control that prevents the operation of the Cable System, and where operation would not endanger the health or safety of the public or property).

13.3 Upon revocation of the Franchise, or upon any other termination of the Franchise by passage of time or otherwise, the County shall have the right to require the Grantee to remove, at the Grantee's expense, its Cable System from streets, public property, and any private property occupied pursuant to the revoked, canceled, or terminated Franchise. The County shall notify the Grantee in writing that the Cable System should be removed, and identify any period during which the Grantee will be required to continue to operate the Cable System as provided in Section 16. In removing its Cable System, the Grantee shall refill and compact, at its expense, any excavation that shall be made and shall leave all streets, public property, and private property in as good a condition as that prevailing prior to the Grantee's removal of the Cable System. The provisions of Section 14 of this Franchise Agreement and Sections 851-13 and 851-14 of the Humboldt County Code shall remain in full force and effect until the Cable System is removed.

13.4 Upon revocation or termination of the Franchise, the Grantee may, if the County declines to acquire ownership of the Cable System pursuant to Section 851-15(e)(Termination or Forfeiture) of the Humboldt County Code, sell or transfer the

ownership of the Cable System, subject to Section 851-12 (Transfers), of the Humboldt County Code so long as such transfer of ownership is completed within one hundred twenty (120) days of the date of termination or revocation.

13.5 Notwithstanding Section 851-15(b) of the Humboldt County Code, Grantee does not waive any rights it holds pursuant to 47 U.S.C. §541(b)(3)(C) to operate its Cable System subsequent to a lawful termination or revocation.

SECTION 14. REMEDIES -- LIQUIDATED DAMAGES

14.1 Because the Grantee's failure to comply with provisions of this Franchise will result in injury to the County, and because it will be difficult to estimate the extent of such injury, pursuant to Section 851-15(h) (Penalties) of the Humboldt County Code, the County and the Grantee hereby agree to the following liquidated damages, which represent both parties' best estimate of the damages resulting from the specified injury. The application of liquidated damages is subject to the procedures of Section 851-15(a) of the Humboldt County Code. Damage amounts may be adjusted throughout term of Franchise by the County by resolution to take into account increases in the consumer price index. Franchisee waives any claim or defense that the liquidated damages provisions in this Agreement are unenforceable as a penalty or on the basis that they do not fairly approximate the actual damages caused by the breach. Franchisee further agrees that the liquidated damage amounts represent the damages to the County and are collectible by and payable to the County.

14.2 for failure to extend service in accordance with Section 7.10: \$1,000/day for each day the violation continues;

14.3 for failure to comply with the material requirements for PEG Access use of the Cable System: \$500/day for each day the violation continues;

14.4 for repeated, willful, or continuing failure to submit reports, provide documents or information: \$100/day for each day the violation continues;

14.5 for violation of customer service standards: \$400 per violation per day, except in individual instances where the affected Subscriber is otherwise compensated;

14.6 for failure to comply with transfer provisions: \$1,200/day from the effective date of any transfer which required the consent of the County.

SECTION 15. REMEDIES -- CUMULATIVE

15.1 All remedies provided under this Franchise Agreement or the Enabling Ordinance shall be cumulative, unless otherwise expressly stated. The exercise of one

remedy shall not foreclose use of another, nor shall it relieve the Grantee of its obligations to comply with the Franchise. Remedies may be used singly or in combination; in addition, the County may exercise any rights it has under law or at equity.

15.2 Notwithstanding the foregoing, Grantee shall not be subject to Section 851-15(i) of the Humboldt County Code. Nothing herein shall be deemed to create either a private right of action for enforcement of the terms of this Franchise or to create a third party beneficiary relationship with any other Person.

SECTION 16. REMEDIES -- CONTINUITY OF SERVICE

16.1 Subscribers in the Franchise Area shall be entitled to receive all available services from the Grantee as long as their financial and other obligations to the Grantee are satisfied. Provided, however, that nothing in this Section shall require the Grantee to provide service to Subscribers who have exhibited a pattern of non-payment, who have been found to have stolen service or damaged Grantee's property or who have acted to prevent Grantees' employees from performing their duties.

16.2 In the event of the termination or transfer of the Franchise, the Grantee shall use its best efforts to ensure that all Subscribers receive continuous, uninterrupted service regardless of circumstances in accordance with this Section 16. At the County's request, the Grantee shall cooperate with the County to operate its Cable System for a temporary period (the "Transition Period") following termination or transfer of the Franchise as necessary to maintain continuity of service to all Subscribers, and shall cooperate in the development of plans required to ensure an orderly transition from one operator to another. The Transition Period will be no longer than the reasonable period required to select another Grantee and build a replacement Cable System. During such Transition Period, the Cable System shall be operated consistent with the terms and conditions of this Franchise Agreement and the Enabling Ordinance.

16.3 In the event the Grantee fails to operate the Cable System, except for reasons as delineated in Section 19.3 as force majeure, for ninety-six (96) hours during any consecutive seven (7) day period without prior approval of the County, or if the System is abandoned as defined in Section 13.2.C, the County may, at its option, operate the Cable System or designate an operator until such time as the Grantee restores service under conditions acceptable to the County or until the Franchise is revoked and a permanent operator is selected. If the County is required to fulfill this obligation for the Grantee, the Grantee shall reimburse the County for all costs or damages resulting from the Grantee's failure to perform that are in excess of the revenues from the Cable System received by the County. Additionally, the Grantee will cooperate with the County to allow County employees and/or County agents free

access to the Grantee's facilities and premises for purposes of continuing Cable System operation.

SECTION 17. BOOKS AND RECORDS -- INSPECTION

17.1 The County may inspect and copy the books, records, maps, plans, and other documents, including but not limited to financial documents, necessary to ascertain whether Grantee properly paid Franchise Fees, that are in the control or possession of the Grantee or its affiliates or any person that constitutes an operator of the Grantee's Cable System in order to enforce the County's rights or assess compliance with the Franchise and applicable law. Grantee is responsible for collecting the information requested. The material shall be produced at the Office of the County Administrative Officer or his/her designee unless the County agrees to inspection and copying at another location. Material that the County requires the Grantee to produce under this Section shall be produced upon reasonable notice, no later than thirty (30) days after the request for production. Requests for extensions of time to respond shall not be unreasonably denied.

17.2 Unless specifically protected by law, access to Grantee's records shall not be denied to the County on the basis that said records contain "proprietary" information. The Grantee may request that the County treat records containing trade secrets or proprietary information as confidential under the California Public Records law. The Public Records law shall govern the County's treatment of any such request and other applicable state and federal law.

SECTION 18. PERFORMANCE MONITORING

18.1 Performance Review.

A. The County may commence a review of the Grantee's performance under the Franchise. As part of this review, the County may consider: (1) whether the Grantee has complied with its obligations under the Franchise and applicable law; (2) whether customer service standards, technical standards, or bond or security fund requirements are adequate, inadequate, or excessive; and (3) other issues as may be raised by the Grantee, the County, or the public.

B. The County shall conduct at least one public hearing at a lawfully noticed County Board of Supervisors meeting to provide the Grantee and the public the opportunity to comment on the Grantee's performance and other issues considered as part of this review.

SECTION 19. MISCELLANEOUS

19.1 Time of Essence. In determining whether the Grantee has substantially complied with the Franchise, the County and the Grantee agree that time is of essence. As a result, the Grantee's failure to complete construction, extend service, seek approval of transfers, or provide information in a timely manner may constitute substantial breaches of material terms of the Franchise.

19.2 Effect of Preemption; Federal and State Law. The Grantee must comply with all applicable provisions of federal and state law, except to the extent those provisions are lawfully superseded by a provision of the Enabling Ordinance. If the County's ability to enforce any Franchise provision is finally and conclusively preempted, then the provision shall be deemed preempted but only to the extent and for the period the preemption is required by law. If, as a result of a change in law, the provision would again be enforceable, it shall be enforceable and the Grantee will comply with all obligations thereunder after receipt of notice from the County. Nothing in this Section shall be construed as limiting or waiving in any way either party's right to assert or claim that a change in federal or state law made after the Effective Date interferes with or takes without compensation any contractual or property right held by either party pursuant to this Franchise Agreement.

19.3 Force Majeure. The Grantee shall not be deemed in default or non-compliance with provisions of its Franchise where performance was rendered impossible by war, riots, civil disturbance, hurricanes, floods, other natural catastrophes, or similar events beyond the Grantee's control, and the Franchise shall not be revoked or the Grantee penalized for such non-compliance, provided the Grantee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with its Franchise without unduly endangering the health, safety, and integrity of the Grantee's employees or property, or the health, safety, and integrity of the public, streets, public property, or private property.

19.4 Severability. If any provision of this Franchise Agreement is held by a court or by any federal or state agency of competent jurisdiction to be invalid as conflicting with any federal or state law, rule, or regulation now or hereafter in effect, the validity of the remaining sections hereof shall not be affected.

19.5 Written Notice. Notices shall be given as follows:

To the County:
Office of the County Administrative Officer
825 Fifth Street, Room 111

FINAL DRAFT, Humboldt County
3/9/2006

Eureka, CA 95501

To Grantee:

General Manager
CoxCom, Inc
911 West Wabash Ave.
Eureka, CA 95501

With a copy to:
Cox Communications, Inc.
ATTN: Legal Dept
1400 Lake Hearn Dr.
Atlanta, GA 30319

Notice shall be deemed given three (3) business days after posting with pre-paid postage, first class mail, or immediately upon hand-delivery to the person identified above, at the address specified above.

19.6 Warranties and Guarantees. The County may require the Grantee to provide guarantees and warranties from any entity that manages, owns, or controls it, to ensure compliance with this Franchise.

19.7 Benefit to County. This Franchise shall be subject to the provisions of the Enabling Ordinance. In the event of a conflict between this Franchise and the Enabling Ordinance, the provision contained in the Franchise shall prevail.

19.8 California Law Applies. Except as to matters which are governed solely by federal law, this Franchise will be governed by and construed in accordance with the laws of the State of California.

PASSED & APPROVED by the County of Humboldt, California and approved by the Chairperson of said County this _____ day of _____,2006.

THE COUNTY OF HUMBOLDT, California

BY:

(Chairperson, County Board of Supervisors)

