

ADOPTED

ORDINANCE NO. 141A-2

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Cable Communications
Chapter 4-86.1

**BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA**

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ORDINANCE NO. 141A-2

AN ORDINANCE TO AMEND ANY REORDAIN CHAPTER 4-86.1, CABLE COMMUNICATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, BY AMENDING THE FOLLOWING DIVISIONS: SECTION 4-86.1.3, DEFINITIONS; SECTION 4-86.1.4, REQUIREMENTS OF A FRANCHISE; SECTION 4-86.1.6, CABLE COMMUNICATIONS ADMINISTRATOR'S POWERS AND RESPONSIBILITIES; SECTION 4-86.1.10, FRANCHISE RENEWAL; SECTION 4-86.1.11, FRANCHISE FEE; SECTION 4-86.1.12, INSURANCE-BONDS-INDEMNITY; SECTION 4-86.1.13, TRANSFER OF FRANCHISE; SECTION 4-86.1.14, SUBSCRIBER FEES; SECTION 4-86.1.15, BOOKS AND RECORDS; SECTION 4-86.1.17, FRANCHISE TERRITORY; SECTION 4-86.1.18, SYSTEM DESCRIPTION AND SERVICE; SECTION 4-86.1.19, CONSTRUCTION STANDARDS; AND BY ADDING A NEW SECTION, SECTION 4-86.1.10.1, FORFEITURE AND TERMINATION, AND A NEW ARTICLE, ARTICLE IX, FRANCHISE CERTIFICATE.

BE IT ORDAINED, by the Board of Supervisors of James City County, Virginia, that Chapter 4-86.1, Cable Communications, of the Code of the County of James City, be, and the same is, hereby, amended and reordained by amending and adding the following divisions: Section 4-86.1.3, Definitions; Section 4-86.1.4, Requirements of a Franchise; Section 4-86.1.6, Cable Communications Administrator's Powers and Responsibilities; Section 4-86.1.12, Insurance-Bonds-Indemnity; Section 4-86.1.13, Transfer of Franchise; Section 4-86.1.11, Franchise Fee; Section 4-86.1.14, Subscriber Fees; Section 4-86.1.15, Books and Records; Section 4-86.1.17, Franchise Territory; Section 4-86.1.18, System Description and Service; Section 4-86.1.19, Construction Standards; and by adding a new Section, Section 4-86.1.10.1, Forfeiture and Termination, and a new Article, Article IX, Franchise Certificate.

CHAPTER 4-86.1

CABLE COMMUNICATIONS

Article I. Title and Purposes of the Ordinance

Section 4-86.1.1. Title

This chapter shall be known and may be cited as the James City County Cable Communications Ordinance.

Section 4-86.1.2. Purposes

The purposes of this ordinance are to:

(a) Provide for the franchising and regulation of a cable communications system within the County of James City pursuant to Section 15.1-23.1 of the Code of Virginia, and to

(b) Provide for the payment of a fee and other valuable consideration to the County for the construction and operation of a cable communications system, and to

(c) Provide for the development of a cable communications system as a means to improve communication between and among members of the public and public institutions of the County.

Article II. Definitions

Section 4-86.1.3. Definitions

For the purpose of this ordinance, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein.

(a) "Board" shall mean the James City County Board of Supervisors

(b) "Cable casting" shall mean programming carried on a cable system, exclusive of broadcast signals, whether originated by the cable operator or any other party.

(d) "Cable Communications System" shall mean a system of antennas, cables, wires, lines, towers, waveguides, laser beams, or any other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, amplifying and distributing by audio, video and other forms of electronic or electrical signals to and from subscribers and locations within the County of James City.

(d) "Construction shall mean the physical building or installation of the a cable system including attaching or laying cable, the building of a headend building or studio, or necessary towers to receive and distribute audio, video or other electrical signals.

(e) "County" shall mean the County of James City, Virginia

(f) "FCC" shall mean the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

(g) "Franchise" shall mean and include any authorization granted hereunder in terms of franchise, right, privilege, and exclusive communications authority to construct, operate and maintain a cable communications system in the County of James City.

(h) "Franchise Certificate" shall mean the contract based upon this ordinance and including additional provisions which grants the franchise to a grantee.

(i) "Grantee" shall mean the person, firm, or corporation to whom or to which a franchise, as herein defined is granted by the Board of Supervisors under this ordinance, or any one who succeeds the person, firm, or corporation in accordance with the provisions of this franchise.

(j) "Gross Annual Revenues" shall mean all revenue derived directly or indirectly by the Grantee, its affiliates, subsidiaries, parent, and any person in which the Grantee has a financial interest, from or in connection with the operation of a cable communications system pursuant to the James City County Cable

Communications Ordinance; provided, however, that all revenues shall include, but not be limited to, basic subscriber service monthly fees, pay cable fees, installation and reconnection fees, leased channel fees, converter rentals, studio rental, production equipment and personnel fees, and advertising revenues; and that this shall not include any taxes on services furnished by the Grantee herein imposed directly upon any subscriber or user by the state, county or other governmental unit and collected by the Grantee on behalf of said governmental unit.

(k) "Primary service area" shall mean the area of the County that will receive cable communications service at a fixed rate not including any line extension surcharges.

(l) "Public Way" shall mean the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive or other public right-of-way, including public utility easements or rights-of-ways, and any temporary or permanent fixtures or improvements located thereon now or hereafter.

(m) "Subscriber" shall mean any person, firm, corporation or other entity legally receiving for any purpose the service of the Grantee herein.

(n) "Two way capability" means that the two way circuits shall be capable of transmitting effectively commercial broadcast audio/video T.V. quality programming in either of two directions (both outgoing from and incoming to all points of program origination throughout the system), and further, means that the subscriber or any other location shall have the capability to choose whether or not to respond immediately, or by sequential delay by utilizing any type of terminal equipment whatever, by pushbutton code, dial code, meter, voice, video signal, or by any other means, to any type of electronic, including but not limited to audio and video, electrical or mechanically produced signal, display and/or interrogation.

(o) "User" shall mean a person or organization utilizing a system channel for purposes of production and/or transmission of material, as contrasted with receipt thereof, in a subscriber capacity.

(p) "VDHT" shall mean the Virginia Department of Highways and Transportation.

Article III. Grant of Authority

Section 4-86.1.4. Requirements of a Franchise

(a) No person, firm company, corporation or association shall construct, install, maintain or operate a cable communications system within the County unless a franchise has been obtained pursuant to the provisions of this ordinance, and unless such franchise is in full force and effect.

(b) The non-exclusive franchise will be in effect upon acceptance by signature and notarization of the Franchise Certificate by the Grantee, which then becomes Article IX, Franchise Certificate. In its acceptance, the Grantee shall declare that it has carefully read the terms and conditions imposed by this ordinance and the Franchise Certificate and agrees to abide by same.

(c) The Grantee shall, at all times during the operation of this franchise, be subject to all lawful exercise of the police power as may be hereafter provided by the franchising authority.

Section 4-86.1.5. Franchise Applications

(a) After receiving applications for a franchise, the Board, after considering the legal, financial, technical and character qualifications of the applicants, may, by Franchise Certificate, grant a non-exclusive franchise creating a right to construct and operate a cable communications system within the County. A franchise will be granted to the applicant which in the Board's judgment may best serve the public interest, and whose construction and financial plans and arrangements

are both feasible and adequate to fulfill the conditions set forth in this ordinance and incorporated into a Franchise Certificate awarded to the Grantee. However, no provision of this ordinance shall be deemed or construed as to require the Board to grant a franchise.

(b) An application for a cable communications franchise shall be submitted to the Board, or its designee, on a written application form furnished by the County, and in accordance with procedures and schedules to be established and published by the County. The application of the Grantee will be incorporated into the ordinance by reference. An application form may request facts and information the County deems appropriate. Applications shall be accompanied by a non-refundable application fee of One Thousand Dollars (\$1,000) to the order of the "County of James City" which amount shall be used by the County to offset direct expenses incurred in the franchising and evaluation procedures, including, but not limited to, staff time and consulting assistance.

(c) The Grantee receiving the franchise shall, in addition to the non-refundable application fee, pay to the County at the time the Grantee files the Franchise Certificate an amount, not to exceed Fifteen Thousand Dollars (\$15,000), which shall be prescribed by the Board. Said payment shall be non-refundable, shall be made to the order of the "County of James City" and shall be used to (1) offset any direct costs incurred by the County in granting the franchise not defrayed by fees forthcoming from the provisions of Paragraph (b) of this section and (2) fund the Cable Administration functions listed in Article IV.

Article IV. Cable Communications Administrator

Section 4-86.1.6. Cable Communications Administrator's and Citizens Committee's Power and Responsibilities.

(a) Day-to-day administration of cable television operations within the County may be assigned to a Cable Communications Administrator. The Cable Communications Administrator shall be designated by the County Administrator and shall report directly to the County Administrator. The Cable Communications Administrator's powers and responsibilities shall include, but not be limited to, the following functions:

(1) Assisting in the preparation of invitations to bid for a franchise; establishing criteria for review and ranking of franchise application; reviewing and screening applications for franchises and making selection recommendations to the Board of Supervisors through the County Administrator.

(2) Monitoring the timely performance of the Grantee in making application for and obtaining all certificates, permits and agreements as provided for in this chapter.

(3) Monitoring the performance of the Grantee in meeting the construction timetable as provided for in this chapter.

(4) Advising and making recommendations to the Board of Supervisors, through the County Administrator on technical, engineering, and police power regulations of Cable operations within the County.

(5) Cooperating with other systems, cable communications system operators, and governmental units in the development of and in the supervision of the interconnection of systems.

(6) Reviewing all franchise records, including the financial records as indicated in Article 6, Section 4-86.1.15-b, and reports as required by this chapter,

as well as all franchise reports filed with the FCC, and at the County Administrator's discretion, requiring the preparation and filing of information in addition to that required therein, as may reasonably be required to accomplish the purposes of this chapter.

(7) Monitoring performance of the Grantee under any other terms of the franchise agreements and this chapter and making recommendations to the Board of Supervisors, through the County Administrator, to ensure such compliance.

(8) Making an annual report to the Board of Supervisors, through the County Administrator, which shall include: An account of franchise fees received, the total number of hours of utilization of public channels with hourly subtotals for various programming categories, and a review of any plans submitted during the year by the Grantee for development of new services.

(9) Conducting evaluations of the system at least every three (3) years, and pursuant thereto, making recommendations to the Board of Supervisors, through the County Administrator, for amendments to this chapter or to the franchise agreement.

(10) Receiving and investigating complaints against Grantee by any person or upon direction of the Board of Supervisors.

(11) Seeking recovery, with the assistance or through appropriate legal counsel, if necessary, of liquidated damages in accordance with this chapter.

(12) Advising Grantee of the receipt of subscriber complaints affecting the Grantee's system.

(b) There shall be established a citizen's advisory board entitled the James City County Cable Communications Committee. The Committee shall consist of five (5) members. Members shall be appointed by the Board for terms of four (4) years; no member shall be appointed as a member of the Committee for more than two consecutive terms. The terms of the first appointees shall be as follows: three of the

Committee members shall be appointed for terms of two (2) years. Assignment of the individual terms of members shall be determined by lot by the Board. In all appointments thereafter, all Committee members shall be appointed for terms of four (4) years. The Cable Communications Administrator shall provide staff support to the Committee.

The Committee shall adopt by-laws governing its procedures and actions on matters coming before it which shall include provision for selection and tenure of the Committee Chairman.

Responsibilities of the Cable Committee shall include, but not be limited to, the following:

- (1) Serve as regulatory and coordinating body for the public access and educational access channels of cable television and any institutional networks that may be developed.
- (2) Review, in association with the Cable Communications Administrator, the required performance evaluations every three years.
- (3) Advise the County government of objectives to be obtained in the County's cable communications system based upon its continued evaluation of the County's cable communications franchise and continued assessment of cable technology.
- (4) Review the annual report to the Board prepared by the Cable Communications Administrator.
- (5) Cooperate with the County and the Grantee in fulfilling its responsibilities herein.

Article V. Franchise Conditions

Section 4-86.1.7. Franchise Term

The term of an original franchise shall be fifteen (15) years from the date the franchise is accepted by the Grantee. The term of a renewed franchise shall be no more than fifteen (15) years.

Section 4-86.1.8. Notice to Grantee

The Board shall not take final action at any meeting of the Board involving the review, renewal, or revocation of the Grantee's franchise unless the County has given the Grantee at least twenty-one (21) days written notice of such meeting. The notice shall advise the Grantee of the meeting's time, place and proposed action affecting the Grantee.

Section 4-86.1.9. Franchise Review

It shall be the policy of the County to amend a franchise upon application of the Grantee, the recommendation of the Cable Communications Administrator, or upon the Board's own motion, when necessary or advisable to enable the Grantee to take advantage of advancements, in the state-of-the-art which will afford it an opportunity to more effectively, efficiently, or economically serve its subscribers or the County; provided, that this section shall not be construed to require the County to make any amendment for such purpose.

Section 4-86.1.10. Franchise Renewal

(a) The Board may adopt a resolution setting forth the time and place of a Board meeting to be publicly announced, the purpose of which will be to review the Grantee's performance during the entire term of its franchise, to consider the adequacy of the franchise from the standpoint of the County, the Grantee, and the Federal Communications Commission Rules for Cable Communications, and to determine the advisability of reviewing the Grantee's franchise.

(b) The Board may hear interested persons during said Board meeting and may determine whether the Grantee did reasonably comply with the terms and conditions imposed by this ordinance and the franchise.

(c) If the Board determines that the Grantee has been in reasonable compliance with the terms and conditions imposed by this ordinance and the franchise, the Board may, by ordinance, renew the Grantee's franchise, with any modifications it deems desirable, for a period of time not inconsistent with the provisions of this ordinance. The Board may require a Grantee to pay the County, as a condition of renewal of the franchise, an amount which the Board determines will compensate the County for those direct expenses above normal administrative costs incurred in connection with the renewal of the franchise.

(d) Notwithstanding the fact that the Board may determine that the Grantee has been unreasonable compliance with the terms and conditions imposed by this ordinance and the franchise, it shall have the right not to renew the franchise. If the Board does not renew the franchise, the Board shall have an option, to the extent then permitted by existing law, to acquire the assets of the Grantee's cable television system, or the option to permit a succeeding Grantee to acquire such assets. The amount paid for such assets shall be the fair market value of the system as of the expiration date of the franchise and shall be determined by using a hypothetical assumption that the cable system is a going concern with an existing franchise which will expire ten (10) years from the aforesaid expiration date. The Board's option to acquire the assets of the Grantee or to permit a succeeding Grantee to acquire such assets must be exercised within one (1) year from the date of expiration.

(e) Service Continuity

1. If, pursuant to the terms and conditions of Section 4-86.1.10 and Section 4-86.1.10.1 of the ordinance, the County exercised its right not to renew the grantee's franchise, the grantee shall, at the County's request, continue to operate

the system pursuant to the terms and conditions of its franchise for a period not to exceed one year from the expiration date of the franchise. If the County chooses to have the grantee operate the system beyond the expiration date, the County shall notify the grantee no less than 90 days prior to said expiration date. Furthermore, if the County chooses to have the grantee terminate its operation prior to the first anniversary following the expiration date of the franchise, the County shall notify the grantee at least 90 days prior to the date on which service is to terminate.

2. During such period beyond the franchise expiration date as the grantee may be required to continue service, the grantee may charge for its service such rates as had been in effect during the month immediately preceding the expiration date.

3. If the grantee fails to comply with the requirements set forth above, the grantee shall be subject to such remedies provided for elsewhere in this ordinance, including, but not limited to liquidated damages as established in Section 4-86.127, para 5, herein.

(f) System Removal

Upon expiration of its franchise, or upon its termination or cancellation, or at such later date as may be set by the County pursuant to paragraph (a) above, the grantee shall, if requested, at its own expense, remove its system from all streets, roads and any public and private property upon which the system had been placed. If the grantee fails to completely remove its system within 120 days following the franchise expiration date, the County may, at its option, have grantee's system removed at grantee's cost and without liability to the County for damage caused to grantee's system during such removal.

Section 4-86.1.10.1 Forfeiture and Termination

In addition to all other rights and powers retained by the County under this franchise or otherwise, the County reserves the right to forfeit and terminate the

franchise and all rights and privileges of the Grantee in the event of a breach of the terms and conditions, including, but not limited to the following:

- (1) Violation by Grantee of any provision of the franchise or any rule, order, regulation or determination of the County made pursuant to the franchise;
- (2) Attempt by Grantee to evade any material provision of the franchise or practices any fraud or deceit upon the County or its subscribers or customers;
- (3) Failure by Grantee to begin or complete system construction or system extension as provided under the franchise as per Appendix A of Section 4-86.1.33, Construction Schedule;
- (4) Failure by Grantee to restore service after ninety-six (96) consecutive hours of interrupted service, except when approval of such interruption is obtained from the County; such approval shall not be unreasonably withheld or
- (5) Misrepresentation by Grantee of fact in the application for or negotiation of the franchise.

The Grantee shall not be responsible for any failure to meet all or any part of the terms and conditions under this agreement due to regulation, act of God, riot or other civil disturbance, and without limiting the foregoing, by any other cause, contingency or circumstance not subject to its control which prevents or hinders the Grantee from operating and maintaining a Cable Communications System as described herein. Grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

If, in the opinion of the County Administrator, a breach has occurred, then the Administrator shall make a written demand that the Grantee comply with any such provision, rule, order, or determination under or pursuant to this franchise within a

period of seven (7) calendar days. If the violation by the Grantee continues for a period of ten (10) days following the period set forth for correcting the violation, the County Administrator shall submit the matter to the Board. The County Administrator shall notify in writing by certified or registered letter to the Grantee at least ten (10) days prior to the date of such a Board meeting, a written notice of intent to request such termination and the time and place of the meeting. Public notice shall be given of the meeting and issue which the Board is to consider.

The Board shall hear and consider the issue and shall hear any person interested therein, and shall determine in its discretion, whether or not any violation by the Grantee has occurred.

If the Board shall determine the violation by the Grantee was the fault of Grantee and within its control, the Board may, by resolution, declare that the franchise of the Board shall be forfeited and terminated unless there is compliance within such period as the Board may fix, such period not to be less than fourteen (14) days, provided no opportunity for compliance need be granted for fraud or misrepresentation.

Section 4-86.1.11. Franchise Fee.

In consideration of the grants contained herein. the Grantee agrees to pay annually to the County of James City a sum equal to three percent of the gross annual revenues. Such payment shall be made to the Treasurer (payable to James City County) not later than forty-five (45) days after the close of the Grantee's fiscal year. The annual franchise fee shall be in addition to any other payment, charge, permit fee or bond owed to the County by the Grantee and shall not be construed as payment in lieu of personal or real property taxes levied by the State, County or local authorities. In the event that it is determined that the FCC lacks jurisdiction to impose franchise fee limitations, or that the limit is raised, then the franchise fee will be subject to renegotiation. Grantee agrees to provide a statement of the gross annual revenues

within 60 days of the end of each calendar year (or Grantee's fiscal year) which should be certified under oath by an officer of the Grantee.

In the event that any payment is not made on or before the required date, the County shall assess a penalty of ten (10) percent of the amount due plus interest on such payments from the due date at the annual rate of eighteen (19) percent. Should legal action be required to collect such fee(s), penalties and interest, the County also shall be entitled to attorney's fees to twenty-five (25) percent of the total amount due.

Section 4-86.1.12. Insurance - Bonds - Indemnity

(a) At the time of filing an application for a franchise, the applicant shall obtain, pay all premiums for, and deliver to the County written evidence of payment of premiums and originals of bid bond or bonds running to the County with good and sufficient sureties in the amount of \$50,000 and in a form acceptable to the County to protect the County from all damages or losses arising from the failure of the applicant, if selected as the Grantee, to accept the franchise in conformity with this ordinance and the substance of the proposal as submitted by the applicant.

(b) Upon the granting of a franchise and within thirty (30) days following the filing of the Franchise Certificate and at all times during the term of the franchise, including the time for removal of facilities or management as a trustee as provided for herein, the Grantee shall obtain, pay all premiums for, and deliver to the County, written evidence of payment of premiums and originals of the following:

1. A general comprehensive public liability policy or policies indemnifying, defending and saving harmless the County, its officers, boards, commissions, agents or employees from any and all claims by any person whatsoever (including the costs, defenses, attorney fees and interest arising therefrom) on account of injury to or death of a person or persons occasioned by the operations of the Grantee under the franchise herein granted, or alleged to have been so caused or occurred, with a minimum liability of One Million Dollars (\$1,000,000) per personal

injury or death of any one person and Two Million Dollars (\$2,000,000) for personal injury or death of any two or more persons in any one occurrence.

2. A property damage insurance policy or policies indemnifying, defending, and saving harmless the County, its offices, boards, commissions, agents, and employees from and against all claims by any person whatsoever (including the costs, defenses, attorney fees and interest arising therefrom) for property damage occasioned by the operation of the Grantee under the franchise herein granted, or alleged to have been so caused or occurred, with a minimum liability of Five Hundred Thousand Dollars (\$500,000) for property damage to the property of any one person and One Million Dollars (\$1,000,000) for property damage to the property of two or more persons in any one occurrence.

(3) A performance bond or bonds running to the County with good and sufficient surety approved by the County in sum of \$50,000 conditioned upon the faithful performance and discharge of the obligations imposed by the ordinance and the franchise awarded hereunder from the date thereof, including, but not limited to, faithful compliance with the construction timetable proposed by the Grantee in its application as incorporated into the Franchise Certificate. The amount of the bond may be reduced to \$25,000 when regular subscriber service is available to more than fifty (50%) of the occupied dwelling units within the areas specified in the Franchise Certificate as certified by the Cable Communications Administrator to the Board; and may be further reduced to the sum of \$5,000 when regular subscriber service is available to more than ninety percent (90%) of the occupied dwelling units within the primary service areas specified in the Franchise Certificate as certified by the Cable Communications Administrator to the Board. The County's right to recover under the bond shall be addition to any other rights retained by the County under this ordinance and other applicable law.

(c) The bonds and all insurance policies called for herein shall be in a form satisfactory to the County Attorney. Cancellation provisions where permitted, shall require thirty (30) days written notice of any cancellation to both the County and the Grantee. The Grantee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the County, original replacement bonds or policies within fifteen (15) days following receipt by the County or the Grantee of any notice of cancellation.

(d) The Grantee shall, at its sole cost and expense, indemnify and hold harmless the County, its officials, boards, commissions, agents and employees against any and all claims, suits, causes of action, proceedings, and judgments for damage arising out of the operation of the cable communications system under the franchise. These damages shall include but not be limited to penalties arising out of copyright infringements and damages arising out of any failure by a Grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Grantee's cable communications system whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs and attorney fees, and shall also include the reasonable value of any service rendered by the County Attorney or his assistance or any employees of the County.

(e) No Grantee shall permit any policy or bond to expire or approach less than thirty (30) days prior to expiration without securing and delivering to the County a substitute, renewal or replacement policy or bond in conforming with the provisions of this ordinance.

(f) The County may require bonds and insurance policies described in this section to run to the benefit of both the County and other governmental units located and/or operating within the County.

Section 4-86.1.13. Transfer of Franchise

(a) No transfer of ownership or control of the franchise shall take place, whether by force or voluntary sale, lease, mortgage, assignment, encumbrance, or any other form of disposition, without prior notice to and approval by the Board of Supervisors.

(b) No such consent shall be required for a transfer in trust, mortgage, or other instrument of hypothecation, in whole or in part, to secure an indebtedness except that when such hypothecation shall exceed seventy-five percent (75%) of the fair market value (as defined in Section 1, Article I) of the property used by the Grantee in the operation of its cable television system. Prior consent of the Board, expressed by resolution, shall be required for such transfer and said consent shall not be withheld unreasonably.

(c) Prior approval of the Board shall be required where ownership or control of more than 50% of the right of control of the Grantee is acquired by a person or group of persons acting in concert, none of whom already own or control 50% or more of the right of control of the Grantee is acquired by a person or group of persons acting in concert, none of whom already own or control 50% or more of such right of control, singularly or collectively. By its acceptance of this franchise, the Grantee specifically grants and agrees that any such acquisition occurring without prior approval of the Board shall constitute a violation of this franchise by the Grantee.

Article VI. Subscriber Fees and Records

Section 4-86.1.14. Subscriber Fees

(a) Subscriber rates during the first four (4) years of the franchise shall be specified in the Franchise Certificate. The rates so specified shall not, except as otherwise provided herein, be increased without the consent of the Board.

(b) After the first four (4) years of the franchise, subscriber rates shall, subject to the provisions of this ordinance, become unregulated.

(c) The Board, at any time, may adopt an ordinance, to be effective at any time following the aforementioned four (4) year period, regulating subscriber rates.

(d) All charges to subscribers shall be consistent with a schedule of fees for all services offered by a Grantee. Changes in the fee schedule shall not take effect until at least sixty (60) days after notification of same is delivered to the Cable Communications Administrator.

(e) The Grantee shall notify in writing each subscriber of all applicable fees and charges for providing cable communications service prior to executing a contract of service with such subscriber or installing any equipment to serve such subscriber. The Grantee may require a deposit for materials and services according to its rate schedule.

(f) Except as may be otherwise provided in the Franchise Certificate, a subscriber shall have the right to have its service disconnected without charge; such disconnection shall be made as soon as practicable and in no case later than thirty (30) days following notice to the Grantee of same. No Grantee shall enter into any agreement with a subscriber which imposes any charge following disconnection of service, except for (1) Reimbursement for converters not returned and (2) Reconnection and subsequently monthly or periodic charges which shall be no greater than charges for new customers. This Section shall not prevent the Grantee from refusing service to any person because the Grantee's prior account with that person remain due and owing.

(g) If the Grantee fails to remedy a loss of service attributable to the Cable Communications system within forty-eight (48) hours after a written notice of such a failure, the Grantee shall be required to rebate one-thirtieth (1/30) of the

regular monthly charge to each subscriber for each twenty-four (24) hours or fraction thereof following the first forty-eight (48) hours after a loss of service except to the extent that restoration of service is prevented by strike, injunction, act of God, or other cause beyond the Grantee's control. Loss of service shall be defined as the loss of audio or videoservice on four (4) or more channels of the cable system.

Section 4-86.1.15. Books and Records

(a) The Grantee shall, (1) within thirty (30) days following the acceptance of a franchise, and (2) within thirty (30) days of the change of ownership of three percent (3%) or more of the outstanding stock or equivalent ownership interest of a Grantee furnish the County a list, showing the names and addresses of persons owning three percent (3%) or more of the outstanding stock or equivalent ownership interest of Grantee. Such a list shall include a roster of the Grantee's offices and directors (or equivalent managerial personnel) and their addresses.

(b) The Grantee shall file annually with the County, no later than 90 days after the end of the Grantee's fiscal year, a copy of a complete financial report applicable to the James City County Cable operation including an income statement applicable to its operations during the preceding twelve (12) month period, a balance sheet, and a statement of its properties devoted to cable system operations, by categories, giving its investment in such properties on the basis of original cost, less applicable depreciation. This report shall be certified as correct by an authorized officer of the Grantee and there shall be submitted along with it such other reasonable information as the County shall request with respect to the Grantee's properties and expenses related to the Cable System within the County. The County shall have access to records of financial transactions for the purpose of verifying burden rates or other indirect costs prorated to the James City County System. The Grantee's accounting records shall include sufficient detail as may be necessary to provide the

County with the information needed to make accurate determinations as to the financial condition of the system.

(c) The Grantee shall retain such books and records, in any reasonable form, for a period of not less than five (5) years. The County shall have the right to extend the retention period through the term of any renewed franchise.

(d) An annual independently audited financial statement may be requested by the Cable Administrator to be received by the County 120 days after requested. The expense of the audit shall be borne by the Grantee. Such audited financial statements must be requested at least sixty (60) days prior to the end of the grantee's fiscal year.

(e) Copies of all petitions, applications, communications and reports 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 communications operations authorized pursuant to the franchise, shall be provided simultaneously to the County.

(f) The Grantee shall have available for public inspection maps, plats, permanent records of the location and character of all facilities constructed, including underground facilities. Such maps, plats, and permanent records shall be up-dated within ninety (90) days of any construction by the Grantee. All record maps shall be at a scale of 1" to 200'. The Grantee shall join the Miss Utility of Virginia Association.

The construciton, extension and modernization plan shall be available for public inspection during normal business hours at the local business office of the Grantee.

Section 4-86.1.16. Privacy Protection

(a) No data shall be collected over the cable communications system from an individual subscriber unless the subscriber has given prior written

authorization. Such authorization shall be limited to a one year period, shall be revokable at any time without penalty or cost, and shall not be a condition for receiving cable services. Landlords may not give authorization for their tenants. The subscriber shall have the right to access information about him kept by the Grantee or disseminated to others.

(b) The Grantee shall observe the rights of a subscriber to privacy of their persons. The Grantee may release information concerning the number of subscribers viewing particular television channels, the number of subscribers expressing preferences by poll, or the number of subscribers purchasing any of the services contained herein, and may keep records of services by individual subscribers as are necessary for billing for such services. All other data collected, maintained or tabulated by the Grantee shall not reveal individual subscriber preferences or opinions.

(c) Interception by a third party of data and/or cablecasting transmitted through the cable system shall be prohibited.

Article VII. System Operations

Section 4-86.1.17. Franchise Territory

(a) The franchise is for the territorial limits of the County. The Grantee shall furnish to the County as part of its formal application for a franchise a map of suitable scale showing all highways and public buildings. The map shall indicate the primary service areas to be served, and upon approval by the County, be incorporated into the Franchise Certificate. The map shall clearly delineate the following:

1. The primary service areas within the franchise territory where the cable system will be available and the construction schedule for making such service available. Any differential rate within the primary service areas shall be specified as required by Article 6, Section 4-86.1.14-a.

2. Areas within the franchise territory but outside the primary service area where extension of the cable system cannot reasonably be expected to be made available due to lack of present or planned development, or other similar reasons, but which would receive service according to the Grantee's line extension policy incorporated into the Franchise Certificate.

(b) Extension of the system into any areas outside the primary service area shall be required if any of the following conditions are met:

1. When potential subscribers can be served by extension of the cable system past occupied dwelling units equivalent to a density of forty (40) homes per mile of cable contiguous to the activated system.

2. In areas not meeting the conditions in Article VII, Section 4-86.1.17-b-1 above, the Grantee shall provide upon the request of ten (10) or more potential subscribers desiring service, an estimate of the costs required to extend service to said subscribers. If the potential subscribers then wish service, the Grantee shall extend service upon request of said potential subscribers according to the rate schedule. The Grantee may require advance payment. The amount paid for special extension shall be nonrefundable and in the event the area subsequently reaches the density required for mandatory extension, such payments shall be treated as consideration for special extension.

(c) Within thirty (30) days of the effective date of this franchise, the Grantee shall diligently pursue all efforts to obtain all necessary certificates, permits and agreements which are required to construct and operate a cable communications system in the County. Within ninety (90) days of receipt of such certificates, permits and agreements, the Grantee shall commence construction of the cable system. Thereafter, construction shall proceed at such rate so as to make service available to all members of the public desiring such service at the earliest possible time. The construction program shall follow the schedule set forth in Franchise Certificate. If

construction does not begin within twelve (12) months of the date of this franchise, the franchise shall be cancelled.

(d) The Grantee shall notify the County in writing fifteen (15) days prior to the date on which construction will commence. Thereafter, the Grantee shall file quarterly written reports with the County within thirty (30) days after the end of each calendar quarter, informing the County of the Grantee's construction progress. Such reports shall indicate the number of miles of system and include maps setting forth areas made operational during the current quarter, and any potential delays which the Grantee is aware of which could prevent the completion of the system within the required period.

(e) Nothing in this section shall prevent the Grantee from constructing the system earlier than planned. However, any delay in the system construction beyond the times specified in the plan timetable shall require, if so requested in writing by the Cable Communications Administrator, application to and consent by the Board. The County may not unreasonably withhold consent when Grantee has shown good cause for the delay, but the County may attach reasonable conditions to insure performance. The schedule and maps shall be updated whenever substantial changes become necessary.

(f) The Grantee shall not be responsible for any failure to meet all or any part of the construction schedule deadlines under this agreement due to regulation, act of God, riot or other civil disturbance, and without limiting the foregoing, by any other cause, contingency or circumstance not subject to its control which prevents or hinders the construction of the Cable Communications System described herein. If construction is delayed or prevented by any of the circumstances set forth hereinabove, the Grantee shall notify the County in writing within ten (10) days after the occurrence of any act or ten (10) days after the termination of any continuous act and request that the time of completion of the project be extended for

a stated period. If the Board agrees, an extension shall be granted in whole or in part. Refusal of the Board to agree to an extension shall be final.

(g) The Grantee shall interconnect origination and access channels of the cable system with any or all other cable systems in the adjacent areas, upon the directive of the County. The Grantee shall cooperate with any interconnection corporation, regional interconnection authority or city, county, state and federal regulatory agency which may be hereafter established for the purposes of regulating, financing, or otherwise providing for the interconnection of cable systems beyond the boundaries of the County. The Grantee may be excused from interconnecting if the operator of the Cable facility to be interconnected or the franchising authorities in other jurisdictions refuse to reach a reasonable agreement regarding such interconnection.

Section 4-86.1.18. System Description and Service

(a) Applications for a franchise may include proposals for the provision of public education, local government, and leased access channels limited not only to video, but also including audio, FM, and data channels. Such proposals by a Grantee may be incorporated into the Franchise Certificate granted and, to the extent to incorporated, shall subject the Grantee to the following minimum requirements:

1. The Grantee shall have available a studio and equipment located within the County its use for the production and presentation of public access programs. This studio and equipment shall be operational no later than six months after the first subscribers begin receiving cable casting. The Grantee shall not enter into any contract, arrangement, or lease for use of its cablecast equipment in said studio which prevents or inhibits the use of such equipment for public access programming.

2. The grantee shall have no control over the content of access cablecast programs; however, this limitation shall not prevent taking appropriate steps to insure compliance with the oeprating rules described herein.

3. The public access channel(s) shall be made available to residents of the County on a nondiscriminatory basis, free of charge. Charges for equipment, personnel, and production of public access programming shall be reasonable and consistent with the goal of affording users a low-cost means of television access. No charges shall be made for the production of live public access programs not exceeding five minutes in length, or for the replay of user-supplied tapes which are in a form compatible with the Grantee's playback facilities. The grantee shall adopt operating rules for the public access channel(s), to be filed with the Cable Communications Administrator prior to the activation of the channel(s), designed to prohibit the presentation of: any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information; and defamatory, obscene or indecent matter, as well as rules requiring nondiscriminatory access, and rules permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two (2) years.

4. The education access channel(s) shall be made available for the use of local public educational authorities and private non-profit educational telecommunication entities free of charge. The Grantee shall adopt operating rules for the education access channel(s), to be filed with the Cable Communications Administrator prior to activation of the channel(s), designed to prohibit the presentation of: any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information and defamatory, obscene, or indecent matter, as well as a rule permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two years.

5. The local government access channel(s) shall be made available for the use of local government authorities free of charge.

6. The leased access channel(s) shall be made available to leased users. Priority shall be given part-time users on at least one channel. The Grantee shall adopt operating rules for the channel(s), to be filed with the Cable Communications Administrator prior to activation of the channel(s), designed to prohibit the presentation of: lottery information, obscene or indecent matter and shall establish rules to this effect; and other rules requiring nondiscriminatory access, sponsorship identification, specifying an appropriate rate schedule and permitting public inspection of a complete record of the names and addresses of all persons or groups requesting time. Such a record shall be retained for a period of two years.

(b) The Grantee shall provide without charge one service outlet activated for regular subscriber service to each fire station, public school, police station, public library, and such buildings used for public purposes as may be designated by the County; provided, however, that if it is necessary to extend a Grantee's trunk or feeder lines more than three hundred (300) feet solely to provide service to any such school or public building, the County shall have the option either of paying the Grantee's direct costs for such extension in excess of three hundred (300) feet, or of releasing the Grantee from the obligation to provide service to such building. Furthermore, a Grantee shall be permitted to recover, from any public building owner entitled to free service, the Grantee's actual cost for any additional converters required and the direct cost of installing, when requested to do so, more than one outlet, or concealed inside wiring, or a service outlet requiring more than two hundred-fifty (250) feet of drop cable; provided, however, that the Grantee shall not charge for the provision of regular subscriber service to the additional service outlets so installed in public schools, police stations, fire stations, public libraries, and County

offices in addition to any such other facilities as are specified in the Grantee's Franchise Certificate.

(c) The system shall be capable of two-way communication as defined by Article II, Section 4-86.1.3-1 on at least four (4) channels.

(d) The Grantee shall incorporate into its cable communications system the capability which will permit the County, in times of emergency, to override the audio portion of all channels simultaneously. The Grantee shall designate a channel which will be used for emergency broadcasts of both audio and video. The Grantee shall cooperate with the County in the use and operation of the emergency broadcasts of both audio and video. The Grantee shall cooperate with the County in the use and operation of the emergency alert override system.

(e) The Grantee shall fill all requests for cable communications service, once facilities are in place, within fourteen (14) business days after the date of each request.

Section 4-86.1.19. Construction Standards

(a) In the maintenance and operation of the communications transmission and distribution system in the County and in the course of construction or additions to its facilities, the Grantee shall proceed so as to cause the least possible inconvenience to the general public. Any opening or obstruction in the streets or other public place made by the Grantee in the course of its operations or in the operations of its successors or assigns, shall be approved by permit by VDHT and shall be guarded and protected at all times by the placement of adequate barriers, fencings or boardings, the bounds of which during period of dusk and darkness shall be designated by warning lights of approved types.

(b) Whenever the Grantee shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley, highway, or other public place, the same shall be replaced and the surface restored in as good condition as

before entry within forty-eight (48) hours after completion of the Grantee's work. Upon failure of the Grantee to make such restoration within such time, or to begin such restoration within such time, if the restoration cannot be made within such time, or upon the Grantee's delay of more than twenty-four (24) hours in the continuation of a restoration begun, the Department of Public Works of James City County or VDHT may serve upon the Grantee notice of intent to cause restoration to be made, and unless the Grantee, within twenty-four (24) hours after receipt of such notice, begins or resume the proper restoration, the Public Works Department or VDHT may cause the proper restoration to be made, including the removal of excess debris, and the reasonable expense of same, as itemized, shall be paid by the Grantee upon demand by the Public Works Department or VDHT.

(c) The Grantee's transmission and distribution system, poles, wires and appurtenances, and underground conduit installations, shall be located, constructed and maintained so as not to endanger or interfere with the lives of persons or interfere with deem proper to make from time to time, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, or other public property; removal or relocation of any part of the Grantee's transmission and distribution to avoid such interference shall be at the Grantee's expense.

(d) The Grantee shall have the right, insofar as the County's title or rights allow it to grant said rights, to use the public ways in the County in order to construct, install and maintain any poles, conduits, cables or other facilities necessary to provide cable communications services. The rights of use granted are limited to use which does not unreasonably interfere with either the County's or the public use of said right-of-way or with the use of public utility easements.

(e) In all locations of the County where any of the cables, wires, or other like facilities of public utilities are placed underground, the Grantee shall place its cables, wires or other like facilities underground. In cases of new construction or

property development where utilities are to be placed underground, the developer or property owner shall give the Grantee reasonable notice of such construction or development, and of the particular date on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within five working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five-day period, the cost of new trenching shall be borne by Grantee.

(f) The Grantee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities, subject to the regulation, supervision and/or direction of the County.

(g) The Grantee shall, on the request of any person holding a building moving permit or a permit to move an oversized load issued by the Virginia Department of Highways and Transportation, temporarily raise or lower its wires to permit the moving of buildings or oversized loads. The expense of such temporary removal, 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 forty-eight (48) hours advance notice to arrange for such temporary wire changes.

Section 4-86.1.20. Operational Requirements and Records

(a) The Grantee shall construct, operate, and maintain the cable television system subject to full compliance with the rules and regulations, including applicable amendments, of the Federal Communications Commission and all other applicable Federal, State, or County laws and regulations. The cable communications

system and all its parts shall be subject to inspection by the County, and the County reserves the right to review a Grantee's construction plans prior to construction.

(b) A Grantee shall exercise its best effort to design, construct, operate, and maintain the system at all times so that signals carried are delivered to subscribers without material degradation in quality (within the limitations imposed by the technical state-of-the-art).

Section 4-86.1.21. Complaint Procedure

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

(b) The Grantee shall maintain an office in the County which shall be open at least during all usual business hours (9am - 5pm) having a publicly listed local telephone, and be so operated that complaints and requests for repairs or adjustments may be received on a twenty-four (24) hour basis each day of the year.

(c) The Grantee shall maintain a repair and maintenance crew capable of responding to subscriber complaints or requests for service, excepting initial installation, within 24 hours after receipt of the complaint or request. No charge shall be made to the subscriber for this repair service.

(d) The grantee shall establish procedures for receiving, acting upon, and resolving subscriber complaints to the satisfaction of the subscriber. The Grantee shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system. In the event that a customer complaint is not resolved to the mutual satisfaction of the customer or the Grantee, either the customer or the Grantee may request that the matter be presented to the Cable Communications Administrator for a hearing and resolution.

(e) The Grantee shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the

disposition of said complaint, and the time and date thereof. This log shall be maintained for two years and shall be made available for periodic inspection by the County.

Section 4-86.1.22. Tests and Performance Monitoring

When there have been complaints made or when there exists other evidence, which, in the judgment of the Cable Communications Administrator, casts doubt on the reliability or quality of cable service, the County shall have the right and authority to compel the Grantee to test, analyze and report on the performance of the system. Such report shall be delivered to the Cable Communications Administrator no later than fourteen (14) days after the Cable Communications Administration formally notifies the Grantee and shall include the following information: the nature of the complaints which precipitated the special tests; what system component was tested, the equipment used, and procedures employed in said testing; the results of such tests; and the method in which said complaints were resolved.

Article VIII General Provisions

Section 4-86.1.23. Franchise Validity

The Grantee shall agree, by the acceptance of the franchise, to accept the validity of the terms and conditions of this ordinance and the Franchise Certificate in their entirety and that it will not, at any time, proceed against the County in any claim or proceeding challenging any term or provision of this ordinance or the Franchise Certificate as unreasonable, arbitrary or void, or that the County did not have the authority to impose such term or condition.

Section 4-86.1.24. Rights Reserved to the County

The County hereby expressly reserved the following rights:

1. To exercise its governmental powers, now or hereafter, to the full extent that such powers may be vested in or granted to the County.
2. To adopt, in addition to the provisions contained herein and in the Franchise Certificate and in any existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power.

Section 4-86.1.25. Discriminatory Practices Prohibited

Grantee shall not as to rates, charges, service, service facilities, rules, regulations, employment, 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. This section shall not prohibit the negotiation of rates with commercial establishments and apartment complexes having more than ten (10) units.

Section 4-86.1.26. Landlord-tenant Relationship

1. No landlord shall: (a) interfere with the installation of cable communications facilities upon his property or premises, except that a landlord may require:
 - i. That the installation of cable communications facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well-being of other tenants;
 - ii. That the cable communications company or the tenant or a combination thereof bear the entire cost of the installation, operation or removal of such facilities; and
 - iii. That the cable communications company and the tenant agree to indemnify the landlord for any damage caused by the installation, operation or removal of such facilities.

(b) Demand or accept payment from any tenant or any cable communications company in any form, in exchange for permitting cable communication service on or within his property or premises.

(c) Discriminate in rental charges, or otherwise, between tenants who receive cable communications service and those who do not.

2. Rental agreements and leases executed prior to the effective date of this article may be enforced notwithstanding this section.

3. No cable communications company may enter into any agreement with the owners, lessees or persons controlling or managing buildings served by a cable communications, or do or permit any act, that would have the effect, directly or indirectly of diminishing or interfering with existing rights of any tenant or other occupant of such building to use or avail himself of master or individual antenna equipment.

Section 4-86.1.27. Liquidated Damages

Notwithstanding any other remedy provided for in this ordinance, or otherwise available under law, the County shall have the power to recover monetary amounts from a Grantee under certain conditions, such monetary amounts being in the nature of liquidated damages. The conditions for an amounts of such damages are listed below. By accepting a franchise, a Grantee automatically agrees that the following conditions will cause damages to the County, and that the monetary amounts are established because it is difficult to ascertain the exact amount of the damages. The damages resulting to the County include, but are not limited to: (1) loss of franchise fees that would have otherwise been paid to or would have become due the County; and (2) administrative costs incurred by the County. Damages shall be invoked upon the occurrence of any or all of the following:

1. For failure to submit plans indicating expected dates of installation of various parts of the system - One Hundred Dollars (\$100) per day.

2. For failure to commence operations in accordance with this ordinance and/or the franchise - Two Hundred Dollars (\$200) per day.

3. For failure to complete construction and installation of the system within the required time limits - Three Hundred Dollars (\$300) per day.

4. For failure to supply data requested by the County in accordance with the requirements of the franchise and this ordinance, such data pertaining to installation, construction, customers, finances or financial reports, or rate review - Fifty Dollars (\$50) per day.

5. For failure to otherwise provide service to a subscriber in accordance with the requirements of this ordinance - Ten dollars (\$10) per day per subscriber affected, but not to exceed Fifty Dollars (\$50) per subscriber per month, and further not to exceed One Thousand Dollars (\$1,000) per day in the aggregate. This amount shall be reduced by any refunds of subscriber fees made to subscribers affected by the failure, etc., to provide service.

Section 4-86.1.28. Obtaining or Attempting to Obtain Cable Communications Service Without Payment; Penalty

(a) It shall be unlawful and constitute a misdemeanor to obtain or attempt to obtain, for himself or for another, cable communications service by the use of any false information, or in any case where such service has been discontinued by the supplier and notice of disconnection has been given.

(b) It shall be unlawful for any person to obtain or attempt to obtain cable communication service by the use of any scheme, device, means or method, or by a false application for service with intent to avoid payment of lawful charges therefore.

(c) The word "notice", as used in paragraph A hereof, shall be notice given in writing to the person to whom the service was assigned. The sending of a notice in writing by registered or certified mail in the United States mail, duly

stamped and addressed to such person at his last known address, requiring delivery to the addressee only with return receipt requested, and the actual signing of the receipt for said mail by the addressee, shall be prima facie evidence that such notice was duly received.

(d) Any person who violates any provisions of this sections, if the value be less than one hundred dollars (\$100) shall be guilty of a Class 1 misdemeanor.

ARTICLE IX. Franchise Certificate

Section 4-86.1.29. Acceptance of Franchise.

The Grantee hereby accepts a nonexclusive franchise to construct, operate and maintain a Cable Communications System in the County of James City, for a period of fifteen (15) years from the effective date of acceptance, such effective date being June 8, 1981.

Section 4-86.1.30. Grantee's Representations.

Grantee expressly represents and agrees as follows:

- a. Grantee has carefully read the terms and conditions of the Cable Communications Ordinance of James City County and hereby accepts all terms and conditions contained therein and agrees to abide by the same.
- b. Grantee has carefully read the terms and conditions of the Cable Communications Ordinance and expressly waives any claims that any provisions thereof are unreasonable or arbitrary or void, or that the County did not have the authority to impose such term or condition.

Section 4-86.1.31. Incorporation of Franchise Application.

The Grantee shall, in addition to the minimum requirements of Chapter 4-86.1, Cable Communications Ordinance, provide all other services specifically set forth in its proposal for providing cable communications service as submitted November 10, 1980, and any supplements to provide cable television service to the County.

Section 4-86.1.32. Fee Accompanying Franchise Certificate.

The Grantee shall pay to the County, at the time of filing this Franchise Certificate, the amount of Fifteen Thousand Dollars as provided by Section 4-86.1.5(c) of the Cable Communications Ordinance.

Section 4-86.1.33. Construction Schedule.

At the signing of this Franchise Certificate, the Grantee shall provide to the County a map and construction schedule setting forth quarterly construction plans. This document is attached hereto as Appendix A and hereby incorporated in and made a part of this Franchise Certificate. The Grantee's construction program shall follow the schedule as incorporated into this Certificate.

Section 4-86.1.34. Studio Equipment.

The equipment listed in Form J, page 1 of 4 pages, question 2, (or similar equipment) to be used jointly by the County and CenTeX for production of local origination programming shall be ordered within 60 days of the signing of the Franchise Certificate.

Section 4-86.1.35. Initial Subscriber Rates.

The subscriber rates and charges during the first four (4) years of the franchise shall not exceed the rates proposed in the Grantee's application for a franchise. The rates so specified shall not, except as otherwise provided within the Cable Communications Ordinance, be increased without the consent of the Board. These subscriber rates, as listed in Appendix B, are fully incorporated herein by reference.

Section 4-86.1.36. Rates and Program Service Schedules.

Upon the acceptance of the franchise, the Grantee shall provide to the County a complete and current regular service schedule detailing all services being provided under the Grantee's franchise. Such schedule shall also show the components of each service tier, each on a channel-by-channel basis, and reasonably complete description of each service package. The document hereto attached as Appendix C is hereby incorporated in and made part of this Franchise Certificate. The Grantee shall, at all times, maintain on file with the County a complete and updated program service schedule.

Section 4 86.1.37. Operating Rates for Access Channels.

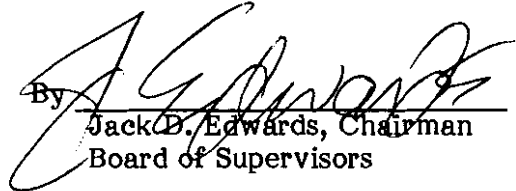
The Grantee shall submit an appropriate rate schedule for both the production of public access programming and leased access programming 60 days prior to the activation of the channels. Charges for equipment, personnel, and production of public access programming shall be reasonable and consistent with the goal of affording users a low-cost means of television access. No charges shall be made for the production of live public access programs not exceeding five minutes in length, or for the replay of user supplied tapes which are in a form compatible with the Grantee's playback facilities.

No representations, warranties, undertakings or promises, whether oral or implied, or otherwise, shall be binding on either of the parties hereto, unless expressly stated herein. Any amendments, supplements or riders hereto shall be in writing and executed by both parties hereto.


This Franchise Certificate shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this Franchise Certificate as of the year and day written below.

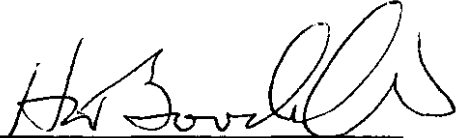
County of James City

By 
Jack D. Edwards, Chairman
Board of Supervisors


Attest:


James B. Oliver, Jr.
Clerk to the Board

Continental Cablevision of James
City County

By 
H. W. Goodall
Vice President-Continental
Cablevision of James City
County

Attest:


Richard D. Turnamian
Assistant to the Vice-President

STATE OF VIRGINIA
COUNTY OF JAMES CITY

I, the undersigned Notary Public in and for the jurisdiction aforesaid, do certify that the names signed as such to the foregoing writing bearing date on the ____ day of _____, 1981, have this day acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand this ____ day of _____, 1981.

Notary Public

My commission expires on the ____ day of _____, 1981.

Adopted by the Board of Supervisors, James City County, Virginia, this 8th day of June, 1981.

ATTACHMENT B

RESIDENTIAL RATE SCHEDULEInstallation Charges:

First Set	\$15.00
Each Additional Set	7.50

Monthly Charges:

First Set	7.95
Each Additional Set	3.95
Each Remote Converter (after 30-day free trial)	1.95
Each Set-Top Converter	No Charge

Miscellaneous Charges:

Reconnect Fee	10.00
Move to location with existing outlet	10.00
Move connection within house	10.00

Deposit Fee:Pay Cable Charges:

Pay 1 - HBO	No installation charge	7.95
Pay 2 - Cinemax	if installed with basic	8.95
Pay 3 - Showtime	service. A \$10.00	7.95
Pay 4 - HTN	installation charge will	3.95
	apply if 1 or more pay	
	services are installed	
	subsequently.	

RESIDENTIAL RATE SCHEDULEInstallation Charges:

First Set	\$15.00
Each Additional Set	7.50

Monthly Charges:

First Set	7.95
Each Additional Set	3.95
Each Remote Converter (after 30-day free trial)	1.95
Each Set-Top Converter	No Charge

Miscellaneous Charges:

Reconnect Fee	10.00
Move to location with existing outlet	10.00
Move connection within house	10.00

Deposit Fee:Pay Cable Charges:

Pay 1 - HBO	No installation charge	8.75
Pay 2 - Cinemax	if installed with basic	9.85
Pay 3 - Showtime	service. A \$10.00	8.75
Pay 4 - HTN	installation charge will	4.35
	apply if 1 or more pay	
	services are installed	
	subsequently.	

RESIDENTIAL RATE SCHEDULEInstallation Charges:

First Set	\$15.00
Each Additional Set	7.50

Monthly Charges:

First Set	7.95
Each Additional Set	3.95
Each Remote Converter (after 30-day free trial)	1.95
Each Set-Top Converter	No Charge

Miscellaneous Charges:

Reconnect Fee	10.00
Move to location with existing outlet	10.00
Move connection within house	10.00

Deposit Fee:Pay Cable Charges:

Pay 1 - HBO	No installation charge	8.75
Pay 2 - Cinemax	if installed with basic	9.85
Pay 3 - Showtime	service. A \$10.00	8.75
Pay 4 - HTN	installation charge will	4.35
	apply if 1 or more pay	
	services are installed	
	subsequently.	

RESIDENTIAL RATE SCHEDULEInstallation Charges:

First Set	\$15.00
Each Additional Set	7.50

Monthly Charges:

First Set	7.95
Each Additional Set	3.95
Each Remote Converter (after 30-day free trial)	1.95
Each Set-Top Converter	No Charge

Miscellaneous Charges:

Reconnect Fee	10.00
Move to location with existing outlet	10.00
Move connection within house	10.00

Deposit Fee:Pay Cable Charges:

Pay 1 - HBO	No installation charge	9.60
Pay 2 - Cinemax	if installed with basic	10.85
Pay 3 - Showtime	service. A \$10.00	
Pay 4 - HTN	installation charge will	9.60
	apply if 1 or more pay	4.75
	services are installed	
	subsequently.	

COMMERCIAL RATE SCHEDULE

		<i>Additional Services</i>		
	First CATV Outlet	<i>Additional CATV Outlets</i>	<i>Cable FM Radio</i>	Cable FM Radio Only
Food and Beverage (Restaurants, bars, lounges)	\$40.00	\$10.00	\$10.00	\$25.00
Customer Viewing (Lobbies, waiting rooms)	29.00	10.00	10.00	19.00
Employee Viewing (Conference rooms, cafeterias)	19.00	10.00	10.00	15.00
Private Office - Premium Pay Services*	30.00	15.00	10.00	12.00
Private Office - CATV only	15.00	10.00	10.00	12.00

*Premium Pay Services available only in private offices and requires subscriber affidavit of limited viewing.

Cable outlets in different categories within a single business are billed at first rates; for example, monthly rate for a business with one CATV outlet in the customer lobby, one CATV outlet in the employee cafeteria, and one cable radio outlet in a private office is \$60 (29 + 19 + 12).

NOTE: Commercial rates for each service type will increase five dollars (\$5.00) per year for first four years.

ATTACHMENT C

PROGRAM SERVICE SCHEDULE

<u>Cable Channel</u>	<u>Call Letters</u>	<u>Affiliation</u>	<u>Type of Service</u>
2		Nickelodeon	Young People's Channel
3	WTAR	CBS	Regular Network Programming
4			Automated Channel Guide
5	WTTG	IND.	Independent Programming
6	WTVR	CBS	Regular Network Programming
7	ESPN		24-Hour Sports Programming
8	WXEX	ABC	Regular Network Programming
9	WGN	IND.	Satellite Delivered Independent
10	WAVY	NBC	Regular Network Programming
11	TBN		Religious Programming
12	WWBT	NBC	Regular Network Programming
13	WVEC	ABC	Regular Network Programming
14		HBO	Premium Pay-Movies, Sports, Specials
15	WHRO	PBS	Public Broadcasting
16			Community Bulletin Board Automated Public Service Announcements
17	WIBS	IND.	Satellite Delivered Independent
18			Automated Time & Local Weather
19		Cinemax	Premium Pay Movies, 24-Hour
20	WDCA	IND.	Independent Programming
21			Automated Business News & Stock Ticker
22			Local Programming - CenTex
23	WCVE	PBS	Public Broadcasting

<u>Cable Channel</u>	<u>Call Letters</u>	<u>Affiliation</u>	<u>Type of Service</u>
24	CNN		24-Hour Video News
25			Government Access
26		PTL	Religious Programming
27	WYAH	IND.	Independent Programming
28		Showtime	Premium Pay Movies & Specials
29			Religious Access
30	SPN	IND.	Satellite Delivered Independent
31		HTN	Premium Pay Family Movies
32			Part-time Leased Access
33	WIVZ	IND.	Independent Programming
34			Educational Access
35		USA Network	Sports, Congressional Coverage, Black Entertainment Television
36	CTV-36		Local Programming
37		CineAmerica	Senior Citizen Programming
38			Automated Weather Channel
39			Automated State, National, and International News
40	WCVW	PBS	Public Broadcasting & Color Test Pattern
41			Public Access

NOTE: HBO, Cinemax, Showtime, and HTN may be purchased separately and are tiered separately.