



ORDINANCE NO. 80-93

PAGE 1 OF 31 PAGES.
PASSED: 4/6/93.
EFFECTIVE: 5/8/93.

TO AUTHORIZE THE MAYOR TO ENTER INTO AGREEMENT
WITH COAXIAL COMMUNICATIONS; TO PERMIT
COAXIAL COMMUNICATIONS TO OPERATE A COMMUNITY
ANTENNA (CATV) SYSTEM IN THE CITY OF GAHANNA

WHEREAS, Coaxial Communications is desirous of continuing its systems operations for cable television to Gahanna residents; and

WHEREAS, the Service and Public Affairs Committee of Council has reviewed this cable system, the time limit, and has made recommendation to this Council;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GAHANNA, STATE OF OHIO:

Section 1. That the Mayor is authorized to enter into Agreement with COAXIAL COMMUNICATIONS, 3770 East Livingston Avenue, Columbus, Ohio 43227-2280, said Agreement attached to this ordinance as EXHIBIT A, and made a part herein.

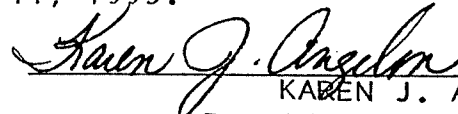
Section 2. That a Permit is hereby granted to COAXIAL COMMUNICATIONS, 3770 East Livingston Avenue, Columbus, Ohio 43227-2280, to operate a Community Antenna (CATV) System in the City of Gahanna in accordance with EXHIBIT A, hereto.

Section 3. That should any terms of this agreement be in conflict with Chapter 751 of the Codified Ordinances of the City of Gahanna, this Agreement shall prevail.

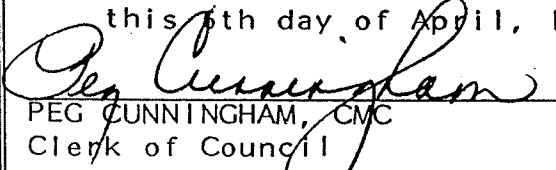
Section 4. That any ordinances or parts of ordinance, or any permits in conflict herewith, are hereby repealed.

Section 5. That this ordinance shall be in full force and effect at the earliest period allowed by law.

CERTIFIED as passed, this 6th day of April, 1993.


KAREN J. ANGELOU
President of Council

ATTESTED TO AND PRESENTED to the Mayor,
this 6th day of April, 1993:


PEG CUNNINGHAM, CMC
Clerk of Council

APPROVED by the Mayor, this 8th day of April, 1993.


JAMES F. MCGREGOR, Mayor

Attachment - EXHIBIT A.
Form Approved: City Attorney.
Prepared: Clerk of Council.



EXECUTIVE OFFICES

December 22, 1992

Mr. Wayne C. Murphy
Director of Public Service
City of Gahanna
200 S. Hamilton Rd.
Gahanna, OH 43230-2996

Dear Mr. Murphy:

Enclosed is the draft of the Ten Year Nonexclusive Franchise Agreement between Coaxial Communications and the City of Gahanna. The changes that were discussed and agreed upon have all been made on this copy - I am also enclosing a copy of the document on disk for any future changes or additions (WordPerfect 5.1).

The only item that we still have a concern with is the definition of "Gross Revenues" on page 2 to include revenues derived from telephonic, PCS, voice and common channel signalling as those revenues are not subject to franchise fees, but, rather, are regulated by the FCC and the Public Utilities Commission. We would still prefer to have those above-listed references deleted.

I will give you a call after the first of the year to see when the committee will have an opportunity to review the document. I know we all look forward to getting this new Agreement in place and thank you and the committee for your help. Have a very safe and happy holiday season!

Sincerely,

A handwritten signature in dark ink, appearing to read "Tibbi Herlan", written over the word "Sincerely,".

Tibbi Herlan
Manager, Corporate Affairs

enc.

cc: Bob Lau
Becky Miller

EXHIBIT A

AN EQUAL OPPORTUNITY EMPLOYER

TEN YEAR NONEXCLUSIVE FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT is made and entered into as of the 6th day of April, 1993, by and between the CITY OF GAHANNA, OHIO, hereinafter referred to as the "City," and COAXIAL COMMUNICATIONS OF CENTRAL OHIO, INC., an Ohio corporation (hereinafter referred to as "Coaxial") with its principal place of business at 3770 E. Livingston Avenue, Columbus, OH 43227.

WHEREAS, the City is authorized to grant one or more nonexclusive, revocable, franchises to construct, reconstruct, operate, and maintain a cable communication system within the City; and

WHEREAS, Coaxial is agreeable to providing such services to the City and has made application to the City for renewal of its existing franchise; and

WHEREAS, the City, after public hearings and due evaluation, has determined that it is in the best interest of the City and its residents to grant a new franchise to Coaxial for the term herein provided.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the parties do mutually agree as follows:

I

DEFINITIONS

In addition to the definitions set forth in Chapter 751 of the Gahanna Codified Ordinances, the following additional terms, phrases, words and their derivations shall be defined as follows:

A. "Addressable" shall mean the ability of a cable communications system to direct and receive communications only at reception points on the system authorized to receive such communications. The term "addressable converter" refers to a device at a subscriber's location that performs the function of limiting subscriber access only to those cable services authorized to be received by the subscriber.

B. "Channel" shall mean that portion of the electromagnetic spectrum, typically, but not necessarily, six (6) MHz in bandwidth which is capable of carrying one full resolution standard television signal, or some combination of audio-visual or other nonvideo signals of equivalent bandwidth.

C. "Downstream" shall mean signals originating at the headend or hubs and transmitted to subscribers.

D. "Earth station" shall mean equipment used to receive signals from or transmit signals to a communications satellite.

E. "FCC" shall mean the Federal Communications Commission.

F. "First-rate" shall mean the condition of any cable communications system, components, or equipment accepted and used in the cable communications industry throughout Ohio and its surrounding states which is of a high technical quality, dependable, reliable, modern (as of July 1, 1992) and economically feasible for comparable communities in size to the City.

G. "*Force majeure*" shall mean any delays caused by reason of (1) civil commotion; (2) riots; (3) Acts of God, such as floods, earthquakes, and tornadoes; and any other circumstances reasonably beyond the control of Coaxial.

H. "Gross revenues" shall mean all operating revenues derived from the Gahanna cable communication system collected directly or indirectly by Coaxial (or any affiliate which utilizes the Gahanna cable system with regard to any non-cable related revenues specified below) in association with the provision of cable communication services or any other services provided over the cable system within the City, including, but not limited to basic monthly service fees, premium service fees, institutional service fees, installation and reconnection fees, leased channel fees, additional outlet fees, converter rentals, copyright fees, and data transmission fees (but excluding advertising revenues). Further, telephonic, PCS, voice and common channel signaling fees shall also be considered part of gross revenues after implementation by Coaxial or its affiliates of a trial service period (which can last up to 36 months) unless the City's ability to collect franchise fees on those items is preempted by state or federal regulatory agencies. Gross revenues shall not include any taxes on services furnished by Coaxial payable to the state of Ohio or any other governmental unit and collected by Coaxial on behalf of said governmental unit.

I. "Headend" shall mean the facility, including antennas and associated electronics which receives, controls, and switches the electronic information transmitted over the cable communications system.

J. "Hub" shall mean an electronic distribution center that receives signals from other points on the cable communications system and redistributes those signals to specified service areas, usually called a "hub service area".

K. "Interconnect" shall mean the electronic connection of two or more different cable communications systems for the purpose of exchanging, switching, or retransmitting programming of other signals.

L. "Residential network" shall mean the portion of the cable communications system providing services primarily to subscribers in their dwelling units.

M. "Residential service" shall mean any service delivered by the cable communications system principally to subscribers in their dwelling units.

N. "School" shall mean any duly accredited nonprofit educational institution, including primary and secondary schools, colleges and universities, both public and private.

II

GRANT OF FRANCHISE

A. Coaxial is hereby granted, subject to the terms and conditions of this Franchise Agreement and Chapter 751 of the Gahanna Codified Ordinances, the right, privilege, and authority to construct, operate, maintain, upgrade, and reconstruct a cable communications system within the streets, alleys, and public ways of the City. Coaxial shall provide a first-rate cable communications system to the residents and institutions of the City in accordance with this Franchise Agreement.

B. This franchise is subject to Chapter 751 of the Gahanna Codified Ordinances and other ordinance provisions now in effect or hereafter made effective. Nothing in this Franchise Agreement shall be deemed to waive the requirements of the various codes and ordinances of the City including, but not limited to, permits, fees to be paid, or manner of construction.

C. For the purpose of operating and maintaining a cable communications system in the City, Coaxial may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, or upon, across and along the public streets, alleys, and ways within the City such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the cable communications system in conformance with this franchise and City laws of general applicability. Prior to any construction or material alteration, however, Coaxial shall file plans with the appropriate City agencies and utility companies and receive written approval before proceeding as required by Code.

III

RIGHT OF CITY TO ISSUE FRANCHISE

Coaxial acknowledges and accepts the legal right of the City to issue this franchise on the date of grant thereof, and Coaxial agrees that it shall not now nor at any time hereafter challenge this lawful right in any way, in any City, State, or Federal Court or governmental agency.

IV

EFFECTIVE DATE OF FRANCHISE; EFFECT UPON EXISTING FRANCHISE

The effective date of the franchise shall be the date first above written, and, immediately upon the taking effect of this Franchise Agreement, the prior permit granted to Coaxial by the passage of Ordinance No. 48-9, shall be superseded and of no further force and effect; provided, however, vested rights relating to billings and the City's rights to accrued franchise fees shall not be affected thereby; and provided, further, that any criminal or other proceedings commenced under or pursuant to said permit, if any, shall in no manner be affected.

V

TERM

The term of the franchise shall be for a period of ten (10) years, but shall be added to Coaxial's current term due to expire April 21, 1994. Consistent with this requirement, the franchise shall be for a period through April 20, 2004, unless sooner terminated as provided in this franchise.

VI

FRANCHISE NONEXCLUSIVE

Consistent with the requirements of Chapter 751 of the Gahanna Codified Ordinances, this franchise shall not be construed as any limitation upon the right of the City to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The City specifically reserves the right to grant at any time during the term of this Franchise Agreement or renewal thereof, if any, such additional franchises for a cable communications system as it deems appropriate upon such terms and conditions as it deems appropriate provided, however, that any cable service provider in the City shall pay the same percentage figure for franchise fees. The franchise fee percentage figure is currently 5%. Should any additional franchises for a cable communications system be granted by the City, with more favorable terms and conditions than those imposed herein upon Coaxial, such more favorable terms and conditions shall also be extended to Coaxial.

VII

INCORPORATION OF CHAPTER 751 BY REFERENCE AND RESOLUTION OF CONFLICTS

All terms, conditions, and provisions of Chapter 751 of the Gahanna Codified Ordinances shall be deemed to be embodied in this Franchise Agreement. Any and all conflicts between this Franchise Agreement and said Chapter 751 shall be resolved using the provisions of this Franchise Agreement.

VIII

FAMILIARITY WITH FRANCHISE AGREEMENT

Coaxial acknowledges and warrants by acceptance of the rights, privileges, and franchise granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise Agreement and is willing to and does accept all reasonable risks of the meaning of the provisions, terms, and conditions herein.

IX

SERVICE AREA AND LINE EXTENSIONS

Coaxial shall offer nondiscriminatory cable television service to the City. Service shall be in accordance with the provisions of this franchise and Chapter 751 of the Gahanna Codified Ordinances. It shall be the obligation of Coaxial to furnish cable television service to those areas of the City having a density of at least 25 homes or dwelling units per lineal mile as measured from the existing terminus of the cable system provided that nothing in this Franchise Agreement shall compel Coaxial to provide cable service to an area of the City served by another cable operator. Additionally, Coaxial shall extend its service to any person within the City who elects to subscribe to the cable service if they are greater than one hundred twenty-five (125) feet from the trunk or distribution cable upon payment by the subscriber of that portion of Coaxial's actual time and materials used in extending the drop in excess of one hundred twenty-five (125) feet.

Subject to those conditions set forth above, Coaxial shall also, based upon certificates of occupancy of 75% of any phase of any new housing development in the City, within ninety (90) days after notification by the Director of Public Service, or his designee, provide service availability to any occupant of said phase.

X

SYSTEM

A. Present System. The parties understand and agree that the cable communications system in the City operated by Coaxial at the time of this franchise grant consists of a residential network with a capacity of 450 MHz and a trunk and distribution (tree) design.

B. Community Information Service Channel Override. Coaxial shall, upon the request of the City, and upon the determination by Coaxial that such request is financially reasonable and technically possible, provide the City with the capability and equipment needed to override one of the existing access channels for use as a community information service channel.

C. Public, Educational and Governmental Access. Coaxial shall provide, at no cost to the users, at least one governmental access channel, one educational access channel, and one noncommercial public access channel to be available on a shared, first-come, first-served, nondiscriminatory basis in Franklin County, Ohio.

D. Addressable Capability. The cable communications system shall be addressable with capability for users to acquire signal security for selected channels and subchannels through techniques such as signal scrambling or encoding. The addressable features shall be activated at such time as service is provided.

E. Standby Power. Coaxial shall provide standby power-generating capacity at the headend of at least four (4) hours. Coaxial shall maintain strategically located standby power system supplies, rated for at least two (2) hours duration.

F. Interconnections. Upon the request of the City, Coaxial shall negotiate in good faith to interconnect the cable communications system with neighboring cable communications systems. Within three (3) months of the City's request, Coaxial shall report to the City the results of such negotiations.

G. Frequency Availability. Coaxial shall use its best efforts to assure the availability of appropriate frequencies to be used on the cable communications system. Coaxial shall, at all times during the term of the franchise, comply with all rules and regulations promulgated by the FCC regarding frequency usage and cable television system requirements.

H. Right of Inspections. The City shall have the right to inspect all construction and installation work performed subject to the provisions of this franchise, and shall make such tests as it shall find necessary to ensure compliance with the terms of this Franchise Agreement and other pertinent provisions of the law; provided, however, that the City shall be permitted to charge Coaxial its usual and customary fees of general applicability for the inspection of construction in the streets; and provided, further, that such inspection and tests shall not interfere with the provision of subscriber services.

XI

TECHNICAL STANDARDS

The cable communications system operated hereunder shall at all times operate and be updated as needed so that, at a minimum, it is in conformance with all federal, state and local technical specifications (as they may be amended) including but not limited to technical specifications contained in FCC rules and regulations (as they may be amended), or any other applicable law which may supersede such rules. Regardless of the technical standards that may be applicable, the system shall provide to subscribers video and aural signals of consistently good quality. The FCC's most recent amendments to its Technical and Operational Requirements are attached hereto and incorporated herein by reference and Coaxial expressly agrees that it is not entitled to any exception to such amended Technical and Operational Requirements.

XII

VARIOUS SYSTEM SERVICES

A. Leased Access Channels. Coaxial shall offer leased access channel capacity on such terms and conditions and rates as may be negotiated with each lessee subject to the requirements of applicable federal regulations.

XIII

GENERAL PROVISIONS

The following provisions shall be applicable to the existing cable communications system and to the upgraded system as contemplated herein upon the effective date of this Franchise Agreement and shall be applicable throughout the life of the franchise.

A. Emergency Alert Capabilities. Coaxial shall provide the system with capability to transmit emergency alert signals to all participating subscribers. Coaxial shall provide emergency override capability to permit a regional entity to cablecast a message on all channels simultaneously in the event of disaster or public emergency.

B. Parental Control Devices. Coaxial shall provide subscribers the ability to lock out such channels as they may desire.

C. Service to Multiple Family Dwelling Units. Coaxial shall offer the individual units of a multiple family dwelling unit all services offered to other dwelling units in the City;

provided, however, that any such offering is conditioned upon the unit being passed by activated cable and Coaxial having legal access to said unit.

D. Minimum Interference. All transmission lines, equipment, and structures shall be installed and located so as to cause minimum interference with the rights and reasonable convenience of property owners and at all times be kept and maintained in a safe and adequate condition, and in good order and repair. Coaxial shall, at all times, employ necessary and reasonable care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisances to the public. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public.

E. Test and Compliance Procedures. (1) Coaxial, at its cost, shall perform all reasonable tests necessary to determine compliance with the applicable FCC technical standards.

(a) Certifications and recertifications. Coaxial shall, no less often than as provided by law, provide at Coaxial's expense, a proof of performance test to verify that the system conforms to all requirements specified in this Franchise Agreement and applicable law. Upon request, copies of the results of such proof of performance tests shall be provided to the City.

(b) Signal leakage tests and reports. Coaxial shall specifically monitor the complete plant, downstream and upstream, on a continual basis for signal leakage and shall submit to the City, on request, a written report detailing the section tested, measurements recorded at specified locations, and corrections made. Written records of test results shall be maintained and shall be available for City inspection upon request.

(2) Notice of shutdown. At least twelve (12) hours before any planned shutdown in excess of four hours, Coaxial shall give notice when possible, of maintenance or major equipment changeouts which require loss of service to five (5) or more customers.

(3) Free service calls. Coaxial shall not charge for any service call, whether the call is system-related or subscriber-equipment (as supplied by Coaxial)-related; provided, however, a charge may be made if the service call is the result of repeated abuse of the equipment or cable by the subscriber.

(4) Employee identification. Coaxial shall provide a standard identification document to all employees, including employees of subcontractors, who will be in contact with the public. Such documents shall include a telephone number that can be used to verify identification. In addition, Coaxial shall use its best efforts to clearly identify all personnel, vehicles, and other major equipment that are operating under the authority of Coaxial.

F. Handicapped Services. Coaxial shall provide the following specialized services and capabilities to benefit the City's handicapped community:

(1) All closed-captioned programming retransmitted by the system shall include the closed-caption signal.

(2) All closed-captioned programming shall be identified on Coaxial's program guide channels when available from the program source.

(3) Coaxial shall provide guidance to subscribers in their purchase of closed-captioned release devices, and shall use reasonable efforts to install such devices purchased by hearing-impaired cable subscribers free of charge.

(4) Upon request, Coaxial will review the need for and availability of special programming pertaining to the handicapped.

(5) Coaxial shall carry the FM service band programming for the handicapped, such as "radio reading" and other special services when available.

G. Free Service. Coaxial shall provide at no charge upon request one (1) free drop and full basic service to the Gahanna Municipal Golf Course Clubhouse, Senior Citizen Center, the Mifflin Township Fire Station (which is located within the city limits of Gahanna), any other City owned public facility, and to all schools in the City provided the buildings are passed by Coaxial's cable system.

H. Reports. Copies of all reports, applications and petitions filed by Coaxial with the FCC which would materially affect service in the City shall be provided to the Director of Public Service who will then apprise the City Council.

XIV

SUBSCRIBER RIGHTS AND COMPLAINTS

A. At the time an installation or service agreement is to be signed, Coaxial shall furnish to each subscriber a written statement that clearly sets forth the following:

(1) A complete schedule of rates, fees, charges, and terms and conditions of service currently applicable to the type of installation and service ordered;

(2) A complete statement of the subscriber's right to privacy in conformance with Section 631 of the Cable Communications Policy Act of 1984 as it now exists or is hereafter amended;

(3) Information concerning the procedures for making inquiries or complaints; and

(4) The address and telephone number of the Coaxial office responsible for handling complaints.

B. Coaxial shall furnish the above subscriber information, or any changes thereto, to the City in advance of distributing it to subscribers. The City shall have the right to review and comment on said information.

C. Coaxial shall also fully comply with the Customer Service Standards set forth in Attachment B which are attached hereto and incorporated herein by reference.

XV

EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

Coaxial shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, national origin, age, or marital status. In the employment of persons, Coaxial shall fully comply with the provisions of local, state and federal law, and shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, disability, national origin, age, or marital status. Coaxial shall submit an affirmative action program information sheet to the City pursuant to a request of the City. Failure of Coaxial to abide by the terms and conditions of the Affirmative Action Program or EEO laws shall be deemed to be a substantial breach of this franchise and may result in termination of this franchise.

XVI

FRANCHISE RENEWAL

This franchise may be renewed by the City in accordance with the provisions of applicable local, state and federal law.

XVII

POLICE POWERS

In accepting this franchise, Coaxial acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such power.

XVIII

FRANCHISE FEES

A. Coaxial, in consideration of the privilege granted under this franchise for the use of public ways and the privilege to construct and operate a cable communications system, shall pay to the City five percent (5%) of Coaxial's annual gross revenues collected during the period of its operation under the franchise in the City.

B. Coaxial shall file with the City, thirty (30) days after the last day of each quarter, a revenue statement showing the gross revenues received by it during the preceding quarter.

Coaxial shall pay the quarterly portion of the franchise fee to the City on or before the time such revenue statement is due to be filed. Coaxial shall also file, no later than ninety (90) days after the end of each of its fiscal years, Coaxial's revenue statements for the preceding year, certified as true and correct by a financial officer of Coaxial. Additionally, Coaxial shall provide the certification (but not an audit) of an independent certified public accountant that the franchise fee payments are in compliance with the provisions of the Franchise Agreement. A copy of each quarter's payment to the City, as well as the year-end complete accounting certification, will be forwarded to the City Council with comments from the Director of Finance within ten (10) days of their receipt.

C. The City shall have the right to inspect Coaxial's income records, to audit any and all relevant records, and to recompute any amounts determined to be payable under the franchise.

D. In the event that any franchise payment is not received by the City on or before the applicable dates, interest shall be charged from such due date at an annual interest rate of eighteen percent (18%).

E. In the event a franchise is revoked or otherwise terminated prior to its expiration date, Coaxial shall file with the City, within ninety (90) days of the date of revocation or termination, a certified revenue statement showing the gross revenues received by it since the end of the previous year and shall make adjustments at that time for the franchise fees due up to the date of revocation or termination.

F. No acceptance of any payment by the City shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee or for the performance of any other obligation of Coaxial.

G. In the event federal law is amended to allow franchise fees in excess of five percent (5%) of gross revenues, the City shall be entitled to raise said franchise fees payable by Coaxial up to the maximum allowed by federal law, provided that Coaxial may pass through any increase in franchise fees to the subscribers so long as the franchise fees appear as a separate item on the subscribers' bills.

XIX

REGULATION, RATES, AND CHARGES

A. Regulatory Authority. The City shall exercise appropriate regulatory authority under the provisions of this Franchise Agreement and applicable law. Regulation may be exercised through any duly designated City office or duly established body appointed to advise or support the City in its regulatory responsibilities.

B. The City may regulate rates and charges for basic service, other cable services and ancillary services to the extent allowed by local, state and federal laws as they exist now or may

hereafter be amended. To the extent that local, state or federal laws or regulations may now, or as the same may hereafter be amended, authorize the City to regulate the rates or charges for any service or equipment provided by Coaxial, the procedures for processing rate requests or increases shall be those set forth in this Franchise Agreement.

C. The initial fees to be charged to subscribers for all services, including installation fees and other one-time charges, shall be filed with the City.

D. Those fees and charges subject to regulation by the City pursuant to local, state and federal law shall not be increased without prior approval of the City, such approval shall not be unreasonably withheld.

E. In order to obtain City approval for rate increases, Coaxial shall file a revised schedule of rates with the City at least seventy-five (75) days in advance of a proposed rate increase. Subscribers shall be notified of the proposed increases within fifteen (15) days of notice to the City. This filing shall specify the rates or fees to be increased and associated regulations which may affect charges to the subscribers and the justification for said increases and charges. Coaxial shall use reasonable efforts to submit any additional supporting information requested by the City.

F. Within seventy-five (75) days of the rate increase filing, the City shall hold two public meetings before the Council to hear subscribers and Coaxial's comments on the proposed increase. Following the public meetings, the Council shall determine whether or not to grant the proposed increase or a portion thereof prior to the expiration of the seventy-five (75) day period. In the event that the City does not deny the rate increase request within the seventy-five (75) day period, the request shall be deemed granted.

G. Notice shall be given by the City regarding the time and place of the public meetings to be held before the Council concerning the changes in rates proposed.

H. Rates shall be just and reasonable, considering Coaxial's costs, including a reasonable return on investment over the remaining term of the franchise.

I. Rates and charges may be reduced at any time without prior City approval. Where temporary reductions are put into effect for promotional purposes for a specified time period, the return to the permanent rates shall not be considered a rate increase for purposes of this Section. The City shall be notified of all reductions in rates, whether permanent or temporary, other than those put into effect for promotional purposes.

J. Rates and charges not subject to regulation by the City under local, state or federal law or regulation may be changed by Coaxial following a minimum of thirty (30) days prior written notice to the City and the subscribers.

K. Coaxial shall give consideration to establishing senior citizen rates and charges including the adoption and maintenance of a policy for meeting the needs and interests of senior citizens. The policy may be changed from time to time and may include, but not necessarily be

limited to, discounts on rates and charges, special marketing campaigns or programming packages designed for senior citizens. Coaxial shall maintain on file with the City its senior citizen policy.

XX

CONSTRUCTION PROVISIONS

A. Coaxial's cable system constructed within the City shall continuously meet or exceed all technical standards of the FCC and other applicable federal, state and local laws as they now exist or may hereafter be amended.

B. The City shall have the right to inspect all construction and installation work performed by Coaxial pursuant to this Franchise Agreement and Chapter 751 of the Gahanna Codified Ordinances as it shall find necessary to ensure compliance by Coaxial.

C. All construction, installation, and maintenance must comply with the National Electrical Safety Code, the National Electrical Code as adopted by the City, the Bell System code of pole line construction, all federal, state and local regulations, and good and accepted industry practices.

D. Worker facilities, conditions, and procedures shall comply with the standards of the Occupational Safety and Health Administration.

E. Coaxial shall utilize existing poles, conduits, and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities whether on public property or on privately owned property until approval of the property owner or appropriate governmental authority is obtained. However, the location and installation of any pole, conduit, or other facility by Coaxial shall not create a vested interest, and such poles, structures, or facilities shall be removed, replaced, or modified by Coaxial at its own expense whenever the City determines that the public interest so necessitates.

F. In those areas of the City where electric and telephone utility lines have been placed underground, Coaxial shall place its lines and installations underground. In areas where either telephone or electric facilities are above ground at the time of installation, Coaxial may install its service above ground; provided, that at such time as both of those other facilities are placed underground, Coaxial shall within twelve (12) months place its facilities underground, and the cost of such shall be borne by Coaxial. If, however, the telephone or electric utilities are compensated by the City for placing their facilities underground, Coaxial shall be similarly compensated. In new housing developments, Coaxial shall install distribution cables at the same time utility facilities are being installed, if reasonably possible.

G. Coaxial at its own cost and expense and in the manner approved by the City shall replace and restore all paving, sidewalks, driveways, or the surface of any street or alley disturbed, in as good a condition as before the work was commenced and shall maintain the

restoration in an improved condition for a period of one year. Failure of Coaxial to replace or restore such paving, sidewalk, driveway, street surface, or alley within forty-eight (48) hours after notification by the City shall entitle the City to cause the proper restoration to be made at Coaxial's expense.

H. If the City shall lawfully decide to alter or change the grade of any street, alley, or other public way, Coaxial, upon reasonable notice by the City, shall, in a timely manner as requested by the City, remove and relocate its poles, wires, cables, underground conduits, and other facilities at its own expense. If, however, the telephone or electric utilities are compensated by the City for removing and relocating their facilities, Coaxial shall be similarly compensated.

I. Coaxial shall, on the request of any person holding a valid housemoving permit, temporarily raise or lower its wires or cables to permit the moving of buildings or other large objects. The expense of such temporary raising or lowering of wires shall be paid by the person making the request, and Coaxial shall have the authority to require such payment in advance. Coaxial shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

J. Coaxial shall have the authority to trim trees upon and overhanging the streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with wires and cables and other television conductors and fixtures of Coaxial. The City may require all trimming to be done under its supervision and direction and at the expense of Coaxial.

XXI

INSURANCE PROVISIONS

Coaxial shall maintain insurance pursuant to the provisions of Chapter 751 of the Gahanna Codified Ordinances.

XXII

DAMAGES

A. Because Coaxial's failure to comply with certain provisions of this Franchise Agreement will result in injury to the City and because it will be difficult to estimate the extent of such injury, the City and Coaxial hereby agree that the following amounts represent both parties' best estimate of the damages resulting from the specified injury:

(1) Failure to provide or adequately maintain the community information service equipment required hereunder - \$200.00 per day.

- (2) Failure to provide the access channels required hereunder - \$200.00 per day.
- (3) Failure to test the system or provide reports thereof as required hereunder - \$200.00 per day.
- (4) Failure to comply with operation or maintenance standards - \$200.00 per day.
- (5) Failure to comply with any other material provision of this Franchise Agreement - \$200.00 per day.
- (6) Failure to maintain the technical performance standards required - \$500.00 per day.

The damages provided pursuant to this section shall annually increase or decrease commencing on January first of each year in the same percentage as any increase or decrease in the urban consumer price index for the Columbus Metropolitan Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics, utilizing the consumer price index for the calendar year in which the franchise was granted as the base period. The City shall not allow Coaxial to include any damage payments or the loss of revenues resulting therefrom when considering a request for a rate increase.

Neither the right to damages nor the payment of damages shall bar or otherwise limit the right of the City in a proper case to:

- (a) Obtain judicial enforcement of Coaxial's obligations by means of specific performance, injunctive relief, mandate, or other remedies at law or in equity;
- (b) Consider any violation as grounds for forfeiture and termination of the franchise; or
- (c) Consider any violation as grounds for nonrenewal or nonextension of the franchise or issuance of a new franchise.

B. Whenever the City finds that Coaxial has allegedly violated one (1) or more terms, conditions or provisions of this Franchise Agreement, a written notice shall be given to Coaxial by the City. The written notice shall describe in reasonable detail the alleged violation so as to afford Coaxial an opportunity to remedy the violation. Coaxial shall have thirty (30) days subsequent to receipt of the notice in which to correct the violation before the City may resort to the imposition of damages. Coaxial may, within ten (10) days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Coaxial to the City shall specify with particularity the matters disputed by Coaxial and shall stay the running of the above-described time.

(1) The City shall hear Coaxial's dispute at a regularly or specially scheduled meeting. Coaxial shall have the right to subpoena and cross-examine witnesses. The City shall determine if Coaxial has committed a violation and shall make written findings of fact relative to its determination.

(2) If after hearing the dispute the claim is upheld by the City, then Coaxial shall have thirty (30) days within which to remedy the violation before the City may impose damages on Coaxial.

(3) The time for Coaxial to correct any alleged violation may be extended by the City if the necessary action to correct the alleged violation is of such a nature or character to require more than thirty (30) days within which to perform provided Coaxial commences the corrective action within the thirty (30) day period and thereafter uses reasonable diligence, as determined by the City, to correct the violation.

C. Forfeiture and Termination.

(1) In addition to all other rights and powers retained by the City under this franchise, the City reserves the right to forfeit and terminate the franchise and all rights and privileges of Coaxial in the event of a substantial breach of its terms and conditions. A substantial breach by Coaxial shall include, but shall not be limited to, the following:

(a) An uncured violation of any material provision of this franchise or any material rule, order, regulation, or determination of the City made pursuant thereto;

(b) An attempt to evade any material provision of the franchise or practice any fraud or deceit upon the cable communications system customers and subscribers or upon the City;

(c) Coaxial fails to maintain a business office in Franklin County;

(d) Coaxial abandons the system;

(e) Coaxial fails to pay the franchisee fee in accordance with this franchise and Chapter 751 of the Gahanna Codified Ordinances;

(f) Coaxial misrepresents a material fact in the periodic review and renegotiation sessions;

(g) Failure to timely begin or substantially complete any system upgrade as set forth in this franchise;

(h) Failure to restore service after ten (10) consecutive days of an outage or interrupted service; except when approval of such outage or interruption is obtained from the City;

(i) Material misrepresentation of facts in the application, proposal or during the negotiations relating to this franchise;

(j) Failure to provide insurance and indemnity as required by the franchise and Chapter 751 of the Gahanna Codified Ordinances;

(k) Failure to comply with Equal Employment Opportunity and Affirmative Action requirements as set forth in this franchise;

(l) Coaxial has paid to the City penalties for one hundred twenty (120) consecutive days and has failed to correct the franchise violations.

(2) None of the foregoing shall constitute a major breach if a violation occurs which is without fault of Coaxial or occurs as a result of circumstances beyond Coaxial's control. Coaxial shall not be excused by mere economic hardship or by nonfeasance or malfeasance of

directors, officers, agents, or employees; provided, however, that damage to equipment causing service interruptions shall be deemed to be the result of circumstances beyond Coaxial's control if it is caused by sabotage or vandalism or malicious mischief. Coaxial shall bear the burden of proof in establishing the existence of such conditions.

(3) The City shall make a written demand by certified mail that Coaxial comply with any such provision, rule, order, or determination under or pursuant to the franchise. If the violation by Coaxial continues for a period of thirty (30) days following such written demand without written proof that corrective action has been taken or is being actively and expeditiously pursued, the City may consider terminating the franchise; provided, however, a written notice thereof shall be given to Coaxial at least fifteen (15) days in advance and Coaxial must be given an opportunity to appear before the City Council to present its arguments.

(4) Should the City determine, following the public hearing, that the violation by Coaxial was the fault of Coaxial and within Coaxial's control, the City may declare that the franchise be forfeited and terminated; provided, however, the City may, in its discretion, provide an opportunity for Coaxial to remedy the violation and come into compliance with the franchise so as to avoid termination.

D. Foreclosure. Upon the foreclosure or other judicial sale of all or a substantial part of the cable communications system facilities, or upon the termination of any lease covering all or a substantial part of the cable communications system, or upon the occasion of additional events which effectively cause termination of the system's operation, Coaxial shall notify the City of such fact and such notification or the occurrence of such terminating event shall be treated as a notification that a change in control of the franchise has taken place and such change in control is subject to the consent of the City.

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

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

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

F. Removal of Cable Communications System. At the expiration of the term for which this franchise has been granted, or upon its termination as provided herein, Coaxial shall forthwith, upon notice by the City, remove at Coaxial's own expense all designated portions of the cable communications system from all streets and public ways within the City, and shall restore said streets and public ways to their former condition; provided, however, Coaxial shall have the right to sell its physical plant to a subsequent franchisee, subject to City approval in

which case said plant need not be removed. If Coaxial fails to remove its facilities upon request, the City may perform the work at Coaxial's expense.

XXIII

TRANSFER OF OWNERSHIP OR CONTROL

A. This franchise shall not be sold, assigned, transferred, leased, or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger, consolidation, or hypothecated in any manner, nor shall title thereto, either legal or equitable, or any right, interest, or property therein pass to or vest in any person or entity, without the prior consent of the City, which consent shall not be unreasonably withheld.

B. The provisions of this Section shall apply to the sale or transfer of all or a majority of Coaxial's assets, merger (including any parent and its subsidiary corporation), consolidation, creation of a subsidiary corporation or sale or transfer of stock in Coaxial so as to create a new controlling interest. The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

(1) The parties to the sale or transfer shall make a written request to the City for its approval of a sale or transfer.

(2) The City shall reply in writing within sixty (60) days of the request and shall indicate approval of the request or its determination that a public hearing is necessary due to potential adverse effect on Coaxial's subscribers.

(3) If a public hearing is deemed necessary pursuant to (2) above, such hearing shall be commenced within thirty (30) days of such determination and notice of any such hearing shall be given fourteen (14) days prior to the hearing by publishing notice thereof. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the City.

(4) Within thirty (30) days after the closing of the public hearing, the City shall approve or deny in writing the sale or transfer request.

(5) Within thirty (30) days of any transfer, if approved by the City, Coaxial shall file with the City a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by Coaxial and the transferee shall file its sworn acceptance and agreement to abide by each and every provision of this Franchise Agreement and Chapter 751 of the Gahanna Codified Ordinances.

C. In reviewing a request for sale or transfer, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Coaxial shall assist the City in so inquiring. The City may condition said transfer upon such terms and conditions as it deems reasonably appropriate; provided, however, the City shall not unreasonably withhold its approval and any such terms and conditions so attached shall be related

to the legal, technical, and financial qualifications of the prospective controlling party or transferee (or the resolution of outstanding and unresolved issues of noncompliance with the terms and conditions of this franchise by Coaxial).

D. Notwithstanding anything to the contrary in this Section, the prior approval of the City shall not be required for any sale, assignment or transfer of the franchise to an entity controlling, controlled by or under the same common control as Coaxial.

E. Notwithstanding anything to the contrary in this Section, the prior approval of the City shall not be required for any assignment or transfer of this franchise or system as a pledge of collateral for financing.

XXIV

PERIODIC REEVALUATION AND RENEGOTIATIONS

A. Since the field of cable communications is rapidly evolving and many technological, regulatory, financial, marketing, legal, competitive, and other changes are likely to occur during the franchise term, a degree of flexibility is needed in order to achieve and maintain a cable communications system that adequately serves the public interest. To this end, the City, with cooperative assistance from Coaxial, shall periodically reevaluate the system operation and negotiate appropriate franchise changes.

B. The City shall reevaluate Coaxial's cable operations and service five (5) years following the award date of the franchise and every three (3) years thereafter for the life of the franchise.

C. Following the public release of a reevaluation report, the City and Coaxial shall meet to discuss the reevaluation and possible means of improving service to the public. At that time, the parties may negotiate any changes in the franchise that may be necessary or desirable.

D. The City and Coaxial may meet at other times to discuss and negotiate possible changes to the franchise pursuant to an agenda agreed to in advance by both parties. Such special sessions are intended to provide a mechanism for effecting franchise changes necessitated by major events affecting cable communications, such as state or federal legislation, new or revised state or federal regulations, or an extraordinary change in circumstances.

E. The Cable Advisory Board may add topics to a review and evaluation session. Further, members of the general public may seek to add topics to a review and evaluation session, either by working through the City or by presenting a petition. If such a petition bears the valid signatures of twenty-five (25) or more cable subscribers in the City, the proposed topic or topics shall be added to the agenda of topics to be discussed at the review and evaluation session.

F. Topics which may be discussed at any review and evaluation session include, but are not limited to, channel capacity, programming, customer service, picture quality and reliability, subscriber complaints and revisions to applicable federal or state law.

G. During any review and evaluation session, Coaxial shall cooperate with the City and shall provide without cost such reasonable information as the City may request.

H. If at any time before or during such a session, the City determines that reasonable evidence exists of inadequate system performance, the City may require Coaxial or an independent third party to perform tests and analysis directed towards such suspected inadequacies. Coaxial shall cooperate with the City in performing such testing and any report prepared by Coaxial or the independent third party shall include at least the following:

- (1) Description of the problem in the system performance which precipitated the special tests.
- (2) The system component tested.
- (3) The equipment used and procedures employed in testing.
- (4) The method, if any, by which the system performance problem was resolved.
- (5) Any other information relevant to said tests or analysis which may be required by the City.

Upon request of the City, Coaxial shall, no earlier than ninety (90) days and no later than thirty (30) days prior to a review and evaluation session conduct a survey of a representative sample of its customers in the City. The City shall have the ability to comment on the survey before it is implemented. Each survey shall be prepared and conducted in good faith so as to provide statistically reliable measurements of subscriber preferences and satisfaction for:

- a. Programming.
- b. Customer service practices.
- c. Billing procedures.
- d. Picture quality and system reliability.
- e. Rates.

The individual survey results (the actual surveys) shall be made available to the City upon request. As a part of the review and evaluation session, Coaxial shall report in writing what steps it may be taking to implement the findings of the survey.

XXV

PURCHASE OF SYSTEM BY CITY

A. If a renewal of this franchise is denied and the City acquires ownership of the cable system, such acquisition shall be at fair market value, determined on the basis of the cable system valued as a going concern, but with no value allocated to the franchise itself.

B. If this franchise is revoked for cause and the City acquires ownership of the cable system, such acquisition shall be at an equitable price.

The valuation provisions in (A) and (B) above are subject to changes in applicable federal, state and local law.

XXVI

ARBITRATION

Except as provided below, any controversy between the City and Coaxial regarding the rights, duties or liabilities of either party under the franchise shall be settled by arbitration conducted under the auspices of the American Arbitration Association and in accordance with applicable local, state and federal law. Such arbitration shall be before three (3) disinterested arbitrators, one (1) named by the City, one (1) named by Coaxial, and one (1) named by the two (2) thus chosen. The decision of the arbitrators shall be subject to de novo judicial review. Nothing contained in this Section XXIX shall prohibit or preclude either the City or Coaxial from seeking equitable relief before or in lieu of arbitration.

XXVII

COOPERATION

The parties recognize that it is in their mutual best interests for the cable communications system to be operated as efficiently as possible and for the upgrade of the system to occur in accordance with the requirements and schedule set forth in this franchise. To achieve this, the parties agree to cooperate with each other in accordance with the terms and provisions of this franchise.

XXVIII

WAIVER

The failure of the City at any time to require performance by Coaxial of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the

waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.

XXIX

CUMULATIVE PROVISION

The rights and remedies reserved to the City by this franchise are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the City may have with respect to the subject matter of this franchise, and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time.

XXX

COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

Coaxial, its contractors, employees, and agents, shall be familiar with all federal, state, local, and municipal laws, ordinances, rules and regulations which in any manner affect those engaged or employed in the work, or the materials or equipment used in the work, or in any way affect the work, and no plea of misunderstanding will be considered upon account of the ignorance thereof. If Coaxial shall discover any provision in the plans or specifications which are contrary to or inconsistent with any such law, ordinance, rule, or regulation, Coaxial shall promptly report it to the City in writing. Coaxial, its contractors, employees, and agents shall comply with all applicable federal, state, and local laws, rules, and regulations issued pursuant thereto and shall indemnify the City against any loss, liability, or damage occasioned by reason of its violation of this franchise. Coaxial and the City have carefully reviewed this franchise and believe that all provisions thereof are in full compliance with all local, state, and federal laws and requirements in effect on the date of execution. Coaxial and the City shall also be entitled to all rights and be bound by all changes in local, state, and federal law which occur subsequent to the effective date of this Franchise Agreement. Coaxial and the City acknowledge that their rights and obligations under this Franchise Agreement are explicitly subject to all such changes.

XXXI

NOTICES

All notices from Coaxial to the City pursuant to this franchise shall be sent to an address to be designated by the City. Coaxial shall maintain throughout the term of the franchise, a local office in Franklin County and telephone number for matters related to the franchise. All notices to Coaxial shall be sent to that address.

XXXII

CAPTIONS

Captions to sections throughout this franchise are solely to facilitate the reading and reference to the sections and provisions of the franchise. Such captions shall not affect the meaning or interpretation of the franchise.

XXXIII

COAXIAL TO HOLD CITY HARMLESS

In addition to the indemnification provisions of Chapter 751 of the Gahanna Codified Ordinances, Coaxial shall protect, defend, indemnify, and save harmless the City and all agents, officers, employees, and representatives thereof from all actions, causes of action, claims, demands, suits, judgments, damages, penalties, expenses, attorneys' fees, and costs arising out of, caused by or in any way related to or as a result of the granting of this franchise or Coaxial's installation, construction, upgrade, maintenance, operation, use, repair, presence of or removal of Coaxial's cable television system including, but not limited to, any poles, wires, lines, cable, conductors, appurtenances, equipment, or attachments thereto.

XXXIV

TERM EXTENSION

1. Coaxial may petition the City once for an additional extension of this franchise five (5) years after the effective date of this Franchise Agreement and prior to commencement of a request for franchise renewal by Coaxial. In evaluating such an extension request, the City shall consider Coaxial's performance in meeting the community's needs and interests, taking into account the cost of meeting such needs and interests, including the following areas:

A) System compliance with all local, state and federal technical standards (as amended).

B) Adherence to Customer Service Standards including but not limited to a) service call rate, b) service call response time, c) not at home service call rate, d) installation response time, e) level of telephone service, f) all trunks busy and g) telephone call abandonment rate.

C) Overall system reliability including but not limited to picture and sound quality and frequency of system outages.

D) Compliance with all material provisions of this Franchise Agreement including but not limited to timely payment of franchise fees.

E) Gahanna's cable system is technically comparable to a majority of other cable systems in the central Ohio area.

2. Coaxial shall assist the City in its review and provide such information as the City may reasonably request including but not limited to local operating statistics, available industry standards and results from any surveys of customers in the City.

3. Any extension of the franchise shall require the prior approval of and shall be at the sole discretion of the City provided that the City shall not unreasonably or arbitrarily withhold such extension. An extension shall be based upon a finding that Coaxial's performance has met the community's needs and interests taking into account the cost of meeting such needs and interests, including but not limited to the above. Whenever the City finds that Coaxial has allegedly violated one (1) or more terms, conditions or provisions of Section XXXVII 1 (A-F) above or any material provision of this franchise or is failing to meet the community's needs and interests, a written notice shall be given to Coaxial by the City. The written notice shall describe in reasonable detail the alleged violation or failure so as to afford Coaxial an opportunity to remedy the violation or failure.

4. The City shall make its decision and notify Coaxial in writing within ninety (90) days of the request for extension. If the extension request is granted, the length of the extension shall be determined by the City, which length of time may be less than that requested by Coaxial, provided that it shall be for not less than two (2) years.

XXXV

FORCE MAJEURE

Both parties' obligations to perform any services or complete any work by any specific date shall, with respect to each such obligation, be deferred by the amount of time that the other party deems reasonable under the circumstances for the performance of such service or completion of such work when delayed by "*force majeure*". In each such instance, it shall be the burden of the party seeking a delay of its obligations to perform to prove to the reasonable satisfaction of the other party of the reasonableness of the delay.

XXXVI

TIME IS OF THE ESSENCE

Whenever the franchise sets forth any time for any act to be performed by either of the parties, such time shall be deemed to be of the essence of this franchise.

XVII

CONSTRUCTION OF AGREEMENT

This franchise shall be governed, construed, and enforced in accordance with Chapter 751 of the Gahanna Codified Ordinances (as amended), the laws of the State of Ohio (as amended), the applicable provisions of the Communications Act of 1934 as presently existing or as the same may be from time to time hereinafter amended, and any applicable rules, regulations, and orders of the FCC and any other applicable local, state and federal laws, rules, regulations, legislation, or orders (as such now exist, are later amended or subsequently adopted).

XXXVIII

NO JOINT VENTURE

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other.

XXXIX

ENTIRE AGREEMENT

This Franchise Agreement and all attachments hereto, and Chapter 751 of the Gahanna Codified Ordinances, as incorporated herein, represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties. This Franchise Agreement can be amended, supplemented, modified, or changed only by an agreement in writing which makes specific reference to this franchise or to the appropriate attachment and which is signed on behalf of both parties.

XL

SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Franchise Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise Agreement.

XLI

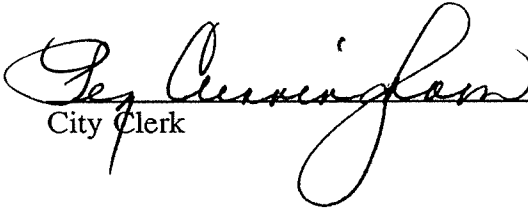
REFERENCE TO FRANCHISE

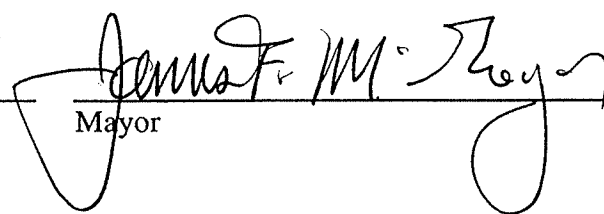
Coaxial and the City agree that in all public communications, oral or written, this franchise will be referred to as a ten (10) year nonexclusive franchise which includes the ability to petition for an extension pursuant to the provisions of this franchise.

IN WITNESS WHEREOF, the parties hereto have caused this Franchise Agreement to be executed as of the day and year first above written.

ATTEST:

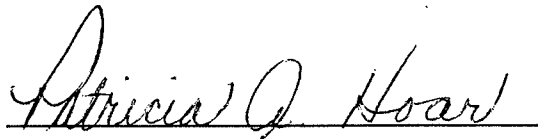
CITY OF GAHANNA, OHIO


City Clerk


Mayor

ATTEST:

COAXIAL COMMUNICATIONS OF CENTRAL
OHIO, INC.



Secretary



President and CEO

Attachment B

The following standards are those minimum customer service standards to be met by the Grantee. These standards are based upon normal operating conditions.

1. Service Call Rate: The number of problems which require a truck trip to the customer's home will be less than 5 calls per one hundred subscribers per month.
2. Service Call Response Time: The number of hours elapsed between the time a customer requests a service call and the call being completed are as follows:
 - a) All-day Calls: 70% within 24 hours from the close of the working day in which the call was registered.
 - b) Appointment by Request calls: 90% within 72 hours.
3. Installation Response Time: The number of days elapsed between receiving a customer order and the completion of that installation will be:
 - a) Anytime Installations: Within 7 working days.
 - b) Appointment Installations by Request: Within 14 days.
4. Scheduling of Service Calls: 50% of all available service calls will be scheduled in the three (3) following categories:
 - a) AM
 - b) PM
 - c) After 5:00 PM
5. Outages: Registered and answerable outages (i.e. disruption of service to 2 or more subscribers on a common distribution leg) will be no more than 5 per one hundred subscribers per month.
6. Picture Quality: The percentage of test points passing the FCC recommended technical performance standards on a monthly basis will be greater than 90%.
7. Telephone Availability: Knowledgeable, qualified customer service representatives will be available to respond to telephone inquiries Monday through Friday during normal business hours. In addition, representatives will be available to respond to requests for repair service on Monday through Friday evenings and on Saturday.

8. Office Availability: Our Customer Service Department will be open for transactions and bill payments Monday through Friday during normal business hours, plus supplemental hours on Saturday.

9. Average Speed of Answer: Incoming telephone calls will be answered by the Automated Response Unit within 4 rings, 24 hours a day, no less than 90% of the time.

10. Level of Telephone Service: Incoming telephone calls which are routed to a customer service representative will be answered within 30 seconds no less than 80% of the time.

11. Telephone Call Abandonment Rate: The percentage of telephone calls abandoned before the call is answered by an employee will be no more than 5%.

12. All Trunks Busy: Under normal conditions, the customer will receive a busy signal no more than 3% of the total time that the cable office is open for business.

NOTE: All performance standards and guidelines are based upon gross annualized numbers on a January through December basis.