FRANCHISE AGREEMENT

By and Between

THE CITY OF PORTLAND

and

PUBLIC CABLE COMPANY

THIS FRANCHISE ENTERED INTO this 15th day of May, 1986, by and between the CITY OF PORTLAND, a body politic and corporate, located in the County of Cumberland and State of Maine (hereinafter referred to as the "City"), and PUBLIC CABLE COMPANY, a partnership organized and existing under the laws of the State of Maine and having a place of business in Portland in said County and State (hereinafter referred to as the "Grantee").

WITNESSETH:

WHEREAS, the City is authorized to grant one or more non-exclusive, revocable franchises to construct, reconstruct, operate, and maintain a Broadband Telecommunications Network within the City for the benefit of the City and all persons located therein; and

WHEREAS, the City received an application for renewal of the existing Franchise from Public Cable; and

WHEREAS, the City, after due evaluation, has determined that it is in the best interest of the City and its residents to renew the Franchise of Public Cable;

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

SECTION 1 SHORT TITLE

This franchise shall be known and may be cited as the "BROADBAND TELECOMMUNICATIONS NETWORK FRANCHISE".

SECTION 2 DEFINITIONS

All definitions set forth in Chapter 27A of the Municipal Code shall pertain to this Franchise Agreement and shall be relevant to the purposes and meaning of this Franchise Agreement.

SECTION 3 GRANT OF FRANCHISE

3.1 Uses Permitted by Franchise

Pursuant to Chapter 27A of the Municipal Code and applicable state and federal statutes, and subject to the terms and conditions set forth herein, the City of Portland hereby grants a nonexclusive,
revocable Franchise to Public Cable Company for the right, privilege and obligation to construct, operate, and maintain and reconstruct in, on, over, under and across the streets of the City, a Broadband Telecommunications Network, including all wires, conduits, fixtures and appurtenances, for the purpose of reception, transmission, collection, amplification, origination, distribution or redistribution of video, audio or other signals and for the development of broadband telecommunication services for private and public use in and to the City of Portland and its residents. This Franchise is granted contingent upon Grantee's substantial compliance with the promises contained in Grantee's Proposal and the terms and conditions herein. No privilege or power of eminent domain is bestowed on Grantee by the Franchise herein granted.

3.2 Conditions of Grantee Acceptance

A. Acceptance of Power and Authority of City. The Grantee expressly acknowledges that in accepting this Franchise, it has relied upon its own investigation and understanding of the power and authority of the City in connection with the Network and this Agreement. By the acceptance of the Franchise, Grantee acknowledges that the City has exercised its power and authority herein in good faith.

B. Inducements Not Offered. The Grantee, by acceptance of this Franchise, acknowledges that it has not been induced to enter into this Franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the City concerning any term or condition of Chapter 27A of the Municipal Code or this Franchise that is not included in either this Franchise or said Chapter.

C. Grantee Accepts Terms of Franchise. The Grantee further acknowledges by acceptance of this Franchise that it has carefully read the terms and conditions of Chapter 27A of the Municipal Code and of this Franchise Agreement, including all such terms and conditions proposed or negotiated and incorporated herein verbatim or by reference, and it is willing to and does accept all of the risks of the meaning of such terms and conditions. Grantee further acknowledges and states that it has fully studied and considered the requirements relating to upgrading the Broadband Telecommunications Network, the requirements relating to the funding for and provision of community access equipment and services, the requirements relating to the provision of an institutional Network, and all other requirements and provisions of the Franchise Agreement, and finds that the same are consistent with all statutory requirements.

D. Right of the City to Issue Franchise. Grantee acknowledges and accepts the legal right of the City to issue a Franchise.

E. Indemnification. Grantee hereby agrees to indemnify and hold harmless the City, its officers, boards and commissions, agents, and employees from all damages, claims, awards or judgments against the City arising out of Grantee's operation pursuant to this Agreement.
SECTION 4 SIGNIFICANCE OF FRANCHISE

4.1 Franchise Non-Exclusive

This Franchise shall not be exclusive and the City reserves the right to grant at any time during the term of this Agreement or renewal thereof, if any, such additional franchises, on similar terms for a broadband telecommunications network. In the event that a franchise is granted with terms that the Grantee reasonably deems more favorable than those set out in its Franchise Agreement with the City, the terms in Grantee's Franchise Agreement shall be modified automatically to include the more favorable provisions.

4.2 Term of Franchise

The term of this Franchise shall be 8.5 years from the effective date of this Franchise Agreement, unless terminated sooner as herein provided. The City shall grant an 8.5 year renewal to the Grantee if the Grantee fully complies with the terms and conditions of Chapter 27A of the Municipal Code and this Franchise Agreement, and the specific provisions of Section 8 herein unless the City waives the requirements of Section 8 as set forth in Section 8.2 herein. At the expiration or termination of this Franchise, the Franchise shall expire and be of no further force and effect.

4.3 Privileges Must be Specified

No privilege or exemption shall be inferred from the granting of this Franchise unless it is specifically prescribed.

4.4 Previous Rights Abandoned

This Franchise shall be in lieu of any prior Franchise.

4.5 Police and Regulatory Powers Reserved

In executing this Franchise Agreement, Grantee acknowledges that its rights are subject to the powers of the City to adopt and enforce general ordinances and regulations necessary to the safety and welfare of the public, including all powers now or subsequently invested in the City. Grantee shall comply with all applicable laws, ordinances and regulations enacted by the City pursuant to any such power. Any conflict between the terms of this Franchise Agreement and any present or future lawful exercise of the City's police and regulatory powers shall be resolved in favor of the latter.

4.6 Subsequent Governmental Action

In the event that any actions of the Federal or State government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduce in any way the power or authority of the City under this Franchise Agreement, or Chapter 27A of the Municipal Code, the City at its option, may notify the Grantee that it wishes to negotiate those provisions of the Franchise which
are affected in any way by such modification in regulations or statutory authority. Thereafter, the Grantee shall negotiate in good faith with the City in the development of alternate provisions which shall compensate the City pursuant to this Agreement and which shall fairly restore the City to the maximum level of authority and power permitted by law. This Section 4.6 is deemed by the parties to be a material provision of this Agreement.

4.7 Pole Use Agreement Required

This Franchise shall not relieve the Grantee of any obligation involved in obtaining pole or conduit use agreements from others maintaining poles or conduits in the streets of the City, whenever the Grantee finds it necessary to make use of said poles or conduits.

4.8 Franchise Binding

Upon its execution by the City and the Grantee, this Franchise Agreement shall be deemed to constitute a contract by and between the City of Portland and Public Cable Company. Anything contained herein to the contrary notwithstanding, all provisions of this Franchise shall be binding upon the Grantee, or its duly approved successors or assigns.

4.9 City's Right of Network Installation

The City reserves the right during the life of this Franchise to install and maintain free of charge upon or in the poles and conduits of the Grantee any wire and pole fixture necessary for specialized municipal services, on the condition that such installation and maintenance thereof does not interfere with the operation of the Grantee.

4.10 City's Right to Inspect Construction

The City reserves the right during the life of this Franchise to inspect all construction or installation work performed subject to the provisions of this Agreement and Chapter 27A of the Municipal Code, and to perform network measurements to insure compliance with the terms of this Franchise and said Chapter.

4.11 City's Right to Inspect Property

At all reasonable times, the Grantee shall permit examination by any duly authorized representative of the City of all franchising property, together with any appurtenant property of the Grantee situated within or without the City.

4.12 Failure to Enforce Provisions

The Grantee shall not be excused from complying with any of the terms and conditions of this Franchise by any failure of the City
upon one or more occasions to insist upon or to seek compliance with any such terms or conditions.

4.13 Contravention of Provisions; Costs of Litigation

The cost of any litigation incurred by the City to enforce provisions of this Franchise or of Chapter 27A of the Municipal Code shall be reimbursed to the City by the Grantee. Such costs shall include filing fees, costs of depositions, discovery and expert witnesses, all other expenses of suit, and a reasonable attorney's fee. The reimbursement of such costs shall not be required if, and only if, the court renders a final judgment in favor of the Grantee.

4.14 Grantee to Have No Recourse

The Grantee shall have no recourse whatsoever against the City for any loss, cost, expense or damage arising out of any provision or requirement of this Franchise and Chapter 27A of the Municipal Code.

4.15 No Waiver of Rights

No course of dealing between the Grantee and the City, nor any delay on the part of the City in exercising any rights hereunder, shall operate as a waiver of any such rights of the City or acquiescence in the actions of the Grantee in contravention of such right, except to the extent expressly waived by the City or expressly provided for in the Franchise Agreement.

4.16 Time is of the Essence to this Franchise

Whenever this Franchise shall set forth any time for an act to be performed by or on behalf of the Grantee, such time shall be deemed of the essence, and any failure of the Grantee to perform within the time allotted, without good reason, shall be sufficient ground for the City to invoke an appropriate penalty, including possible revocation of the Franchise.

4.17 Right of Condemnation Reserved

Nothing in this Franchise shall limit any right the City may have to acquire by eminent domain or otherwise any property of Grantee; provided, however, that any such acquisition shall be for a price that values Grantee's property at fair market value, determined on the basis of the Broadband Telecommunications Network valued as a going concern.

4.18 Acts or Omissions of Affiliates

During the term of this Franchise, Grantee shall be liable to the City for the acts or omissions of its affiliates or agents while such affiliates or agents are involved directly or indirectly in the construction, reconstruction, installation, maintenance or operation of the Broadband Telecommunications Network, as if the acts or
omissions of such affiliates or agents were the acts or omissions of the Grantee.

SECTION 5  ACCEPTANCE AND EFFECTIVE DATE OF FRANCHISE

5.1 Franchise Acceptance Procedures

Following approval by the City, this Franchise and the rights, privileges and authority granted thereby shall take effect on the date on which Grantee accepts and signs this Franchise Agreement, provided that within thirty (30) days from the day of such acceptance, the Grantee shall file with the City the following:

A. A notarized statement by the Grantee of unconditional acceptance of the Franchise.

B. A certificate of insurance as set forth in Section 27A-7(e) of the Municipal Code.

C. A performance bond in the penal sum of Two Hundred Fifty Thousand Dollars ($250,000) as set forth in Section 27A-6(b) of the Municipal Code.

D. Written notification of the Grantee's location and address for mail and official notifications from the City.

5.2 Failure to Comply

Should the Grantee fail to comply with subsection 5.1 above, the City shall provide Grantee written notice of such non-compliance. If Grantee fails to cure said non-compliance within thirty (30) days of its receipt of the City's written notice, Grantee shall be considered to have abandoned its application and all rights to this Franchise shall be forfeited in full to the City.

5.3 Effect on Existing Franchise

Immediately upon the taking effect of this Franchise Agreement, the prior Franchise granted to Public Cable by the City on June 27, 1974 and the Interim Franchise Agreement granted to Grantee by the City on October 1, 1985 shall be superseded and have no further force and effect; provided, however, that any vested rights relating to billings and the City's rights to receive franchise fees shall not be affected thereby.

SECTION 6  TRANSFER OF OWNERSHIP OR CONTROL

6.1 Consent of the City Required

This Franchise shall be a privilege to be held for the benefit of the public by the Grantee. Said Franchise cannot in any event
be sold, transferred, leased, assigned or disposed of in whole or part by any means, including but not limited to, forced or voluntary sale, merger, consolidation, trust, receivership or other means without the prior consent of the City expressed by a Council resolution. Every change, transfer, or acquisition of control of the Grantee shall make the Franchise subject to cancellation unless and until the City shall have consented thereto, which consent shall not be unreasonably withheld.

6.2 Notification

The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of the Grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the disposal by the Grantee, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, of ten percent (10%) or more at one time of the ownership or controlling interest in the Broadband Telecommunications Network, or twenty percent (20%) cumulatively over the term of the Franchise of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert.

6.3 Inquiry into Qualifications

For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the City may inquire into the qualifications of the prospective controlling party, and the Grantee shall assist the City in any such inquiry.

6.4 Mortgage or Pledge

Nothing in this Franchise shall be deemed to prohibit the mortgage or pledge of the Network, or any part thereof. However, any such mortgage or pledge shall be subject and subordinate to the rights of the City under this Franchise and any franchise granted hereafter, or applicable laws.

6.5 No Waiver of City's Rights

The consent or approval of the City Council to any transfer of the Grantee shall not constitute a waiver or release of the rights of the City in and to the streets, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this Franchise.

6.6 Successor as Signatory to Franchise Agreement

In no event shall a transfer of ownership or control be approved without the successor in interest becoming a signatory to the Franchise Agreement.
SECTION 7  TERMINATION OF FRANCHISE

7.1 Grounds for Revocation

The City reserves the right to revoke this Franchise and rescind all rights and privileges associated with the Franchise in the following circumstances, each of which may represent a default and breach under the Franchise Grant:

A. If the Grantee should default in the performance of any of its obligations under this Franchise or Chapter 27A of the Municipal Code, or such other documents, contracts and other terms and provisions entered into by and between the City or cable television customers and subscribers and the Grantee, and fails to cure the default to the City's satisfaction within thirty (30) days after receipt of written notice of the default from the City.

B. If the Grantee should fail to provide or maintain in full force and effect the liability and indemnification coverages and the performance bond as required by Chapter 27A of the Municipal Code.

C. If the Grantee fails to comply with the line extension policies for the mainland and islands as provided herein.

D. If a petition is filed by or against the Grantee under the Bankruptcy Act, or any other insolvency or creditor's rights law, state or federal, and the Grantee shall fail to have it dismissed.

E. If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of its assets.

F. If the Grantee becomes financially insolvent or makes an assignment for the benefit of creditors.

G. If the Grantee should continuously and knowingly violate any orders or ruling of any regulatory body having jurisdiction over the Grantee.

H. If the Grantee fails to receive the necessary FCC certification required for operation and reconstruction of the network.

I. If the Grantee arbitrarily ceases to provide service over the Broadband Telecommunications Network.

J. If the Grantee attempts to evade any of the provisions of this Ordinance or the Franchise Agreement or practices any fraud or deceit upon the City or Network subscribers or users.

K. The Grantee's reconstruction schedule is delayed later than the schedule contained herein, or beyond any extended date set by the City.
L. Failure to restore service after ninety-six (96) consecutive hours of interrupted service, except when approval of such interruption is obtained from the City.

M. Material misrepresentation of fact in the application for or negotiation of the Franchise or any extension or renewal thereof.

7.2 Effect of Circumstances Beyond Control of Grantee

The Grantee shall not be declared at fault or be subject to any sanction under any provision of this Franchise or Chapter 27A of the Municipal Code in any case, in which performance of any such provision is prevented for reasons beyond the Grantee's control. A fault shall not be deemed to be beyond the Grantee's control if committed by a corporation or other business entity in which the Grantee holds a controlling interest whether held directly or indirectly.

7.3 Pending Litigation or Regulatory Petition; No Excuse

Pending litigation or any petition or appeal to any regulatory body or court having jurisdiction over Grantee, shall not excuse the Grantee from the performance of its obligations under this Franchise or Chapter 27A of the Municipal Code.

7.4 Procedure Prior to Revocation

Upon the occurrence of any of the events enumerated in paragraph 7.1 of this section, the Council shall, after hearing, upon thirty (30) days' written notice to the Grantee citing the reasons alleged to constitute cause for revocation, set a reasonable time in which the Grantee must remedy the cause. If, during the thirty (30) day period, the cause is cured to the satisfaction of the City, the City may declare the notice to be null and void. If the Grantee fails to remedy the cause within the time specified, the Council may revoke the Franchise, and the performance bond shall be forfeited. In any event, the Franchise may not be terminated prior to compliance with the termination procedures set forth in Chapter 27A of the Municipal Code.

7.5 Disposition of Facilities

In the event a Franchise expires, is revoked, or otherwise terminated, the City may, in its sole discretion, do one of the following:

A. Order the removal of the Network facilities required by public necessity from the City within a reasonable period of time as determined by the City.

B. Require the original Grantee to maintain and operate its Network for an extended period of time not to exceed six (6) months as provided in Section 7.11 below.
7.6 Restoration of Property

If required by the City to remove any of its plant, structures and equipment, the Grantee shall refill at its own expense any excavation that shall be made by it and shall leave all public ways and places in as good a condition as that prevailing prior to the Grantee's removal of its equipment and appliances, without affecting the electrical or telephone cable wires or attachments. Such restoration of property shall not be considered complete until the City shall have inspected and approved the condition of the public ways and public places and cables, wires, attachments, and poles after removal. The liability insurance, indemnity, and performance bond as provided in Chapter 27A of the Municipal Code shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this paragraph and this Franchise.

7.7 Restoration by City; Reimbursement of Costs

In the event of a failure by the Grantee to complete any work required by subsection 7.6 above, or any work required by City law or ordinance within the time as may be established by the City and to the satisfaction of the City, the City may cause such work to be done, and the Grantee shall reimburse the City the cost thereof, within thirty (30) days after receipt of an itemized list of such costs or the City may recover such costs through the performance bond provided by Grantee.

7.8 Lesser Sanctions

Nothing shall prohibit the City, in its rules and regulations, from establishing or imposing lesser sanctions or censures than revocation for violations of provisions of the Franchise or of Chapter 27A of the Municipal Code.

7.9 Non-Exclusivity of Remedy

No decision by the City to invoke any remedy under this Franchise or under any statute, law or ordinance shall preclude the availability of any other such remedy.

7.10 Sale of Network Mandatory

In the event the Franchise is awarded to a new Grantee upon revocation or expiration of the term of this Franchise or any renewal thereof, the current Grantee shall negotiate in good faith to sell the Network to the new Grantee, if not prohibited by law.

7.11 Extended Operation

Upon revocation or expiration of this Franchise, the City may, by resolution, on its own motion, or request of the Grantee, require the Grantee to operate the Network for an extended period of time not to exceed six (6) months from the date of such revocation or
expiration. All provisions of this Franchise and Chapter 27A of the Municipal Code pertaining thereto shall continue to apply during said period. The City shall serve written notice at the Grantee's business office of intent to extend under this section at least sixty (60) days prior to expiration or revocation of the original Franchise or any renewal thereof.

SECTION 8 FRANCHISE REVIEW; NETWORK REBUILD

8.1 Needs Analysis

The City and Grantee jointly shall conduct an independent needs analysis in the first month of the sixth year of this Franchise to determine if a state of the art Broadband Telecommunications Network with a minimum of sixty (60) channels is needed. The Grantee shall reimburse the City for the reasonable costs of the study within thirty (30) days of receipt of written invoices.

8.2 Procedures Determined by Results of Needs Analysis

A. If the results of the needs analysis show a need for a state of the art Broadband Telecommunications Network of at least 60 channels, the Grantee shall immediately begin developing the design, capability, equipment, and channel capacity of the Network as it shall be rebuilt.

B. The City shall grant an extension of the Franchise for an additional 8.5 years if the Grantee has fully complied with the terms of Chapter 27A of the Municipal Code and this Franchise Agreement and if Grantee has voluntarily rebuilt the Network to sixty (60) or more channels prior to the commencement of the needs analysis procedure. Nothing herein shall prohibit the City from granting an extension to this Franchise Agreement, if it so desires, in the event Grantee does not rebuild the system to sixty (60) or more channels as aforesaid.

C. The Grantee shall begin the rebuild of the Network within six (6) months of completion of the needs analysis, provided that the extension has been granted by the City. If an extension is granted subsequent to six (6) months after the needs analysis, the Grantee shall begin construction immediately upon such extension. If the Grantee seeks to rebuild the Network prior to the conduct of the needs analysis, the Grantee shall begin construction immediately upon the City's grant of an extension.

D. The rebuild shall be completed no later than two years after construction begins.

E. If it is determined that increased channel capacity greater than that of the then existing Network is not needed prior to the end of year eight (8) of the Franchise, then the Franchise Agreement shall expire at the end of the sixth month of year nine (9) of this Franchise.
SECTION 9 FEES, RATES AND CHARGES

9.1 Notification

Grantee shall file with the City schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. No rates or charges shall be effective except as they appear on a schedule so filed.

9.2 Preferences Prohibited

Grantee shall not make or grant any preferences or advantage in monthly service rates or service quality, to any person nor subject any person to any prejudice or disadvantage in such rates or service. This provision shall not be deemed to prohibit promotional campaigns or other legitimate activities, nor shall it be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification shall be entitled.

9.3 Credit for Service Interruption

In the event that service to any Network subscriber is interrupted for twenty-four (24) or more consecutive hours, except for reasons beyond control of the Grantee, and except in circumstances for which prior approval of the interruption is obtained from the City, the Grantee shall provide expeditiously a prorated credit, on a daily basis, to such subscriber or user during the next consecutive billing period. In cases where service is interrupted due to acts beyond the control of the Grantee that the Grantee could not foresee, subscriber and user service charges shall be suspended from the time the Grantee has actual or constructive notice of the interruption until service has been restored, without any additional penalty under this section to the Grantee. For purposes of computing the time of interrupted service, said time shall begin when a complaint for interrupted service is received and logged by the Grantee or when the Grantee has actual or constructive notice of the interruption.

9.4 Disconnections, Failure to Pay

There shall be no charge for disconnection from the Network other than for seasonable disconnections for which a reasonable reconnection charge may be made, unless a customer agrees otherwise in writing, or unless the City and Grantee agree to such disconnection charge at a later date. If a subscriber has failed to pay a properly due monthly subscriber fee not less than forty-five (45) days after the due date of the fee, the Grantee may cause disconnection of the subscriber's cable installation after giving such subscriber at least ten (10) working day's written notice of intent to disconnect; however, upon payment in full of the delinquent monthly subscriber fee, and a reasonable fee for reinstatement, the Grantee shall promptly reinstate the subscriber's cable service.
9.5 Free Connections and Monthly Service

The Grantee shall provide, free of charge within serviceable areas of the City, the initial connection and all of the basic monthly service to such municipal buildings, as designated by the City during the life of the Franchise. Grantee shall discuss the location of each connection with the proper officials of each such building receiving free connection. This section will apply only in cable areas.

9.6 Rate Regulation to the Extent Authorized

A. To the extent that Federal or State law or regulation may now, or as the same may hereafter be amended to, authorize the City to regulate the rates for any particular service tiers, service packages, equipment, or any other services provided by Grantee, the City shall have the right to exercise rate regulation to the full extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the City. This section will not apply, however, if Grantee upgrades the system to sixty (60) channels.

B. If and when exercising rate regulation the City shall consider, along with any other information it deems necessary or appropriate, the following factors in approving or disapproving a rate increase request: the ability of the Grantee to render network services and to derive a reasonable profit therefrom under the existing rate schedule and under the proposed rate schedule, the revenues and profits derived from Network Services; the efficiency of the Grantee; the quality of the service offered by the Grantee; the fair value cost of the Network less depreciation; a fair rate of return over the life of the Franchise with respect to Grantee's investment; the extent to which Grantee has adhered to the terms of this Franchise and Chapter 27A of the Municipal Code; and fairness to City residents, subscribers, and users. The City shall not consider any valuation based upon the Franchise, and the items of value shall neither be amortized as an expense nor shall a return be paid on them. The City may retain rate consultants as it deems appropriate, and all reasonable charges for such independent consultants shall be paid by Grantee.

SECTION 10 EXTENSION OF NETWORK

10.1 Network Extension Within City Boundaries - Mainland

Within six (6) months of the effective date of this Franchise, Grantee shall make full cable service available to the areas indicated in Schedule A, attached hereto and incorporated by reference. Throughout the term of this Franchise, Grantee shall continue to provide service to those areas and all other areas being served, as of the effective date of this Franchise. Extension of service to other mainland areas of the City shall be in accordance with the following formula:
Aerial. In areas of the City where cables, wires and other like facilities of the telephone or electric utilities are above ground, Grantee shall make full cable service available to any area with 20 homes or 15 subscribers per proposed plant mile.

B. Underground with Existing Conduit. In areas of the City where cables, wires and other like facilities of the telephone or electric utilities are underground, and existing conduit is available, Grantee shall make full cable service available to any area with 35 homes or 20 subscribers per proposed plant mile.

C. Underground with No Existing Conduit. In areas of the City where cables, wires and other like facilities of the telephone or electric utilities are underground, and no existing conduit is available, Grantee shall contribute a minimum of Five Hundred Dollars ($500.00) per home, or more within the Grantee's discretion, passed during the first year of this Franchise, with such amount to be adjusted annually according to changes in the Consumer Price Index. The remaining cost shall be borne by individual subscribers requesting a line extension. Before commencing such line extension, Grantee shall provide each potential subscriber with a full written estimate of the total cost of the line extension, indicating the amount to be paid by Grantee and that to be paid by the subscriber.

D. Line Extension Cost Sharing. In areas with aerial facilities that have fewer than 20 homes or 15 subscribers per proposed plant mile, and in areas with underground facilities with existing conduit that have fewer than 35 homes or 20 subscribers per proposed plant mile, the cost-sharing arrangement shall consist of the following:

1. On the request of a potential subscriber desiring service, the Grantee shall prepare an engineering survey and estimated cost analysis to determine the cost of plant extension required to provide service from the closest point where available, quality signals exist.

2. The cost of construction shall be allocated between the Grantee and all participating subscribers. The Grantee's share of construction for each home or subscriber shall be as follows:

   15 subscriber households per mile = 352' per subscriber

   20 subscriber households or homes per mile = 264' per home or subscriber

   35 homes per mile = 151' per home.

   Applicants shall pay for all construction in addition to these specified footage amounts at the same rate per foot as the Grantee.
Subscribers utilizing the cost-sharing plan for extensions shall be reimbursed their proportionate share of the amount paid by the additional subscriber.

Such requests for reimbursements must be initiated by the subscriber seeking reimbursement within two (2) years of the completion date of the extension.

10.2 Network Extension Within City Boundaries - Peaks Island

Grantee shall provide full cable service to the areas of Peaks Island, as indicated on Exhibit "F" attached hereto, within twelve (12) months from the effective date of this Franchise. Before entering into an agreement to provide service to any Peaks Island subscriber, Grantee shall provide such potential subscriber with a full written description of the company's service policies for Peaks Island. Peaks Island subscribers shall pay the same installation, converter deposit, and subscription rates as mainland subscribers, with the exception of an additional monthly charge for an addressable remote converter. Upon commencement of service, Peaks Island subscribers shall be required to pay a deposit as indicated on the rate schedule. Said subscribers may be billed on a quarterly basis and also may be billed three (3) months in advance.

10.3 Network Extension Within City Boundaries - Other Islands

A. For islands other than Peaks Island within the City of Portland, Grantee shall provide full cable service according to the following housing unit formula:

1) Long Island: 500 Housing Units
2) Cliff Island: 310 Housing Units
3) All Other Islands: 150 Housing Units

B. For purposes of calculating housing units, seasonal houses shall be equivalent to twenty-five percent (25%) of a full housing unit. Seasonal houses are defined as "dwellings which are not occupied year round". Homes having a satellite dish, or subscribing to any other multi-channel program distribution service shall not count as housing units for the purposes of this section.

C. Before entering into an agreement to provide service to any subscriber on any islands covered by this section, Grantee shall provide potential subscribers with a full written description of the company's service policies for the islands.

D. For any island qualifying under the formula herein, Grantee shall provide full cable service if it proves economically viable, or shall provide an alternative program delivery system (e.g., Satellite Master Antenna TV, etc.), provided, however, that if an alternative delivery system is used, Grantee shall ensure that all
Portland Access Programs are delivered over such system along with other programs and services.

E. For any island qualifying under the formula herein, requests for further line extensions after the Grantee has activated service to an island and offered to all then-existing residents the opportunity to be connected to the Network, shall be provided to new residents and dwellings on the following cost-sharing basis. The Grantee shall contribute Five Hundred Dollars ($500.00) for each year-round home passed, or One Hundred Twenty-Five Dollars ($125.00) for each seasonal home passed, with such amounts to be adjusted annually in accordance with the Consumer Price Index. The remaining cost shall be borne by individual subscribers requesting a line extension. Before commencing such line extension, Grantee shall provide each potential subscriber with a full written estimate of the total cost of the line extension, indicating the amount to be paid by Grantee and that to be paid by the subscriber.

10.4 Network Interconnection Not Prohibited

Nothing in this section shall be construed as prohibiting Grantee, at any time, from interconnecting the Network to a network serving any other governmental entity.

SECTION 11 NETWORK DESCRIPTION

11.1 Network Upgrade

Within twelve (12) months from the effective date of this Franchise, the Grantee shall upgrade the existing Network to 330 MHZ, 42 channel capacity.

11.2 Network Configuration

The Grantee shall design, construct and reconstruct the Network in a hub configuration with the Network trunk lines emanating out of the hubs in a radial fashion into the various areas of the City. Trunk lines servicing each area shall be capable of offering full Network service to all subscribers. For the purpose of this section, "Network" shall refer to the system serving all interconnected communities.

11.3 Emergency Alert Override

The Grantee shall incorporate into its facilities the capability for an emergency override audio alert whereby a designee of the City, in times of crisis, may introduce an audio message on all Broadband Telecommunications Network channels simultaneously. The Grantee shall provide, in a location to be designated by the City, all equipment necessary for use of the emergency alert system.
SECTION 12  NETWORK TECHNICAL REQUIREMENTS

12.1 The Broadband Telecommunications Network must be so designed, installed and operated as to meet the following general requirements:

A. Capable of continuous 24-hour daily operation;

B. Capable of operating over an outdoor temperature range of -40°F to +140°F without catastrophic failure or irreversible performance changes over variations in supply voltages from 105 to 130 volts AC;

C. Capable of meeting all specifications set forth herein over an outdoor temperature range of -20°F to +100°F over variations in supply voltages from 105 to 130 volts AC;

D. Operated in such a manner as to avoid causing interference with reception of off-the-air signals by non-subscribers to the Network;

E. Designed, installed and operated so as to assure the delivery to all subscribers of standard color and monochrome signals without noticeable picture degradation or visible evidence of color distortion or other forms of interference directly attributable to the performance of the Broadband Telecommunications Network.

12.2 Technical Performance Requirements

The Broadband Telecommunications Network shall comply in all respects with the technical performance requirements of the FCC.

SECTION 13  PERFORMANCE MEASUREMENTS

13.1 General Requirements

The City shall have the right to verify that the system is operating pursuant to FCC standards, upon receipt of complaints. The procedures used in verification of the performance criteria set forth herein shall be in accordance with good engineering practice.

13.2 Performance Evaluation Sessions

The City and the Grantee shall, at the discretion of the City, hold scheduled performance evaluation sessions annually. Special evaluation sessions may be held at any time during the term of the Franchise. All such evaluation sessions shall be open to the public. Public notice of such evaluation sessions shall be given, and the Grantee shall notify subscribers of all such evaluation sessions by announcement on at least one channel of the Network between the hours of 11:00 a.m. and 9:00 p.m. for five (5) consecutive days preceding each session. During the review and evaluation by the City, the Grantee shall fully cooperate with the City and shall
provide such information and documents as the City may need to reasonably perform its review.

SECTION 14 SERVICES AND PROGRAMMING

14.1 Service prior to 42-Channel Upgrade

A. Grantee shall provide basic service which shall include:

   (i) the City's local programming designee/the University of Southern Maine;

   (ii) at least one (1) local origination/access channel;

   (iii) at least one educationally-oriented channel;

   (iv) at least one (1) channel carrying news;

   (v) at least one (1) music-oriented programming service;

   (vi) at least one (1) sports-oriented programming service;

   (vii) at least one (1) children-oriented programming service;

   (viii) at least one (1) weather service; and

   (ix) at least one (1) religious-oriented or family programming service.

B. Schedule B is attached hereto and made a part hereof for the purpose of defining the quality of the broad categories of programming.

14.2 Basic Service Upon Completion of 42-Channel Upgrade

A. Upon completion of the forty-two (42) channel Network upgrade, Grantee shall provide, in addition to the channels and services provided for in Section 14.1, at least the following:

   (i) At least one (1) arts and cultural programming service;

   (ii) at least one (1) access channel administered by the University of Southern Maine;

   (iii) at least one (1) public access channel.

B. Schedule B is attached hereto and made a part hereof for the purpose of defining equivalent quality of such broad categories of video programming.
14.3 **Premium Pay Service Prior to 42-Channel Upgrade**

Grantee shall provide at least three (3) premium pay services. Schedule C is attached hereto and made a part hereof for the purpose of defining equivalent quality and mix of programming of the same general class.

14.4 **Premium Pay Services Upon Completion of 42-Channel Upgrade**

A. Upon completion of the 42-channel upgrade, Grantee shall provide, in addition to the three (3) premium pay services provided for in Section 14.3, at least one (1) premium pay service oriented to the performing arts, or at least one (1) premium pay service providing regional sports coverage.

B. Schedule C is attached hereto and made a part hereof for the purpose of defining equivalent quality and mix of programming of the same general class.

14.5 **Premium Pay Service Within Twenty-Four Months**

Within twenty-four (24) months of the effective date of this Franchise, Grantee shall provide at least one (1) nonduplicative premium pay service which shall be at least one (1) premium pay service or one (1) pay per view service. Grantee shall be under no obligation to offer a regional sports service if a representative sample indicates that consumer demand for such a service is less than five percent (5%) of existing subscribers. The Grantee, in its discretion, may elect to place the premium pay channel described herein under basic service.

14.6 **FM Stereo Broadcasts**

Grantee shall make available to subscribers every FM stereo broadcast of all Network programs broadcast by local affiliates in stereo.

14.7 **Changes in Services and Programming**

A. The Grantee reserves the right to add to and change its program and service offerings.

B. As provided for above, the Grantee shall maintain the mix, level, quality and quantity of the program services offered to subscribers, throughout the term of the Franchise.

14.8 **Cable Drops and Monthly Service**

Grantee shall provide one (1) free cable drop to all municipal buildings passed by cable except Portland City Hall which Grantee shall provide four (4) free cable drops. The basic service and the discrete institutional channels shall be provided free of charge to all of these locations.
14.9 Handicapped Services

All closed-captioned programming retransmitted over the Network shall include the closed-caption signal.

SECTION 15 PUBLIC, EDUCATIONAL, AND GOVERNMENT ACCESS AND LOCAL ORIGINATION

15.1 ACCESS FACILITIES AND EQUIPMENT

In order to develop and promote public, educational and government access programming, Grantee shall purchase, maintain and replace, based upon normal life expectancy, Three Hundred Forty Thousand Dollars ($340,000.00) in capital equipment for public access, educational access, Channel 7, and municipal access programming. The City shall determine the distribution of these funds. Grantee shall provide technical assistance to the City in selecting equipment, and shall purchase such equipment within the time frame established by the City. Equipment shall be serviced and maintained on a regular basis, and shall be housed in locations specified by the City.

15.2 Access Funding Commitment

The Grantee shall contribute, in addition to the five percent (5%) Franchise fee, Three Thousand Dollars ($3,000.00) per month for public, educational and municipal access operating expenses. This amount shall be increased annually in accordance with the Consumer Price Index (CPI) and merit pay increases. These funds shall be contributed to a non-profit organization of the City's choice that will use the funds to provide programs for public access and community programming.

15.3 Local Origination Funding Commitment

Grantee shall expend a minimum of Three Thousand Dollars ($3,000.00) per month, in addition to the funds required to be spent in Section 15.2 above, for the Grantee's local origination programming. This amount shall be adjusted annually in accordance with the Consumer Price Index (CPI).

15.4 Mobile Production Van

Grantee shall maintain and operate a staffed mobile production van. Such van shall be made available to the City of Portland at least forty (40) hours per month for public, educational and municipal access programming needs.

15.5 Videocassettes of Council Meetings

Grantee shall cablecast on its Broadband Telecommunications Network the entire proceedings of all regular and special meetings of the Portland City Council. Within one week after each Council
meeting, Grantee shall provide the City with a complete and unedited videocassette of the meeting as cablecast.

SECTION 16 INSTITUTIONAL NETWORK

16.1 General

The Grantee shall operate and maintain the Institutional Network which shall be capable of offering a full range of interactive services, including without limitation, data, text, audio or video services. The Institutional Network, upon activation, shall initially serve users at the building locations specified in Schedule E, attached hereto and incorporated by reference. The Institutional Network shall be a midsplit 330 MHZ cable and shall be completed no later than twelve months after the effective date of this Franchise.

16.2 Institutional Service Delivery Equipment

Public Cable will continue to provide and maintain free drops and converters to the buildings listed on Schedule "E". Head end equipment and origination equipment previously provided to Portland City Hall also will be provided and maintained continuously.

16.3 Connections for Public Buildings

All public buildings specified in Schedule E shall be connected to the Institutional Network no later than twelve (12) months after the effective date of this Franchise. The City reserves the right to designate additional drops to be connected to the Institutional Network. Connection costs for said additional drops shall be paid by the City, and Grantee shall provide and maintain said drops free of charge to the City thereafter.

16.4 Internal Wiring, Equipment and Maintenance

A. All users of the Institutional Network shall be permitted to provide their own compatible internal wiring and terminal equipment.

B. The Grantee shall consult with potential users of the Institutional Network prior to the installation of such wiring or equipment so that technical standards of the wiring and equipment are compatible with the Grantee's technical standards.

C. The Grantee shall not be responsible for the installation or maintenance of internal wiring and terminal equipment provided by Institutional Network users.

D. All users of the Institutional Network shall provide and maintain their own technical equipment and other specialized user hardware, except for the equipment described in Section 16.2 above.
E. Four upstream and four downstream channels shall be provided free of charge to the City. In the event the City uses these channels for telemetry communications and said use subjects Grantee to the regulatory authority of the State, the City agrees to comply with any regulations promulgated by said State.

16.5 Part-Time, Unaffiliated Lessees

The Grantee shall work cooperatively with unaffiliated, part-time, third-party lessees to establish on a case-by-case basis Institutional Network applications, costs, and reasonable charges. The Grantee shall work with the City to evaluate and ensure reasonably priced and readily available equipment to these part-time lessees.

16.6 Services and Rates Brochure

The Grantee shall provide all Institutional Network subscribers annually with a brochure detailing all services and policies.

16.7 Extension of the Institutional Network

In year five (5) of the Franchise herein granted, the Grantee shall extend the Institutional Network for five additional aerial miles, with the City to determine the route and the buildings to be connected. Due consideration shall be given to the economics of construction in selecting the route.

16.8 Institutional data channels on the Subscriber Network

In the event that the channel capacity of the subscriber network increases above forty-two (42) channels during the term of this Franchise or any extension or renewal thereof, four (4) dedicated, discrete downstream data channels or one video channel on the subscriber Network shall be reserved for the City's use, to be activated upon the request of the City. The institutional channels on the subscriber Network shall be fully integrated with the Institutional Network. The Institutional Network shall not be used in a manner which will subject Grantee's other activities to regulation by the Public Utilities Commission. In the event the City uses these channels for telemetry communications and said use subjects Grantee to the regulatory authority of the State, the City agrees to comply with any regulations promulgated by said State.

SECTION 17 SERVICE STANDARDS

17.1 Office

Grantee shall establish, operate and maintain in the City a business office and maintenance and repair facility for the purpose of receiving inquiries, requests and complaints concerning all aspects of the establishment, construction, reconstruction, maintenance, and operation of the Network and for the payment of
17.2 Responsiveness to Customer Complaints

If the City determines, based upon customer complaints, that the telephone response time of the Grantee to customer complaints is deficient, then the City shall report said complaints to the City of Portland CATV Committee ("CATV Committee"). The CATV Committee and Grantee jointly shall investigate the complaints and implement appropriate measures to restore the telephone response time to a reasonable period of time mutually acceptable by the City and Grantee.

17.3 Telephone Numbers

The Grantee shall have a listed, locally-staffed telephone number for service calls. Such telephone service shall be available twenty-four (24) hours a day, seven (7) days a week. Said number shall be made available to subscribers and the general public. The Grantee shall also provide a separate, unlisted locally-staffed telephone number to the City and utility companies to enable the City or utility companies to reach the Grantee in case of emergency on a 24-hour, 7-days-a-week basis.

17.4 Grantee Service Procedures

The Grantee shall prepare and file with the City copies of all of its rules and regulations in connection with the handling of inquiries, requests and complaints. The Grantee shall, by appropriate means such as a card or brochure, furnish information to the City and to all subscribers concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed, and furnish information concerning the city office responsible for the administration of the Franchise, including but not limited to, the address and telephone number of said office.

17.5 Employee Identification

Grantee 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. Grantee shall use its best efforts to clearly identify all personnel, vehicles, and other major equipment that are operating under the authority of the Grantee. Each employee of the Grantee, when entering private property or working on public ways, shall be required to wear an employee identification card issued by the Grantee bearing a picture of said employee.

17.6 Standard Installations

Standard installation shall consist of a service not exceeding one hundred fifty (150) feet from a single point or pedestal attachment.
to the customer's residence. Service in excess of 150 feet and concealed wiring shall be charged not to exceed additional installation costs before installation begins. The desire of the Subscriber as to the point of entry into the residence shall be observed whenever possible. Runs in building interiors shall be as unobtrusive as possible. The Grantee shall use due care in the process of installation and shall repair any damage to the subscriber's property caused by said installation. Such restoration shall be undertaken within no more than ten (10) days after the damage is incurred and shall be completed as soon as possible thereafter. The Grantee shall provide additional outlets as customers may request.

17.7 Installation Hours and Appointments

Installation service shall be provided Monday through Saturday from 8:00 a.m. until 4:30 p.m. or according to a comparable schedule. Upon requesting service, customers shall be informed that they may schedule installation appointments which best suit their needs, such as morning or afternoon appointments, or first or last appointments of the day. If requested, Grantee shall call customers at their place of business one-half hour before the installer arrives. All installations and activation of service shall be completed within ten (10) working days of customers' requests, unless the delay is caused by the customer or unless the customers are unwilling to make themselves available during work hours on weekdays and instead request a specific time of appointment or a Saturday appointment.

17.8 Remote Control Converters

Grantee shall make available wireless remote control converters for subscribers to lease or to purchase.

17.9 Subscribers' Antennas

The Grantee shall not require the removal, or offer to remove or provide any inducements for removal, of any potential or existing subscribers' antennas as a condition of provision of service.

17.10 Service and Repair Response

Repair service to individual customers shall be provided from 8:00 a.m. until 4:30 p.m. Monday through Saturday, or according to a comparable schedule. Service calls for "No Picture" situations shall be provided seven days per week. Repair service for network problems and outages shall be provided twenty-four hours per day, seven days per week. The Grantee shall respond to and resolve subscribers' complaints or requests for service in connection with repairs and maintenance and malfunctions of Network Facilities as quickly as possible, but shall in any case respond within twenty-four (24) hours. Complaints or requests which may pose a potential health and safety hazard shall be responded to immediately.
17.11 Repeated Service Complaints

When there have been a number of similar complaints made, or where there exists other evidence, which in the judgment of the City casts doubt on the reliability or quality of the cable service, the City shall have the right and authority to require that the Grantee test, analyze, and report on the performance and operation of the Network as provided in Section 13 herein. Grantee shall fully cooperate with the City in performing such testing and shall prepare results and a report, if requested, within fourteen (14) days after notice.

17.12 On Line Record Keeping and Billing System

Grantee shall install and maintain an in-house, on-line computer customer billing record-keeping system. Cycle billing shall be utilized. In connection with billing complaints, the Grantee shall respond within seven (7) business days.

17.13 Service Interruption and Notification

The Grantee, whenever it is necessary to interrupt service for an extended period of time over the Broadband Telecommunications Network for the purpose of maintenance, alteration or repair, shall do so at such time as will cause the least amount of inconvenience to its subscribers, preferably between the hours of 12:00 a.m. and 6:00 a.m., and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to the affected subscribers. If an interruption of service to any subscriber exists for over seventy-two (72) hours after registration of complaint, other than as may be due to circumstances beyond the reasonable control of the Grantee, the City shall have the right to require the Grantee to secure competent assistance at the expense of the Grantee, or to invoke other remedies as provided in this Franchise and Chapter 27A of the Municipal Code.

17.14 Service Records Maintained

The Grantee shall at all times make and keep at an office maintained by the Grantee in the City of Portland a list of all complaints and interruptions or degradation of service received or experienced during the term of the Franchise. The records maintained above shall also include complaint response time and service restoral period and shall be continuously open to inspection, examination or audit by any duly authorized representative of the City.

17.15 Continuity of Service Mandatory

It shall be the right of all subscribers to receive continuous, uninterrupted service insofar as their financial and other obligations to the Grantee are honored.
17.16 Continuity Upon Sale, Termination or Expiration

In the event that the Grantee elects to rebuild, modify or sell the Network, or the City gives notice of intent to terminate or fails to renew this Franchise, the Grantee shall cooperate with the City, or new Grantee or operator, in maintaining continuity of service to all subscribers. During such period, Grantee shall be entitled to the revenues for any period during which it operates the Network, and shall be entitled to reasonable costs for any contracted services when it no longer operates the Network.

SECTION 18 CONSTRUCTION STANDARDS

18.1 Compliance with Safety Codes and Regulations

Grantee shall at all times comply with all Occupational Safety and Health regulations; the National Electric Safety Code (National Bureau of Standards), the National Electric Code (National Bureau of Fire Underwriters), the Bell System Code of Pole Line Construction, the National Cable Television Association Standard Code, and applicable FCC or other federal, state and local regulations.

18.2 Compliance with Aviation Requirements

Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration, the Federal Communications Commission, and all other applicable federal, state or local codes and regulations.

18.3 Contractors, Subcontractors and Affiliates

All contractors, subcontractors and affiliates of Grantee must be properly licensed under all applicable federal, state, and local laws and regulations. Grantee shall be solely and completely responsible for all acts or omissions of any such contractor or subcontractor in the construction, reconstruction, installation, maintenance, or operation of Grantee's Network.

18.4 City Maps

The City does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the location shall be verified by excavation.

18.5 Construction Notice

Grantee shall give appropriate notice to the City and residents within a reasonable period of time of proposed construction, reconstruction, excavation, or laying or stringing of cable under streets or on poles. In no event shall such notice be given less than seven (7) days before commencement of such work.
SECTION 19     CONDITIONS OF STREET OCCUPANCY

19.1 Approval of Proposed Construction

The Grantee shall first obtain all required approvals prior to commencing construction on the streets of the City. Applications for approval of construction shall be in a form provided by the City. The Grantee shall give the City written notice of proposed construction at least ten (10) days prior to such construction, or in the time provided by City Ordinance, whichever is longer, so as to coordinate all work between the City and the Grantee.

19.2 Excavation Permits

The Grantee shall not open or disturb the surface of any street, sidewalk, driveway, or public place for any purpose without first having obtained a permit to do so in the manner provided by ordinance.

19.3 Changes Required by Public Improvements

The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place, any property of the Grantee when required by the City by reason of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, city-owned power or signal lines, and tracts or any other type of structure or improvement by public agencies.

19.4 Use of Existing Poles or Conduits

Nothing in this Franchise shall authorize the Grantee to erect and maintain in the City new poles where existing poles are servicing the area. The Grantee shall require permission from the appropriate agencies before erecting any new poles or underground conduit where none exist at the time the Grantee seeks to install its Network.

19.5 Facilities Not to be Hazardous or Interfere

All wires, conduits, cables and other property and facilities of the Grantee shall be so located, constructed, installed, and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon the streets and public places of the City. The Grantee shall keep and maintain all of its property in good condition, order and repair. The Grantee shall file accurate maps and records with the City as required under Section 27A-4 of the Municipal Code. Grantee shall not place poles or other equipment where they will interfere with the rights of reasonable convenience of adjoining property owners, or with any gas, electric or telephone fixtures or with any water hydrants or mains. All poles or other fixtures placed in a street shall be placed in the right-of-way between the roadway and the property, as specified by the City.
19.6 Method of Installation

All wires, cables, amplifiers and other property shall be constructed and installed in an orderly and workmanlike manner. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in parallel and bundled, with due respect for engineering and safety considerations. All installations shall be underground in those areas of the City where both existing telephone services and power services are underground at the time of Network construction. In areas where both telephone and electric utility facilities are installed aerially at the time of construction, the Grantee, unless otherwise specified by the City, may install its facilities aerially with the understanding that at such time as the telephone is required to be placed underground by the City, the Grantee shall likewise place its services underground without additional cost to the residents of the City.

19.7 Request for Removal or Change

The Grantee shall, on the request of any person holding a building moving permit, temporarily raise or lower its wires to permit the moving of said building. The expenses 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 five (5) days' advance notice of any move contemplated to arrange for temporary wire changes.

19.8 Authority to Trim Trees

The Grantee shall contract with a professional arborist approved by the City to trim trees upon and overhanging streets of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Network. The City may at its discretion require such additional trimmings as it deems necessary to preserve the symmetrical growth of the trees.

19.9 Restoration or Reimbursement

In the event of disturbance of any street or private property by the Grantee, it shall, at its own expense and in a manner approved by the City or the owner, replace and restore such street or private property in as good a condition as before the work causing such disturbance was done. In the event the Grantee fails to perform such replacement or restoration within thirty (30) days of receipt of written notice by the City or the owner, the City or the owner shall have the right to do so at the sole expense of the Grantee. Payment to the City or owner for such replacement or restoration shall be immediate, upon demand, by the Grantee.
19.10 City Property

Any alteration to the water mains, sewage or drainage system or to any other municipal structures in the streets and public ways, required due to the presence of the Broadband Telecommunications Network shall be made only with the prior written approval of the City and at the sole cost and expense of the Grantee. During the construction, reconstruction, installation, operation or maintenance of the Network, Grantee shall, at its sole cost and expense, protect all existing structures belonging to the City, and shall immediately notify the City of, and be liable to the City for, any damages or alterations (and the costs of the associated repairs) which occur to such structures due to the presence, operation, negligence, or maintenance of the Network. In the event of such damage or alteration, the City shall present to the Grantee a written notice detailing the amount of damages or the cost of repairs. Grantee shall pay the City the amount of damages or the cost of repairs within thirty (30) days after receipt of said written notice.

19.11 Office and Records in the City

The Grantee shall at all times make and keep at an office maintained by the Grantee in the City, full and complete plans and records showing the exact location of all Broadband Telecommunications Network equipment installed or in use in the streets and other public places of the City.

19.12 Emergency Removal of Plant

If at any time, in case of fire or disaster in the City, it shall become necessary in the reasonable judgment of the City to cut or move any of the wires, cables, amplifiers, or other appurtenances to the Network of the Grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the Grantee, at its sole expense, provided that such repairs are not necessitated by a negligent act of the City, in which case, cost for repairs shall be borne by the City.

19.13 Alternate Routing of Plant

In the event continued use of a street is denied to the Grantee by the City for any reason, the Grantee shall provide service to affected subscribers over alternate routes, which the City and Grantee determine are economically viable, within a reasonable period of time.

SECTION 20 INTERCONNECTION

20.1 No Prohibition of Interconnection

Nothing in this Franchise shall be construed so as to prohibit the Grantee from interconnecting its Network with other similar contiguous networks, either in the City or in other municipalities, counties or states. However, any revenues derived therefrom shall
be equitably allocated in the calculation of Grantee's gross annual revenues.

20.2 Interconnection Required

The Grantee shall, with the acceptance of this Franchise, continue to interconnect its facilities in the City to those installed in South Portland via a multi-channel, bi-directional, coaxial cable so as to permit the interchange of programs of common interest between the Cities.

20.3 University of Maine Campuses Interconnections

Throughout the term of this Franchise, the Grantee shall interconnect the campuses of the University of Maine located in Portland, South Portland, and Gorham to the Portland Broadband Telecommunications Network.

SECTION 21 PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED

21.1 Equal Opportunity Policy

Grantee shall afford equal opportunity employment to all qualified and qualifiable persons, and no person shall be discriminated against with respect to compensation, terms, conditions or other privileges of employment because of race, color, religion, sex, national origin, physical condition or age.

21.2 Services to be Equally Available

Grantee shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage. This provision shall not be deemed to prohibit promotional campaigns to stimulate subscription to the Network or other legitimate uses thereof; nor shall it be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classifications shall be entitled, provided such schedules have been published and filed with the City.

21.3 Fairness of Accessibility

The entire Network of the Grantee shall be operated in a manner consistent with the principles of fairness and equal accessibility of its facilities, equipment, channels, studios and other services to all citizens, businesses, public agencies and other entities having a legitimate use for the Network, and no one shall be arbitrarily excluded from its use. Allocation of use of said facilities shall be made according to the rules or decisions of the Grantee and any regulatory agencies affecting the same, and where such rules or decisions are not effective to resolve a dispute between conflicting users or potential users, the matter shall be submitted
for resolution by the Broadband Telecommunications Network Regulatory Board.

21.4 Information Accessibility

A. Each individual shall have the right to information concerning the provisions of this Franchise and the rules and regulations formulated pursuant to it by the Council, the Grantee, agent or entity created hereunder or pursuant to the Ordinance.

B. Each document required to be maintained, prepared, filed or submitted under the provisions of this Franchise or Chapter 27A of the Municipal Code is a public document, available for public inspection and copying at the requester's expense, at the office of the Grantee or the City during normal business hours.

C. Each individual shall have the right to representation on such boards, commissions, agencies or other entities created by the City Council pursuant to Chapter 27A of the Municipal Code. Such representation by citizens of the City shall be in the manner and form as the City Council may determine, insuring equal participation of all protected groups.

SECTION 22 PROTECTION OF SUBSCRIBER PRIVACY

Grantee shall at all times protect the privacy of subscribers, pursuant to all applicable federal, state and local laws.

SECTION 23 GOVERNING REQUIREMENT

It being the intent of both parties hereto that the City shall have the maximum authority to regulate the Broadband Telecommunications Network, the Grantee and this Franchise, as may at any time be lawfully permissible, the City may, at any time applicable legislative, judicial or regulatory authorities permit regulation not presently permitted to the City without the approval of Grantee, engage in any such additional regulation as may then be permissible, whether or not contemplated by this Franchise Agreement, unless the City and Grantee mutually agree to do otherwise, including without limitation regulation respecting Franchise fees, taxes, program content, rates charged to subscribers, consumer protection, or any other similar or dissimilar matter.

SECTION 24 DISPUTE RESOLUTION

A. In the event that a dispute arises between the City and the Grantee regarding the performance of any act required by this Agreement or the interpretation of any material term of this Agreement, both parties may agree that the dispute be submitted to arbitration in the following manner:


1. The arbitration panel will consist of three (3) arbitrators. One arbitrator will be selected by the City and one by the Grantee. The third arbitrator will be selected by the two arbitrators selected by the City and the Grantee as aforesaid. However, if they are unable to agree to a third arbitrator, then a third arbitrator will be assigned by the American Arbitration Association, in accordance with the rules of the American Arbitration Association.

2. Within thirty (30) days after appointment of all arbitrators and upon ten (10) days' written notice to the parties, the panel of arbitrators shall commence a hearing on the disputed issue. The panel shall have access to all records of the City and the Grantee which may pertain to the dispute. The hearing shall be recorded and may be transcribed at the request of either party. All hearing proceedings shall be open to the public at such times and places as stated in the notice or as thereafter publicly stated.

3. Within thirty (30) days after the close of the hearing, the panel of arbitrators shall prepare findings and decisions agreed upon by a majority of the panel which shall be furnished immediately to the City and the Grantee. Said decisions shall be absolutely binding upon the parties herein.

4. The cost of arbitration shall be borne equally by the City and the Grantee.

In the event both parties do not agree to submit the dispute to arbitration, either party may seek judicial relief.

SECTION 25 SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this Franchise, Chapter 27A of the Municipal Code, or other Franchise documents, including Grantee's application and proposal, is for any reason held invalid or unconstitutional by any federal, state or local regulatory agency, or any court of competent jurisdiction upon final adjudication, and not deemed material by the City in accordance with the provisions of Section 7.1 herein, such section, subsection, sentence, clause, phrase or word shall be deemed severable as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 26 CAPTIONS

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

IN WITNESS WHEREOF, the said CITY OF PORTLAND has caused this Franchise Agreement to be signed by its Municipal Officers, thereunto duly authorized, and PUBLIC CABLE COMPANY has caused this Franchise Agreement to be signed by its, thereunto duly authorized, the day and year first above written.

Witnessed By: 

CITY OF PORTLAND

By: Brian L. Dudley, Acting City Manager

Witnessed By: 

PUBLIC CABLE COMPANY

By: Its President