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Upper Darby Township Council Meeting

November 7th, 2018

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A regular meeting of Upper Darby Township Council was held on Wednesday evening, November 7th, 2018 at 7:00 p.m. in the Council Meeting Room #202 of the Municipal Building, 100 Garrett Road, Upper Darby, Pennsylvania.

The meeting was called to order by Council President Donald P. Bonnett with the Pledge of Allegiance to the flag of the United States of America.

Roll Call

Council Members Present:

Donald P. Bonnett, Thomas P. Wagner, Jacob A. Bierling Jr., Sekela Coles, Robert Gwin, Barbarann Keffer, Marc Manfre, Lisa Faraglia, Sheikh Siddique, Patrick Spellman, Laura Wentz

Present at the Meeting

Thomas N. Micozzie, Mayor
Thomas J. Judge Jr., CAO
Kelly Sullivan, Esq., Solicitor
Adam Matlawski, Esq., Solicitor
Richard G. Nolan, Chief Municipal Clerk

Public Forum

Gerald Harrison, 29 S. Kirklyn Avenue
Trash cans

His comments are filed on audio tape.

Mayor Micozzie

Announcements:

Mayor Micozzie recognized Boy Scout Troop 512 for their effort in the clean-up and beautification of a park in Upper Darby Township

Committee Reports

Finance and Appropriations Committee
Thomas P. Wagner, Chairman
Public Hearing for Ordinance No. 3050, an Ordinance authorizing Upper Darby Township, Delaware County, Pennsylvania to enter into a Cable Franchise Agreement with Comcast of Southeast Pennsylvania LLC

Public Speakers:

No speakers

Moved: Councilman Wagner  
Second: Councilman Bierling

A Roll Call vote was taken and was unanimously approved.

Ordinance No. 3050 is adopted. 11 in favor, none opposed.

Public Hearing for Ordinance No. 3051, an Ordinance authorizing Upper Darby Township, Delaware County, Pennsylvania to enter into a Cable Franchise Agreement with RCN Telecom Services of Philadelphia LLC

Public Speakers:

No speakers

Moved: Councilman Wagner  
Second: Councilman Bierling

A Roll Call vote was taken and was unanimously approved.

Ordinance No. 3051 is adopted. 11 in favor, none opposed.

Planning, Zoning & Building Code Committee
Jacob A. Bierling Jr., Chairman

Resolution No. 57-18, a Resolution of Upper Darby Township, Delaware County, Pennsylvania approving the application of Pilgrim Gardens, LP for the land development to redevelop 1.9876 acres with a three-story, 10,503 square foot office and retail building and to reconfigure the existing parking lot located near the intersection of Pontiac Road and Dermond Circle

Moved: Councilman Bierling  
Second: Councilman Wagner
Resolution No. 57-18 is adopted. 11 in favor, none opposed.

Solicitor
Nothing to report

Adjournment
Motion to adjourn: Councilman Wagner; Second: Councilwoman Coles

Motion approved. 11 in favor, none opposed.

Council President Bonnett adjourned the meeting.

Respectfully submitted,

Richard G. Nolan

Richard G. Nolan
Chief Municipal Clerk

RGN/akc
UPPER DARBY TOWNSHIP

Ordinance No 3050

AN ORDINANCE AUTHORIZING UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA TO ENTER INTO A CABLE FRANCHISE AGREEMENT WITH COMCAST OF SOUTHEAST PENNSYLVANIA LLC

WHEREAS, Upper Darby Township (herein after “Franchise Authority or Township”) and Comcast of Southeast Pennsylvania, LLC (herein after Comcast or Grantee) desire to enter into a Franchise agreement to provide service to the resident of Upper Darby Township.

WHEREAS, the Franchising Authority has determined that the Grantee has the financial, legal and technical ability which is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community;

WHEREAS, the Mayor is authorized to enter into this Franchise agreement;

WHEREAS, the attached document represents the agreement between the Franchise Authority and Grantee;

NOW, THEREFORE, THIS AGREEMENT IS HEREBY ORDAINED AND ENACTED BY THE COUNCIL OF UPPER DARBY TOWNSHIP, COUNTY OF DELAWARE, COMMONWEALTH OF PENNSYLVANIA ON NOVEMBER 7TH, 2018:

Section 1. Repealer
Except as specifically hereby amended, the General Laws of the Township of Upper Darby are hereby ratified and confirmed in their entirety. Any ordinance or part of ordinance to the extent that it is inconsistent herewith is hereby repealed.

Section 2 Severability
If any provision or part of this Ordinance is held invalid, the remaining provisions or parts of this Ordinance shall not be affected thereby. If the application of this Ordinance or any of its provisions or parts to any persons, property or circumstances is held invalid, the application of this Ordinance to other persons, property or circumstances shall not be affected thereby.
Section 3. **Effective Date.** This Ordinance shall become effective thirty (30) days following final adoption by the Township Council and publication as required by law.

ENACTED and ORDAINED this 7th day of November, A.D. 2018.

Attest:  
Jacob A. Bierling Jr.  
Secretary of Council

By:  
Donald P. Bonnett  
President of Council

Ordinance No. 3050 is hereby approved this 7th day of November, A.D., 2018

Attest:  
Thomas J. Judge, Jr.  
Chief Administrative Officer

Approved:  
Thomas N. Miccozzie  
Mayor
CABLE TELEVISION FRANCHISE AGREEMENT

UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA

THIS FRANCHISE AGREEMENT BY AND BETWEEN UPPER DARBY TOWNSHIP, DELAWARE COUNTY, COMMONWEALTH OF PENNSYLVANIA (hereinafter "Local Franchise Authority", "LFA" or "Township") and COMCAST OF SOUTHEAST PENNSYLVANIA, LLC (hereinafter "Grantee") IS AUTHORIZED BY ORDINANCE NO. 3050, ORDAINED AND ENACTED ON THE 7TH DAY OF NOVEMBER, 2018.

RECITALS

WHEREAS, the Local Franchise Authority has determined that the Grantee has the financial, legal, and technical ability which is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community;

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, and it being the intention of the parties to be legally bound hereby, the Local Franchise Authority and Grantee agree as follows:

BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE TOWNSHIP OF UPPER DARBY AND IT IS HEREBY ENACTED AND ORDAINED
CABLE FRANCHISE AGREEMENT

BETWEEN

TOWNSHIP OF UPPER DARBY AND

COMCAST OF SOUTHEAST PENNSYLVANIA, LLC
THIS CABLE FRANCHISE AGREEMENT (the "Franchise" or "Agreement") is entered into by and between the TOWNSHIP OF UPPER DARBY, a validly organized and existing political subdivision of the Commonwealth of Pennsylvania (the "Local Franchising Authority" or "LFA"), and COMCAST OF SOUTHWEST PENNSYLVANIA, LLC, (the "Grantee").

WHEREAS, the LFA wishes to grant the Grantee a nonexclusive franchise to construct, install, maintain, extend, and operate a cable communications system in the Franchise Area as designated in this Franchise;

WHEREAS, the LFA is a "franchising authority" in accordance with Title IV of the Communications Act (see 47 U.S.C. §522(10)) and is authorized to grant one or more nonexclusive cable franchises pursuant to applicable law;

WHEREAS, Comcast holds a franchise dated _______ authorizing it to own, operate and maintain a Cable System, as defined in the Communications Act of 1934 (the “Communications Act” or “Act”), as amended, in and along the public rights-of-way and streets of the Township for the purpose of providing Cable Service;

WHEREAS, the LFA has identified the future cable-related needs and interests of the LFA and its community, has considered the financial, technical, and legal qualifications of the Grantee, and has determined that the Grantee’s plans for its Cable System are adequate, in a full public proceeding affording due process to all parties;

WHEREAS, the LFA has found the Grantee to be financially, technically, and legally qualified to operate the Cable System;

WHEREAS, the LFA has determined that the grant of a nonexclusive franchise to the Grantee is consistent with the public interest; and

WHEREAS, the LFA and the Grantee have reached agreement on the terms and conditions set forth herein, and the parties have agreed to be bound by those terms and conditions.

NOW, THEREFORE, in consideration of the LFA's grant of a franchise to the Grantee, the Grantee's promise to provide Cable Service to residents of the Township pursuant to and consistent with the Communications Act, pursuant to the terms and conditions set forth herein, the promises and undertakings herein, and other good and valuable consideration, the receipt and the adequacy of which are hereby acknowledged,

THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:
SECTION 1
DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words and their
derivation shall have meaning given herein. When not inconsistent with the context, words used
in the present tense include the future, words that indicate the male gender include the female
gender, words in the plural number include the singular number, and the words in a singular
number include the plural number. Unless otherwise expressly stated, words not defined in this
section shall be given the meaning set forth in Title 47 of United States Code, 47 U.S.C § 521 et
seq., as amended, and, if not defined therein, their common and ordinary meaning. The word
"shall" is always mandatory and not merely directory.

A. "Affiliate" Any Person who, directly or indirectly, owns or controls, is owned or
controlled by, or is under common ownership or control with, the Grantee, excluding any
entity related to the operations of NBC Universal.

B. "Basic Service" means the separately available level of Cable Service, which at minimum
shall include (i) the retransmission of local broadcast television signals, required to be
carried under applicable federal law and for which the Grantee has secured any necessary
consents for carriage (ii) any public, educational, and governmental access programming
required by the Franchise and applicable law.

C. "Cable Act" means Title VI of the Communications Act of 1934 [47 U.S.C. §§521- 561],
as now or hereafter amended.

D. "Cable Operator" means any person or group of persons (a) who provides Cable Service
over a Cable System directly or through one or more Affiliates; or (b) who otherwise
controls or is responsible for, through any arrangement, the management and operation of
such a Cable System.

E. "Cable Service" means the one-way or two-way transmission to subscribers of video
programming or other programming service and subscriber interaction, if any, which is
required for the selection or use of such video programming or other programming
service.

F. "Cable System" or System means Shall be defined herein as it is defined under Section
602 of the Communications Act, 47 U.S.C. § 522(7), meaning the Grantee facility,
consisting of a set of closed transmission paths and associated signal generation,
reception, and control equipment that is designed to provide Cable Service which
includes video programming and which is provided to multiple Subscribers within the
Service Area.

G. "Company" or "Grantee" shall be COMCAST OF SOUTHEAST PENNSYLVANIA,
LLC., or anyone who succeeds it in accordance with the provisions of this Franchise.

H. "Effective Date" shall mean the date this Agreement becomes binding on all parties
pursuant to Section 23H.
“FCC” means Federal Communications Commission, or successor governmental entity thereto.

J. “Franchise” means the initial authorization or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to Subscribers.

K. “Franchising Authority” means the Township of Upper Darby, Delaware County, Commonwealth of Pennsylvania, or the lawful successor, transferee, or assignee thereof.

L. “Gross Revenue” All revenue, as determined in accordance with generally accepted accounting principles, received by Comcast arising from, attributable to, or in any way derived from the operation of the Comcast Cable System to provide Cable Service in the Township. Gross Revenue shall include, but is not limited to, the following:

   (1) Basic Service Fees;
   (2) fees charged to Subscribers for any Cable Service tier other than Basic Service;
   (3) fees charged for premium Cable Service;
   (4) fees for all digital video programming tiers;
   (5) fees for video-on-demand and / or pay-per-view fees;
   (6) fees charged to Subscribers for any optional, per-channel or per-program services;
   (7) revenue from the provision of any other Cable Services;
   (8) charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for Cable Service;
   (9) fees for changing any level of Cable Service programming;
   (10) fees charged for service calls
   (11) inside wire maintenance fees
   (12) service plan protection fees
   (13) convenience fees;
   (14) early termination fees
   (15) fees for leased access channels;
   (16) rental or sales of any and all Subscriber equipment, including converters and remote control devices;
   (17) any and all locally-derived advertising revenues;
   (18) revenues or commissions derived locally from home shopping channels;
   (19) late payment fees;
   (20) billing and collection fees
   (21) revenue from NSF check charges; and
   (22) Franchise Fees.

M. “Normal Operating Conditions” means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
N. "Person" means an individual, partnership, association, joint stock company, trust, or corporation.

O. "Public Way" means the surface of, and the space above and below, any public street, highway, turnpike, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to use thereof for the purposes of installing, operating, maintaining or repairing such Cable System over poles, wires, cables, conductors, ducts, conduits, pedestals, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

P. "Service Area" means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.

Q. "Subscriber" or "Customer" means a person or user of the Cable System who lawfully receives or has received Cable Services therefrom with Grantee’s express permission within the Service Area.

R. "Township" is the Township of Upper Darby, Delaware County, Pennsylvania.

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

SECTION 2
GRANT OF NON-EXCLUSIVE FRANCHISE

Subject to the terms and conditions of this Agreement and the Cable Act and upon careful consideration of the faithful performance and observance of the conditions and reservations herein specified, Upper Darby Township hereby grants to the Grantee a non-exclusive and revocable franchise right, privilege, authority and easement to erect, construct, operate and maintain a Cable System, including such wires, cables, fiber, conductors, ducts, conduits, amplifiers, pedestals, attachments and other equipment in, upon, along, across, above, over and under streets, alleys, public ways and public places now laid out or dedicated and all such extensions thereof and additions thereto in the Township of Upper Darby, County of Delaware, Commonwealth of Pennsylvania and public utility rights-of-way and easements to the extent the Township of Upper
Darby is empowered to grant such rights with respect thereto and all poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation of a Cable System in order to provide Cable Service on the terms and conditions hereinafter set forth. Upper Darby Township expressly reserves the right to grant similar use of said streets, alleys, public ways and public places to any person at any time during the period of this franchise.

SECTION 3
TERM OF FRANCHISE

The term of this Agreement shall be for a period of ten (10) years commencing on the Effective Date and expiring on ___________, unless the Franchise is terminated prior to the expiration date in accordance with the terms and conditions of this Agreement.

SECTION 4
FRANCHISE TERRITORY

The franchise granted herein is for the present territorial limits of Upper Darby Township and for any areas henceforth added and communicated in writing to Grantee thereto during the term of this franchise.

SECTION 5
CONDITIONS OF OCCUPANCY OF PUBLIC WAYS

5.1 USE OF STREETS, POLE ATTACHMENTS.

(1) The Grantee agrees to make Cable Service available to every residential dwelling unit within Upper Darby Township where the minimum density is at least thirty (30) dwelling units per aerial mile or sixty (60) dwelling units per underground mile and is within one (1) mile of the existing Cable System as measured in strand footage from the nearest active signal trunk or feeder line from which a usable cable signal is technically available. Grantee shall offer Cable Service to all new dwellings or previously unserved dwellings located within one hundred twenty-five (125) feet of the Grantee’s nearest segment of Cable System from which a usable signal is technically available (“Standard Installation”). The Grantee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring an underground installation, or a drop or line extension in excess of the above standards. The Grantee shall give the appropriate Township officials written notice of proposed construction at least ten (10) days prior to such construction. No such approval is necessary for ordinary and minor repairs.

(2) The Grantee’s rights and privileges shall be subordinated to any prior lawful use or occupancy of the streets or other public property and shall not be so used to interfere with
existing improvements or with new improvements Upper Darby Township may deem
proper to make, or to hinder or obstruct the free use of the streets, alleys, bridges, or other
public property. In the event any equipment or facilities of Grantee shall interfere with
any such improvement existing or intended to be made by the Township, Grantee shall,
upon notice from the Township, forthwith relocate said equipment and facilities at
Grantee’s expense so as to eliminate said interference.

(3) 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.

(4) Nothing in this agreement or any franchise granted hereunder shall authorize the Grantee
to erect and maintain for the Township new poles where existing poles are servicing the
area. The Grantee shall obtain permission from the appropriate Township officials before
erecting any new poles or underground conduit where none exists at the time the Grantee
seeks to install its network.

(5) In case of disturbance of any streets, sidewalk, alley, public way, or paved area, Grantee
shall, at its own cost and expense and in a manner approved by the Township Engineer,
replace and restore such street, sidewalk, alley, public way, or paved area to the same or
similar condition as existed prior to the disturbance within twenty (20) business days of
the completion of the disturbance, weather permitting. Upon failure of Grantee to
comply within the specified time and the Township having notified Grantee in writing
of the restoration and repairs required, the Township may cause proper restoration and
repairs to be made and the expense of such work shall be paid by Grantee upon
demand by the Township. Whenever Grantee or its contractors or subcontractors
disturb pavement, sidewalks, ground or other public property in order to perform any
underground activity, Grantee shall utilize the Pennsylvania One Call System prior to
any such disturbance and conform to any and all requirements of the Pennsylvania
Underground Utility Line Protection Act.

(6) If at any time during the period of this Franchise the Township shall lawfully elect to alter
or change the grade or alignment or rerouting of any street, sidewalk, alley, or other
public way, Grantee, upon reasonable notice by the Township, shall remove, relay, and
relocate its poles, wires, cable, underground conduits, manholes, and other fixtures at its
own expense.

(7) Any poles or other fixtures placed in any public way by Grantee shall be placed in such
manner as not to interfere with the usual travel on such public way.

(8) Grantee shall have the authority to trim trees upon and overhanging streets, alleys,
sidewalks, and public ways and places within the Township so as to prevent the branches
of such trees from coming in contact with its wires and cable. Under the supervision of the
appropriate authority of the Township and only after prior approval thereof, the Grantee
shall be permitted to cut or remove any tree or similar vegetation.

(9) Grantee shall, at the request of any person holding a building moving permit issued by the
Township, temporarily raise or lower its wires to permit the moving of the building,
provided Grantee is given thirty (30) days advance written notice and the person so making the request reimburses Grantee for its reasonable costs in so raising or lowering its wires.

(10) Grantee shall at all times keep on file true and accurate "as built" maps or plats of all existing and proposed aerial and underground feeder lines, trunk lines and sub-trunk lines, on which shall be shown those areas in the Township where its facilities exist and the location of all streets. The maps shall be provided to the Township in hardcopy and, if requested and available, in an electronic GIS format. Grantee shall provide the Township with copies of such maps within thirty (30) days or sooner after any written request by the Township. Also, Grantee shall provide a list of educational and municipal buildings to which special services are being provided, which shall be made available to the Township, upon thirty (30) days written request.

(11) Construction and maintenance of the Cable System shall be in compliance with all generally applicable ordinances, rules, regulations or orders now in effect or hereafter issued by the Franchising Authority and by any federal or state commission or any other public authority and, as to pole attachments, utility joint attachment practices.

(12) All installations of equipment shall be durable, of a permanent nature, and installed in accordance with current best Cable System engineering practices. Grantee, prior to the commencement of work, shall provide the Township with Cable System construction standards to be used in the construction and installation of the system and said standards shall be incorporated in this Franchise as fully as though the same were herein set forth at length, including, but not limited to bonding and grounding equipment. Company shall comply with generally applicable laws, rules, regulations and specifications heretofore or hereafter enacted or established, including but not limited to, those concerning street work, street excavation, use and removal and relocation of property within a street.

(13) 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, in accordance with engineering and safety considerations as mandated by all generally applicable ordinances, rules, regulations or orders now in effect or hereafter issued by the Franchising Authority and by any federal or state commission or any other public authority and, as to pole attachments, utility joint attachment practices. All installations shall be underground in those areas of the Township where public utilities providing both telephone and electric service are underground at the time of installation. In areas where either telephone or electric utility facilities are above ground at the time of installation, the Grantee may install its service above ground with the understanding that at such time as those facilities are lawfully required by the Franchising Authority to be placed underground, the Grantee shall likewise place its service underground.

(14) Grantee shall not begin any construction, modification, addition, replacement, removal or any change whatsoever of its facilities in any public place (except ordinary and necessary repairs, drops for individual Subscribers or for servicing or installation of pedestals or routine maintenance,) without filing with the Franchising Authority a plan of such work for review by the Franchising Authority. The review of the Township shall be to assure
compliance with the terms of this Franchise.

(15) The Township specifically reserves the right to vacate any right-of-way they have given, notwithstanding the existence of Cable System construction equipment or service lines within any such right-of-way. In the event any such right-of-way is so vacated, the Grantee at its own cost and expense shall obtain and provide alternate means of providing service to subscribers.

(16) All performance and technical standards governing construction, reconstruction, installation, operation, testing, and maintenance and dismantling of the Cable System provided herein shall be in accordance with all FCC and other Federal laws, and generally-applicable ordinances and regulations.

5.2 INSTALLATION OF SERVICE. All installation of Cable Service shall be performed in a workmanlike manner, using materials of good and durable quality with due regard to the preservation and protection of existing structures. All work to be performed in, on, or about the dwelling or structure of a Subscriber or potential Subscriber shall be performed under the reasonable direction or with the consent of such Subscriber or potential Subscriber.

SECTION 6
SYSTEM DESIGN

6.1 SPECIFICATIONS.

(a) System. Grantee shall operate and maintain a Cable System with a capacity of 750MHz utilizing 750 MHz active electronics. The System shall be designed to be an active two-way plant for Subscriber interaction, if any, required for the selection or use of Cable Service. The Cable System shall only be placed in Public Ways or on private property where a duly authorized easement, where necessary, has been obtained prior to construction on the property. The Cable System shall conform with digital television standards and be capable of providing high definition video signals and video-on-demand. Grantee reserves the right to alter, adjust, modify, rebuild, upgrade, redesign, or otherwise reconfigure the Cable System at any time during the term of the Agreement, provided that no alteration, adjustment, modification, rebuild, upgrade, redesign or other reconfiguration of the Cable System shall have the effect of reducing the technical capabilities of the Cable System as set forth herein.

(b) Customer Notification. Sixty (60) days prior to the initiation of any system-wide rebuild, reconstruction, or major upgrade work of the Cable System, Grantee shall provide notification to the Township and residents in each neighborhood and area of the Township to be affected.

(c) Construction Oversight. Grantee shall designate an employee to act as a Grantee representative by responding to public service complaints on a daily basis and
provide the Township with the person's name and telephone number. Construction shall be overseen by an employee or agent of the Grantee.

(d) **Compliance with Applicable Law.** In constructing, operating and maintaining the system, Grantee shall at all times comply with this Franchise Agreement and all generally applicable laws and regulations.

(e) **Equipment Quality.** Equipment used for the distribution system, headend and reception facilities shall be good and durable quality and be serviced and repaired on a regular basis. All structures, lines, equipment and connections utilized for the Cable System shall at all times be kept and maintained in a safe and suitable condition and in good order and repair in accordance with customary industry standards and practices.

(f) **Parental Control Devices.** Grantee shall provide to subscribers, upon request, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of each channel to the extent that both are unintelligible.

(g) **Performance Testing/Technical Standards.** Grantee shall perform all system tests and maintenance procedures as required by and in accordance with this Franchise Agreement, Grantee's standards of good operating practice and FCC regulations. Grantee shall be responsible for ensuring that its Cable System is designed, installed and operated in a manner that fully complies with applicable FCC technical standards, Subpart K, 47 C.F.R. § 76.601-76.617, as amended. The Cable System shall be installed and operated in conformance with FCC rules and regulations. Any FCC technical standards or guidelines related to cable systems shall be deemed to be regulations under this franchise.

(h) **Employee Identification.** Grantee shall require all employees, including employees of subcontractors, who will be in contact with the public to carry a photo identification badge identifying the carrier as an employee or subcontractor of Grantee. Such documents shall include a telephone number that can be used to verify identification. In addition, Grantee shall use its best efforts to require any vehicle used for installation, operation or maintenance activities by any Grantee employee or agent, including any subcontractor, to prominently display the company logo and/or sufficient markings (such as a magnetic door sign) indicating that the contractor or agent is under contract to Grantee.

6.2 **STAND-BY POWER.** The headend, all hubs, and all nodes will have standby power as follows:

(a) Grantee shall provide permanent standby power for the headend, which shall fully power all channels to all trunk legs and fiber nodes for a minimum of eight (8) hours in the event of a loss of commercial power. This standby power system shall be automatically switched online in the event of a power loss.
(b) Grantee shall provide permanent standby battery power for all hubs, which shall fully power all channels to all trunk legs and fiber nodes for a period of up to four (4) hours in the event of a loss of commercial power. This standby power system shall be automatically switched online in the event of a commercial power loss.

6.3 TERMINATED SYSTEM CONNECTIONS. Grantee shall assure that upon removal or disconnect of any cable service to a residence, business, facility or other building, structure or location that any and all visible, loose wires or connections that pose a potentially dangerous and/or hazardous condition are removed in manner compliant with applicable safety standards.

SECTION 7
PERFORMANCE STANDARDS

7.1 EMERGENCY COMMUNICATIONS. Grantee shall comply with emergency or disaster notification requirements of the Federal Communications Commission and state, county and local emergency and disaster agencies.

7.2 REPAIR NOTIFICATION. Whenever it is necessary to interrupt service for the purpose of making repairs, adjustments or installation, Grantee shall make every reasonable effort do so at such time as will cause the least amount of inconvenience to subscribers. Unless such interruption is unforeseen and immediately necessary, it shall exercise commercially reasonable efforts to give reasonable notice to affected subscribers. The requirements for maintenance of equipment contained in this provision shall not apply to the subscriber's television receiver. Notwithstanding the foregoing, the Grantee may perform modifications, repairs, and upgrades to the System between 12.01 a.m. and 6 a.m. which may interrupt service, and this Section's notice obligations respecting such possible interruptions will be satisfied by notice provided to Subscribers upon installation and in the annual Subscriber notice.

7.3 REFUNDS AND CREDITS. In the event of service interruption of all Channels for any reason, other than Force Majeure as defined at Section 11.7 or due to a problem solely caused by a Subscriber, or with the prior consent of the Franchising Authority, and such service interruption shall continue for a period greater in duration than six (6) continuous hours, then the Grantee, upon subscriber written request, shall provide an hourly credit based on the length of said Cable Service outage. For the purpose of this section, a "service interruption" is defined as the loss of picture or sound on one or more channels on the Cable System or the degradation of the picture and/or sound quality on such channel(s) to the extent that the Subscriber is unable to receive a signal of reasonable quality.
SECTION 8
COMPLIANCE AND MONITORING

8.1 TESTING FOR COMPLIANCE. Upon written request of the Franchising Authority, the Grantee shall furnish a copy of all applicable technical tests performed on the Cable System as required by FCC regulations by it or on its behalf to the Franchising Authority at no cost or expense to the Franchising Authority.

A. In accordance with applicable FCC Technical standards, Subpart K, 47 C.F.R. §§ 76.601 – 76.617, as amended, Grantee shall conduct complete performance tests of its Cable System at least twice each calendar year at intervals not to exceed seven months. The performance tests shall be directed at determining the extent to which the System complies with technical standards regarding the transmission and reception capabilities of cable signals. Grantee shall maintain performance test records on file for a period of twelve (12) months. Such records shall be made available to authorized representatives of the Township upon thirty (30) days’ written request.

B. Performance compliance tests may be witnessed by representatives of the Franchising Authority, and, upon request, Grantee shall inform the Franchising Authority of the time and place of each test. Grantee shall be required to take prompt corrective measures to correct any cable-related system deficiencies within thirty (30) days.

8.2 BOOKS AND RECORDS. In addition to rights of inspection and copying otherwise set forth in this Agreement, the Grantee agrees that the Franchising Authority may, upon thirty (30) days written notice, review such of its books and records directly related to the Franchise, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms of this Agreement. Such notice shall specifically reference the section(s) or subsection(s) of the Agreement that is (are) under review, so that Grantee may organize the necessary records and documents for appropriate review by the Franchising Authority. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Grantee shall provide Township with copies of any and all documents reasonably related to compliance review. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose any of its or an Affiliate’s books and records not relating to the provision of Cable Service in the Service Area. All information specifically marked by Grantee as proprietary or confidential in nature and furnished to the Franchising Authority or its designated representatives shall be treated as confidential in conformity with Pennsylvania law. As such, the Township, and its officially designated representatives agree in advance to treat any such information as confidential and only disclose it to employees, agents, or representatives thereof that have a need to know or in order to enforce the provisions hereof. Notwithstanding anything to the contrary, the Grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act or information or records which it reasonably deems would provide an unfair advantage for Grantee’s competitors (e.g., system design maps, engineering plans, programming contracts, etc.) or is not relevant to regulation of the Franchise. Grantee agrees that “as
built” maps of the Cable System referenced in Section 5.1 (10) showing the location of the cable facilities absent electronic design specifications are not to be designated as proprietary or confidential.

8.3 **FAILURE TO OPERATE.** In the event Grantee, under Normal Operating Conditions, fails to operate over twenty-five (25%) percent of the Cable System (as determined by lineal miles or portions thereof) for ninety-six (96) consecutive hours or more without prior approval of the Franchising Authority, the Franchising Authority may, at its election, require payment to the Franchising Authority, as liquidated damages, the sum of Five Hundred Dollars ($500) per day for each day, or portion thereof, for which said non-operation shall continue past such ninety-six (96) hour period.

**SECTION 9**

**CHANNEL PACKAGING**

Grantee shall make available programming to Subscribers, in broad categories, as required under the Cable Act.

**SECTION 10**

**FRANCHISE FEES AND OTHER PAYMENTS**

A. Franchise Fees. Grantee shall pay to Franchising Authority a franchise fee equal to five (5%) percent of annual Gross Revenue. Grantee shall not deduct or otherwise credit against the Franchise Fee any tax, fee or other assessment of general applicability. In the event that federal law is amended, notwithstanding this section, Grantee may be required to pay the maximum franchise fee percentage rate permitted by law during the period of its operation under the Franchise pursuant to this Agreement. Any increase in the franchise fee shall be pursuant to formal action by the governing body and shall be implemented as soon as practicable, but no later than ninety (90) days following receipt of written notice from the Township to Grantee requesting the increase. Such written notice shall be accompanied by a copy of the Resolution or Ordinance authorizing the increase.

B. Bundled Services. If Cable Services subject to the Franchise Fee required under this Section are provided in conjunction with non-cable Services and the total cost of the bundle reflects a discount from the aggregate retail prices of the services contained therein, then the Franchise Fee shall, in accordance with generally accepted accounting principles, be applied to the value of the Cable Service in the bundle reduced by no more than a proportionate share of the overall discount. Equipment may be allocated at full retail price.

C. The franchise fee shall be assessed on an annual basis and shall be payable on a quarterly basis to the Franchising Authority no later than forty-five (45) days after the expiration of the calendar quarter for which payment is due. Grantee may make Franchise Fee payments electronically into an account as designated by the Township. Grantee shall file within ten (10) days of the franchise fee payment a complete and accurate statement verified as true by a financial representative of Grantee, authorized to make such verification, explaining how the payment was calculated. Said statement shall include information as of the last day of such calendar the amount of revenue collected for each tier of service during the applicable calendar
quarter and a breakdown by category of revenue from all other sources. Upon request by the Franchising Authority, Grantee shall provide such additional information related to the franchise fee as may be reasonably required. The Grantee shall also submit to the Franchising Authority upon written request, no later than six (6) months after the end of the calendar year, a detailed statement by a financial representative of the Grantee certifying the accuracy of the Gross Revenue and franchise fee payments for the previous year.

D. Upon thirty (30) days prior written notice, Franchising Authority shall have the right to inspect and make extracts at Grantee’s office within fifty (50) miles of the Township’s office the necessary financial records of Grantee for the purpose of verifying the accurate payment of franchise fees. Franchising Authority shall have the right to re-compute any amounts determined to be payable under this or any other section, provided, however, that such recomputation shall take place within thirty-six (36) months following the close of each of Grantee’s fiscal years and the parties agree that the period of limitation for recovery of any Franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due.

(a) Upon the completion of any such audit by the Franchising Authority, the Franchising Authority shall provide to the Grantee a final report setting forth the Franchising Authority’s findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the Franchising Authority with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a “Final Settlement Amount.” For purposes of this Section, the term “Final Settlement Amount(s)” shall mean the agreed upon underpayment, if any, to the Franchising Authority by the Grantee as a result of any such audit. If the parties cannot agree on a “Final Settlement Amount,” the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law. In the event that said recomputation determines that funds are owed to the Franchising Authority in an amount in excess of five percent (5%), then Grantee shall pay up to three thousand dollars ($3,000) of documented out-of-pocket costs of the franchise fee review. Any entity employed by the Township that performs an audit or franchise fee review shall not be permitted to be compensated on a success based formula. Franchising Authority and Grantee shall comply with the “Protection of Subscriber Privacy” provisions set forth at Section 631 of the Communications Act.

E. In the event that any franchise fee or other payment is not made or is not provided on or before the applicable dates heretofore specified, then interest calculated at the then current one year US Treasury Bill rate, shall be added to the amount of Franchise Fee revenue due to the Township. Any amount recomputed to reflect correct payment due shall bear interest as described from the date such payment was originally due.

SECTION 11
ENFORCEMENT AND REVOCATION OF FRANCHISE
11.1 **GENERAL.** In addition to all other rights, remedies and powers reserved or retained by the Franchising Authority under this Agreement or otherwise, the Franchising Authority reserves the right to initiate proceedings as described in Section 11.3 to revoke the Franchise and all rights and privileges of Grantee in the event of a material breach of its terms and conditions. In interpreting this Agreement, material provisions shall include all labeled as such and all others, which, under all the facts and circumstances indicated, are a significant provision of the agreement. A material breach by Grantee shall include but is not limited to the following:

a. Failure to remit franchise fee or other payment together with any requisite statement or certification within twenty (20) business days of its due date.

b. Violation of any material provision of this Agreement.

c. Failure to operate over twenty-five (25%) percent of the Cable System (as determined by lineal miles or portions thereof) for a period in excess of thirty (30) consecutive days except when approval of such interruption is obtained from Franchising Authority.

d. Any transfer, assignment, or change-of-control of ownership of the Franchise or System greater than twenty-five percent (25%), implemented without prior written consent of the Township in accordance with Section 16, herein.

e. Grantee’s failure to maintain the required insurance and Performance Bond.

f. Grantee’s failure to comply with applicable law.

g. Grantee’s practice of any fraud or deceit upon the Township in the operation of Grantee’s Cable System or other activities pursuant to this Agreement.

h. Grantee’s repeated failure, after notice and opportunity to cure, to maintain signal quality pursuant to the standards provided for by the FCC of the technical requirements set forth in this Agreement.

11.2 **NOTICE OF VIOLATION.** In the event that the Franchising Authority believes that the Grantee has not complied with the material terms of this Agreement, it shall notify Grantee in writing, by certified or registered mail, of the exact nature of the alleged noncompliance.

11.3 **GRANTEE’S RIGHT TO CURE OR RESPOND.** Grantee shall have sixty (60) days from receipt of the notice described in Section 11.2 to (a) respond to the Franchising Authority contesting the assertion of noncompliance, and (b) to cure such default or, in the event that by the nature of default, such default cannot be cured within the sixty (60) day period, request permission from the Franchising Authority for additional time in which to take reasonable steps to remedy such default and such permission shall not be unreasonably withheld. Except as to a violation which presents an immediate danger
to health or safety, in the event the Grantee contests the assertion of non-compliance in a timely manner then the time specified to cure the alleged default shall be stayed or tolled pending a hearing before the Franchising Authority. A revocation shall be declared only by a written decision of the governing body after an appropriate public hearing which shall afford the Grantee due process and full opportunity to be heard, to introduce evidence, to question witnesses and to respond to any notice of grounds to terminate in accordance with the standards of a fair hearing applicable to administrative hearings in the Commonwealth of Pennsylvania. The Franchising Authority shall provide the Franchisee at least thirty (30) business days' prior written notice of such public hearing, which will specify the time, place, and purpose of such public hearing, and provide the Franchisee the opportunity to be heard. In the event the Franchising Authority affirms the assertion of noncompliance following a hearing affording the Grantee the opportunity to be heard, then the Grantee shall have sixty (60) days, within which to cure such default. Notwithstanding such timely response or effort to cure by Grantee, non-compliance or default by Grantee continuing after such sixty (60) day period shall not be excused or waived, unless such excuse or waiver is affirmatively granted in writing by the Franchising Authority. Grantee may appeal a written determination for default and/or termination to an appropriate court of competent jurisdiction.

11.4 LIQUIDATED DAMAGES. In the event the governing body finds that a material violation exists and that Grantee has not corrected the same in a satisfactory manner or has not diligently commenced correction of such violation, the Township Council may impose liquidated damages, payable from the performance bond, of up to Two Hundred Fifty Dollars ($250) per day or per incident for violations, provided that all violations of a similar nature occurring at the same time shall be considered one (1) incident. The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the day after the end of the applicable cure period, including any extension of the cure period granted by the Township. If the Township elects liquidated damages, this shall be the exclusive remedy for a maximum of thirty (30) days, after which the Township may pursue any other remedies under the law.

11.5 REMEDIES CUMULATIVE. Franchising Authority may exercise all of its rights, remedies and powers as set forth in this Agreement or which are available by Federal, State or generally applicable local laws, ordinances, rules and regulations and all such rights, remedies and powers shall be cumulative and concurrent and may be pursued singly, successively or together, at Franchising Authority’s sole discretion, and may be exercised as often as occasion therefore shall occur. Notwithstanding, the Franchising Authority may only invoke these alternate remedies after the assessment of liquidated damages or in lieu of liquidated damages.

11.6 REMOVAL OF EQUIPMENT. Upon lawful denial of renewal of this Franchise, or upon its termination or revocation, the Franchising Authority shall have the right to require the Grantee to remove at its own expense all portions of the Cable System from all Public Ways. The Grantee shall within six (6) months after having been given written notice, remove from the Public Ways all such property of such system other than any
which the Franchising Authority may permit to be abandoned in place, which such permission to abandon underground shall not be unreasonably withheld. In the event of such removal, the Grantee shall promptly restore the Public Way or other area from which such property has been removed to a condition as good as that previously prior to such work.

(A) Any property of the Grantee remaining in place six (6) months after the Grantee is given notice pursuant to this Section 11.6 may at the option of the Franchising Authority be considered permanently abandoned. The Franchising Authority may extend such time not to exceed an additional ninety (90) days.

(B) Any property of the Grantee which the Franchising Authority permits to be abandoned in place shall be abandoned in such manner as the Franchising Authority shall prescribe. Subject to the provisions of any utility joint use attachment agreement, upon permanent abandonment of the property of the Grantee in place, the property shall become that of the Franchising Authority, and the Grantee shall submit to the Franchising Authority an instrument in writing, to be approved by the Franchising Authority, transferring to the Franchising Authority the ownership of such property.

(C) Notwithstanding the above, Grantee shall not be required to remove its Cable System, or to relocate the Cable System, or to sell the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow Grantee from providing Cable Services, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act, 47 U.S.C. § 621 et seq.

11.7 **FORCE MAJEURE.** If for any reason of force majeure either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. Unless further limited elsewhere in this Agreement, the term “force majeure” as used herein shall have the following meaning: strikes; acts of God; acts of public enemies; terrorism or threats of terrorism; orders of any court of competent jurisdiction; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; arrests; civil disturbances; explosions; partial or entire failure of utilities; unavailability of materials and/or qualified labor to perform work necessary or any other cause or event not reasonably and foreseeably within the control of the party affected.

11.8 **RESTORATIONS.** Grantee shall restore the streets to a condition reasonably the same as existed prior to construction of the Cable System, excluding any improvements made to said streets subsequent to completion of construction. The Township shall cause such streets to be examined prior to any construction by the Grantee and shall provide a report on the condition of such street to the Township and the Grantee. With regard to non-public property, the Grantee shall restore such property to a condition reasonably the same as existed prior to construction excluding any improvement made to such property subsequent to completion of construction. Restoration of public streets shall be approved by the Township. Costs for restoration of private property and public property shall be borne by the Grantee.
11.9 **COST TREATMENT OF FINES, LIQUIDATED DAMAGES, DAMAGES.** No cost to Grantee arising from a breach or violation of the Agreement shall be recovered from Subscribers, shall form the basis for any adjustment to subscriber rates or other Subscriber charges or shall be offset against any sums due the Franchising Authority as a tax, franchise fee or otherwise regardless of whether the combination of franchise fees and said costs exceeds five (5 %) percent of Grantee’s Gross Revenues in any twelve-month period.

**SECTION 12
INDEMNITY, INSURANCE, BOND AND LETTER OF CREDIT**

(A) Indemnification. It shall be expressly understood and agreed by and between the Township and Grantee, that the Grantee shall save the Township, its agents and employees, harmless from and against all claims, damages, losses and expenses, including reasonable attorney’s fees sustained by the Township on account of any suit, judgment, execution, claim or demand whatsoever arising out of, but not limited to copyright infringements and all other damages arising out of the installation, operation or maintenance of the Cable System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by the Ordinance and the Franchise granted thereunder. In order for the Township to assert its rights to be indemnified, defended, and held harmless, the Township must cooperate with the reasonable requests of Grantee in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding. The Franchising Authority shall give the Grantee timely written notice of its obligation to indemnify the Franchising Authority upon receipt of a claim or legal action pursuant to this Section. If the Township determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Township. Grantee shall not indemnify the Township for any claims resulting solely from acts of willful misconduct or negligence on the part of the Township.

(B) Insurance.

(1) Grantee shall obtain and maintain in full force and effect throughout the term of this Franchise insurance with an insurance company licensed to do business in the Commonwealth of Pennsylvania. All companies will be required to be rated A-minus VII or better by A.M. Best or A better by Standard and Poor’s. Upon request, Grantee shall provide Franchising Authority with proof of such insurance within thirty (30) days of the Effective Date.

(2) Grantee shall obtain and maintain in full force and effect for the duration of this Franchise, at Grantee’s sole expense, insurance coverage in the following type and minimum amounts:

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a. Workers’ Compensation meeting all legal requirements of the Commonwealth of Pennsylvania Statutory Employers Liability $100,000/$500,000/$100,000

b. Commercial General (public) Liability - to include coverage for the following where the exposure exists:

- Premises operations
- Independent contractors
- Products/completed operations
- Personal Injury
- Contractual liability
- Explosions, collapse and underground property damage

Combined single limit for bodily injury and property damage $1,000,000 per occurrence or its equivalent


c. Comprehensive Automobile insurance coverage for loading and unloading hazards, for:

- Owned/leased automobiles
- Non-owned automobiles
- Hired automobiles

Combined single limit of bodily injury and property damage $1,000,000 per occurrence or its equivalent

d. Excess Liability Limit of $1,000,000 per occurrence.

e. Coverage for programming on channels that are directly or indirectly controlled by Grantee for:

- Libel and slander
- Copyright violations

Combined single limit of $3,000,000 per occurrence or its equivalent

(3) The Franchising Authority shall receive, upon request, without expense copies of certificates of insurance evidencing coverage stated above.

The Franchisee shall not cancel any required insurance policy without obtaining
alternative insurance in conformance with this Agreement.

(4) Grantee agrees that with respect to the above-required insurance, all insurance certificates will contain the following required provisions.

(a) Name the Franchising Authority and its officers, employees, board members and elected representatives as additional insured parties (as the interests of each insured may appear) as to all applicable coverage (except worker's compensation);

(b) Provide that all provisions of this Franchise concerning liability, duty, and standard of care, including the Indemnity provisions, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies, subject to policy terms and conditions.

(5) Companies issuing the insurance policies shall have no recourse against the Franchising Authority for payment of any premiums or assessments which all are set at the sole risk of the Grantee. Insurance policies obtained by Grantee shall provide that the issuing company waives all right of recovery by way of subrogation against the Franchising Authority in connection with any damage covered by these policies.

(C) Performance Bond.

(1) Grantee shall obtain and maintain, at its sole cost and expense, and file with the Franchising Authority, a corporate surety bond with a surety company authorized to do business in the Commonwealth of Pennsylvania and found acceptable by the Franchising Authority, in the amount of fifty thousand dollars ($50,000.00) to secure Grantee’s performance of its obligations and faithful adherence to all requirements of this Franchise. Grantee shall provide this corporate surety bond at the time of filing the acceptance of this Franchise. This bond may be drawn upon by the Franchising Authority in accordance with Section 11.

(D.) All expenses of the above-noted insurance bond shall be paid by the Grantee.

(E.) Should any policies of insurance be cancelled or coverage be reduced, before the expiration date of said policies of insurance, the Grantee shall deliver thirty (30) days' written or email notice to the Franchising Authority or its Chief Administrative Officer.

SECTION 13
SUBSCRIBER SERVICES
A. Cable Service shall be made available to substantially all individual dwellings, residences, institutions, organizations, and all other entities within the limits of the Township, in accordance with Section 5.1, Sections 13B through Qand other provisions of this Agreement and all laws governing the rights of privacy and passage.

B. Residential installation shall be made available as an activated or reactivated feeder line passes the home or dwelling, within seven (7) days upon request of the resident.

C. Each class of a subscriber service shall be offered cable television service on a uniform, non-discriminatory basis within said class.

D. All cable equipment shall be removed from a subscriber’s property when so requested by a subscriber in accordance with law.

E. Cable, whether underground or aerial, shall conform to the various other generally-applicable ordinances in effect within the Township pertaining to construction.

F. The System shall be designed for reliable operation twenty-four (24) hours per day and shall ensure service impairment of interruption only for good cause. Interruptions of service shall be for the shortest times possible.

G. Any vehicle used for installation, operation or maintenance activities by any Grantee employee, agent, contractor or subcontractor shall prominently display the Grantee’s logo and sufficient markings for identification in accordance with Section 6.1 (g) herein above.

H. Upon scheduling of an appointment with a subscriber for installations, service or other activities, Grantee shall provide the subscriber with a specific time or window of time within a maximum of four (4) hours during normal business hours. Grantee may schedule service calls and/or installation activities outside of normal business hours at a time that is convenient for the subscriber.

I. Grantee may not cancel an appointment with a subscriber after the close of business on the business day prior to the scheduled appointment. If, at any time, an employee, technician, contractor or subcontractor of Grantee is running late, an attempt to contact the Subscriber must be made prior to the time of the appointment and if the appointment needs to be rescheduled, it must be done so at a time that is convenient to the subscriber.

J. The Grantee shall maintain an office with a payment center conveniently located for residents of Upper Darby Township, which shall be open to the general public during normal business hours.
K. The Grantee shall have a publicly listed telephone number and the added option of an E-mail address by which Persons can communicate with Grantee. A record shall be kept by the Grantee listing each and every subscriber “trouble call” (i.e., a subscriber complaint, concern or request for service that generates a response action) received by Grantee. Such record, together with other personally-identifiable information shall not be shared or released in violation of Section 631 of the Cable Act. Records of trouble calls shall remain available for 12 months to the Township and individual subscribers upon request for review after the year they were received. Such telephone number and/or E-mail address access shall be available for customer service complaints on a 24 hours-per-day, 7 days-per-week basis.

L. The Grantee shall not deny nor delay service, deny or delay access, or otherwise discriminate against subscribers, channel users, or general citizens on any basis whatsoever. Nothing in this Section shall be construed to prohibit the temporary reduction or waiving of rates and charges in conjunction with promotional campaigns; the offering of reasonable discounts to senior citizens or discounts to economically disadvantaged citizens; the establishment of different and nondiscriminatory rates and charges and classes of services for commercial subscribers, as well as different, nondiscriminatory monthly rates for classes of commercial subscribers; or the establishment of reduced bulk rates for residential subscribers residing in multiple dwelling units.

(1) The Grantee shall strictly adhere to the Equal Employment Opportunity requirements of the Federal Communications Commission as expressed in the Code of Federal Regulations and all Federal and State laws, regulations and executive orders pertaining to equal employment opportunity and affirmative action programs and nondiscrimination.

M. Grantee shall comply with all privacy requirements under state and federal law.

N. In all cases where developments and subdivisions are to be constructed and to be served in whole or in part by underground power and telephone utilities, and in such areas where both utilities are to be placed underground, exclusive of all electronic cable television facilities, the Grantee shall similarly comply and shall install system concurrently with the installation of the underground power and telephone utilities upon the Grantee receiving at least twenty (20) business days written notice of the date of availability of open trenches.

O. Upon the reasonable request for cable service by any person within the Township, the Grantee shall, within seven (7) days, furnish the requested service to said person provided the location of the requested service is within an area serviced by a feeder line.

P. Grantee shall build its Cable System so that it is capable of providing service to all persons located along a Public Way. Installation of a cable drop line will be provided by Grantee at its then prevailing charge, except as provided below under
the following circumstances:

(a) Where the drop to the Subscriber location is more than 125 feet in length or, if buried, when adverse terrain or other unusual conditions are encountered, in addition to the prevailing installation charge, Grantee may charge the subscriber the difference between Grantee’s cost of installing a 125-foot drop and the cost of installing a longer drop.

(b) Those portions of the Service Area which do not have the necessary density of thirty (30) potential subscribers per linear aerial mile shall be served by Grantee if the potential subscribers agree to a grant-in-aid of construction.

Q. Grantee shall be required, in accordance with this Agreement, procedures set forth in the Cable Act, applicable FCC regulations, and the applicable provisions of the Pennsylvania Landlord Tenant Act of 1951, as amended, 68 P.S. § 250.501B, et seq., to provide service to individual units of a multiple dwelling unit (“MDU”) with all cable services offered to other dwelling units within the Service Area, so long as the owner or agent of the MDU consents in writing, if requested by the Grantee, to the following:

(a) To Grantee’s providing of service to individual units of the MDU;

(b) To reasonable conditions and times for installation, maintenance, and inspection of the Cable System on the MDU premises;

(c) To reasonable conditions promulgated by Grantee to protect Grantee’s equipment; and

(d) To enter into a reasonable building access agreement between the MDU owner or agent and Grantee.

SECTION 14
PEG CHANNELS / SERVICES TO COMMUNITY

A. Courtesy Service. Grantee shall provide without charge one (1) drop for Basic Service to each public, private and parochial school (i.e. K-12), fire stations, public ambulance garages, public libraries, and Franchising Authority buildings, including those identified on Appendix “A” in. and upon written request to those schools and Franchising Authority Buildings that are located within one hundred fifty (150) feet of the Grantee’s active signal distribution cable. No charge shall be made for the installation or service, except that Grantee may charge for installation beyond one hundred fifty (150) feet aerial distance of the cable plant and service
for more than one (1) drop in each building. For the purposes of this section, the term “school” means an education institution that receives funding pursuant to Title 1 of the Elementary and Secondary Education Act of 1965, 20 U.S.C § 6301 et seq., as amended, and does not include “home schools” or “cyber schools.” Franchising Authority Building shall mean those buildings owned or leased by the Issuing Authority for municipal government administrative purposes, and shall not include buildings owned by Issuing Authority but leased to third parties or buildings such as storage facilities at which municipal government employees are not regularly stationed.

B. PEG Channels – Return Lines. At Grantee’s sole cost and expense, Grantee shall continue to provide a “Return Line” as set forth in this section from two (2) locations set forth at Appendix “B.” “Return Line” in this section means that the Grantee shall provide from and including the modulator, all necessary equipment to feed audio and video signals directly over the cable system in the Service Area from each of the locations set forth at Appendix “B.” The Grantee shall have no responsibility to provide any studio equipment or other production or playback equipment. All such equipment and personnel necessary to conduct the operation of the channels shall be the responsibility of the Franchising Authority or its designee.

C. Grantee is committed to supporting PEG access programming for the entire Term of the Agreement by making available a minimum of two (2) PEG access channels to be programmed by the Franchising Authority or its designee. An additional one (1) access channel will be made available when all existing PEG channels simultaneously carry non-duplicated, locally-produced access programming, none which is character-generated, continuously during the hours of 5:00 p.m. to 11:00 p.m. for a period of ninety (90) consecutive days. Grantee shall have six (6) months following a request by the Franchising Authority to make such new channel(s) available.

D. In the event the Township or its designee does not program any E/G channels, Grantee may request the use of such channel capacity subject to written approval by the Township. If the Township approves Grantee’s use of an EG channel and, subsequent to such approval, the Township requests the re-utilization fo the E/G channel(s) being programmed by Grantee, Grantee shall then relinquish such use no later than ninety (90) days after receipt of written notification from the Township that it requires such channel for educational and/or government use.

E. Grantee shall provide the technical capability for the Franchising Authority to cablecast PEG access programming from two (2) locations specified in Appendix “B”.

F. Grantee shall not move or otherwise relocate the channel lineup locations of the PEG access channels, once established, without advance, written notice to the Franchising Authority.

G. The PEG Channels shall be used for community programming related to
Educational and/or Governmental activities. LFA shall have complete control over the content, scheduling, and administration of the PEG Channels and may delegate such functions, or a portion of such functions, to an appropriate designee. Franchisee shall not exercise any editorial control over PEG Channel programming, except Comcast may refuse to transmit any program or portion of a public access program that contains obscenity, indecency, or nudity pursuant to Section 611 of the Cable Act, to the extent allowed by applicable law. The PEG access channels shall be maintained, managed and coordinated by the Franchising Authority or its designee.

H. Grantee shall, at its sole cost and expense and upon reasonable request, provide limited technical assistance to the Franchising Authority to ensure the retransmission of access programming over the Cable System.

I. For purpose of making governmental, educational and public access use channels available to all cable service subscribers, Grantee shall use a reasonable effort to allow connection by another cable operator(s) to the site location of any Public, Educational and Governmental access programming studio or transmission source consistent with this Agreement. Such connection may be accomplished by Return Line or other reasonable method of connection, but shall be separate and independent from, and not technically reliant upon the Grantee’s Cable System.

J. The LFA shall require all local producers and users of any of the PEG facilities or Channels to agree in writing to authorize the Franchisee to transmit programming consistent with this Agreement and to defend and hold harmless the Franchisee and the LFA from and against any and all liability or other injury, including the reasonable cost of defending claims or litigation, arising from or in connection with claims for failure to comply with applicable federal laws, rules, regulations, or other requirements of local, state, or federal authorities; for claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name, or service mark; for breach of contractual or other obligations owing to third parties by the producer or user; and for any other injury or damage in law or equity, which results from the use of an EG facility or Channel. The LFA shall establish rules and regulations for use of EG facilities consistent with, and as required by, 47 U.S.C. § 531.

K. To the extent permitted by federal law, the Franchisee shall be allowed to recover from Subscribers the costs of the EG Grants or any other costs arising from the provision of PEG services and to include such costs as a separately billed line item on each Subscriber's bill.

L. Grantee shall provide a one-time capital grant to the Township to be used for PEG Capital and equipment purposes or cable or technology-related purposes as determined by the LFA in accordance with applicable law. The grant provided by Comcast shall be in the amount of one hundred fifty thousand dollars
Such grant shall be paid to the Township within three (3) months of the Effective Date and shall not be offset against franchise fees paid to the Township. In providing the support grant and the use of PEG access channels, Grantee fully reserves and does not waive its external cost rights as defined by the FCC, including the right to pass through such costs on the Subscribers’ bill.

SECTION 15
REPORTS

A. Subject to the requirements of Section 631 of the Cable Act ("Protection of Subscriber Privacy") no later than sixty (60) days following the close of its fiscal year the Grantee shall submit upon written request a written report to the Township comprised of information, as of the close of such year, which shall include:

(1) A current financial statement, including a statement of income, balance sheet and a statement of sources and applications of funds which shall be verified by Grantee’s Chief Financial Officer in accordance with generally accepted accounting principles. Submission by Grantee of the most recent U.S. Securities and Exchange Commission Annual Report Form 10-K prepared by Grantee shall be deemed as satisfactory compliance with this Section 15.A (1).

(2) Pursuant to Federal Customer Service Standards [47 C.F.R. §76.309], as may be amended from time to time, if there is an historical record of complaints that indicates a clear failure to comply, a Telephone Report may be required which shall include the following information:

(a) Total number of calls received
(b) Total number of calls abandoned
(c) Percentage of calls abandoned
(d) Average time on hold before abandoned
(e) Average speed of calls answered
(f) Percentage of calls answered within thirty (30) seconds
(g) Percentage of calls receiving a busy signal
(h) A description of significant events impacting the response times
(3) A list of officers and members of the board of a Grantee, Affiliates and the parent corporation.

(4) Copies of company proof of performance tests for the prior year.

(5) Detailed maps showing street locations of all existing aerial and underground cable facilities.

B. Simultaneously with the filing of any report, application, response or other document directly pertinent to Grantee and the operations of the Cable System in the Township with the FCC, Grantee shall upon written request file a copy of such filing with the Franchising Authority.

SECTION 16
TRANSFER, ASSIGNMENT AND FORECLOSURE

A. The franchise herein granted is personal to the Grantee. It cannot be transferred, leased, assigned or disposed of as a whole, either by sale of stock greater than twenty-five percent (25%), forced sale, merger, consolidation, resulting in change in control of Grantee, without prior written consent of the Township. Notwithstanding the above, upon written notice to the Township, the Grantee may, without obtaining the prior consent of the Township: (i.) implement a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii.) make any assignment or transfer to any firm or corporation which Grantee controls, is controlled by, or is under common control with. For purposes of this section, control means ownership of a majority interest or the ability to manage the affairs of the company. In accordance with Federal Law, such consent for transfer shall not be unreasonably withheld nor used as a pretense for negotiating new franchise provisions. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications for the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent to the transfer shall be deemed given.

B. In accordance with Federal Bankruptcy Law, 11 U.S.C. § 525 (a), the Township or other governmental unit may not deny, revoke, suspend, foreclose or refuse to renew a franchise, license, permit, charter, or other similar grant to discriminate with respect to such a grant against a person, partnership, corporation, or other entity that is or has been a debtor under this title or bankrupt solely because such bankrupt or debtor is or has been a debtor under the federal Bankruptcy Act, or another person with whom
such bankrupt or debtor has been associated, or a bankrupt or debtor that has not paid a debt that was discharged under the Bankruptcy Act.

C. Any foreclosure or forced judicial sale or assignment of the franchise or Cable System shall not be considered a default or breach of the Franchise in concurrence with FCC opinion and order.

SECTION 17
NOTICE

Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, return receipt requested, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service or via overnight mail. The notices or responses to the Franchising Authority shall be addressed as follows:

Upper Darby Township
100 Garrett Road
Upper Darby, PA 19082

The notices or responses to the Grantee shall be addressed as follows:

Government Affairs Department
Comcast Cable - Northeast Division
676 Island Pond Road
Manchester, NH 03109

With a copy to:

Government Affairs Office
110 Springbrooke Blvd
Aston, PA 19014

General Counsel’s Office
Comcast Corporation - One Comcast Center
1701 J.F. Kennedy Blvd.
Philadelphia, PA 19103-2838

SECTION 18
DESCRIPTIVE HEADINGS

The headings to Sections contained herein are intended solely to facilitate the reading thereof. Such headings shall not affect the meaning or interpretation of the text therein.

SECTION 19
COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES
The Grantee shall, at all times during the term of this Agreement, be subject to the reasonable, necessary and lawful exercise of the police power by the Franchising Authority and to such other generally applicable and lawful ordinances, rules and regulations as Franchising Authority shall hereafter adopt. There is hereby reserved to Franchising Authority every right and power which is required to be herein reserved or provided by any ordinance, rule or regulation of the Franchising Authority, and the Grantee shall comply with any action or requirements of Franchising Authority in its exercise of such right or power heretofore or hereafter enacted or established. If the Township’s exercise of the police power results in any material alteration of the terms and conditions of this Franchise Agreement, then the parties shall modify this Franchise Agreement to ameliorate the negative effects on the Grantee of the material alteration.

The Grantee shall comply with all generally applicable ordinances, codes, statutes, rules and regulations of the Franchising Authority, County of Delaware, Commonwealth of Pennsylvania, and the United States of America which are now in effect or hereafter enacted. However, all ordinances or parts of ordinances that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

Subject to federal and state preemption, the provisions of this Franchise constitute a valid and enforceable contract between the parties. The material terms and conditions contained in this Franchise may not be unilaterally altered by the Franchising Authority through subsequent amendment to any ordinance, rule, regulation, or other enactment of the Franchising Authority, except in the lawful exercise of the Franchising Authority’s police power.

Grantee reserves the right to challenge provisions of any ordinance, rule, regulation, or other enactment of the Franchising Authority that conflicts with its contractual rights under this Franchise, either now or in the future.

This Franchise is a contract and except as to those changes which are the result of the Grantor’s lawful exercise of its general police power, the Grantor may not take any unilateral action which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Grantee and the Grantor. In the event of any conflict between this Franchise and any Grantor ordinance or regulation that is not generally applicable, this Franchise shall control.

SECTION 20
ACTIONS OF THE PARTIES

In any action by the Grantee and Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner, time being of the essence.

SECTION 21
AMERICANS WITH DISABILITIES ACT
The Grantee recognizes and will abide by The Americans with Disabilities Act, 42 U.S.C. §12101 et seq. and the Pennsylvania Human Relations Act, 43 P.S. §951 et seq.

SECTION 22
WAIVER

A. The failure of the Franchising Authority to enforce or to timely enforce any provision of this Agreement or federal, state, or local law, code, ordinance, rule or regulation shall not be deemed to be a waiver of that or any other provision, law, code, ordinance, rule, or regulation.

B. Any waiver of any provision of this Agreement or federal, state or local law, code, ordinance, rule, or regulation shall be in writing and operate only as a waiver as expressed in such writing and shall not be of any other force or effect.

C. No course of dealing between Grantee and the Township, nor any delay on the part of Grantee in exercising any of its rights hereunder, shall operate as a waiver of any such rights of the Grantee or acquiescence in the actions of the Township in contravention of such rights, except to the extent expressly waived by Grantee in writing.

SECTION 23
MISCELLANEOUS PROVISIONS

A. Preemption: In the event that federal or state law, rules, or regulations preempt a provision or limit the enforceability of a provision of this Agreement, the provision shall be read to be preempted to the extent, and for the time, but only to the extent and for the time, required by law. In the event such federal or state law, rule, or regulation is subsequently repealed, rescinded, amended, or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the LFA.

Actions of Parties: In any action by the LFA or the Franchisee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld, delayed, or conditioned.

Franchise Subject to Federal Law: Notwithstanding any provision to the contrary herein, this Franchise is subject to and shall be governed by all applicable provisions of federal law as it may be amended, including but not limited to the Communications Act.
B. Copies of all petitions, applications and communications submitted by the Grantee to any federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting the Grantee's Cable Service operations in the Township or this Franchise shall be provided to the Township upon written request.

C. Severability. If any section, sentence, paragraph, term or provision of this Agreement is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision thereof, all of which shall remain in full force and effect for the term of this Agreement.

D. It is fully understood that the Township shall not be liable for any cost of any kind incurred by the Grantee resulting from any portion of this Franchise being held invalid, unauthorized, or unconstitutional nor shall the Township be obligated to litigate the validity of this Franchise unless the cost thereof shall first be guaranteed by the Grantee in a manner satisfactory to the Township.

E. Entire Agreement. This Franchise Agreement, including all Appendices, embodies the entire understanding and agreement of the Franchising Authority and the Grantee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral. All ordinances or parts of ordinances that are in conflict with the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

F. Amendments. Amendments to this Franchise shall be mutually agreed to in writing by the parties.

G. Modification. This Franchise shall not be modified except by written instrument executed by both parties.

H. Subscriber Payments. With respect to advance billing, late fees, and the collection of past due debts owed to it by Subscribers, Grantee may exercise its rights under applicable law.

I. No Third Party Beneficiaries: Except as expressly provided in this Agreement, this Agreement is not intended to, and does not, create any rights or benefits on behalf of any Person other than the parties to this Agreement.

J. The Effective Date of this Agreement shall be the date of ordination and enactment of the Franchise Agreement by Ordinance duly adopted by the Council of Upper Darby Township.
For: COMCAST OF SOUTHEAST PENNSYLVANIA, LLC.

This Franchise Agreement proposed for acceptance by, COMCAST OF SOUTHEAST PENNSYLVANIA, LLC. subject to applicable federal, state, and generally applicable local law. The EFFECTIVE DATE of this Agreement, recognized as being the date of ordination and enactment of an Ordinance duly adopted by Township Council of Upper Darby Township, Delaware County.

By: ........................................

COMCAST OF SOUTHEAST PENNSYLVANIA, LLC.
Title: ........................................

THIS FRANCHISE AGREEMENT authorized by Ordinance No. 3050, ordained and enacted at a duly convened and official meeting of the Township Council of Upper Darby Township, Delaware County, the 7th day of November, A.D., 2018.

For: UPPER DARBY TOWNSHIP

By: ........................................
Donald Bonnett, President of Council

ATTEST:
By: ........................................
Jacob A. Bierling Jr.
Secretary of Council

ORDAINED AND ENACTED this 7th day of November, A.D., 2018.

UPPER DARBY TOWNSHIP

ATTEST:
By: ........................................
Thomas J. Rudge
Chief Administrative Officer

Thomas Micozzie, Mayor
ACCEPTANCE

COMCAST OF SOUTHEAST PENNSYLVANIA, LLC. does hereby accept the conditions and obligations imposed by the Township of Upper Darby in Ordinance No. 3050 to which this Acceptance is attached and does by this Acceptance intend to be legally bound to observe the terms, conditions and obligations of the said Ordinance.

COMCAST OF SOUTHEAST PENNSYLVANIA, LLC.

By: ____________________________
   Vice President

Attest: __________________________
   Witness

(SEAL)

DATED:

Attached to the Ordinance on:
APPENDIX “A”

1. Municipal Building
   100 Garrett Road
   Upper Darby, PA 19082-3135

2. Public Safety Building
   7236 West Chester Pike
   Upper Darby, PA 19082

3. Sellers Memorial Library
   76 South State Road
   Upper Darby, PA 19082

4. Sellers Memorial Library
   Municipal Branch
   501 Bywood Avenue
   Upper Darby, PA 19082

5. Public Works Garage
   Lansdowne Ave & Monroe Ave
   Upper Darby, PA 19082

6. Parks Department
   6810 Montgomery Avenue
   Upper Darby, PA 19082

7. Sanitation Department
   8201 Lansdowne Avenue
   Upper Darby, PA 19082

8. Welcome Center
   7000 Walnut Street
   Upper Darby, PA 19082

9. Watkins Senior Center
   326 Watkins Avenue
   Upper Darby, PA 19082

10. Highway Yard
    Lansdowne Manor Road
    Upper Darby, PA 19082
11. Electrical Department
   8530 Monroe Avenue
   Upper Darby, PA 19082

12. Fire Headquarters Building
   7216 West Chester Pike
   Upper Darby, PA 19082

13. Garrettford Fire House
   Edmonds Avenue & Randolph Street
   Upper Darby, PA 19082

14. Upper Darby Fire House
   West Chester Pike & Leighton Terrace
   Upper Darby, PA 19082

15. Aronimink Elementary School
   4611 Bond Avenue
   Drexel Hill, PA 19026

16. Highland Park Elementary School
   8301 West Chester Pike
   Upper Darby, PA 19082

17. Hillcrest Elementary School
   2601 Bond Avenue
   Drexel Hill, PA 19026

18. Primos Elementary School
   861 Bunting Lane
   Primos, PA 19018

19. Stonehurst Hills Elementary School
   7051 Ruskin Lane
   Upper Darby, PA 19082

20. Westbrook Park Elementary School
    199 Westbrook Drive
    Clifton Heights, PA 19018

21. Drexel Hill Middle School
    3001 State Road
    Drexel Hill, PA 19026
22. Upper Darby High School  
   601 N. Lansdowne Avenue  
   Upper Darby, PA 19082  

23. Drexel Hill School of the Holy Child  
   450 Penn Avenue  
   Drexel Hill, PA 19026  

24. Monsignor Bonner High School  
   403 N. Lansdowne Avenue & Garrett Road  
   Drexel Hill, PA 19026  

25. St. Andrew  
   535 Mason Avenue  
   Drexel Hill, PA 19026  

26. St. Bernadette  
   Bond & Turner Avenues  
   Drexel Hill, PA 19026  

27. St. Dorothy  
   1201 Burmont Road & Township Line  
   Drexel Hill, PA 19026  

28. St. Eugene's School *  
   110 S. Oak Avenue  
   Clifton Heights, Pa 19018  

29. Charles Kelly Elementary School *  
   3400 Dennison Avenue  
   Drexel Hill, PA 19026  

30. St. Laurence School *  
   8245 West Chester Pike  
   Upper Darby, PA 19082  

*These schools do not currently have a courtesy cable account. They will be provided one upon written request and subject to the restrictions stated in Section 14A.
APPENDIX “B”

1. Municipal Building
   100 Garrett Road
   Upper Darby, PA 19082

2. Upper Darby High School
   601 N. Lansdowne Avenue
   Upper Darby, PA 19082
UPPER DARBY TOWNSHIP

Ordinance No. 3051

AN ORDINANCE AUTHORIZING UPPER DARBY TOWNSHIP DELAWARE COUNTY, PENNSYLVANIA TO ENTER INTO A CABLE FRANCHISE AGREEMENT WITH RCN TELECOM SERVICES OF PHILADELPHIA, LLC.

WHEREAS, Upper Darby Township (herein after "Franchise Authority or Township") and RCN Telecom Services of Philadelphia, LLC. (herein after RCN or Grantee) desire to enter into a Franchise agreement to provide service to the resident of Upper Darby Township.

WHEREAS, the Franchising Authority has determined that the Grantee has the financial, legal and technical ability which is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community;

WHEREAS, the Mayor is authorized to enter into this Franchise agreement;

WHEREAS, the attached document represents the agreement between the Franchise Authority and Grantee;

NOW, THEREFORE, THIS AGREEMENT IS HEREBY ORDAINED AND ENACTED BY THE COUNCIL OF UPPER DARBY TOWNSHIP, COUNTY OF DELAWARE, COMMONWEALTH OF PENNSYLVANIA ON NOVEMBER 7TH, 2018:

Section 1. Repealer

Except as specifically hereby amended, the General Laws of the Township of Upper Darby are hereby ratified and confirmed in their entirety. Any ordinance or part of ordinance to the extent that it is inconsistent herewith is hereby repealed.

Section 2 Severability

If any provision or part of this Ordinance is held invalid, the remaining provisions or parts of this Ordinance shall not be affected thereby. If the application of this Ordinance or any of its provisions or parts to any persons, property or circumstances is held invalid, the application of this Ordinance to other persons, property or circumstances shall not be affected thereby.
Section 3. Effective Date. This Ordinance shall become effective thirty (30) days following final adoption by the Township Council and publication as required by law.

ENACTED and ORDAINED this 7th day of November, A.D. 2018.

Attest:  
Jacob A. Bierling Jr.  
Secretary of Council

By:  
Donald P. Bonnett  
President of Council

Ordinance No. 3051 is hereby approved this 7th day of November A.D., 2018

Attest:  
Thomas J. Judge, Jr.  
Chief Administrative Officer

Approved:  
Thomas N. Micozzie  
Mayor
CABLE TELEVISION

FRANCHISE AGREEMENT

by and between

UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA

and

RCN TELECOM SERVICES OF PHILADELPHIA, LLC
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SECTION I
DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words and their derivation shall have meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and the words in a singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. "Affiliate" means a Person or entity with (i) a direct or indirect ownership interest in the subject entity of five (5%) percent or more or controls such interest, including forms of ownership such as general, limited, or other partnership interests, direct ownership interest, limited liability companies and other forms of business organizations and entities but, not including corporations, or (ii) a stock interest in the subject entity where the subject entity is a corporation and such stockholder or its nominee is an officer or director of the Grantee or who directly or indirectly owns or controls five (5%) percent or more of the outstanding stock, whether voting or non-voting.

B. "Basic Service" means the separately available level of Cable Service, which at a minimum shall include (i) the retransmission of local broadcast television signals, required to be carried under applicable federal law and for which the Grantee has secured any necessary consents for carriage (ii) any public, educational, and governmental access programming required by the Franchise, (iii) any signal of any television broadcast station that is provided by the cable operator to any subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station.

C. "Cable Act" means the Communications Act of 1934, as now or hereafter amended.

D. "Cable Operator" means any person or group of persons (a) who provides Cable Service over a Cable System directly or through one or more Affiliates; or (b) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

E. "Cable Service" means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

F. "Cable System" means a system for providing Cable Service of antennas, cables, wires, lines, fiber optic cable, towers, waveguides or other conductors, converters, equipment or facilities, used for producing, receiving, amplifying, storing,
processing, or distributing audio, video, data or other forms of signals to and from Subscribers.

G. "Company" or "Grantee" shall be RCN Telecom Services of Philadelphia, LLC, or anyone who succeeds it in accordance with the provisions of this Ordinance.

H. "Effective Date" shall mean the date this Agreement becomes binding on all parties pursuant to Section 27(F).

I. "FCC" means Federal Communications Commission, or successor governmental entity thereto.

J. "Franchise" means the initial authorization or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to Subscribers.

K. "Franchising Authority" means the Township of Upper Darby, Delaware County, Commonwealth of Pennsylvania, or the lawful successor, transferee, or assignee thereof.

L. "Gross Revenue" means all revenue received from all sources attributable to the operation of the Cable System by the Grantee and its Affiliates within the boundaries of the Service Area from Cable Service including, but not limited to, subscription fees, additional set fees, converter fees, remote fees, late fees, Installation fees, sales commissions, pay-per-view fees, cable-related publications, Internet Access Revenue or other commissions, channel leasing payments, and revenue received from the sale of time or programming on leased channels, the sale of commercial time or programs, and the revenue received from provision of any lawful Cable Service. But for a decision of the Grantee not to conduct operations directly by the Grantee, all revenues collected by an Affiliate, shall be considered Gross Revenue and subject to the franchise fee if such revenue reasonably could have been derived from operations within the Service Area directly by the Grantee.

(a) Excluded are the following:

(i) the revenue of any Affiliate including, without limitation, a supplier of programming to the Grantee, but such exclusion shall apply only to the extent that said revenue is also included in the Gross Revenue of the Grantee;
(ii) the revenue of any Affiliate from sale of products, advertising time or services offered on a national basis and which products or services could not reasonably be offered on other than a national basis (i.e., magazines such as Sports Illustrated, program suppliers such as HBO); amounts collected by the Grantee from subscribers on behalf of leased access channel programmers, but such exclusion shall apply only to the extent said amounts are passed on by the Grantee to said programmers in total;

(iii) the revenue of the Grantee or any Affiliate from the operation of a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934.

(b) For the purpose of this Agreement, revenue from the sale of Internet Access Service transmitted via the Cable System shall be considered Gross Revenue so long as the Township applies this same provision to all other franchised cable operators or is seeking to apply this same provision in the negotiating or contracting process.

Notwithstanding the above, if the FCC or other government agency or any court of competent jurisdiction determines that such Internet Access Service is not a Cable Service, then the Grantee subject to this Agreement shall no longer be obligated to include any Internet Access Service revenue in its calculation of Gross Revenues and shall not pay a franchise fee on such revenue.

M. "Institutional Network" means an Intranet with high speed internet access service made available by Grantee to Franchising Authority and used for non-commercial purposes by entities designated by the Franchising Authority, under the terms of agreements entered into with the Franchising Authority.

N. "Person" means an individual, partnership, association, joint stock company, trust, or corporation.

O. "Public Way" means the surface of, and the space above and below, any public street, highway, turnpike, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to use
thereof for the purposes of installing, operating, maintaining or repairing such Cable System over poles, wires, cables, conductors, ducts, conduits, pedestals, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

P. "PEG Channels" means Public, Education and Government Channels.

Q. "Service Area" means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.

R. "Standard Non-Premium Service" shall mean Basic Service, exclusive of premium channels.

S. "State-of-the-Art" shall mean capabilities that can be:

(1) readily implemented with reasonable delivery schedules from two (2) or more sources of supply;

(2) demonstrated to be commonly available in Pennsylvania, Delaware and/or New Jersey, with the exception of the New York "Metropolitan Area", as that term is defined at the Effective Date of this Agreement by the United States Office of Management and Budget, under actual operating conditions (i.e., other than test or experimentation);

(3) implemented by the Grantee in a reasonable manner, taking into account the cost of making such changes.

The term "State-of-the-Art" includes facilities and equipment, but does not include (i) specific services or studio devices associated with public, educational or governmental access; or, (ii) subscriber equipment or transmission technology.

T. "Street, Highway" shall mean all public rights of way and public grounds or waters within or belonging to the Township, including but not limited to streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers, and alleys.

U. "System" shall mean the Cable System which is to be constructed, operated and maintained by the Grantee in the Township.

V. "Subscriber" means a person or user of the Cable System who lawfully receives or has received Cable Services or other service therefrom with Grantee's express permission within the Service Area.
W. "Township" is the Township of Upper Darby, Delaware County, Pennsylvania.

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

SECTION 2
GRANT OF NON-EXCLUSIVE FRANCHISE

Upon careful consideration of the qualifications of the applicant and in consideration of the faithful performance and observance of the conditions and reservations herein specified, Upper Darby Township hereby grants to the Grantee a non-exclusive franchise right, privilege, authority and easement to erect, construct, operate and maintain, in, upon, along, across, above, over and under streets, alleys, public ways and public places now laid out or dedicated and all such extensions thereof and additions thereto in the Township of Upper Darby, County of Delaware, Commonwealth of Pennsylvania and public utility rights-of-way and easements to the extent the Township of Upper Darby is empowered to grant such rights with respect thereto; all poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation of a Cable System, hereinafter sometimes referred to as a cable television system and/or System, for the interception, sale, transmission and distribution of television programs and other audio-visual electrical signals and the right to transmit the same to the Persons of the Township of Upper Darby, on the terms and conditions hereinafter set forth. Upper Darby Township expressly reserves the right to grant similar use of said streets, alleys, public ways and public places to any person at any time during the period of this franchise.

SECTION 3
TERM OF FRANCHISE

Unless terminated sooner in accordance with other provisions of this Agreement, the Franchise granted pursuant to this Agreement shall commence on the effective date of the Franchise as set forth in Section 27(F) and shall automatically expire on midnight, [date certain 10 years later]. Notwithstanding the term expressed in the foregoing sentence, this Agreement may be extended for an additional five years but only in the event that both Grantee and Grantor elect to extend the terms of the Agreement in writing.

SECTION 4
FRANCHISE TERRITORY

The franchise granted herein is for the present territorial limits of Upper Darby Township and for any areas henceforth added thereto during the term of this franchise.
SECTION 5
CONDITIONS OF OCCUPANCY OF PUBLIC WAYS

5.1 USE OF STREETS, POLE ATTACHMENTS. (1) The Grantee shall first obtain the approval of the appropriate Township officials prior to commencing construction in the streets, alleys, public grounds or places of the Township. The Grantee shall give the appropriate Township officials written notice of proposed construction at least ten (10) days prior to such construction.

(2) The Company's rights and privileges shall be subordinated to any prior lawful use or occupancy of the streets or other public property and shall not be so used as to interfere with existing improvements or with new improvements Upper Darby Township may deem proper to make, or as to hinder or obstruct the free use of the streets, alleys, bridges, or other public property. In the event any equipment or facilities of Company shall interfere with any such improvement existing or intended to be made by the Township, Grantee shall, upon notice from the Township, forthwith relocate said equipment and facilities at Grantee's expense so as to eliminate said interference.

(3) 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.

(4) Nothing in this agreement or any franchise granted hereunder, shall authorize the Grantee to erect and maintain for the Township new poles where existing poles are servicing the area. The Grantee shall obtain permission from the appropriate Township officials before erecting any new poles or underground conduit where none exists at the time the Grantee seeks to install its network.

(5) In case of disturbance of any streets, sidewalk, alley, public way, or paved area, Grantee shall, at its own cost and expense and in a manner approved by the Township Engineer, replace and restore such street, sidewalk, alley, public way, or paved area to the same or similar condition as existed prior to the disturbance.

(6) If at any time during the period of this Ordinance the Township shall lawfully elect to alter or change the grade or alignment or rerouting of any street, sidewalk, alley, or other public way, Grantee, upon reasonable notice by the Township, shall remove, relay, and relocate its poles, wires, cable, underground conduits, manholes, and other fixtures at its own expense.

(7) Any poles or other fixtures placed in any public way by Grantee shall be placed in such manner as not to interfere with the usual travel on such public way.

(8) Grantee shall have the authority, under the supervision of the appropriate authority of the Township and only after prior approval thereof, to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places within the
Township so as to prevent the branches of such trees from coming in contact with its wires and cable.

(9) Grantee shall, at the request of any person holding a building moving permit issued by the Township, temporarily raise or lower its wires to permit the moving of the building, provided Grantee is given ten (10) days advance notice and the person so making the request reimburses Grantee for its reasonable costs in so raising or lowering its wires.

(10) Grantee shall at all times keep on file true and accurate "as built" maps or plats of all existing and proposed aerial and underground feeder lines, trunk lines and sub-trunk lines and a list of educational and municipal buildings to which special services are being provided, which shall be made available to the Township, upon fifteen (15) days written request, or sooner under exigent circumstances. Copies will be made available via hard copy or electronically within sixty (60) days of completion of the System Build-Out. Thereafter, Grantee shall place on file with the Franchising Authority no less than annually such maps and plats and list.

(11) Construction and maintenance of the Cable System shall be in compliance with all ordinances, rules, regulations or orders now in effect or hereafter issued by the Franchising Authority and by any federal or state commission or any other public authority and, as to pole attachments, utility joint attachment practices.

(12) All installations of equipment shall be durable, of a permanent nature, and installed in accordance with current best Cable System engineering practices. Grantee, prior to the commencement of work, shall provide the Township with Cable System construction standards to be used in the construction and installation of the system and said standards shall be incorporated in this Ordinance as fully as though the same were herein set forth at length, including, but not limited to bonding and grounding equipment. Company shall comply with laws, rules, regulations and specifications heretofore or hereafter enacted or established, including but not limited to, those concerning street work, street excavation, use and removal and relocation of property within a street.

(13) 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, in accordance with engineering and safety considerations as mandated by all ordinances, rules, regulations or orders now in effect or hereafter issued by the Franchising Authority and by any federal or state commission or any other public authority and, as to pole attachments, utility joint attachment practices. All installations shall be underground in those areas of the Township where public utilities providing both telephone and electric service are underground at the time of installation. In areas where either telephone and electric utility facilities are above ground at the time of installation, the Grantee may install its service above ground with the understanding that at such time as those facilities are required by the Franchising Authority to be replaced underground by the Grantee, the
Grantee shall likewise place its service underground.

(14) Grantee shall not begin any construction, modification, addition, replacement, removal or any change whatsoever of its facilities in any public place (except ordinary and necessary repairs) without filing with the Franchising Authority a plan of such work and receiving written approval therefor. The review of the Township shall be to assure compliance with the terms of this Ordinance. Grantee shall also, in connection with any work requiring modification or removal of any Township facilities (including roads) enter into an escrow agreement with the Township with surety satisfactory to the Township providing for reasonable engineers and inspection fees and legal fees, if any, occasioned as a result of the work or preparation of an escrow agreement. Such escrow shall not be less than one hundred twenty-five (125%) percent of the cost of the work affecting the improvements as estimated by the Township. Any such escrow agreements shall provide that the cost of repairing the improvements or restoring them to their original condition prior to the commencement of the work may be deducted from any cash escrow placed with the Township pursuant to such agreement.

(15) The Township specifically reserves the right to vacate any right-of-way they have given notwithstanding the existence of Cable System construction equipment or service lines within any such right-of-way. In the event any such right-of-way is so vacated the Grantee at its own cost and expense shall obtain and provide alternate means of providing service to subscribers.

5.2 INSTALLATION OF SERVICE. All installation of Cable Service shall be performed in a workmanlike manner, using materials of good and durable quality with due regard to the preservation and protection of existing structures. All work to be performed in, on, or about the dwelling or structure of a Subscriber or potential Subscriber shall be performed under the reasonable direction or with the consent of such Subscriber or potential Subscriber.

SECTION 6
SYSTEM SPECIFICS

6.1 SPECIFICS: The system was previously designed and constructed using a combination of fiber optics and coaxial radio (“RF”) distribution with an analog bandwidth of 650 MHz and a digital bandwidth of 210 MHz for a total operational bypass of 860 MHZ. The analog bandwidth provides for nearly 100 channels of unscrambled and in the clear programming. The digital tier of over 200 MHz has the ability to provide hundreds of additional channels using digital compression and a specially designed set top box. The cable system shall only be placed in Public Ways or on private property where a duty authorized easement has been obtained prior to construction on the property. The cable system shall conform to digital television standards and shall be capable of providing high definition video signals and video-on-demand.

(a) Customer Notification. Sixty (60) days prior to the initiation of construction or
modification of the System, Grantee shall provide a neighborhood construction schedule which details the timeframe for construction, activation and cutover in each neighborhood and area of the Township.

(b) **Construction Oversight.** Grantee will inspect 100% of all fiber and coaxial cable to insure that it meets manufacturers' and governmental technical specifications. Grantee shall designate an employee to act as a Grantee representative by responding to public service complaints on a daily basis during the construction and provide the Township with the person's name and telephone number. Construction shall be overseen by an employee or agent of the Grantee.

(c) **Compliance with Applicable Law.** In constructing, operating and maintaining the system, Grantee shall at all times comply with this Franchise Agreement and all applicable laws and regulations.

(d) **Equipment Quality.** Equipment used for the distribution system, headend and reception facilities shall be good and durable quality and be serviced and repaired on a regular basis.

(e) **Parental Control Devices.** Grantee shall provide to subscribers, upon request, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible.

(f) **Performance Testing.** Grantee shall perform all system tests and maintenance procedures as required by and in accordance with this Franchise Agreement, Grantee's standards of good operating practice, FCC regulations, and the National Cable Television Association's test procedure guidelines.

(g) **Technical Standards.** The Cable System shall be installed and operated in conformance with FCC rules and regulations. Any FCC technical standards or guidelines related to cable systems shall be deemed to be regulations under this franchise.

(h) **Employee Identification and Licensing.** 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. In addition, Grantee shall use its best efforts to clearly identify all field personnel, vehicles, and other major equipment with the Grantee's company name and telephone number, that are operating under the authority of Grantee. Additionally, any employee or subcontractor shall be licensed, registered and insured in the Township to perform any required work.

6.2 **STAND-BY POWER.** The headend, all hubs, and all nodes will have standby
power as follows:

(a) Grantee shall provide permanent standby power for headend, which shall fully power all channels to all trunk legs and fiber nodes for a minimum of eight hours in the event of a loss of commercial power. This standby power system shall be automatically switched online in the event of a power loss. Backup generators shall be tested regularly and test results shall be recorded in a log which shall be available for inspection by the Township upon request.

(b) Grantee shall provide permanent standby power for all hubs, which shall fully power all channels to all trunk legs and fiber nodes for a minimum of four hours in the event of a loss of commercial power. This standby power system shall be automatically switched online in the event of a power loss. Backup generators shall be tested regularly and test results shall be recorded in a log which shall be available for inspection by the Township upon request.

6.3 TERMINATED SYSTEM CONNECTIONS. Grantee shall assure that upon removal or disconnect of any cable service to a residence, business, facility or other building, structure or location that any and all visible, loose wires or connections are removed within 30 days so as to avoid unsightly and potentially dangerous wires or connections exposed to the view of the public.

6.4 POLE REMOVAL OR RELOCATION. In cases where a PECO or other support pole or structure is used by the Grantee for running lines or placing equipment, if such pole or support structure is damaged or otherwise required to be removed or replaced by its owner, Grantee shall, within 72 hours of notice, remove its equipment as necessary to permit the pole or other support structure to be removed or replaced. Where a new pole or support structure is replaced but the original pole or support structure remains pending removal of existing lines and equipment, Grantee shall, within 72 hours of notice, remove or relocate any existing lines and equipment to allow for prompt removal of the existing pole.

6.5 NEW DEVELOPMENT. Grantee agrees to negotiate in good faith with developers constructing new facilities or communities within Upper Darby Township to accept any developers' build out for any new developments within Upper Darby Township to assure that any new or additional developments are able to obtain cable services.

SECTION 7
PERFORMANCE STANDARDS
7.1 **EMERGENCY COMMUNICATIONS.** Grantee shall comply with emergency or disaster notification requirements of the Federal Communications Commission and state, county and local emergency and disaster agencies. All performance and technical standards governing construction, reconstruction, installation, operation, testing, maintenance and dismantling of the Cable System provided herein shall be in accordance with all FCC and other Federal laws, ordinances and regulations.

7.2 **REPAIR NOTIFICATION.** Whenever it is necessary to interrupt service for the purpose of making repairs, adjustments or installation, Grantee shall do so at such time as will cause the least amount of inconvenience to subscribers. Unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice to affected subscribers. The requirements for maintenance of equipment contained in this provision shall not apply to the subscriber's television receiver.

7.3 **REFUNDS AND CREDITS.** In the event of substandard delivery of video or audio programming or other lawful communication service for any reason, other than Force Majeure as defined at Section 12.7 or due to a problem solely caused by a Subscriber, or with the prior consent of the Franchising Authority, and such loss shall continue for a period greater in duration than three (3) hours during any one (1) calendar day, then Grantee, shall reduce the invoice of that Subscriber for the month in which such substandard delivery or loss shall have occurred by the fraction one-thirtieth (1/30) multiplied by the number of calendar days during which such substandard delivery or loss greater in duration than three (3) hours shall have occurred.

**SECTION 8**

**COMPLIANCE AND MONITORING**

8.1 **TESTING FOR COMPLIANCE.** Upon request of the Franchising Authority, the Grantee shall furnish a copy of all technical tests performed on the Cable System by it or on its behalf to the Franchising Authority at no cost or expense to the Franchising Authority.

The Franchising Authority may perform technical tests of the Cable System during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the Cable System in order to determine whether or not the Grantee is in compliance with the terms hereof and all applicable laws, ordinances, rules and regulations. Except in emergency circumstances, such tests may be undertaken only after giving Grantee reasonable notice thereof, not to be less than five (5) business days, and providing a representative of Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has failed to comply with any FCC technical standard or any technical standard approved by the FCC, the costs of such tests shall be borne by the Grantee and paid to the Franchising Authority within thirty (30) days. In the event that such testing demonstrates that Grantee has complied therewith, the cost of such testing shall be borne by the Franchising Authority.
8.2 BOOKS AND RECORDS. In addition to rights of inspection and copying otherwise set forth in this Agreement, the Grantee agrees that the Franchising Authority may, upon ten (10) days written notice, review such of its books and records, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms of this Agreement. All information specifically marked by Grantee as proprietary or confidential in nature and furnished to the Franchising Authority or its designated representatives shall be treated as confidential in conformity with Pennsylvania law. Notwithstanding anything to the contrary, the Grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act.

8.3 FAILURE TO OPERATE. In the event Grantee fails to operate over twenty-five (25%) percent of the Cable System (as determined by lineal miles or portions thereof) for ninety-six (96) consecutive hours or more without prior approval of the Franchising Authority, the Franchising Authority may, at its election, require payment to the Franchising Authority, as liquidated damages, the sum of One Thousand ($1,000.00) Dollars per day for each day, or portion thereof, for which said non-operation shall continue past such ninety-six (96) hour period.

SECTION 9
CHANNEL PACKAGING

Grantee shall make available programming to Subscribers, in broad categories which shall, at a minimum, include the following:

1. News and Public Affairs
2. Local and Regional News
3. Sports
4. Weather
5. Music
6. Entertainment
7. Family Programming
8. Children's Programming
9. Exercise, Health and Physical Fitness
10. Satellite Delivered Special Events

SECTION 10
STATE-OF-THE-ART OPTION

Notwithstanding anything to the contrary, the Township may initiate the State-of-the-Art Option (the "State-of-the-Art Option").

(1) In order to initiate the State-of-the-Art Option, the Township shall first commence a review of the Cable System. Commencement of such review shall occur no earlier than thirty-six (36) months after the Effective Date and shall be completed no later than seventy-two (72) months after the Effective Date.
(a) The review described in this paragraph (1) above shall take into account the following:

(1) characteristics of the existing Cable System;
(2) the State-of-the-Art;
(3) the additional benefits provided to customers by State-of-the-Art;
(4) Subscriber demand for the State-of-the-Art;

(b) If, after conducting such review, the Township determines that the exercise of the State-of-the-Art Option may be warranted, the Township shall hold at least two (2) public hearings to enable the general public and the Grantee to comment and present evidence.

(2) If, following such hearings, the Township determines that the exercise of the State-of-the-Art Option is warranted it may request the Grantee to implement the State of the Art. If, however, the Grantee disputes such request and is not willing to comply with such request, either Grantee or the Township may commence Arbitration pursuant to Section 19 ("ARBITRATION") of this Agreement to fully and finally resolve such dispute. The arbitration award shall be known as the "State-of-the-Art Order."

SECTION 11
FRANCHISE FEES AND OTHER PAYMENTS

A. Unless reduced, waived or increased by the Franchising Authority, Grantee shall pay to Franchising Authority a franchise fee equal to five (5%) percent of annual Gross Revenue. Said franchise fee may be increased at the sole and exclusive election of the Franchising Authority to an amount not to exceed the maximum amount allowed by law, whichever shall be greater, in such increments and in such amounts as the Franchising Authority may elect, upon one hundred eighty (180) days prior written notice to the Grantee. Franchising Authority reserves the right to change such amount one or more times and the failure to make any such election shall not constitute a waiver hereunder.

B. The franchise fee shall be assessed on a quarterly basis and shall be payable on a quarterly basis to the Franchising Authority no later than forty-five (45) days after the expiration of the calendar quarter for which payment is due. Grantee shall file with such payment a complete and accurate verified statement, under notary acknowledgement, certified as true and correct by a representative of Grantee, authorized to make such certification, explaining how the payment was calculated. Said statement shall include information as of the last day of the year regarding the number of Subscribers for each service tier or other
communication service, the rate charged for each, the amount of revenue collected for each and a breakdown by category of revenue from all other sources. Said statement shall accompany each payment. Upon request by the Franchising Authority, Grantee shall provide such additional information as may be reasonably required. Grantee shall also submit to the Franchising Authority, on the payment due date or no later than six (6) months thereafter, a detailed statement by an officer of the Grantee certified by the Grantee's independent certified public accountant verifying the accuracy of the Gross Revenue and annual franchise fee payment with a detailed breakdown for each month.

C. Upon ten (10) days prior written notice, Franchising Authority shall have the right to inspect and make extracts at Grantee's office within fifty (50) miles of the Township's office the financial records of Grantee for the purpose of verifying or identifying revenue owed to the Franchising Authority. Where, in the opinion of the Franchising Authority, they are reasonably necessary to verify or supplement Grantee's records, the Franchising Authority may request and the Grantee shall use its best efforts so to comply and obtain financial records of Affiliates and make same available for inspection to the Franchising Authority at the office of the Franchising Authority. Franchising Authority shall have the right to recompute any amounts determined to be payable under this or any other section, provided, however, that such recomputation shall take place within thirty-six (36) months following the close of each of Grantee's fiscal years. Any additional amount due to Franchising Authority as a result of the recomputation shall be paid within thirty (30) days following written notice to Grantee by the Franchising Authority, which notice shall include an explanation of the recomputation. In the event that said recomputation determines that funds are owed to the Franchising Authority in an amount in excess of $1,000, the cost of said inspection and recomputation, at the election of the Franchising Authority, shall be borne by the Grantee. Franchising Authority and Grantee shall comply with the "Protection of Subscriber Privacy" provisions set forth at Section 631 of the Communications Act.

D. In the event that any franchise or other payment is not made or the requisite documentation and certification is not provided on or before the applicable dates heretofore specified, interest shall be compounded daily and set at the one-year United States Treasury Bill rate existent on the date payment was due, plus three (3) percentage points. Any amount recomputed to reflect correct payment due shall bear interest as described from the date such payment was originally due.

SECTION 12
ENFORCEMENT AND TERMINATION OF FRANCHISE

12.1 GENERAL. In addition to all other rights, remedies and powers reserved or retained by the Franchising Authority under this Agreement or otherwise, the Franchising Authority reserves the right to forfeit and terminate the Franchise and all rights and privileges of Grantee in the event of a material breach of its terms and conditions. In interpreting this Agreement, material provisions shall include all labeled as such and all others, which, under all the facts and circumstances indicated, are a significant provision of the agreement. A material breach
by Grantee shall include but is not limited to the following:

a. Failure to remit franchise fee or other payment together with any requisite statement or certification within ten (10) days of its due date.

b. Violation of any material provision of this Agreement.

c. Failure to operate over twenty-five (25%) percent of the Cable System (as determined by linear miles or portions thereof) for a period in excess of thirty (30) consecutive days except when approval of such interruption is obtained from Franchising Authority.

d. The voluntary filing by or filing involuntarily against Grantee or any of its Affiliates of a petition of bankruptcy or for reorganization or for the adoption of arrangements under the Bankruptcy code as now or in the future amended or admission seeking the relief therein provided or the filing of a similar action pursuant to the laws of the Commonwealth of Pennsylvania.

e. The making by Grantee or any entity controlling Grantee and involved in the operation of Grantee's Cable System of an assignment for the benefit of creditors.

f. The consenting by Grantee or any entity controlling Grantee and involved in the operation of Grantee's Cable System to the appointment of a receiver for all or a substantial part of Grantee's assets.

g. The Grantee or any entity controlling Grantee and involved in the operation of Grantee's Cable System being adjudicated as bankrupt.

h. The assumption or custody or sequestration by a court of competent jurisdiction of all or a significant part of the Cable System.

i. Grantee's failure to maintain the required insurance and bonding.

j. Grantee's failure to comply with law.

12.2 NOTICE OF VIOLATION. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of this Agreement, it shall notify Grantee in writing, by certified or registered mail, of the exact nature of the alleged noncompliance.

12.3 GRANTEE'S RIGHT TO CURE OR RESPOND. Except as to Section 12.1(a) (failure to timely remit payment, statement or certification), Grantee shall have thirty (30) days from receipt of the notice described in Section 12.2 to (a) respond to the Franchising Authority contesting the assertion of noncompliance, and (b) to cure such default or, in the event that by the nature of default, such default cannot be cured within the thirty (30) day period, request permission from the Franchising Authority for additional time in which to take reasonable steps to remedy such default and such permission shall not be unreasonably withheld. Except as to a Section 12.1(a) or violation which presents an immediate danger to health or safety, in the event the Grantee contests the assertion of non-compliance in a timely manner then the time specified to cure the alleged default shall be stayed or tolled pending a hearing before the Franchising Authority. In the event the Franchising Authority affirms the assertion of non-compliance following a hearing affording the Grantee the opportunity to be heard, then the Grantee shall have thirty (30) days, within which to cure such default. Notwithstanding such timely response or effort to cure by Grantee, non-compliance or default by Grantee continuing
after such thirty (30) day period shall not be excused or waived, unless such excuse or waiver is affirmatively granted in writing by the Franchising Authority.

12.4 LIQUIDATED DAMAGES.

(A) Amounts of Liquidated Damages. Because the Grantee's failure to comply with provisions of the Franchise will result in injury to the Franchising Authority in amounts that will be difficult to quantify with reasonable certainty, the Franchising Authority and the Grantee agree to the following liquidated damages for the following violations. These damages represent the parties' best estimate of the damages resulting from the specified injury and are not a penalty or forfeiture and are one or more exclusions to the term "franchise fee" provided in the Cable Act. The liquidated damage amounts are in 1999 dollars and shall be increased each year by the increase in the U.S. Consumer Price Index.

(1) For failure to construct, install, fully activate, operate, program and/or maintain the Cable System in accordance with the Franchise, five hundred dollars ($500.00) per day, for each day that such construction, installation, activation, operation, programming and/or maintenance shall not have occurred.

(2) For failure to comply with FCC technical standards or requirements, five hundred dollars ($500.00) per day for each such day of non-compliance.

(3) For failure to complete construction and/or fully activate the Cable System in accordance with Section 6, five hundred dollars ($500.00) per day that the Cable System is not provided, installed and/or activated.

(4) For any transfer subject to the provisions of Section 17 without prior Franchising Authority approval: $750/day for each day the violation continues;

(5) For failure to comply with requirements for public, educational, and governmental requirements of the franchise and use of the System: $2.00 per subscriber per month the violation continues.

(6) For all other material violations of this Agreement $500/day for each day the violation continues.

(B) Effect on duty to comply. The collection of liquidated damages by the Franchising Authority shall in no respect affect:

(1) Compensation owed to subscribers; or

(2) The Grantee's obligation to comply with the provisions of this Franchise or applicable law.
(C) **Accrual.** Liquidated damages shall be assessed and shall accrue from the date the Franchising Authority notifies the Grantee that there has been a violation.

(D) **Attorney Fees.** In the event Grantee shall not make payment of the liquidated damages as assessed and accrued, where the Franchising Authority prevails in any contested proceeding, the Grantee shall pay the reasonable attorney's fees incurred by the Franchising Authority.

12.5 **Remedies Cumulative.** Franchising Authority may exercise all of its rights, remedies and powers as set forth in this Agreement or which are available by Federal, State or local laws, ordinances, rules and regulations and all such rights, remedies and powers shall be cumulative and concurrent and may be pursued singly, successively or together, at Franchising Authority's sole discretion, and may be exercised as often as occasion therefor shall occur.

12.6 **Removal of Equipment.** At the expiration of the term of this Franchise and for which a renewal has been denied, or upon its termination or revocation the Franchising Authority shall have the right to require the Grantee to remove at its own expense all portions of the Cable System from all Public Ways. The Grantee shall within six (6) months after having been given written notice, remove from the Public Ways all such property of such system other than any which the Franchising Authority may permit to be abandoned in place which such permission to abandon underground shall not be unreasonably withheld. In the event of such removal, the Grantee shall promptly restore the Public Way or other area from which such property has been removed to a condition as good as that previously prior to such work.

(A) Any property of the Grantee remaining in place six (6) months after the Grantee is given notice pursuant to this Section 12.6 may in the event of the Franchising Authority be considered permanently abandoned. The Franchising Authority may extend such time not to exceed an additional ninety (90) days.

(B) Any property of the Grantee which the Franchising Authority permits to be abandoned in place shall be abandoned in such manner as the Franchising Authority shall prescribe. Subject to the provisions of any utility joint use attachment agreement, upon permanent abandonment of the property of the Grantee in place the property shall become that of the Franchising Authority, and the Grantee shall submit to the Franchising Authority an instrument in writing, to be approved by the Franchising Authority, transferring to the Franchising Authority the ownership of such property.

12.7 **Force Majeure.** If for any reason of force majeure either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. Unless further limited elsewhere in this
Agreement, the term "force majeure" as used herein shall have the following meaning: strikes; acts of God; acts of public enemies; orders of any court of competent jurisdiction; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; arrests; civil disturbances; explosions; partial or entire failure of utilities; or any other cause or event not reasonably and foreseeably within the control of the party affected.

12.8 RESTORATIONS. Grantee shall restore the streets to a condition the same as existed prior to construction of the Cable System, excluding any improvements made to said streets subsequent to completion of construction. The Township shall cause such streets to be examined prior to any construction by the Grantee and shall provide a report on the condition of such street to the Township and the Grantee. With regard to non-public property, the Grantee shall restore such property to a condition the same as existed prior to construction excluding any improvement made to such property subsequent to completion of construction. Restoration of public streets shall be approved by the Township. Costs for restoration of private property and public property shall be borne by the Grantee.

12.9 COST TREATMENT OF FINES, LIQUIDATED DAMAGES, DAMAGES. No cost to Grantee arising from a breach or violation of the Agreement shall be recovered from subscribers, shall form the basis for any adjustment to subscriber rates or other subscriber charges or shall be offset against any sums due the Franchising Authority as a tax, franchise fee or otherwise regardless of whether the combination of franchise fees and said costs exceeds five (5%) percent of Grantee's Gross Revenues in any twelve-month period.

SECTION 13
INDEMNITY, INSURANCE AND BOND

(A) It shall be expressly understood and agreed by and between the Township and Grantee, that the Grantee shall save the Township, its agents and employees, harmless from and against all claims, damages, losses and expenses, including reasonable attorney's fees sustained by the Township on account of any suit, judgment, execution, claim or demand whatsoever arising out of but not limited to copyright infringements and all other damages arising out of the installation, operation or maintenance of the Cable system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by the Ordinance and the franchise granted thereunder.

(B) (1) Grantee shall obtain and maintain in full force and effect throughout the term of this Franchise insurance with an insurance company licensed to do business and doing business in the Commonwealth of Pennsylvania and acceptable to the Franchising Authority. All companies will be required to be rated A-VII or better by A.M. Best or A better by Standard and Poors. Grantee shall provide Franchising Authority with proof of such insurance so required at the Effective Date. The Franchising Authority reserves the right to review these insurance requirements during the Franchise, and upon reasonable advance notice to Grantee to reasonably adjust insurance coverage and their limits when deemed necessary and prudent by the Franchising Authority, based upon changes in statutory law, court decisions, or the claims history of the industry or the Grantee.
(2) Subject to Grantee's right to maintain reasonable deductibles in such amounts as are approved by the Franchising Authority, Grantee shall obtain and maintain in full force and effect for the duration of this Franchise, at Grantee's sole expense, insurance coverage in the following type and minimum amounts:

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<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Workers' Compensation and Statutory Employers Liability</td>
<td>$100,000/$500,000/$100,000</td>
</tr>
<tr>
<td>b. Commercial General (public) Liability - to include coverage for the following where the exposure exists:</td>
<td>Combined single limit for bodily injury and property damages $5,000,000 per occurrence or its equivalent</td>
</tr>
<tr>
<td>- Premises operations</td>
<td></td>
</tr>
<tr>
<td>- Independent contractors</td>
<td></td>
</tr>
<tr>
<td>- Products/completed operations</td>
<td></td>
</tr>
<tr>
<td>- Personal Injury</td>
<td></td>
</tr>
<tr>
<td>- Contractual liability</td>
<td></td>
</tr>
<tr>
<td>- Explosion, collapse and underground property damage</td>
<td></td>
</tr>
<tr>
<td>c. Comprehensive Automobile insurance coverage for loading and unloading hazards, for:</td>
<td>Combined single limit of bodily injury and property damage $1,000,000 per occurrence or its equivalent</td>
</tr>
<tr>
<td>- Owned/leased automobiles</td>
<td></td>
</tr>
<tr>
<td>- Non-owned automobiles</td>
<td></td>
</tr>
<tr>
<td>- Hired automobiles</td>
<td></td>
</tr>
<tr>
<td>d. Coverage for programming on channels that are directly or indirectly controlled by Grantee for:</td>
<td>Combined single limit of $5,000,000 per occurrence or its equivalent</td>
</tr>
<tr>
<td>- Libel and slander</td>
<td></td>
</tr>
<tr>
<td>- Copyright violation</td>
<td></td>
</tr>
</tbody>
</table>
(3) The Franchising Authority shall receive without expense copies of certificates of insurance evidencing coverage stated above. The Franchising Authority may make reasonable requests for deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, except where policy provisions are established by law or regulation binding upon either Franchising Authority or Grantee or upon the underwriter for any of such policies. Upon request for deletion, revision or modification by the Franchising Authority, Grantee shall exercise its best reasonable efforts to accomplish the changes and shall pay the cost thereof.

(4) Grantee agrees that with respect to the above-required insurance, all insurance certificates will contain the following required provisions.

(a) Name the Franchising Authority and its officers, employees, board members and elected representatives as additional insured parties (as the interests of each insured may appear) as to all applicable coverage (except worker's compensation);

(b) Provide for thirty (30) days’ notice to the Franchising Authority for cancellation, non-renewal, or material change;

(c) Provide that all provisions of this Franchise concerning liability, duty, and standard of care, including the Indemnity provisions, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies, subject to policy terms and conditions.

(5) Companies issuing the insurance policies shall have no recourse against the Franchising Authority for payment of any premiums or assessments which all are set at the sole risk of the Grantee. Insurance policies obtained by Grantee shall provide that the issuing company waives all right of recovery by way of subrogation against the Franchising Authority in connection with any damage covered by these policies.

C. (1) Grantee shall obtain and maintain, at its sole cost and expense, and file with the Franchising Authority, a corporate surety bond with a surety company authorized to do business in the Commonwealth of Pennsylvania and found acceptable by the Franchising Authority, in the amount of fifty thousand dollars ($50,000.00) provided Grantee shall have completed construction and shall have fully activated the Cable System as required by this Agreement to secure Grantee's performance of its obligations and faithful adherence to all requirements of this Franchise. Grantee shall provide this corporate surety bond at the time of filing the acceptance of this Franchise. This bond may be drawn upon by the Franchising Authority in accordance with Section 13.

(2) The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be cancelled by the surety nor any intention not to renew be exercised by the surety until sixty (60) days after receipt by the Township of Upper Darby, by
registered mail, of written notice of such intent."

D. All expenses of the above-noted insurance bond shall be paid by the Grantee.

E. The insurance policies mentioned herein shall contain an endorsement stating the following:

Should any policies of insurance be cancelled or coverages be reduced, before the expiration date of said policies of insurance, the issuer shall deliver sixty (60) days advance written notice to the Township.

F. Neither the provisions of this Agreement nor any insurance accepted by the Township pursuant hereto, nor any damages recovered by the Township thereunder, shall be construed to excuse faithful performance by the Grantee or limit the liability of the Grantee under the Franchise issued hereunder or for damages, either to the full amount of the bond or otherwise.

SECTION 14
SUBSCRIBER SERVICES

A. Cable Service shall be made available to substantially all individual dwellings, residences, institutions, organizations, and all other entities within the limits of the Township, in accordance with the provisions of this Agreement and all laws governing the rights of privacy and passage.

B. Residential installation shall occur as an activated or reactivated feeder line passes the home or dwelling, upon request of the resident.

C. Each class of a subscriber service shall be offered cable television service on a uniform, non-discriminatory basis within said class.

D. All cable equipment shall be removed from a subscriber's property when so requested by a subscriber in accordance with law.

E. Cable, whether underground or aerial, shall conform to the various other ordinances in effect within the Township pertaining to construction.

F. The System shall be designed for reliable operation twenty-four (24) hours per day and shall ensure service impairment of interruption only for good cause. Interruptions of service shall be for the shortest times possible.

G. The Grantee shall maintain at least one office in Upper Darby Township which shall be open to the public during all usual business hours where individuals may
make payments, return equipment, and exchange equipment. Grantee currently maintains three locations within the Township.

H. The Grantee shall have a publicly listed telephone number and E-mail address by which Persons can communicate with Grantee. A record shall be kept by the Grantee listing each and every subscriber complaint received by Grantee. Such record, together with other information pertaining to the function or operation of the Cable System as Franchising Authority may specify, shall be kept in a format and shall contain the information all as shall be mutually determined by the Grantee and the Franchising Authority from time to time. Such telephone number and E-mail address access shall be available for customer service complaints on a 24 hours, 7 day per week basis.

I. The Grantee shall not deny nor delay service, deny or delay access, or otherwise discriminate against subscribers, channel users, or general citizens on any basis whatsoever.

(1) The Grantee shall strictly adhere to the Equal Employment Opportunity requirements of the Federal Communications Commission as expressed in the Code of Federal Regulations and all Federal, State and Local laws, regulations and executive orders pertaining to equal employment opportunity and affirmative action programs and nondiscrimination.

(2) The Grantee shall comply with all provisions of the Equal Employment Opportunity Act as the same may be from time to time amended.

J. The Grantee shall not tabulate any test results, nor permit the use of its cable system for such tabulation, which would reveal the commercial product preferences or opinions of subscribers, members of their families or their invitees, licensees or employees without the express written consent of each and every subscriber so polled or tabulated.

K. In all cases where developments and subdivisions are to be constructed and to be served in whole or in part by underground power and telephone utilities, and in such areas where both utilities are to be placed underground, exclusive of all electronic cable television facilities, the Grantee shall similarly comply and shall install system concurrently with the installation of the underground power and telephone utilities.

L. Upon the reasonable request for service by any person within the Township, the Grantee shall, within thirty (30) days, furnish the requested service to said person providing the location of the requested service is within an area serviced by a feeder line.
M. Grantee shall build its Cable System so that it is capable of providing service to all persons located along a Public Way. Installation of a cable drop line will be provided by Grantee at its then prevailing charge, except as provided below under the following circumstances:

(a) Where the drop to the Subscriber location is more than 125 feet in length or, if buried, when adverse terrain or other unusual conditions are encountered, in addition to the prevailing installation charge, Grantee may charge the subscriber the difference between Grantee's cost of installing a 125 foot drop and the cost of installing a longer drop.

(b) Those portions of the Service Area which do not have the necessary density of 35 potential subscribers per linear mile shall be served by Grantee if the potential subscribers agree to a grant-in-aid of construction.

N. Grantee shall be required, in accordance with this Agreement and applicable laws, to provide service to individual units of a multiple dwelling unit ("MDU") with all services offered to other dwelling units within the Service Area, so long as the owner or agent of the MDU consents in writing, if requested by the Grantee, to the following:

(a) To Grantee's providing of service to individual units of the MDU;

(b) To reasonable conditions and times for installation, maintenance, and inspection of the Cable System on the MDU premises;

(c) To reasonable conditions promulgated by Grantee to protect Grantee's equipment; and

(d) To enter into a reasonable building access agreement between the MDU owner or agent and Grantee.

SECTION 15
PEG CHANNELS / SERVICES PROVIDED

A. Grantee shall continue to provide without charge Standard Non-Premium Service to each public, private and parochial school and college, fire stations, rescue squads, public ambulance garages, public and private libraries, and Franchising Authority buildings, and such public auditoriums and institutions as Franchising Authority may request in writing, including, but not limited to those locations described in Appendix "A".
B. At Grantee's sole cost and expense, Grantee shall continue to provide a "Return Line" as set forth in this section from each of the locations set forth at Appendix "B". "Return Line" in this section means that the Grantee shall provide from and including the modulator, all necessary equipment to feed audio and video signals directly over the cable system in the Service Area from each of the locations set forth at Appendix "B". The Return Lines will be activated within sixty (60) days after the activation of Grantee's Cable System. The Grantee shall have no responsibility to provide any studio equipment or other production equipment. All such equipment shall be the responsibility of the programmer.

C. Grantee is committed to supporting PEG access programming for the entire Term of the Agreement by providing, at no cost to the Franchising Authority, Subscribers and/or PEG Access user, with a minimum of three (3) PEG access channels to be programmed by the Franchising Authority. After such time as additional channel capacity is available to Grantee through digital transmission, Grantee will make up to two (2) additional channels available upon an affirmative showing by the Franchising Authority that the following criteria have been met. An additional PEG access channel(s) shall be made available when the existing channels are programmed with full-motion video programming on Monday through Friday for sixty percent (60%) of the time during any consecutive eight (8) hour period for six (6) consecutive weeks. Grantee shall have six (6) months following a request by the Franchising Authority to make such new channel(s) available. Additionally, Grantee will provide Grantor guidance on the set-up and operation of the PEG channel to understand the details and requirements associated with a PEG start-up by Grantor.

D. Grantee shall provide the technical capability for the Franchising Authority to cablecast PEG access programming from the following remote locations: The Township Administration Building located at 100 Garrett Road, Upper Darby, PA; the Upper Darby High School located at 601 N. Lansdowne Avenue, Drexel Hill, PA.

E. Grantee shall not move or otherwise relocate the channel locations of the PEG access channels, once established, without advance, written notice to the Franchising Authority.

F. The PEG access channels shall be maintained, managed and coordinated by the Franchising Authority or its designee.

G. Grantee shall, at its sole cost and expense and upon reasonable request, provide technical assistance to the Franchising Authority and Schools.

H. For purpose of making governmental, educational and public access use channels available, the Cable System shall be Interconnected with Grantee's other Cable Systems throughout Delaware County, Pennsylvania and actual interconnection shall be implemented upon request of the Franchising Authority. Grantee's government, educational and public access use channels also shall be Interconnected with other cable
systems throughout Delaware County, Pennsylvania and actual interconnection shall be implemented upon request of the Franchising Authority, even if such one or more other cable systems are neither owned or managed or are controlled by Grantee, provided, however, (i) Grantee shall have obtained the consent of such other cable system, or (ii) such Interconnection shall be required by the franchise of such other cable system. "Interconnected" shall mean the provision of an electronic linkage between cable systems and cable services or any part, designated channel or signal pathway thereof and any other designated cable system and cable services or any part, designated channel or signed pathway thereof, with the result that cable services of high quality may be transmitted between such cable systems. A purpose of the interconnection is to facilitate emergency communications as outlined in Paragraph 7.1 to and from the County Emergency Operations Center presently located on Route 352 in Lima, Delaware County where emergency studio facilities are to be connected at the direction of the County at time of total system build out.

I. Grantee shall provide a grant to the Granting Agency (the Upper Darby Township) to be used at the Township’s discretion. Said grant shall be in the amount of $125,000 noting that the payment will be made in three installments of $41,667 per year over the course of three years. The initial payment shall be made within 60 days of the approval of all parties to this agreement with the remaining two payments each made within a year thereafter. Said grant shall not be offset against any franchise fees remitted or due to the Township. The grant may be designated as a “cost of franchise requirement” or “external cost” as defined by the FCC and RCN reserves the right to pass these costs through to the subscribers pursuant to Federal Law.

SECTION 16
REPORTS

A. Subject to the requirements of Section 631 of the Cable Act ("Protection of Subscriber Privacy") no later than sixty (60) days following the close of its fiscal year the Grantee shall submit a written report to the Township comprised of information, as of the close of such year, which shall include, but not be limited to:

(1) A summary of the previous year’s activities in development of this system, including but not limited to services begun or dropped, and number of subscribers at year end.

(2) Telephone Report shall contain information relevant to the question of whether its telephone answering system conforms to the Franchising Authority’s Customer Service requirements, as may be amended from time to time:

(a) Total number of calls received

(b) Total number of calls abandoned

(c) Percentage of calls abandoned
(d) Average time on hold before abandoned

(e) Average speed of calls answered

(f) Percentage of calls answered within thirty (30) seconds

(g) Percentage of calls receiving a busy signal

(h) A description of significant events impacting the response times

(i) In addition to the above, the Report shall include a graph(s) which depicts the above data for a three (3) year period.

(3) A list of officers and members of the board of a Grantee, Affiliates and the parent corporation.

(4) Copies of company proof of performance.

(5) Detailed maps of all existing aerial and underground feeder lines, fiber backbone, trunk lines, sub-trunk lines, headend, hubs, nodes, and other features of Cable System clearly marked and identified including, but not limited to the following: (1) scale; (2) identification of existing segments; (3) identification of aerial segments; (4) identification of underground segments; (5) compass direction; (6) course of each segment; (7) distance of each segment; (8) starting points; (9) ending points; (10) placement and identification of educational and municipal buildings.

B. Simultaneously with the filing of any report, application, response or other document directly pertinent to Grantee with the FCC or United States Securities and Exchange Commission, Grantee shall file a copy of such filing with the Franchising Authority.

SECTION 17
TRANSFER, ASSIGNMENT AND FORECLOSURE

A. The franchise herein granted is personal to the Grantee. It cannot be transferred, leased, assigned or disposed of as a whole, or in part either by sale of stock, forced sale, merger, consolidation, change in control of Grantee, or otherwise, without prior written consent of the Township expressed by Ordinance and then only under such conditions as may be therein prescribed. Notwithstanding the above, upon written notice to the Township, the Grantee may, without obtaining the prior consent of the Township, make any assignment or transfer to any firm or corporation which Grantee controls, is controlled by, or is under common control with.

B. Any foreclosure or judicial sale of all, or any part of the System shall be considered default. Initiation of any such proceedings shall be treated as a notification of a change of control of the Grantee.
C. The Township shall have the right to cancel this franchise one hundred and twenty (120) days after the election or appointment of a receiver or trustee to take over and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceedings, unless such receivership or trusteeship shall have been vacated prior to the expiration of the one hundred and twenty (120) days; or unless:

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

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

**SECTION 18**

**NOTICE**

Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchising Authority or Grantee shall be in writing and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service. The notices or responses to the Franchising Authority shall be addressed as follows:

Chief Administrative Officer  
Upper Darby Township  
100 Garrett Road, Room 206  
Upper Darby, PA 19082

The notices or responses to the Grantee shall be addressed as follows:

Sanford Ames  
Vice President and General Manager  
RCN Telecom Services of Philadelphia, LLC  
2124 Avenue C  
Bethlehem, PA 08170
SECTION 19
ARBITRATION

19.1 ARBITRATION MANDATORY. Except as may be required by Federal, State, or local law, all claims, disputes and other matters in question arising out of, or relating to, this Agreement shall be submitted to arbitration. Arbitration may be initiated by either the Franchising Authority or the Grantee by filing a written demand for arbitration by certified mail with the other party.

19.2 DENIAL OF RENEWAL. Notwithstanding anything to the contrary, any final denial of Grantee’s proposal for renewal that has been submitted in compliance with the Franchise and the Cable Act or has been adversely affected by a failure of the Franchising Authority to act in accordance with the procedural requirements of the Cable Act shall afford the Grantee the right to appeal such final decision or failure pursuant to the Cable Act (47 U.S.C. § 555).

19.3 PROCEDURE. Arbitration proceeding shall be conducted in compliance with the Pennsylvania Uniform Arbitration Act.

19.4 ARBITRATION PANEL. Each arbitration shall be conducted by a panel of three (3) arbitrators. One arbitrator shall be appointed by the Franchising Authority, one arbitrator shall be appointed by the Grantee, and the third arbitrator shall be the chairperson of the panel, and shall be appointed by the other two arbitrators. If the other two arbitrators are unable to agree upon an appointment, the third arbitrator shall be appointed by the President Judge of the Court of Common Pleas for Delaware County. No member of the panel shall be an officer, employee or attorney of the Franchising Authority or of the Grantee or any affiliate thereof.

The Franchising Authority and the Grantee shall each appoint its arbitrator and send written notice by certified mail to the other party of its selection not later than fifteen (15) calendar days following receipt of the written Demand for Arbitration by the party not initiating the arbitration. The third arbitrator shall be appointed not later than thirty (30) calendar days following receipt of the Demand for Arbitration.

19.5 ARBITRATION HEARING. The chairperson of the arbitration panel shall select the site of the hearing, in Delaware County, Pennsylvania, retain a stenographic reporter to report the hearing, and, in consultation with the other members of the panel and the parties, schedule the hearing. The hearing shall be scheduled to commence not later than seventy-five (75) calendar days following receipt of the Demand for Arbitration by the party not initiating the arbitration. The chairperson of the panel shall send by certified mail written notice of the time, date and place of the hearing to the other two arbitrators, the Franchising Authority, the Grantee and legal counsel to the Franchising Authority and the Grantee.
19.6 **ARBITRATION COSTS.** Unless otherwise provided in this Franchise, the compensation and expenses of the arbitrator appointed by the Franchising Authority shall be borne and paid solely by the Franchising Authority. The compensation and expenses of the arbitrator appointed by the Grantee shall be borne and paid solely by the Grantee. The Franchising Authority and the Grantee shall each bear and solely pay their own attorney's fees, expert and other witness fees and other expenses incurred in preparing and prosecuting their respective cases. In proceedings where the record of a public hearing of the Franchising Authority is to be considered by the arbitration panel, the costs of transcribing, typing and copying the record shall be borne and paid solely by the Grantee.

The compensation and expenses of the chairperson of the arbitration panel, rental, if any, for the place of the hearing, per diem costs of the stenographic reporter, costs of transcribing and typing and transcripts of the arbitration hearing, and any other costs of the arbitration proceeding shall be divided equally between, borne and paid by the Franchising Authority and the Grantee. The arbitration panel shall not be empowered to order a division of costs, fees or expenses different from that prescribed by this Section.

19.7 **ARBITRATION AWARD.** The arbitration award shall be determined by a majority of the members of the arbitration panel and shall be in writing. If it is necessary for the panel to make determinations of fact, it shall include findings of fact and conclusions with the award if requested by any party to the proceeding. The award shall be issued and sent by certified mail to the parties not later than ninety (90) calendar days following the close of the arbitration hearing.

19.8 **LIMITATION OF POWERS.** The arbitration panel shall have no authority to add to, delete or alter any provisions of this Agreement, but shall limit its interpretation to the express terms of this Agreement. Under no circumstances shall an arbitration panel be vested with authority or jurisdiction to determine or award monetary damages (by way of set-off, counterclaim, directly or otherwise) or any other relief against the Franchising Authority or its officers, agents or employees.

19.9 **AWARD FINAL.** The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

**SECTION 20 DESCRIPTIVE HEADINGS**

The headings to Sections contained herein are intended solely to facilitate the reading thereof. Such headings shall not affect the meaning or interpretation of the text therein.

**SECTION 21**
COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Grantee shall, at all times during the term of this Agreement, be subject to the exercise of the police power by the Franchising Authority and to such other lawful ordinances, rules and regulations as Franchising Authority shall hereafter adopt. There is hereby reserved to Franchising Authority every right and power which is required to be herein reserved or provided by any ordinance, rule or regulation of the Franchising Authority, and the Grantee shall comply with any action or requirements of Franchising Authority in its exercise of such right or power heretofore or hereafter enacted or established. The Grantee shall comply with all ordinances, codes, statutes, rules and regulations of the Franchising Authority, County of Delaware, Commonwealth of Pennsylvania, and the United States of America which are now in effect or hereafter enacted.

SECTION 22
ACTIONS OF THE PARTIES

In any action by the Grantee and Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner, time being of the essence.

SECTION 23
AMERICANS WITH DISABILITIES ACT

The Grantee recognizes and will abide by The Americans with Disabilities Act, 42 U.S.C. §12101 et seq. and the Pennsylvania Human Relations Act, 43 P.S. §951 et seq.

SECTION 24
WAIVER

A. The failure of the Franchising Authority to enforce or to timely enforce any provision of this Agreement or federal, state, or local law, code, ordinance, rule or regulation shall not be deemed to be a waiver of that or any other provision, law, code, ordinance, rule, or regulation.

B. Any waiver of any provision of this Agreement or federal, state or local law, code, ordinance, rule, or regulation shall be in writing and operate only as a waiver as expressed in such writing and shall not be of any other force or effect.

SECTION 25
INSTITUTIONAL / FIBER NETWORK
The Grantee previously established an institutional network for the Upper Darby School District. Grantee will continue to provide said network and will also establish an institutional network (business fiber) for the Upper Darby Township as reflected in the locations previously discussed in Section 15 of this Agreement.

SECTION 26
SPECIAL PROVISIONS

Grantee will provide to the Franchising Authority internet fibers for use by the Franchising Authority to the sites as described in Appendix "B".

SECTION 27
MISCELLANEOUS PROVISIONS

A. This document hereby incorporates by reference all orders, rules and/or regulations of the Federal Communications Commission or other Federal or State Agencies applicable to a Cable System and such other orders, rules and/or regulations as any such Agency or agencies may from time to time adopt. Such regulations shall be a part of this document as though the same were fully set forth at length herein. In the event any such Agency ceases to exist or revokes any applicable orders, rules and/or regulations, the said orders, rules and/or regulations shall continue to apply to the Grantee and this franchise document unless also revoked by the Township of Upper Darby. In the event any such agency ceases to exist, the Township of Upper Darby shall be the agency to which application should be made for any required approval or certification.

B. If the Grantee, or any subsidiary, parent or affiliate corporation of the Grantee is engaged in the business or activity of selling, leasing, repairing or installing television sets or radio receivers, cameras, audio or video tape machines, microphones, control boxes, modulators or other television production equipment utilized by users or subscribers in the operation of any cable television system, the Grantee shall not condition cable television service or the continuation thereof or usage of community access facilities on a subscriber's purchase or lease of, or failure to lease or purchase, any of such services or equipment.

C. Copies of all petitions, applications and communications submitted by the Grantee to any federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting the Grantee's operations in the Township shall also be submitted simultaneously to the Township.

D. If any section, sentence, paragraph, term or provision of this Agreement is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence,
paragraph, term or provision thereof, all of which shall remain in full force and effect for
the term of this Agreement.

E. Nothing herein contained shall be construed to be a representation by the Township or
any of its officers, agents or employees, that the authorization of this non-exclusive
franchise is within the authority of the Township to grant. It is fully understood that the
Township shall not be liable for any cost of any kind incurred by the Grantee resulting from
any portion of this Ordinance being held invalid, unauthorized, or unconstitutional nor shall the
Township be obligated to litigate the validity of this franchise unless the cost thereof shall first
be guaranteed by the Grantee in a manner satisfactory to the Township.

F. The Effective Date of this Agreement shall be the date of ordination and enactment
of the Agreement by Ordinance duly adopted by the Township Council of Upper Darby
Township.

For: RCN TELECOM SERVICES OF PHILADELPHIA, LLC

This Agreement proposed for acceptance by, RCN Telecom Services of Philadelphia, LLC,
subject to applicable federal, state, and local law. The EFFECTIVE DATE of this
Agreement, recognized as being the date of ordination and enactment of an Ordinance duly
adopted by Township Council of Upper Darby Township, Delaware County.

By: ____________________________
RCN Telecom Services of Philadelphia, LLC

THIS AGREEMENT authorized by Ordinance No. , ordained and enacted at a duly
convened and official meeting of the Township Council of Upper Darby Township,
Delaware County, the day of , 2018.

For: UPPER DARBY TOWNSHIP

By: ____________________________

Thomas N. Micozzie
Mayor
ORDAINED AND ENACTED this 7th day of November, 2018.

UPPER DARBY TOWNSHIP

ATTEST:

By:

Thomas N. Miccozzie
Mayor

ACCEPTANCE

RCN Telecom Services of Philadelphia, LLC does hereby accept the conditions and obligations imposed by the Township of Upper Darby in Ordinance No. 2018-12 to which this Acceptance is attached and does by this Acceptance intend to be legally bound to observe the terms, conditions and obligations of the said Ordinance.

(S E A L)

RCN Telecom Services of Philadelphia, LLC

By: ____________________________
Vice President

Attest __________________________
Secretary

DATED:

Attached to the Ordinance on:
APPENDIX "A"
APPENDIX “A”

1. Municipal Building  
   100 Garrett Road  
   Upper Darby, PA 19082-3135

2. Public Safety Building  
   7236 West Chester Pike  
   Upper Darby, PA 19082

3. Sellers Memorial Library  
   76 South State Road  
   Upper Darby, PA 19082

4. Sellers Memorial Library  
   Municipal Branch  
   501 Bywood Avenue  
   Upper Darby, PA 19082

5. Public Works Garage  
   Lansdowne Ave & Monroe Ave  
   Upper Darby, PA 19082

6. Parks Departent  
   6810 Montgomery Avenue  
   Upper Darby, PA 19082

7. Sanitation Department  
   8201 Lansdowne Avenue  
   Upper Darby, PA 19082

8. Welcome Center  
   7000 Walnut Street  
   Upper Darby, PA 19082

9. Watkins Senior Center  
   326 Watkins Avenue  
   Upper Darby, PA 19082

10. Highway Yard  
    Lansdowne Manor Road  
    Upper Darby, PA 19082
11. Electrical Department
   8530 Monroe Avenue
   Upper Darby, PA 19082

12. Fire Headquarters Building
    7216 West Chester Pike
    Upper Darby, PA 19082

13. Garrettford Fire House
    Edmonds Avenue & Randolph Street
    Upper Darby, PA 19082

14. Upper Darby Fire House
    West Chester Pike & Leighton Terrace
    Upper Darby, PA 19082

15. Aronimink Elementary School
    4611 Bond Avenue
    Drexel Hill, PA 19026

16. Highland Park Elementary School
    8301 West Chester Pike
    Upper Darby, PA 19082

17. Hillcrest Elementary School
    2601 Bond Avenue
    Drexel Hill, PA 19026

18. Primos Elementary School
    861 Bunting Lane
    Primos, PA 19018

19. Stonehurst Hills Elementary School
    7051 Ruskin Lane
    Upper Darby, PA 19082

20. Westbrook Park Elementary School
    199 Westbrook Drive
    Clifton Heights, PA 19018

21. Drexel Hill Middle School
    3001 State Road
    Drexel Hill, PA 19026
22. Upper Darby High School  
   601 N. Lansdowne Avenue  
   Upper Darby, PA 19082

23. Drexel Hill School of the Holy Child  
   450 Penn Avenue  
   Drexel Hill, PA 19026

24. Monsignor Bonner High School  
   403 N. Lansdowne Avenue & Garrett Road  
   Drexel Hill, PA 19026

25. St. Andrew  
   535 Mason Avenue  
   Drexel Hill, PA 19026

26. St. Bernadette  
   Bond & Turner Avenues  
   Drexel Hill, PA 19026

27. St. Dorothy  
   1201 Burmont Road & Township Line  
   Drexel Hill, PA 19026

28. St Eugene  
   100 Oak Avenue  
   Primos Pa 19018

29. St, Laurence  
   8245 West Chester Pike  
   Upper Darby, Pa 19026

30. Kelly Elementary School  
   3407 Dennison Avenue  
   Drexel Hill, Pa 19026
APPENDIX "B"
APPENDIX “B”

1. Municipal Building
   100 Garrett Road
   Upper Darby, PA 19082

2. Upper Darby High School
   601 N. Lansdowne Avenue
   Upper Darby, PA 19082
UPPER DARBY TOWNSHIP

Resolution No. 57-18

A RESOLUTION OF UPPER DARBY TOWNSHIP,
DELAWARE COUNTY, PENNSYLVANIA
APPROVING THE APPLICATION OF PILGRIM
GARDENS, LP FOR LAND DEVELOPMENT TO
REDEVELOP 1.9876 ACRES WITH A THREE
STORY, 10,503 SQUARE FOOT OFFICE AND
RETAIL BUILDING AND TO RECONFIGURE THE
EXISTING PARKING LOT LOCATED NEAR THE
INTERSECTION OF PONTIAC AND DERMOND
CIRCLE

WHEREAS, Pilgrim Gardens, LP ("applicant") has submitted for approval its final land development plan to redevelop 1.9876 acres with a three story, 10,503 square foot office and retail building and to reconfigure the existing parking lot, prepared by H. Gilroy Damon Associates, Inc., said plans submitted to the Township dated September 6, 2018 (collectively “final plans”); and

NOW THEREFORE, BE IT RESOLVED, that the above-cited Final Plans are hereby approved subject to certain Conditions of Approval including the following:

1. Applicant has obtained approval by the Pennsylvania Department of Transportation of all necessary permits, including but not limited to any required highway occupancy permit, where applicable.

2. Approval by the Township Solicitor and execution by PILGRIM GARDENS, LP and where applicable, Applicant’s lender, of all necessary and appropriate documentation where applicable including Developer’s Agreement and Improvement Security Agreement, and such other documentation as acceptable to the Solicitor, including but not limited to documentation concerning the ongoing maintenance, operation and repair of the common site improvements, if any, which are not to be dedicated to the Township;
3. Applicant obtaining Sewer Planning Module Act 537 approvals or exemption therefrom, Storm Water Management approvals and Delaware County Conservation District approvals where applicable;

4. Formal recording of the Land Development Plan (the "Record Plans") following Township execution of the Record Plans;

5. Applicant shall comply with all applicable federal, state and local codes or ordinances and shall obtain all required permits.

TOWNSHIP OF UPPER DARBY

Attest:

[Signature]

Jacob A. Bierling
Secretary of Council

By:

[Signature]

Donald P. Bonnett
President of Council

Resolution No. 57-18 above is hereby approved this 7th day of November, A.D., 2018.

Attest:

[Signature]

Thomas J. Judge, Jr.
Chief Administrative Officer

Approved:

[Signature]

Thomas N. Micozzie
Mayor
October 18, 2018

Mr. Jeffrey N. Gentile  
Upper Darby Township  
100 Garrett Road, Room 26  
Upper Darby, PA 19082-3135

RE: Name of Dev’t: Pilgrim Gardens LP  
DCPD File No.: 47-7353-18  
Developer: Pilgrim Gardens LP  
Location: Intersection of Pontiac and Dermond Roads  
Recv’d in DCPD: September 6, 2018

Dear Mr. Gentile:

In accordance with the provisions of Section 502 of the Pennsylvania Municipalities Planning Code, the above described proposal has been sent to the Delaware County Planning Commission for review. At a meeting held on October 18, 2018, the Commission took action as shown in the recommendation of the attached review.

Please refer to the DCPD file number shown above in any future communications related to this application.

Very truly yours,

[Signature]
Linda F. Hill  
Director

cc: Pilgrim Gardens LP  
H. Gilroy Damon Associates, Inc.
Pilgrim Gardens LP
September 6, 2018
Intersection of Pontiac and Dermond Roads
Upper Darby Township
Land development
C-2
County
Redevelop 1.9876 acres with 10,502 sq. ft. of office and retail space
Public
Approval, contingent on incorporating staff comments
Michael A. Leventry

The applicant proposes to redevelop the site with a three-story building, which will be comprised of office and retail space, as well as reconfigure a parking lot.
REM所谓 (continued):

SITE CHARACTERISTICS

The site is located in a strip mall and is currently developed with a restaurant.

APPLICABLE ZONING

The proposal is located within the C-2 district and is subject to applicable regulations set forth in the Township zoning code.

NONCONFORMITIES

The parcels' existing front setbacks, rear setbacks, and rates of impervious cover do not appear to comply with the regulations as established within the Township zoning code. It should be noted that the setback nonconformities are not exacerbated by this proposal and the degree of imperviousness is slightly improved for Parcel A.

COMPLIANCE

With exception of the existing non-conforming structures, the proposal appears to comply with the C-2 district provisions.

LANDSCAPE PLAN

Section 817 of the Delaware County Subdivision and Land Development Ordinance requires a landscape plan. The plan must include landscaping for the new islands and reconfigured portions of the parking area. Planting details must also be provided for the buffer strips that bound the parking lot. Existing landscaping may be retained, but must be improved if deemed unacceptable by the Township.
REMARKS (continued):

TRANSPORTATION

A pedestrian crosswalk is recommended to provide a connection from the corner of Parcel B across Pontiac Road. The applicant should improve transit amenities at the site with bus shelters for the Route 110 bus, which has two stops at the site. Bicycle parking should be considered at the site to improve multimodal access to the site.

SEWAGE FACILITIES

The developer should contact the Pennsylvania Department of Environmental Protection regarding the need for sewage facilities planning approval.

The Township should confirm receipt of any necessary Pennsylvania Department of Environmental Protection planning approval prior to final approval.

STORMWATER MANAGEMENT

The Township Engineer must verify the adequacy of all proposed stormwater management facilities.

RECORDING

In accordance with Section 513(a) of the Pennsylvania Municipalities Planning Code (MPC), final plans must be recorded within ninety (90) days of municipal approval.