

CABLE TELEVISION FRANCHISE ORDINANCE

FOR THE

CITY OF GULFPORT, MISSISSIPPI

AND

CABLE ONE, INC.

February 7, 2012

ORDINANCE NO. 2739

AN ORDINANCE GRANTING A FRANCHISE TO CABLE ONE, INC., TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF GULFPORT, MISSISSIPPI; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS HEREIN;

The City Council of the City of Gulfport Mississippi ordains:

STATEMENT OF INTENT AND PURPOSE

City intends, by the adoption of this Franchise, to bring about the further development of a Cable System, and the continued operation of it. Such development can contribute significantly to the communication needs and desires of the residents and citizens of City and the public generally. Further, City may achieve better utilization and improvement of public services and enhanced economic development with the development and operation of a Cable System.

Adoption of this Franchise is, in the judgment of the City Council, in the best interests of City and its residents.

FINDINGS

In the review of the request for renewal by Grantee and negotiations related thereto, and as a result of a public hearing, the City Council makes the following findings:

1. Grantee's technical ability, financial condition, legal qualifications, and character were considered and approved in a full public proceeding after due notice and a reasonable opportunity to be heard;
2. Grantee's plans for constructing, upgrading, and operating the Cable System were considered and found adequate and feasible in a full public proceeding after due notice and a reasonable opportunity to be heard;
3. The Franchise granted to Grantee by City complies with the existing applicable state statutes, federal laws and regulations; and
4. The Franchise granted to Grantee is nonexclusive.

**SECTION 1.
SHORT TITLE AND DEFINITIONS**

1. Short Title. This Franchise Ordinance shall be known and cited as the Cable Television Franchise Ordinance.
2. Definitions. For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent

with the context, words in the singular number include the plural number, and words in the plural number include the singular number. The word “shall” is always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory. Words not defined shall be given their common and ordinary meaning.

- a. “Applicable Laws” means any law, statute, charter, ordinance, rule, regulation, code, license, certificate, franchise, permit, writ, ruling, award, executive order, directive, requirement, injunction (whether temporary, preliminary or permanent), judgment, decree or other order issued, executed, entered or deemed applicable by any governmental authority.
- b. “Basic Cable Service” means any Service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the Franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 522(3).
- c. “Cable Service” or “Service” means (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service. Cable Service as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(6).
- d. “Cable System” or “System” means a 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 a community, but such term does not include:
 - i. a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
 - ii. a facility that serves Subscribers without using any public Right-of-Way;
 - iii. a facility of common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;
 - iv. an open video system that complies with 47 U.S.C. § 573; or
 - v. any facilities of any electric utility used solely for operating its electric utility systems.

Cable System as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(7).

- e. “Channel” or “Cable Channel” means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television Channel as defined by the FCC. Cable Channel as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(4).
- f. “City” means City of Gulfport, a municipal corporation, in the State of Mississippi, acting by and through its City Council, or its lawfully appointed designee.
- g. “City Council” means the governing body of the City of Gulfport, Mississippi.
- h. “Converter” means an electronic device which converts signals to a frequency acceptable to a television receiver of a Subscriber.
- i. “Drop” means the cable that connects the ground block on the Subscriber’s residence to the nearest feeder cable of the System.
- j. “FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- k. “Franchise” or “Cable Franchise” means this franchise ordinance and the regulatory and contractual relationship established hereby.
- l. “Franchise Fee” includes any tax, fee, or assessment of any kind imposed by the City or other governmental entity on Grantee or Subscriber, or both, solely because of their status as such. It does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable Subscribers); capital costs which are required by the Franchise to be incurred by Grantee for public, educational, or governmental access facilities; requirements or charges incidental to the awarding or enforcing of the Franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or any fee imposed under Title 17 of the United States Code. Franchise Fee defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 542(g).
- m. “Grantee” is Cable One, Inc., its lawful successors, transferees or assignees.
- n. “Gross Revenue” means any and all revenue derived by Grantee from the operation of its Cable System to provide Cable Service within the City including, but not limited to, 1) all Cable Service fees, 2) Franchise Fees 3) late fees and returned check fees, 4) Installation and reconnection fees, 5) upgrade and downgrade fees, 6) local, state and national advertising revenue,

7) home shopping commissions, 8) equipment rental fees, and 9) written or electronic Channel guide revenue. The term “Gross Revenue” shall not include bad debts or any taxes or fees on Services furnished by Grantee imposed upon Subscribers by any municipality, state or other governmental unit, including credits, refunds and any amounts collected from Subscribers for deposits or EG fees. The term “Gross Revenue” shall not include home wire maintenance charges until such time as all other franchised cable system operators in the City are also required to include home wire maintenance charges in their calculation of Gross Revenues.

- o. “Installation” means any connection of the System from feeder cable to the point of connection including Standard Installations and custom Installations with the Subscriber Converter or other terminal equipment.
- p. “Lockout Device” means an optional mechanical or electrical accessory to a Subscriber’s terminal which inhibits the viewing of a certain program, certain Channel, or certain Channels provided by way of the Cable System.
- q. “Normal Business Hours” means those hours during which most similar businesses in City are open to serve customers. Normal Business Hours as defined herein shall not be inconsistent with the definition set forth in 47 C.F.R. § 76.309. In all cases, “Normal Business Hours” must include some evening hours, at least one (1) night per week and/or some weekend hours.
- r. “Normal Operating Conditions” means those Service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee 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 Grantee 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. Normal Operating Conditions as defined herein shall not be inconsistent with the definition set forth in 47 C.F.R. § 76.309.
- s. “Other Programming Service” means information that a cable operator makes available to all Subscribers generally. Other Programming Services as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522 (14).
- t. “EG” means educational and governmental.
- u. “Person” is any Person, firm, partnership, association, corporation, company, limited liability entity or other legal entity.
- v. “Right-of-Way” or “Rights-of-Way” means the area on, below, or above any real property in City in which the City has a property interest including, but not limited to any street, road, highway, alley, sidewalk, parkway, utility

easements or any other place, area, or real property owned by or under the control of City which are dedicated for compatible use.

- w. “Right-of-Way Ordinance” means any ordinance or other applicable code requirements regarding regulation, management and use of Rights-of-Way in City, including registration and permitting requirements.
- x. “Service Area” or “Franchise Area” means the entire geographic area within the City as it is now constituted or may in the future be constituted.
- y. “Service Interruption” means the loss of picture or sound on one (1) or more Cable Channels. Service Interruption as defined herein shall not be inconsistent with the definition set forth in 47 C.F.R. § 76.309.
- z. “Standard Installation” means any residential or commercial Installation which can be completed using a Drop of one hundred fifty (150) feet or less.
- aa. “Subscriber” means any Person who is authorized to receive broadcast programming distributed by a Cable System and does not further distribute it. Subscriber as defined herein shall not be inconsistent with the definition set forth in 47 C.F.R. § 76.5(ee).
- bb. “Video Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station. Video Programming as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(20).

SECTION 2. GRANT OF AUTHORITY AND GENERAL PROVISIONS

1. Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein. Failure of Grantee to provide a System as described herein, or meet the obligations and comply with all provisions herein, shall be deemed a violation of this Franchise.
2. Grant of Nonexclusive Authority.
 - a. The Grantee shall have the right and privilege, subject to the permitting and other lawful requirements of City ordinance, rule or procedure, to construct, erect, and maintain, in, upon, along, across, above, over and under the Rights-of-Way in City a Cable System and shall have the right and privilege to provide Cable Service. The System constructed and maintained by Grantee or its agents shall not interfere with other uses of the Rights-of-Way but Grantee shall have priority over later non-public users. In all cases the City shall have priority use of the Right-of-Way. Grantee shall make use of existing poles and other above and below ground facilities available to Grantee to the extent it is technically and economically feasible to do so.
 - b. Notwithstanding the above grant to use Rights-of-Way, no Right-of-Way permit shall be issued by City if City determines, in its sole discretion, that

such use is inconsistent with the terms, conditions, or provisions by which such Right-of-Way was created or dedicated, or with the present use of the Right-of-Way.

- c. This Franchise shall be nonexclusive, and City reserves the right to grant use of said Rights-of-Way to any Person at any time during the period of this Franchise for the provision of Cable Service. Should City grant a franchise to another wireline video service provider for the provision of Cable Service, such franchise shall be on terms that are reasonably comparable to the terms of this Franchise so that no party will have an unfair competitive advantage over the other. The Grantee and City agree that this section does not require a word for word identical franchise or agreement for a new video service provider so long as the regulatory and financial burdens on each entity are materially equivalent.
3. Lease or Assignment Prohibited. No Person may lease Grantee's System for the purpose of providing Cable Service until and unless such Person shall have first obtained and shall currently hold a valid franchise or other lawful authorization containing substantially similar burdens and obligations to this Franchise. Any assignment of rights under this Franchise shall be subject to and in accordance with the requirements of Section 10.5 of this Franchise. This provision shall not prevent Grantee from complying with any commercial leased access requirements or any other provisions of Applicable Law.
4. Franchise Term. This Franchise shall be granted for a period of Fifteen (15) years, until December 31, 2026, unless sooner renewed, revoked or terminated as herein provided.
5. Previous Franchises. Upon acceptance by Grantee as required by Section 13.2 herein, this Franchise shall supersede and replace any previous ordinance or other authorization granting a franchise to Grantee.
6. Compliance with Applicable Laws, Resolutions and Ordinances.
 - a. The terms of this Franchise shall define the contractual rights and obligations of Grantee with respect to the provision of Cable Service and operation of the System in City. However, Grantee shall at all times during the term of this Franchise be subject to all lawful exercise of the police power, statutory rights, local ordinance-making authority of the City. This Franchise may also be modified or amended with the written consent of City and Grantee as provided in Section 12.3 herein.
 - b. Grantee shall comply with the terms of any City ordinance or regulation of general applicability which addresses usage of the Rights-of-Way within City, which may have the effect of superseding, modifying or amending the terms herein, except that Grantee shall not, through application of such City ordinance or regulation of Rights-of-Way, be subject to additional burdens with respect to usage of Rights-of-Way which exceed burdens on similarly situated Rights-of-Way users.

- c. In the event of any conflict between this Franchise and any City ordinance or regulation which addresses usage of the Rights-of-Way, the conflicting terms of this Franchise shall be superseded by such City ordinance or regulation, except that Grantee shall not, through application of such City ordinance or regulation of Rights-of-Way, be subject to additional burdens with respect to usage of Rights-of-Way which exceed burdens on similarly situated Rights-of-Way users.
7. Rules of Grantee. Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligations under this Franchise and to assure uninterrupted Service to each and all of its Subscribers; provided that such rules, regulations, terms and conditions shall not be in conflict with Applicable Laws.
8. Territorial Area Involved. This Franchise is granted for the corporate boundaries of City, as they exist from time to time. Access to Cable Service shall not be denied to any group of potential cable Subscribers solely because of the income of the potential cable Subscribers or the area in which such group resides. Grantee may take into account such standard measures of payment reliability such as credit reports, history with the Grantee and other objective indicators.
9. Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be sent via registered or certified mail or overnight mail or shall be deemed to be given when delivered personally to any officer of Grantee or City Clerk or to the party to whom notice is being given, as follows:

If to City: Mayor
2309 15th Street
Gulfport, Mississippi 39501

If to Grantee: Eric Lardy
General Manager
Cable One, Inc.
19201 Pineville Rd.
Long Beach, MS 39560

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

10. Ownership of Grantee. Grantee represents and warrants to City that the names of the shareholders, partners, members or other equity owners of the Grantee and any of the shareholders, partners, members and/or other equity owners of Grantee are as set forth in Exhibit A hereto as of the date of execution of this Franchise.

SECTION 3.
CONSTRUCTION STANDARDS

1. Registration, Permits, Construction Codes, and Cooperation.
 - a. Grantee shall comply with the construction requirements of local, state and federal laws.
 - b. Grantee agrees to obtain a permit as required by City prior to removing, abandoning, relocating or reconstructing, if necessary, any portion of its facilities. Notwithstanding the foregoing, City understands and acknowledges there may be instances when Grantee is required to make repairs, in compliance with federal or state laws, that are of an emergency nature. Grantee will notify City prior to such repairs, if practicable, and will obtain the necessary permits in a reasonable time after notification to City.
 - c. Grantee, at the time of or prior to submitting construction plans, shall provide City with a description of the type of Service to be provided by the Grantee in sufficient detail for City to determine compliance with the Franchise and Applicable Laws.
 - d. City may issue reasonable policy guidelines to all grantees to establish procedures for determining how to control issuance of engineering permits to multiple grantees for the use of the same Rights-of-Way for their facilities. Grantee shall cooperate with City in establishing such policy and comply with the procedures established by the Chief Administrative Officer or his or her designee to coordinate the issuance of multiple engineering permits in the same Right-of-Way segments.
 - e. Grantee shall first obtain the written approval of City prior to commencing any construction or reconstruction on the Rights-of-Way and public places of City which approval shall not be unreasonably withheld.
 - f. Failure to obtain permits or comply with permit requirements shall subject Grantee to all enforcement remedies available to City under Applicable Laws or this Franchise.
 - g. Grantee shall meet with developers and be present at pre-construction meetings to ensure that the newly constructed Cable System facilities are installed in new developments within City in a timely manner.

2. Ongoing Construction. Grantee shall notify City at least ten (10) days prior to the commencement of any construction in any Rights-of-Way. Grantee shall provide to City a detailed site plan of any proposed construction or excavation. Grantee shall not open or disturb the surface of any Rights-of-Way or public place for any purpose without first having obtained a permit to do so in the manner provided by law. All excavation shall be coordinated with other utility excavation or construction so as to minimize disruption to the public. Any excavation shall be backfilled without delay and lawns, berms, gardens, shrubs, and flower beds returned and restored in as good a

condition as before work involving such disturbance was done. Any excessive or loose dirt, gravel, mud or sand shall be removed from the property and deposited at an approval disposal site.

3. Use of existing poles or conduits.

- a. Grantee shall utilize existing and/or replacement poles, conduits and other facilities whenever commercially reasonable and shall not construct or install any new, different or additional poles, conduits or other facilities on public property until the written approval of City is obtained. Grantee shall have no vested interest in any location of a pole or wire holding structure of Grantee, and such poles or structures shall be removed or modified by Grantee at its own expense whenever City determines that the removal is necessary and not merely convenient.
- b. The facilities of Grantee shall be installed underground in those areas of City where existing telephone and electric services are both underground at the time of construction by Grantee. In areas where either telephone or electric utility facilities are installed aerially at the time of System construction, Grantee may install its facilities aerially; however, at such time as the existing aerial facilities are placed underground, Grantee shall likewise place its facilities underground at its sole cost. If City requires utilities to bury lines which are currently overhead, and the City financially participates in said undergrounding, then the City will consider providing the same cost sharing to the Grantee.
- c. City shall have the right to over-lash additional cable and related attachments to Grantee's System free of charge on any poles that are owned by the Grantee. Where such over-lashing is pursuant to a planned large-scale construction project, City shall provide a minimum of ten (10) days advance notice to the Grantee. For all other over-lashing, City shall provide notice that is reasonably practicable under the circumstances. The City rights to over-lash facilities on Grantee's System shall be limited to City owned facilities which are to be used for noncommercial, governmental/educational applications.

4. Minimum Interference.

- a. Grantee shall use its best efforts to give reasonable prior notice to any adjacent private property owners who will be negatively affected or impacted by Grantee's work in the Rights-of-Way.
- b. All transmission and distribution structures, lines and equipment erected by Grantee shall be located where reasonably feasible so as to cause minimum interference with the unencumbered use of Rights-of-Way and other public places and minimum interference with the rights and reasonable convenience of property owners who adjoin any of the Rights-of-Way and public places.

- c. Grantee shall provide advance notice to any private property owner and shall obtain authorization prior to commencing work on private property.
5. Disturbance or damage. Any and all Rights-of-Way, or public or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, expansion, extension or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work, as reasonably determined by City. If Grantee shall fail to promptly perform the restoration required herein, after written request of City and reasonable opportunity to satisfy that request, City shall have the right to put the Rights-of-Way back into condition as good as that prevailing prior to Grantee's work. In the event City determines that Grantee is responsible for such disturbance or damage, Grantee shall be obligated to fully reimburse City for such restoration within thirty (30) days after its receipt of City's invoice thereof.
6. Temporary Relocation.
 - a. At any time during the period of the Franchise, Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate or remove any of its property when, in the opinion of City, (i) the same is required by reason of traffic conditions, public safety, Rights-of-Way vacation, freeway or Rights-of-Way construction, alteration to or establishment of any Rights-of-Way or any facility within the Rights-of-Way, sidewalk, or other public place, including but not limited to, installation of sewers, drains, waterlines, power lines, traffic signal lines or transportation facilities; or (ii) a City project or activity makes disconnection, removal, or relocation necessary for City.
 - b. Grantee shall, on request of any Person holding a permit to move a building, temporarily raise or lower its wires to permit the movement of such buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same, and Grantee shall have the authority to require such payment in advance. Grantee shall be given not less than five (5) days advance notice to arrange such temporary wire alterations.
7. Emergency. Whenever, in case of fire or other emergency, it becomes necessary in the judgment of the Chief Administrative Officer, police chief, fire chief, or their delegates, to remove or damage any of Grantee's facilities, no charge shall be made by Grantee against City for restoration, repair or damages.
8. Tree Trimming. Grantee shall comply with all applicable provisions of the Code of Ordinances of the City regarding the trimming of any trees on public property or in the Rights-of-Way.
9. Protection of facilities. Nothing contained in this section shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid damaging Grantee's facilities while performing any work connected with grading, regrading or changing the line of any Rights-of-Way or public place or the construction or reconstruction of any sewer or water system.

10. Installation records. Each Grantee shall keep accurate Installation records of the location of all facilities in the Rights-of-Way and public ways and furnish them to City upon request for purposes of locating facilities that occupy public rights-of-way and planning and managing construction activity in the public right of way. Grantee shall cooperate with City to furnish such information in an electronic mapping format, if possible compatible with the then-current City electronic mapping format. Upon completion of new or relocation construction of underground facilities in the Rights-of-Way and public ways, Grantee shall provide City with Installation records in an electronic format, if possible compatible with the then-current City electronic mapping format showing the location of the underground and above ground facilities. To the maximum extent permitted by state and federal law, The City shall maintain the confidentiality of any maps or records of the location of Grantee's facilities provided by Grantee and shall not disclose such information to a third party except as specifically required by applicable law. If the City believes that it must release such information, the City shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests.
11. Locating facilities.
 - a. If, during the design process for public improvements, City discovers a potential conflict with proposed construction, Grantee shall either: (a) locate and, if necessary, expose its facilities in conflict or (b) use a location service under contract with City to locate or expose its facilities. Grantee is obligated to furnish the location information in a timely manner, but in no case longer than thirty (30) days after receipt of written notice.
 - b. City reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, regrade, widen, realign, or maintain any Rights-of-Way and public ways, aerial, surface, or subsurface improvement, including but not limited to water mains, traffic control conduits, cable and devices, sanitary or storm sewers, subways, tunnels, bridges, viaducts, or any other public construction within the Rights-of-Way of City limits.
12. City's rights.
 - a. When City uses its prior superior right to the Rights-of-Way and public ways, Grantee shall move its property that is located in the Rights-of-Way and public ways, at its own cost, to such a location as City directs.
 - b. Nothing in this Franchise shall be construed to prevent City from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Right-of-Way; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
 - c. City will notify Grantee of any planned exercise of its prior superior right to the Rights-of-Way to require Grantee to relocate its facilities with enough prior notice to enable it to relocate to the new position in the Rights-of-Way

before it is required to remove its facilities from its prior location. City will provide timely permit approval for the forced relocation without charging Grantee fees of any kind.

13. Relocation delays.
 - a. Subject to Grantee's compliance with Section 3.12 above, if Grantee's relocation effort so delays construction of a public project causing City to be liable for delay damages, Grantee shall reimburse City for those damages attributable to the delay created by Grantee. In the event Grantee should dispute the amount of damages attributable to Grantee, the matter shall be referred to the City engineer for a decision. In the event that Grantee disagrees with the City engineer's decision, the matter shall be submitted to the City Council for determination, whose decision shall be final and binding upon Grantee as a matter of City review, but nothing herein waives any right of appeal to the courts.
 - b. In the event City becomes aware of a potential delay involving Grantee's facilities, City shall promptly notify Grantee of this potential delay.
14. Interference with City Facilities. The Installation, use and maintenance of the Grantee's facilities within the Rights-of-Way and public ways authorized herein shall be in such a manner as not to interfere with City's placement, construction, use and maintenance of its Rights-of-Way and public ways, Rights-of-Way lighting, water pipes, drains, sewers, traffic signal systems or other City systems that have been, or may be, installed, maintained, used or authorized by City.
15. Interference with Utility Facilities. Grantee agrees not to install, maintain or use any of its facilities in such a manner as to damage or interfere with any existing facilities of another utility located within the Rights-of-Way and public ways of City. Nothing in this section is meant to limit any rights Grantee may have under Applicable Laws to be compensated for the cost of relocating its facilities from the utility that is requesting the relocation.
16. Collocation. To maximize public and employee safety, to minimize visual clutter of aerial plant, and to minimize the amount of trenching and excavation in and along City Rights-of-Way and sidewalks for underground plant, Grantee shall make every commercially reasonable effort to collocate compatible facilities within the Rights-of-Way subject to the engineering requirements of the owners of utility poles and other facilities.
17. Safety Requirements.
 - a. Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injuries.

- b. Grantee shall install and maintain its System and other equipment in accordance with City's codes and the requirements of the National Electric Safety Code and all other applicable FCC, state and local regulations, and in such manner that they will not interfere with City communications technology related to health, safety and welfare of the residents.
- c. Cable System structures, and lines, equipment and connections in, over, under and upon the Rights-of-Way of City, wherever situated or located, shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of City or any Person.

**SECTION 4.
DESIGN PROVISIONS**

1. System Upgrade/Construction: Minimum Channel Capacity.
 - a. Grantee shall operate and maintain for the term of this Franchise a System providing a minimum of 550 MHz capacity. Design specifications found in Exhibit E attached hereto are hereby incorporated as part of this Franchise.
 - b. The System will utilize a hybrid fiber-coaxial architecture shall replace any existing headend equipment with state-of-the-art standard frequency headend equipment which is technically necessary to meet FCC technical standards.
 - c. Grantee shall operate and maintain a System capable of providing non-video services such as high-speed data transmission, Internet access, and Other Programming Services.
 - d. All final programming decisions remain the discretion of Grantee in accordance with this Franchise, provided that Grantee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, and further subject to Grantee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545. Location and relocation of the EG Channels shall be governed by Section 6 and Exhibit B.
2. System Construction. On or about thirty (30) days prior to any System construction, affected Subscribers will receive a notice by any means reasonably calculated to reach them which shall include Grantee's telephone number that Subscribers can use to contact Grantee with any questions or concerns they may have. No less than forty-eight (48) hours before construction, all affected houses will receive notification regarding Grantee's construction schedule which will also include the scope of work to be performed and Grantee's telephone number. Nothing shall prohibit Grantee from consolidating the notices required in this subparagraph.
3. Interruption of Service. Grantee shall interrupt Service only for good cause and for the shortest time possible. Such interruption shall occur during periods of minimum use of the System. If Service is interrupted for a total period of more than twenty-

four (24) continuous hours in any thirty (30) day period, Subscribers shall be credited pro rata for such interruption.

4. Emergency Alert Capability. Grantee shall at all times comply with the Emergency Alert System standards pursuant to Title 47, Section 11, Subparts A-E of the Code of Federal Regulations, as may be amended or modified from time to time. The City acknowledges that the Emergency Alert System will not be available to it when the Grantee is obligated by federal law to run national or regional emergency broadcasts.
5. Technical Standards. The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76, Subpart K of the Code of Federal Regulations, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference. In addition, Grantee is subject to the technical standards outlined in Exhibit E attached hereto.
6. Special Testing.
 - a. City shall have the right to inspect and test all construction or Installation work performed pursuant to the provisions of the Franchise. In addition, City may require special testing of a location or locations within the System as desired at any time during the term of this Franchise. Demand for such special tests may be made on the basis of complaints received or other evidence indicating an unresolved controversy or noncompliance or for routine verification of Grantee's compliance with FCC technical standards. City shall endeavor to so arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the Subscribers caused by such testing.
 - b. Before ordering such tests, Grantee shall be afforded thirty (30) days advance written notice. City shall meet with Grantee prior to requiring special tests to discuss the need for such and, if possible, visually inspect those locations which may be the focus of concern. If, after such meetings and inspections, City wishes to require special tests and the thirty (30) days have elapsed, the tests shall be conducted by Grantee at Grantee's expense and may be observed by a qualified engineer selected by City. Grantee shall participate and cooperate in such testing and shall not assess City or Subscribers any additional fees or costs associated with time or labor Grantee may incur as a result of its participation in such testing. If such applicable testing establishes that the System meets all the terms hereof and all Applicable Laws, rules and regulations, the City shall bear the expense of acquiring an engineer to observe such special testing. If such special testing establishes that the System does not meet all the material terms hereof and all applicable rules and regulation, Grantee shall bear all the expense for such special testing.
7. FCC Reports. The results of any tests required to be filed by Grantee with the FCC shall upon request of City also be filed with City or its designee within ten (10) days of the date of request.

8. Interconnection. At the request of the City, Grantee shall interconnect with adjacent Cable Systems to facilitate the two-way distribution of EG Access programming. All decisions regarding whether to interconnect and the terms and conditions of any such interconnect shall be a matter of agreement between the cable operators involved. If the cable operators are unable to reach agreement the City shall, in its sole discretion, have authority to impose reasonable interconnection requirements and the costs of such interconnection shall be proportionately divided between the cable operators.
9. Annexation. Upon the annexation of any additional land area by the City, if the annexed area is not currently served by a cable operator it will be subject to the other provisions of this Section 4. If the annexed area is served by a cable operator, Grantee has the option to extend its Cable System to the newly annexed area if Grantee determines that it is economically feasible to do so. Upon the annexation of any additional land area by the City, the annexed area shall be subject to all the terms of this Franchise upon sixty (60) days of written notification by the City to Grantee. A cable operator other than Grantee whose Cable System already passes homes in an annexed area shall not extend its Cable System beyond those homes which it passes at the time the annexation occurs unless it otherwise obtains a franchise from the City.
10. Line Extension.
 - a. Grantee shall construct and operate its Cable System so as to provide Service to all parts of its Franchise area as provided in this Franchise and having a density equivalent of thirty (30) residential units per cable mile of System, as measured from the nearest tap on the Cable System.
 - b. Where the density is less than that specified above, Grantee shall inform Persons requesting Service of the possibility of paying for Installation or a line extension and shall offer to provide them with a free written estimate of the cost, which shall be provided within fifteen (15) working days of such a request. The charge for Installation or extension for each Person requesting Service shall not exceed a pro rata share of the actual cost of extending the Service.
 - c. Any residential and/or commercial unit located within one hundred fifty (150) feet of the nearest tap on Grantee's System shall be connected to the System at no charge other than the Standard Installation charge. Grantee shall, upon request by any potential Subscriber residing in City beyond the one hundred fifty (150) foot limit, extend Service to such Subscriber provided that the Subscriber shall pay the net additional Drop costs.
 - d. Under Normal Operating Conditions, if Grantee cannot perform Installations within the times specified in applicable customer standards, the Subscriber may request and is entitled to receive a credit equal to the amount he would otherwise have been charged. For any Installation that is not a free Installation or a Standard Installation, Grantee shall provide the Subscriber with a written estimate of all charges within seven (7) days of a request by the Subscriber. Failure to comply will subject Grantee to appropriate enforcement actions.

This section does not apply to the introduction of new products and services when Grantee is utilizing a phased introduction.

11. Lockout Device. Upon the request of a Subscriber, Grantee shall make available by sale or lease a Lockout Device allowing Channels on the System to be blocked.

SECTION 5. SERVICE PROVISIONS

1. Non-Standard Installations. Grantee shall install and provide Cable Service to any Person requesting other than a Standard Installation provided that said Cable Service can meet FCC technical specifications and all Grantee's payment and policy obligations are met. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the Standard Installation.
2. Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing any of its Services within City. In its initial communication or contact with a non-Subscriber or current Subscriber seeking alternative options, Grantee shall inform the non-Subscriber of all levels of Service available, including the lowest priced Basic Cable Service tier and free Service tiers. Grantee shall have the right to market door-to-door during reasonable hours consistent with local ordinances and regulation.
3. Consumer Protection and Service Standards. Grantee shall maintain convenient local customer service and bill payment locations in the City for receiving Subscriber payments, handling billing questions, equipment replacement and customer service information. Grantee shall comply with: 1) any customer service requirements that may be required by the Code of Ordinances of the City, as may be amended from time to time; 2) the standards and requirements for customer service set forth below; and 3) all applicable regulations relating to customer service obligations, including any amendments to 47 C.F.R. § 76.309 during the term of this Franchise.
 - a. Cable System office hours and telephone availability.
 - i. Grantee will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.
 - (1) Trained Grantee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.
 - (2) After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Grantee representative on the next business day.
 - ii. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty

- (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.
- iii. Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.
 - iv. Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.
 - v. Customer service center and bill payment locations will be open at least during Normal Business Hours and will be conveniently located.
- b. Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis.
- i. Except for factors beyond Grantee's control, Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred fifty (150) feet from the existing distribution system.
 - ii. Excluding conditions beyond the control of Grantee, Grantee will begin working on "Service Interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee must begin actions to correct other Service problems the next business day after notification of the Service problem.
 - iii. The "appointment window" alternatives for Installations, Service calls, and other Installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours unless verbally waived by customer. Calls that do not require entrance inside the customer's structure may happen at any time during Normal Business Hours. Grantee shall contact via phone, text or by other means, as new technologies become available, all Subscribers or prospective Subscribers prior to scheduled appointments and will endeavor to maximize customer notifications of scheduled appointments. Grantee shall make available scheduled Service calls and other Installation activities outside of Normal Business Hours during the evening on weekdays and for a minimum of 6 hours on weekends. Grantee currently maintains an On-Time Guarantee for service appointments that compensates customers by providing a twenty (\$20) credit if Grantee's technicians arrive at the customer's residence outside the appointment window. For installation appointments, late arrival is compensated in the same manner but in addition, installation will be free to the customer.

- iv. Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
 - v. If Grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.
- c. Communications between Grantee and Subscribers.
- i. Notifications to Subscribers:
 - (1) Grantee will provide written information on each of the following areas at the time of Installation of Service, at least annually to all Subscribers, and at any time upon request:
 - (a) Products and Services offered;
 - (b) Prices and options for programming Services and conditions of subscription to programming and other Services;
 - (c) Installation and Service maintenance policies;
 - (d) Instructions on how to use the Cable Service;
 - (e) Channel positions of programming carried on the System; and
 - (f) Billing and complaint procedures, including the address and telephone number of the City's cable office.
 - (2) Subscribers will be notified of any changes in rates, programming Services or Channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Grantee. In addition, the Grantee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by Section 5.3(c)(i)(1).
 - (3) In addition to the requirement of subparagraph (2) of this section regarding advance notification to Subscribers of any changes in rates, programming services or Channel positions, Grantee shall give thirty (30) days written notice to both Subscribers and the City before implementing any rate or Service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of Channels). When the

change involves the addition or deletion of Channels, each Channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the Grantee need only identify for Subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

- (4) To the extent Grantee is required to provide notice of Service and rate changes to Subscribers, the Grantee may provide such notice using any reasonable written means at its sole discretion.
- (5) Notwithstanding any other provision of this section, Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, Franchise Fee, or any other fee, tax, assessment, or charge of any kind imposed by any federal agency, state, or City on the transaction between the Grantee and the Subscriber.

ii. Billing:

- (1) Consistent with 47 C.F.R. § 76.1619, bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, Basic Cable Service and premium Service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
- (2) In case of a billing dispute, the Grantee must respond to a written complaint from a Subscriber within thirty (30) days.

iii. Refunds: Refund checks will be issued promptly, but no later than either:

- (1) The Subscriber's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier or
- (2) The return of the equipment supplied by Grantee if Service is terminated.

iv. Credits: Credits for Service will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.

Based on a historical record of complaints that indicates a clear failure to comply with the standards set forth above, upon fourteen (14) days written request, Grantee shall provide City with a quarterly compliance report specific to the System in the Service Area, which report information shall describe in detail Grantee's compliance with each and every term and provision of this Section. Grantee shall comply with the cable industry's on-time guaranty as endorsed by the National Cable Television Association. This on-time guaranty generally

provides that if Installation is not commenced within the “appointment window” specified by the operator, Installation shall be free for the Subscriber.

4. Refund Policy. If a Subscriber’s Cable Service is interrupted or discontinued without cause, for twenty-four (24) or more consecutive hours, the Grantee shall, upon request by Subscriber, credit such Subscriber pro rata for such interruption. For this purpose, every month will be assumed to have thirty (30) days.
5. Late Fees. Grantee shall comply with all applicable state and federal laws with respect to any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber for late payment of a bill. The City reserves the right to enforce Grantee’s compliance with all Applicable Laws to the maximum extent legally permissible.
6. Local Office Policy.
 - a. Grantee shall maintain locations in City for receiving Subscriber inquiries, check payments, and equipment transfers. At least one location must be staffed by a Person capable of receiving inquiries. In addition, Grantee shall maintain payment locations within the Service Area for receiving Subscriber payments after hours.
 - b. Payments at Grantee’s payment locations shall be deemed received on the date such payments are picked up by Grantee which shall occur no less than twenty-four (24) hours after each and every due date for Subscriber bills.

**SECTION 6.
ACCESS CHANNEL(S) PROVISIONS**

1. Grantee Support for Educational & Governmental (“EG”) Access. Grantee shall provide the following support for EG access usage within the Service Area:
 - a. Provision of the Channels designated in Exhibit B of this Agreement for local EG programming and access use at no charge in accordance with the requirements of Exhibit B.
 - b. Support of EG programming to the extent specified in Exhibit B of this Agreement.
 - c. Provision of free public building Installation and Cable Service and a fiber connection to City’s network as more clearly specified in Exhibit B.
2. Compliance with Federal Law. Grantee and City agree that the EG access support fee referenced in Exhibit B will not be deemed to be “Franchise Fees” within the meaning of Section 622 of the Cable Act (47 U.S.C. §542), and such obligations shall not be deemed to be (i) “payments in kind” or any involuntary payments chargeable against the Franchise Fees to be paid to the City by Grantee pursuant to Section 7 hereof or (ii) part of the Franchise Fees to be paid to City by Grantee pursuant to Section 7 hereof.

SECTION 7.
OPERATION AND ADMINISTRATION PROVISIONS

1. Administration of Franchise. The Mayor or other designee shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise; provided, however, that the City Council shall retain the sole authority to take enforcement action pursuant to this Franchise.
2. Delegated-Authority. The City may appoint a citizen advisory body or may delegate to any other body or Person authority to monitor the performance of Grantee pursuant to the Franchise. Grantee shall cooperate with any such delegates of City.
3. Franchise Fee.
 - a. During the term of the Franchise, Grantee shall pay quarterly to City a Franchise Fee in an amount equal to five percent (5%) of its quarterly Gross Revenues, or such other amounts as are subsequently permitted by federal statute.
 - b. Any payments due under this provision shall be payable quarterly. The payment shall be made within forty-five (45) days of the end of each of Grantee's fiscal quarters together with a report showing the basis for the computation in form and substance substantially the same as Exhibit F attached hereto. In the event that a Franchise Fee payment or other sum due is not received by the City on or before the date due, or is underpaid, Grantee shall pay the City in addition to the payment, or sum due, \$100.00 per day or part thereof that the violation continues.
 - c. All amounts paid shall be subject to audit and recomputation by City and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount. In the event the City should conduct a review of Grantee's books and records pursuant to Section 7.6 of this Franchise and such review indicates a Franchise Fee underpayment of five percent (5%) or more, the Grantee shall assume all reasonable documented costs of such audit, and pay same upon demand by the City.
4. Discounted Rates. If Grantee's Subscribers are offered what is, in effect, a discount for "bundled" services (i.e. Subscribers obtain Cable Services and some other, non-cable goods or service) then for the purpose of calculating Gross Revenues, the discount shall be applied proportionately to cable and non-cable goods and services, in accordance with the following example:

Assume a Subscriber's charge for a given month for Cable Service alone would be \$40, for local telephone service alone would be \$30, and for high-speed service alone would be \$30, for a total of \$100. In fact, the three (3) services are offered in effect at a combined rate where the Subscriber receives what amounts to a twenty percent (20%) discount from the rates that would apply to a service if purchased individually (i.e. \$80 per month for all three

(3) services). The discount (here, \$20) for Gross Revenue computation purposes would be applied pro rata so that Gross Revenues for Cable Service are deemed to be \$32 (\$40 less 20% of \$40). The result would be the same if the Subscriber received a \$20 discount for telephone service on the condition that he or she also subscribes to Cable Service at standard rates.

In no event shall Grantee be permitted to evade or reduce applicable Franchise Fee payments required to be made to City due to discounted bundled services.

5. Not Franchise Fees.

- a. Grantee acknowledges and agrees that the Franchise Fees payable by Grantee to City pursuant to this section shall take precedence over all other payments, contributions, services, equipment, facilities, support, resources or other activities to be provided or performed by Grantee pursuant to this Franchise and that the Franchise Fees provided for in this section of this Franchise shall be in addition to any and all taxes of general applicability and other fees and charges which Grantee shall be required to pay to City and/or to any other governmental authority, all of which shall be separate and distinct obligations of Grantee.
- b. Grantee shall not apply or seek to apply all or any part of any taxes, fees or assessments of general applicability levied or imposed by the City or any other governmental authority (including any such tax, fee or assessment imposed on both utilities and cable operators or their services) as a deduction or other credit from or against any of the Franchise Fees or other payments or contributions to be paid or made pursuant by Grantee to City to this Franchise which shall be deemed to be separate and distinct obligations of Grantee.

6. Access to Records. The City shall have the right to inspect, upon reasonable notice and during Normal Business Hours, or require Grantee to provide within a reasonable time copies of any records maintained by Grantee which relate to System operations including specifically Grantee's accounting and financial records. City acknowledges that some of the records which may be provided by Grantee may be classified as confidential and therefore may subject Grantee to competitive disadvantage if made public. City shall therefore maintain the confidentiality of any and all records provided to it by Grantee which are not required to be made public pursuant to Applicable Laws. Grantee shall produce such books and records for City's inspection at Grantee's local office within the Service Area or at such other mutually agreed upon location within the City. To the extent it is necessary for City to send representatives to a location outside of the City to inspect Grantee's books and records for compliance with the Franchise, Grantee shall be responsible for all travel costs incurred by City representatives.

7. Reports and Maps to be Filed with City.

- a. Grantee shall file with the City, at the time of payment of the Franchise Fee, a report of all Gross Revenues in form and substance as Exhibit F attached hereto.

- b. If required by City, Grantee shall provide City a written or computer-stored record of all service calls and interruptions or degradation of Service experienced for the preceding two (2) years, provided that such complaints result in or require a service call, subject to the Subscriber's right of privacy.
 - c. City and Grantee shall mutually agree, at the times and in the form prescribed, such other reasonable reports with respect to Grantee's operations pursuant to this Franchise.
 - d. If required by City, Grantee shall furnish to and file with Chief Administrative Officer the maps, plats, and permanent records of the location and character of all facilities constructed, including underground facilities, and Grantee shall file with City updates of such maps, plats and permanent records annually if changes have been made in the System.
8. Periodic Evaluation.
- a. City may require evaluation sessions no more than once every three years during the term of this Franchise, upon fifteen (15) days written notice to Grantee.
 - b. Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, System performance, programming offered, access Channels, facilities and support, municipal uses of cable, Subscriber rates, customer complaints, amendments to this Franchise, judicial rulings, FCC rulings, line extension policies and any other topics City deems relevant.
 - c. As part of any periodic evaluation proceeding the City shall have the right to visit and/or inspect the Grantee's headend facility, customer service center and any other facilities of Grantee whether or not located in the City to the extent such facilities are in any way related to Grantee's ability to provide Cable Services to the City.
 - d. As a result of a periodic review or evaluation session, upon notification from City, Grantee shall meet with City and undertake good faith efforts to reach agreement on changes and modifications to the terms and conditions of the Franchise which are both economically, technically feasible and maintain Grantee's competitiveness as measured over the remaining life of the Franchise.

**SECTION 8.
CAPACITY SERVICE AGREEMENT**

1. Capacity Services Agreement
- a. The Grantee shall construct and manage a fiber network pursuant to the terms of the Capacity Services Agreement attached hereto and incorporated by reference as Exhibit G. Grantee's failure to comply with the terms of the

Capacity Services Agreement shall be considered a material breach of this Franchise and City may exercise any enforcement rights available under this Franchise. Enforcement of performance standards and other service level requirements under the Capacity Services Agreement shall be handled by the parties as set forth in the Capacity Services Agreement.

SECTION 9.
GENERAL FINANCIAL AND INSURANCE PROVISIONS

1. Liability Insurance.

- a. Upon the effective date, Grantee shall, at its sole expense take out and maintain during the term of this Franchise commercial general liability insurance with a company licensed to do business in the State of Mississippi with a rating by A.M. Best & Co. of not less than “B” that shall protect the Grantee, City and its officials, officers, directors, employees and agents from claims which may arise from operations under this Franchise, whether such operations be by the Grantee, its officials, officers, directors, employees and agents or any subcontractors of Grantee. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from Grantee’s vehicles, products and operations. Grantee shall maintain, throughout the term of the Franchise, liability insurance insuring Grantee and the City in the minimum amounts of:
 - i. One Million and No/100 Dollars (\$1,000,000.00) for bodily injury or death to any one (1) Person;
 - ii. One Million and No/100 Dollars (\$1,000,000.00) for bodily injury or death resulting from any one (1) accident;
 - iii. One Million and No/100 Dollars (\$1,000,000.00) in the form of an umbrella policy.
- b. The following endorsements shall be attached to the liability policy:
 - i. The policy shall provide coverage on an “occurrence” basis.
 - ii. The policy shall cover personal injury as well as bodily injury.
 - iii. The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier’s standard endorsement as to bodily injuries, personal injuries and property damage.
 - iv. Broad form property damage liability shall be afforded.
 - v. City shall be named as an additional insured on the policy.

- vi. An endorsement shall be provided which states that the coverage is primary insurance and that no other insurance maintained by the City will be called upon to contribute to a loss under this coverage.
 - vii. Standard form of cross-liability shall be afforded.
 - viii. An endorsement stating that the policy shall not be canceled without thirty (30) days notice of such cancellation given to City.
- c. Grantee shall submit to City documentation of the required insurance, including a copy of the policy showing that the City is an additional insured, as well as all properly executed endorsements.

2. Indemnification

- a. Grantee shall indemnify, defend and hold City, its officers, boards, commissions, agents and employees (collectively the “Indemnified Parties”) harmless from and against any and all lawsuits, claims, causes or action, actions, liabilities, demands, damages, judgments, settlements, disability, losses, expenses (including attorney’s fees and disbursements of counsel) and costs of any nature that any of the Indemnified Parties may at any time suffer, sustain or incur arising out of, based upon or in any way connected with the Grantee’s operations, the exercise of the Franchise, the breach of Grantee of its obligations under this Franchise and/or the activities of Grantee, it subcontractors, employees and agents hereunder. Grantee shall be solely responsible for and shall indemnify, defend and hold the Indemnified Parties harmless from and against any and all matters relative to payment of Grantee’s employees, including compliance with Social Security and withholdings. Grantee shall not be required to provide indemnification to City for programming cablecast over the EG access Channels administered by City. Grantee shall not be required to indemnify City for negligence or misconduct on the part of City or its officials, boards, commissions, agents, or employees. To the extent permitted by State Law, City will indemnify and hold harmless Grantee from and against any expenses, costs or losses of any nature arising out of the programming cablecast over the EG access Channels administered by City.
- b. The indemnification obligations of Grantee set forth in this Franchise are not limited in any way by the amount or type of damages or compensation payable by or for Grantee under Workers’ Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Franchise or the terms, applicability or limitations of any insurance held by Grantee.
- c. City does not, and shall not, waive any rights against Grantee which it may have by reason of the indemnification provided for in this Franchise, because of the acceptance by City, or the deposit with City by Grantee, of any of the insurance policies described in this Franchise.

- d. The indemnification of City by Grantee provided for in this Franchise shall apply to all damages and claims for damages of any kind suffered by reason of any of the Grantee's operations referred to in this Franchise, regardless of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
3. Grantee's Insurance. Grantee shall not commence any Cable System reconstruction work or permit any subcontractor to commence work until all insurance required under this Franchise has been obtained. Said insurance shall be maintained in full force and effect until the expiration of this Franchise.
 - a. In order for City to assert its rights to be indemnified, defended, and held harmless, City must, with respect to each claim:
 - i. Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right;
 - ii. Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
 - iii. Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to subparagraph (ii) above.

SECTION 10.

SALE, ABANDONMENT, TRANSFER AND REVOCATION OF FRANCHISE

1. City's Right to Revoke.
 - a. In addition to all other rights which City has pursuant to law or equity, City reserves the right to commence proceedings to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if it is determined by City that after notice and an opportunity to cure as reordered herein;
 - i. Grantee has violated material provisions(s) of this Franchise and has not cured; or
 - ii. Grantee has attempted to evade any of the provisions of the Franchise; or
 - iii. Grantee has practiced fraud or deceit upon City.
 - b. City may revoke this Franchise without the hearing otherwise required herein if Grantee is adjudged a bankrupt.

2. Procedures for Revocation.

- a. City shall provide Grantee with written notice of a Franchise violation consistent with Section 8 of this Franchise and shall allow Grantee thirty (30) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise.
- b. Should City determine to proceed with a revocation proceeding, Grantee shall be provided the right to a public hearing affording due process before the City Council prior to the effective date of revocation. City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.
- c. Only after the public hearing and upon written notice of the determination by City to revoke the Franchise may Grantee appeal said decision with an appropriate state or federal court or agency.
- d. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires or unless continuation of the Franchise would endanger the health, safety and welfare of any Person or the public.

3. Abandonment of Service. Grantee may not abandon the System or any portion thereof without having first given three (3) months written notice to City. Grantee may not abandon the System or any portion thereof without compensating City for actual damages resulting from the abandonment, including all costs incident to removal of the System. A sale of the system to a third party will not be considered an abandonment.

4. Removal After Abandonment, Termination or Forfeiture.

- a. In the event of termination or forfeiture of the Franchise or abandonment of the System, City shall have the right to require Grantee to remove all or any portion of the System from all Rights-of-Way and public property within City.
- b. Except where Grantee has appealed the City's decision, if Grantee has failed to commence removal of System, or such part thereof as was designated by City, within thirty (30) days after written notice of City's demand for removal is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of City's demand for removal is given, City shall have the right to apply funds secured by the letter of credit and performance bond toward removal. If Grantee has abandoned the System without removal, after twelve (12) months the City may declare all right, title, and interest to the System to be in City with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it.

5. Sale or Transfer of Franchise.

- a. No sale or transfer of the Franchise, or sale, transfer, or fundamental corporate change of or in Grantee, including, but not limited to, a fundamental corporate change in Grantee's parent corporation or any entity having a controlling interest in Grantee, the sale of a controlling interest in the Grantee's assets, a merger including the merger of a subsidiary and parent entity, consolidation, shall take place until a written request has been filed with City requesting approval of the sale, transfer, or corporate change and such approval has been granted or deemed granted; provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and/or assets to secure any indebtedness or where the change is an internal business organizational change not involving a change in ownership of the parent company.
- b. Any sale, transfer, exchange or assignment of stock in Grantee, or Grantee's parent corporation or any other entity having a controlling interest in Grantee, so as to create a new controlling interest therein, shall be subject to the requirements of this Section 10.5. The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. In any event, as used herein, a new "controlling interest" shall be deemed to be created upon the acquisition through any transaction or group of transactions of a legal or beneficial interest of fifteen percent (15%) or more by one (1) Person. Acquisition by one (1) Person of an interest of five percent (5%) or more in a single transaction shall require notice to City.
- c. The Grantee shall file, in addition to all documents, forms and information required to be filed by Applicable Laws, the following:
 - i. All contracts, agreements or other documents that constitute the proposed transaction and all exhibits, attachments, or other documents referred to therein which are necessary in order to understand the terms thereof; and
 - ii. A list detailing all documents filed with any state or federal agency related to the transaction including, but not limited to the FCC, the FTC, the FEC, the SEC or applicable state departments and agencies. Upon request, Grantee shall provide City with a complete copy of any such document; and
 - iii. Any other documents or information related to the transaction as may be specifically requested by the City.
- d. City shall have such time as is permitted by Applicable Laws in which to review a transfer request.
- e. Grantee shall reimburse City for all reasonable out-of-pocket, legal and consulting costs associated with City's review of any request to transfer.

- f. In no event shall a sale, transfer, or assignment of ownership or control pursuant to subparagraph (a) or (b) of this section be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations thereunder, and assuming all other rights and obligations of the transferor to the City including, but not limited to, any adequate guarantees or other security instruments required by the City.
- g. In the event of any proposed sale, transfer, or assignment pursuant to subparagraph (a) or (b) of this section, City shall have the right of first refusal to purchase the System.
- h. City shall be deemed to have waived its right to purchase the System pursuant to this section only in the following circumstances:
 - i. If City does not indicate to Grantee in writing, within sixty (60) days of receipt of written notice of a proposed sale, transfer, corporate change, or assignment as contemplated in Section 10.5 (g) above, its intention to exercise its right of purchase; or
 - ii. It approves the assignment or sale of the Franchise as provided within this section.
- i. No Franchise may be transferred if City determines Grantee is in noncompliance of the Franchise unless and until any noncompliance has been corrected or an acceptable compliance program has been approved by City. The approval of any transfer of ownership pursuant to this section shall not be deemed to waive any rights of City to subsequently enforce noncompliance issues relating to this Franchise with the new Grantee even if such issues predated the approval, whether known or unknown to City.

**SECTION 11.
PROTECTION OF INDIVIDUAL RIGHTS**

- 1. Discriminatory Practices Prohibited. Grantee shall not deny Service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex, age, status as to public assistance, or disability. Denial of service for nonpayment shall not be prohibited under this section even if these categories exist in any particular case. Grantee shall comply at all times with all other Applicable Laws, and all executive and administrative orders relating to nondiscrimination.
- 2. Subscriber Privacy.
 - a. Grantee may not transmit signals from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be

revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of activity planned for the purpose of monitoring individual viewing patterns or practices. Notwithstanding the above, Grantee may monitor usage patterns for technical and network research on an aggregate basis and not for individual Subscriber identification.

- b. No lists of the names and addresses of Subscribers or any lists that identify the individual viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee or its agents for Grantee's service business use or to City for the purpose of Franchise administration and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.
- c. Written permission from the Subscriber shall not be required for the conducting of system wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in subparagraph (b) of this section.
- d. Subscribers and non-Subscribers may request to be put on a list to prevent solicitations from Grantee.

SECTION 12. MISCELLANEOUS PROVISIONS

1. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with Applicable Laws.
2. Work Performed by Others. All applicable obligations of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise however, in no event shall any such subcontractor or other performing work obtain any rights to maintain and operate a System or provide Cable Service. Grantee shall provide notice to City of the name(s) and address(es) of any entity, other than Grantee, which performs substantial services pursuant to this Franchise.
3. Amendment of Franchise Ordinance. Grantee and City may agree, from time to time, to amend this Franchise. Such written amendments may be made subsequent to a review session pursuant to Section 7 or at any other time if City and Grantee agree that such an amendment will be in the public interest or the Grantee's interest or if such an amendment is required due to changes in federal, state or local laws; provided, however, nothing herein shall restrict City's exercise of its police powers.

4. Compliance with Federal, State and Local Laws.
 - a. If any federal or state law or regulation shall require or permit City or Grantee to perform any service or act or shall prohibit City or Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Grantee and City shall conform to state and federal laws and regulations and rules regarding cable communications and franchising as they become effective.
 - b. If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to Persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and complied with provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and City.
5. Nonenforcement by City. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure or delay of City to enforce prompt compliance. City may only waive its rights hereunder by expressly so stating in writing. Any such written waiver by City of a breach or violation of any provision of this Franchise shall not operate as or be construed to be a waiver of any subsequent breach or violation.
6. Rights Cumulative. All rights and remedies given to City by this Franchise or retained by City herein shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to City, at law or in equity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by City and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.
7. Grantee Acknowledgment of Validity of Franchise. Grantee acknowledges that it has had an opportunity to review the terms and conditions of this Franchise and that under current law Grantee believes that said terms and conditions are not unreasonable or arbitrary, and that Grantee believes City has the power to make the terms and conditions contained in this Franchise.

8. Force Majeure. Neither party shall be liable for any failure of performance hereunder due to causes beyond its reasonable control including but not limited to; acts of God, fire, explosion, vandalism, storm or other similar catastrophes; national emergencies; insurrection; riots or wars.

SECTION 13.

PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS

1. Publication, Effective Date. This Franchise shall be published in accordance with Applicable Laws. The effective date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of Section 13.2.
2. Acceptance.
 - a. Grantee shall accept this Franchise within thirty (30) days of its enactment by the City Council, unless the time for acceptance is extended by City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes; provided, however, this Franchise shall not be effective until all City ordinance adoption procedures are complied with and all applicable timelines have run for the adoption of a City ordinance. In the event acceptance does not take place, or should all ordinance adoption procedures and timelines not be completed, this Franchise and any and all rights granted hereunder to Grantee shall be null and void.
 - b. Upon acceptance of this Franchise, Grantee and City shall be bound by all the terms and conditions contained herein.
 - c. Grantee shall accept this Franchise in the following manner:
 - i. This Franchise will be properly executed and acknowledged by Grantee and delivered to City.
 - ii. With its acceptance, Grantee shall also deliver a certified or cashier's check, approved by the City, in the amount of Twelve Thousand Dollars (\$12,000.00) made payable to the City of Gulfport, Mississippi, as an acceptance fee and any grant payments, and insurance certificates as required herein, that have not previously been delivered. The acceptance fee shall be deposited in an account of the City, and shall serve to recover expenses incurred by the City in the granting of this Franchise. Said expenses shall include, but not be limited to attorney's fees, consulting expenses and the reasonable value of services performed by the City's employees, agents or contractors.

The above and foregoing Ordinance, after having been first reduced to writing and read by the Clerk, was introduced by Councilmember Flowers, seconded by Councilmember Pucheu, and was adopted by the following roll call vote:

AYES

**Roland
Holmes-Hines
Dombrowski
Flowers
Pucheu**

NAYS

Casey

ABSENT/ABSTAIN

Walker

WHEREUPON, the President declared the motion carried and the Ordinance adopted, this the 7th day of February, 2012.

(SEAL)

ATTEST:

ADOPTED:

CLERK OF THE COUNCIL

PRESIDENT

The above and foregoing Ordinance was submitted to and approved by the Mayor, this the 8th day of February, 2012.

APPROVED:

MAYOR

ACCEPTED: This Franchise is accepted, and we agree to be bound by its terms and conditions.

CABLE ONE, INC.

Date: _____, _____ 2012

By: _____

SWORN TO BEFORE ME this
__ day of _____, 2012.

Its: _____

NOTARY PUBLIC

**EXHIBIT A
OWNERSHIP**

Grantee shall provide the City a copy of its Annual Report to satisfy this requirement.

EXHIBIT B
GRANTEE COMMITMENT TO EG ACCESS FACILITIES AND EQUIPMENT

1. EDUCATIONAL AND GOVERNMENT (EG) ACCESS CHANNEL. Grantee shall make one (1) video Channel available exclusively for EG use (“EG Channels”) to be located on the basic tier throughout the term of the Franchise. The EG Channel shall be dedicated for EG use for the term of the Franchise, provided that Grantee may upon written request to City, utilize the EG Channel for commercial or non-commercial programming when it is not scheduled for EG use. City and Grantee shall establish rules and procedures for such scheduling in accordance with Section 611 of the Cable Act (47 U.S.C. § 531).
2. EG OPERATIONS. City may, in its sole discretion, negotiate agreements with neighboring jurisdictions served by the same Cable System, educational institutions or others to share the expenses of supporting the EG Channels.
3. RELOCATION OF EG CHANNELS. Grantee shall not relocate the EG access Channel to a different Channel number unless specifically required by Applicable Laws, required by wholesale movement of all analog channels to digital, or unless otherwise agreed to in writing by City. Where possible, Grantee shall provide City and all Subscribers with at least sixty (60) days prior written notice of any legally required relocation.
4. PROMOTION OF EG ACCESS. Grantee shall make available EG access information provided by City in Subscriber packets at the time of Installation and at the counter in the System’s business office serving the Service Area. Grantee shall also include a listing of the known programming to be cablecast on the EG access Channel in or on any electronic program guide of Services for the Cable System where Grantee has editorial control of such electronic program.
5. DIGITIZATION OF ANALOG CHANNELS. Grantee may, at its own discretion, move analog EG Channels to digital format. Grantee shall enter into good-faith negotiations with the City over the frequency allocation, Channel assignment and menu placement of new EG digital television Channels prior to making such assignments.
6. DROPS TO DESIGNATED BUILDINGS.
 - a. Grantee shall provide free of charge throughout the term of this Franchise, Installation of one (1) Cable outlet and one (1) Converter, if necessary, and the highest level of Cable Service offered by Grantee, excluding pay-per-view, pay-per-channel (premium) programming, high-speed data services or newly created non-video Cable Services, without charge to the institutions identified on Exhibit C attached hereto and made a part hereof, and such other public institutions, owned by the City and housing City offices, subsequently designated by City. This requirement shall not include any digital tier of Services Grantee may offer unless and until such time as Grantee’s digital programming reduces the amount of spectrum available for analog programming to less than approximately fifty (50) Channels of analog programming. Grantee shall be responsible for the costs

of extension to subsequently designated institutions for the first two hundred and fifty (250) feet as measured from Grantee's nearest active plant. The institution shall pay the net additional Drop or extension costs beyond the two hundred and fifty (250) feet.

- b. Additional Subscriber network Drops and/or outlets in any of the locations identified on Exhibit C will be installed by Grantee at the lowest actual cost of Grantee's time and material. Alternatively, said institutions may add outlets and service at their own expense, as long as such Installation meets Grantee's standards and approval which shall not be unreasonably withheld. Grantee shall have three (3) months from the date of City designation of additional accredited schools or public institutions or relocations to complete construction of the Drop and the outlet unless weather or other conditions beyond the control of Grantee requires more time.

7. LIVE BROADCAST FACILITIES AND TWO-WAY NETWORK.

- a. Grantee shall, at no cost to City unless otherwise specified herein, provide a return connection to facilitate the exchange of programming, including live cablecasting of programming from those locations identified in Exhibit D, attached hereto and made a part hereof.

EXHIBIT C
SERVICE TO PUBIC BUILDINGS

1. Jones Building	1422 23 rd Street
2. Evergreen Cemetery Office	3908 28 th Street
3. Charles L. Walker Senior Center	4008 8 th Street
4. Park/Bldg. Maintenance	2811 26 th Ave
5. 19 th Street Community Center	3319 19 th St.
6. College Park Fitness Center	2204 Swetman Blvd.
7. Gaston Hews Recreation Center	2733 33 rd Ave
8. Gaston Point Community Center	1506 Mills Ave
9. Handsboro Community Center	1890 Switzer Rd
10. Herbert Wilson Recreation Center	3225 Hancock Ave.
11. Katie Booth Community Center	501 26 th St.
12. Lyman Community Center	13472 Hig 49
13. Dedeaux Community Center	14416 Dedeaux Rd.
14. Westside Community Center	4006 8 th St.
15. Willie Locke Community Center	1717 19 th St.
16. Old Courthouse Bldg. (Former Leisure Service Admin)	135 Courthouse Rd.
17. Bayou View Baseball field (score tower)	4401 Searle Ave.
18. Robert J Curry Public Safety Center	2220 15 th St. & 2218 15 th St.
19. Robert J. Curry Public Safety Center	2218 15 th St.
20. City Hall	2309 15 th St.
21. City Hall	2309 5 th St. Lot E2
22. City Hall	2309 5 th St. Lot E3

23. Public Works Admin.	4050 Hewes Ave.
24. Hardy Building	1410 24 th Ave.
25. Fire Station 1	1515 23 rd Ave.
26. Fire Station 2	1200 42 nd Ave.
27. Fire Station 3	2324 25 th St.
28. Fire Station 4	1038 East Railroad St.
29. Fire Station 5	641 41 st St.
30. Fire Station 6	1000 East Pass Rd.
31. Fire Station 7	200 Cowan Rd.
32. Fire Station 8	13440 Old Hwy 49
33. Fire Station 9	15239 Dedeaux Rd.
34. Fire Station 10	12001 Dedeaux Rd.
35. Fire Station 11	13000 Three Rivers Rd.
36. Fire Station 12	15550 MLK Blvd.
37. Armory Bldg.	3310 17 th St.
38. Sportsplex Office	17200 16 th St.
39. Sportsplex Maintenance	17201 16 th St.
40. Sportsplex Softball office	17202 16 th St.
41. Goldin Sportsplex Maintenance shop	12136 Prudie Cir.
42. Grasslawn	720 E Beach Blvd.
43. Municipal Complex Phase 2	NW Corner of 15 th St and 22 nd Ave
44. Harbor Master Bldg.	885 20 th Ave
45. Central Elementary	1043 Pass Rd
46. Gaston Point Elementary	1501 Mills Ave
47. Pass Rd Elementary	37 Pass Rd

48. The Learning Center	1215 Church St
49. St. John Elementary	2415 17 th St
50. Bayou View Middle School	212 43 rd St
51. Gulfport High School	100 Perry St
52. Anniston Elementary	2314 Jones St.
53. Gulf Coast School	1110 42 nd Ave
54. School For Exceptional	94 29 th St
55. Alternative School	11072 Highway 49
56. 7 th and 8 th Grade School	4715 Illinois Ave
57. Gulfport City Schools	2014 Pass Rd
58. Orange Grove Public Library	12031 Mobile Ave
59. Gulfport Public Library	1708 25 th Ave

EXHIBIT D
ADDITIONAL TWO-WAY CONNECTIONS TO PUBLIC INSTITUTIONS

1. City Hall 2309 15th Street
2. Robert J Curry Public Safety Center 2220 15th Street
3. Municipal Services Bldg (Municipal Complex Phase 2) NW Corner of 15th St and
22nd Ave

EXHIBIT E

SYSTEM DESIGN SPECIFICATIONS

The Cable System shall be designed, constructed, routinely inspected, and maintained to guarantee that the Cable System meets or exceeds the requirements of the most current editions of the National Electrical Code (NFRA 70) and the National Electrical Safety Code (ANSI C2). In all matters requiring interpretation of either of these codes, the City's interpretation shall control over all other sources and interpretations.

Grantee shall use equipment used in high-quality, reliable, modern Cable Systems of similar design in similar markets.

The Cable System shall provide Subscribers with a technically advanced and reliable Cable System. The System shall have at least 550 MHz of bandwidth capacity. The System will be two-way active, and it will be designed to have capability to transmit return signals upstream in the 5-30 MHz spectrum.

The design of the System shall be based upon a "Fiber to the node" architecture that will deliver the signals by fiber optics directly to each neighborhood. Grantee's initial design includes fibers to each node site having a neighborhood group average of approximately five hundred (500) homes. If Grantee splits nodes into smaller sizes, fewer fibers will extend to such smaller nodes. There shall be no more than seven (7) active amplifiers in a cascade from each node to the residential dwelling. The incorporation of stand-by power supplies, strategically placed throughout the system including all hubs, will further reduce the likelihood of service interruptions.

**EXHIBIT F
FRANCHISE FEE PAYMENT WORKSHEET**

TRADE SECRET – CONFIDENTIAL

	Month/Year	Month/Year	Month/Year	Total
Basic Cable Service				
Installation Charge				
Bulk Revenue				
Expanded Basic Service				
Pay Service				
Pay-per-view				
Guide Revenue				
Franchise Fee Revenue				
Advertising Revenue				
Home Shopping Revenue				
Digital Services				
Inside Wiring				
Other Revenue				
Equipment Rental				
Processing Fees				
Bad Debt				
REVENUE				
Fee Calculated				

Fee Factor: 5%

EXHIBIT G
CAPACITY SERVICE AGREEMENT

THIS AGREEMENT is made and entered into effective as of the 8th day of March, 2012 (the “Effective Date”), by and between Cable One, Inc. (“Provider”), a Delaware corporation with offices located at 19201 Pineville Rd. Long Beach, MS 39560 and the City of Gulfport, Mississippi, a municipal corporation, in the State of Mississippi, (“Customer”). As used herein, the term “Customer” shall be deemed to refer to the City acting by and through its City Council, or its lawfully appointed designee.

WHEREAS, Provider supplies capacity on certain transport fiber optic transmission facilities owned or controlled by Provider; and

WHEREAS, Customer desires to utilize such fiber capacity and other related products and services offered by Provider as set forth herein; and

WHEREAS, Customer will be utilizing the Fiber capacity to transport critical information including public safety communications and data as well as other essential municipal communications between governmental agencies in twenty-five (25) locations.

NOW, THEREFORE, IT IS AGREED:

SECTION 1 DEFINITIONS

1.1 “Activation Date” means the date upon which Fiber construction and Customer testing is complete and Service is activated following the acceptance procedure set forth in Section IV of this Agreement.

1.2 “Chronic Trouble” means, with respect to an individual End User, that such End User has experienced during any thirty (30) consecutive day period either (a) three (3) or more Service Interruptions with duration of over twelve (12) hours each, or (b) Service Interruptions exceeding a cumulative forty-eight (48) hours.

1.3 “Demarcation Point” means the point where Provider’s ownership and maintenance of a Fiber ends, which shall be identified where Provider enters the property and connects to the End User Ethernet network.

1.4 “End User” means an authorized entity specified by Customer to whom Provider provides Services under this Agreement as set forth in Exhibit A.

1.5 “Fiber” means the dedicated fiber optic transmission facilities to be constructed, maintained and managed by Provider for the benefit of Customer and the End Users as further described in Section 3 of this Agreement.

1.6 “Parties” means the Provider and Customer.

1.7 “Service” means Fiber capacity provided and managed by Provider to Customer pursuant to Section 3.1 and Exhibit B of this Agreement.

1.8 “Service Interruption” means a period in which a Service failure causes a complete loss of traffic or when the Service is unavailable, inoperable or falls below the required specifications set forth in Exhibit B, but specifically excluding: (a) failures caused by Customer, Customer’s End Users or Customer’s equipment; (b) failures caused by any Force Majeure event; (c) failures due to scheduled maintenance (provided that such schedule maintenance shall not exceed four (4) hours in duration); (d) interruptions during any period in which Provider is not allowed access to Customer or End User premises, if such access is necessary to repair or restore Service; (e) interruptions during any period where Customer elects not to release the Services for testing and/or repair and continues to use the Service on an impaired basis; and (f) failures or interruptions caused or a result of Provider’s underlying backbone service providers or other 2nd or 3rd party service suppliers.

SECTION 2 TERM, BILLING AND PAYMENT

2.1 Term. The term of this Agreement shall run concurrently with the term of the cable television franchise Ordinance No. ___ by and between Provider and Customer (“Franchise”), and shall automatically extend thereafter on a month-to-month basis unless and until this Agreement is terminated by either party without penalty by written notice given to the other party not less than sixty (60) days prior to the date of termination (the “Term”).

2.2 Invoicing. Provider shall submit monthly invoices to Customer for recurring charges. All invoices shall be due and owing thirty (30) days after the date that the invoice is received (the “Due Date”). All invoices by Provider for amounts due must be submitted to Customer within sixty (60) days after Service is rendered. Provider may invoice Customer for any service calls which are required as a result of Customer’s actions or failure of Customer’s equipment or facilities and not due to a failure on the part of the Provider, at the lowest rate charged by Provider to its customers for service calls.

2.3 Payment. As compensation for the Services provided by Provider, Customer will pay the charges for such Services, all as set forth in Section 3.2 herein. Payment of all charges, other than charges disputed by Customer in good faith pursuant to Section 2.5 below, must be received by the Due Date. Customer acknowledges and agrees (a) that time is of the essence for payments; and (b) it would be impractical to fix the amount of damages to Provider if Customer fails to pay promptly; and (c) if Customer does not pay all charges by the Due Date (other than amounts disputed in good faith in accordance with the terms of this Agreement), unless prohibited by law, Provider may suspend the Services, and Customer shall pay a late fee of three quarters of a percent (.75%) per month (or, if less, the highest amount allowed by applicable law) on any balance past due, payable from the Due Date until such amount is paid in full.

2.4 Proration for Partial Month. If Service is initiated on a date other than the first day of a calendar month or terminates on a date other than the last day of a calendar month, the charge for the partial month for such Service shall be determined by prorating the full charge for such Service based on the number of calendar days in such month during which Service was provided.

2.5 Billing Disputes. If Customer has a good faith dispute regarding the amount of any charges for the Services, Customer will nevertheless pay all undisputed amounts by the Due Date and supply notice and preliminary explanation in writing or electronically of the reasons Customer is disputing any unpaid amount. Customer's formal dispute of charges must be in writing and must be received at Provider's address within ninety (90) days after the Due Date or Customer will waive any such objection. Provider and Customer will make good-faith efforts to promptly resolve disputed charges. In the event Customer has withheld payment of any disputed amounts and such dispute is subsequently resolved in favor of Provider, then Customer shall immediately pay all amounts due, together with a late fee of three quarters of a percent (.75%) per month (or, if less, the highest amount allowed by applicable law) payable from the original Due Date until the amount is paid in full.

2.6 Taxes and Fees. The monthly charges do not include applicable taxes and surcharges. Provider shall deliver a separate itemization of all applicable taxes and governmental assessments of which Provider is aware that will be applied to the Service. Customer shall pay all federal, state, and locally mandated or allowed taxes (including, without limitation, sales, use, excise taxes, but excluding any income taxes levied upon Provider's net income, property tax of any kind, or other taxes arising from the Provider's ownership or control of the physical assets, Fiber or equipment utilized by Provider to deliver the Services), surcharges, fees, user's fees and universal service contributions (collectively, "Taxes") incurred by Customer in connection with the use of the Services provided to Customer pursuant to this Agreement. Provider shall be responsible for the payment of any taxes or assessments applicable to Provider's provisioning or sale of the Services to Customer. Provider and Customer will cooperate with one another to resolve any dispute with the appropriate authority as to applicability of taxes or charges. Taxes or charges payable by Customer will be separately stated on Customer's invoice. The obligations of the parties pursuant to this Section 2.6 shall survive expiration or termination of this Agreement.

SECTION 3 SERVICES AND PRICING

3.1 Service. Provider shall make available to Customer dedicated transparent lit Fiber managed layer 2 Ethernet based Fiber service by Provider which shall deliver a minimum of one gigahertz (1 Gigabit) bidirectional capacity (the "Service") to twenty five (25) End Users specified in Exhibit A. The Service shall at all times meet the specifications and service level requirements set forth in Exhibit B. The Service shall commence upon the Activation in service Date agreed by both parties and shall continue throughout the Term as set forth in Section 2.1 of this Agreement.

3.2 Pricing. Customer shall contribute One Hundred Thousand Dollars (\$100,000) toward the initial construction costs of the Fiber ("Customer Contribution"). The Customer Contribution shall be payable over a period of three (3) years. Rather than pay Provider directly, a prorated amount of the Customer Contribution will be deducted from each franchise fee payment that the Provider would otherwise owe to Customer under the cable television franchise granted by the Customer and held by Provider. Provider shall be solely responsible for other costs and expenses, including unforeseen cost overruns, associated with the construction of the Fiber. In the event this Agreement is terminated for cause by Customer in accordance with Section 7.2 of this Agreement, Customer shall be entitled to a refund of a portion of the

Customer Contribution amortized over the 15 year Term of the Agreement. The below chart specifies the amount the City shall be entitled to receive back from provider based on the year in which termination may occur.

Year 1	\$100,000
Year 2	\$93,334
Year 3	\$86,668
Year 4	\$80,002
Year 5	\$73,336
Year 6	\$66,670
Year 7	\$60,004
Year 8	\$53,338
Year 9	\$46,672
Year 10	\$40,006
Year 11	\$33,340
Year 12	\$26,674
Year 13	\$20,008
Year 14	\$13,342
Year 15	\$6,676

3.3 Once the Fiber construction and all testing and verification is complete in accordance with Section IV of this Agreement, the Customer shall, thirty (30) days following the Activation Date, remit a monthly recurring payment to Provider in the total amount of Seventy-five Hundred Dollars (\$7,500) for the Services provided over the Term of this Agreement to twenty-five (25) End User locations.

3.4 Moves, Adds, Changes and Disconnects.

a. New locations or additional circuits may be added to the existing contracted network at a monthly service charge equal to the average of all circuits in the network active at the time the additional circuit is requested. All Actual Costs incurred to construct the additional service will be passed on to the City with no addition markup beyond Actual Cost. Actual Cost shall mean the direct incremental cost to the Provider of materials (including any contractor materials) and capitalized labor (including capitalized contractor labor) necessary to install and construct the additional circuit. Provider will provide customer detailed receipts of purchased equipment, materials or labor upon request.

b. Bandwidth increases for existing circuits are not guaranteed and will be negotiated outside of this agreement on an individual basis.

c. No adjustment to the \$7,500 monthly revenue will be made if circuits are disconnected during the initial six (6) years of the Term. If disconnected circuits are replaced equally by new circuits no increase will be added to the monthly charges- the construction cost will be charged as referenced in subsection a). If, after the initial six (6) years of the Term, Customer reduces the number of circuits, the monthly fee shall thereafter be reduced by \$200.00 for each disconnected circuit.

3.5 Funding Condition

Customer intends in good faith to continue this Agreement for its entire Term and to satisfy its obligations thereunder. For each succeeding fiscal period following the Effective Date until the end of the Term, Customer agrees to include in its budget request appropriations for sufficient funds to cover its obligation under this Agreement. Customer agrees to use all reasonable and lawful means to secure these appropriations. Customer agrees it will not use non-appropriations as a means of terminating this Agreement in order to acquire functionally equivalent arrangements from any third party. Customer reasonably believes that sufficient funds to discharge its obligations can and will lawfully be appropriated and made available for this purpose.

SECTION 4 CONSTRUCTION, TESTING AND ACCEPTANCE

4.1 Absent delays caused by Force Majeure, Provider shall commence Fiber construction no later than ninety (90) days following the Effective Date of this Agreement and shall exercise all commercially reasonable efforts to complete Fiber construction within two hundred and seventy (270) days of the Effective Date. Provider shall notify Customer at least twenty(20) business days prior to the Activation Date that Provider is ready to begin testing the Services. Acceptance testing shall be conducted in accordance with industry standards (the "Acceptance Criteria"). Customer shall have fifteen (15) business days to challenge the testing results supplied by Provider (the "Acceptance Period"). If Customer determines during the Acceptance Period that the Services do not comply with the Acceptance Criteria and/or the specifications set forth in Exhibit B, Customer shall notify Provider within the Acceptance Period. If Customer fails to notify Provider within the Acceptance Period that the Services do not comply with the Acceptance Criteria and/or the specifications set forth in Exhibit B, then Customer shall be deemed to have accepted such Services and billing shall commence thirty days following the Activation Date. In the event Customer timely gives notice that any Services do not comply with the Acceptance Criteria and/or the specifications set forth in Exhibit B, Provider shall use commercially reasonable efforts to correct the deficiencies within ten (10) business days, or as soon as reasonable possible thereafter, and shall provide Customer with another notice that such Services are available for re-testing, and the parties shall repeat the acceptance procedure described above. If Customer chooses to forego acceptance testing and the Service is deemed accepted (as described above), any testing that is required by the Customer at a later date shall be coordinated with Provider during regular business hours.

SECTION 5 EQUIPMENT AND INTERCONNECTION

5.1 Interface; Demarcation Point. Provider will provide dedicated transparent layer 2 Ethernet lit managed Fiber based Services to the Demarcation Point for each End User. The Demarcation Point shall be mutually agreed upon by the Parties. If necessary, Customer agrees to provide reasonable space, HVAC and power to Provider to allow Provider to interconnect with Customer's and End Users' facilities. Customer shall pay its cost of interfacing to Provider's Demarcation Point. Equipment and Services on Customer's side of the Demarcation Point are the responsibility of Customer and/or its End Users, and equipment and Services on Provider's side of the Demarcation Point are the responsibility of Provider. Unless otherwise specified, Customer shall provide, at its sole cost and expense, any and all electronic equipment

and other facilities necessary for its use of the Service after delivery of the Service at the Demarcation Point (the “Additional Equipment”). Unless otherwise agreed in writing, Provider shall have no obligations with respect to the provision, installation or maintenance of the Additional Equipment. As part of the lit managed Services provided by Provider, Provider shall make available, free of charge, to Customer and the End Users, knowledgeable personnel for advice and input regarding the required technical specifications for any Additional Equipment and any other related logistical, technical and operational support required by the Customer.

5.2 Ownership and Control of Facilities. The equipment, facilities and Fiber used by Provider to provide the Services shall at all times remain the sole and exclusive property of Provider and/or the third parties from which such equipment and facilities are or may be leased by Provider, and, except for the rights of Customer set forth herein to receive and use the Services, Provider and such third parties shall retain all right, title, and interest in and to such facilities and Fiber. Provider shall have the right to substitute, change or rearrange any equipment, facility or Fiber used by Provider in providing the Services from time to time, but shall not thereby alter the technical parameters of the Services. Provider shall have the sole obligation to secure and maintain any and all real property rights and permits necessary for the facilities by which the Services are provided to occupy public and private rights of way and easements where such facilities are located. Provider’s obligation shall not be limited to procurement and maintenance of right of way permits, but also to obtaining and maintaining the consent of any underlying land owner, if any and where necessary, for both the occupancy by the facilities of the rights of way and/or easements and for the use of the Services by Customer pursuant to this Agreement. Customer agrees to provide reasonable assistance when requested. Provider possesses, and shall have a duty to procure and maintain, any and all intellectual property licenses or other rights necessary for Provider to deliver the Services in accordance with this Agreement. Provider agrees to indemnify Customer against claims of third parties that the Services or Customer’s proper use of the Services infringes any United States patent, trademark, copyright, trade secret or other intellectual property right; provided, however, that Provider shall not be obligated to indemnify Customer for any claim arising out of or relating to: (a) Customer's failure to install, use operate or maintain any Service or equipment in accordance with instructions and parameters provided by Provider, (b) operate or maintain any Service or equipment in accordance with instructions and parameters provided by Provider, (c) the combination or integration of any Services or equipment supplied by Provider with any hardware, materials, software or technology not provided by Provider, (d) Provider's configuration of Services or equipment to Customer's specifications, (e) any tampering with or misuse of any Services or equipment supplied by Provider by anyone other than Provider or its authorized subcontractors or representatives, or (f) the content of Customer’s communications. If any Services or equipment supplied by Provider is found to constitute infringement and/or its proper use is enjoined, Customer's sole remedy will be that Provider shall, at its own expense, subject to one of the following provisions: (a) obtain for Customer a license for Customer to continue using the Services or equipment in accordance with this Agreement, (b) modify or replace the Services or supplied equipment so that they become non-infringing but with substantially the same functionality, (c) replace the same with equal but non-infringing Services or equipment (as applicable), or (d) notify and require Customer to discontinue the alleged infringing activity and provide Customer with an equitable refund of the fees paid to Provider with respect to the applicable infringing Services or equipment.

SECTION 6 PERFORMANCE STANDARDS; CREDITS FOR SERVICE INTERRUPTIONS

6.1 Performance Standards. Provider shall provide and maintain the Services during the Term in compliance with the specifications set forth in Exhibit B and any applicable current industry standards, including but not limited to: Telcordia Technologies CR499 CORE - Transport Systems Generic Requirements (TSGR): Common Requirements, GR418 CORE – Generic Reliability Assurance Requirements for Fiber Optic Transport Systems.

6.2 Credit for Service Interruptions for On-Net Services. In the event that Provider is unable to resolve a Service Interruption and restore Service, Provider shall provide a Service credit to Customer in the amount determined in Tables 6.2.1 and 6.2.2 below. A Service Interruption begins when Provider receives notice from Customer, or when Provider has actual knowledge of the failure, whichever occurs first, and the Service Interruption ends when the affected Service complies fully with specifications set forth in Exhibit B. In the event Customer is entitled to receive a Service credit for a Service Interruption, Provider shall automatically credit Customer for such Service credit in each instance within the next monthly billing cycle.

Table 6.2.1 Outage Credits	
Service Interruption to 1 or more End Users	
Length of Outage	Amount of Credit
0 – 15 minutes	0
15 minutes – 2 hours	1/2 day
2 hours – 4 hours	1 day
4 hours – 8 hours	3 days
8 hours – 24 hours	5 days
24 hours or more	50% credit of recurring monthly charge
Table 6.2.2 Outage Credits	
Service Interruption impacting all Fiber	
Length of Outage	Amount of Credit (% of recurring monthly charge)
0 – 4 hours	10%
4 hours – 8 hours	20%
8 hours – 24 hours	30%
24 hours or more	50%

6.3 Chronic Trouble. With respect to any Chronic Trouble on a Service, Customer shall have the right to disconnect the affected End User without liability upon written notice to Provider within forty-five (45) days after the end of the thirty (30) day period during which the Chronic Trouble occurred. Customer’s right to terminate the affected End User shall entitle Customer to a proportionate reduction (1/26) in the recurring monthly charge for Service.

6.4 Sole Remedies for Service Interruptions. Customer’s sole remedies for a Service Interruption shall be to receive Service Credits as provided in this Section 6.2 or, in the event of a Chronic Trouble, to terminate the affected Service as provided in Section 6.3 above.

6.5 Limitation of Warranties. THE WARRANTY AND REMEDIES STATED IN SECTIONS 6.1 THROUGH 6.4 ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR CUSTOMER REMEDIES. PROVIDER DISCLAIMS ALL OTHER EXPRESS AND IMPLIED WARRANTIES WITH RESPECT TO THE FIBER AND SERVICE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, AND ANY WARRANTIES OF TITLE OR NON-INFRINGEMENT.

6.6 Trouble Reporting. Customer shall promptly report to Provider any Service Interruption or other failure of the Service (“Trouble Report”), utilizing a Trouble Report Escalation List to be created by Provider and approved by the Customer. Customer should be prepared to give the information identified in the Trouble Report Escalation List in making a Trouble Report.

SECTION 7 DEFAULT

7.1 Default by Customer; Provider Remedies.

a. Defaults. Customer shall be in default under this Agreement upon (a) any failure of Customer to pay any amounts not in dispute pursuant to Section 2.5 on or before the Due Date, if Customer does not cure such breach within ten (10) business days of receipt of written notice thereof; (b) any breach by Customer in the performance and observance of any other material terms, covenants and obligations of Customer as set forth in this Agreement or any Exhibit, if Customer does not cure such breach within thirty (30) days of receipt of written notice thereof; or (c) immediately upon the voluntary filing of a petition in bankruptcy or any insolvency or assignment for the benefit of creditors, appointment of a trustee or receiver with respect to Customer, or the involuntary filing of a petition in bankruptcy of Customer, if such involuntary petition is not dismissed within thirty (30) days.

b. Provider Remedies. In the event of any default hereunder by Customer, Provider shall have no further obligation to provide the Services to Customer notwithstanding any contrary provisions in the Provider’s Franchise Agreement with the City of Gulfport , and Provider may, at the option of Provider, terminate this Agreement and all rights of Customer hereunder to use the Services.

7.2 Default by Provider; Customer Remedies. Customer may terminate this Agreement and/or any Service(s) upon: (a) any breach by Provider of a material provision of this Agreement if Provider does not cure such breach within thirty (30) days after receipt of notice thereof, or (b) immediately upon the voluntary filing of a petition in bankruptcy or any insolvency assignment for the benefit of creditors, appointment of a trustee or receiver with respect to Provider, or the involuntary filing of a petition in bankruptcy of Provider, if such involuntary petition is not dismissed within thirty (30) days. Such termination shall not relieve Customer of its obligation to pay any undisputed charges incurred hereunder prior to such termination. Notwithstanding the foregoing, this Section 7.2 shall not limit the rights of Customer to any other rights or remedies available to Customer at law or at equity before any court, tribunal or governmental authority, including suit for direct and indirect damages arising from Provider’s default or breach hereunder.

SECTION 8 INDEMNIFICATION AND LIMITATION OF LIABILITY

8.1 Indemnification by Provider. Provider shall indemnify, defend and hold harmless Customer from and against any and all claims, costs, expenses, liabilities, losses and damages, including reasonable actual attorneys' fees, arising from a breach by Provider of any of the representations, warranties or covenants set forth herein, whether arising from claims by third parties for bodily injury or death of any person or loss of or damage to real or personal property to the extent that such claim, cost, liability, damage or expense was caused by any negligent act or omission or willful misconduct of Provider or otherwise.

8.2 Indemnification by Customer. Customer shall indemnify, defend and hold harmless Provider from and against any and all claims, costs, expenses, liabilities, losses and damages, including reasonable actual attorneys' fees, arising out of (a) claims by third parties for bodily injury or death of any person or loss of or damage to real or personal property to the extent that such claim, cost, liability, damage or expense was caused by any negligent act or omission or willful misconduct of Customer, or (b) Customer's use of the Services.

8.3 Indemnification Procedures. The party suffering such damages subject to the provisions of Section 8.1 or 8.2 above (the "Indemnified Party") shall give the party from whom the indemnity is sought (the "Indemnifying Party") prompt written notice of any claim, suit or other matter which could give rise to a claim for indemnification under this Section 8. The Indemnifying Party will pay all damages, settlements, expenses and costs (including reasonable actual attorney's fees) incurred by the Indemnified Party in enforcing its rights to indemnification. Subject to the provisions of this Section 8.3, the Indemnifying Party shall retain the right to settle or defend such claim, at its own expense and with its counsel, provided that the Indemnifying Party shall not settle any such claim without the prior written consent of the Indemnified Party. The Indemnified Party agrees to cooperate with the Indemnifying Party in the defense of any claim or proceeding, and the Indemnified Party shall have the right, at its option, to participate in the settlement or defense such claim, with its own counsel at its own expense. The terms of this Section 8 shall survive termination, expiration and cancellation of this Agreement.

8.4 Limitation of Liability. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6, PROVIDER, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS AND EMPLOYEES, SHALL HAVE NO LIABILITY OR RESPONSIBILITY TO CUSTOMER, ITS END USERS OR ANY OTHER PERSON, FIRM OR ENTITY WITH RESPECT TO ANY LIABILITY, LOSS, OR DAMAGE, ARISING OUT OF, RELATING TO, OR CAUSED OR ALLEGED TO BE CAUSED, DIRECTLY OR INDIRECTLY, BY THE OPERATION OR NON-OPERATION OF THE FIBER OR PROVISION OR USE OF THE SERVICE. CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR CUSTOMER'S AND END USERS' SERVICE USE. NO ADVICE OR INFORMATION GIVEN BY PROVIDER'S EMPLOYEES, AGENTS OR CONTRACTORS SHALL CREATE A WARRANTY. EXCEPT AS PROVIDED IN SECTION 8.1 AND 8.2 ABOVE NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST REVENUES OR HARM TO BUSINESS) IN CONNECTION WITH THIS AGREEMENT.

SECTION 9 REGULATORY COMPLIANCE; CHANGE IN LAW

9.1 Compliance with Laws. Each party shall comply, in all respects, with all applicable rules and regulations of any federal, state or local regulatory authority with respect to this Agreement. Provider may monitor the Service and disclose information gained from such monitoring in order to satisfy any law, subpoena, court order or codified regulation from an governmental authority of competent jurisdiction to operate the network and administer Provider's network, or to protect itself or its users. Provider reserves the right to refuse to transmit, post or remove any information or materials, in whole or in part, that are in violation of any federal, state or local regulatory authority or are in violation of this Agreement.

9.2 Regulatory Authorities; Change in Law. In the event Provider is prohibited or restricted in the provision of all or a portion of the Service by law, rule or regulation enacted or adopted during the Term, then Provider shall have the right to suspend and/or terminate the provision of any Service which is in violation of any such law, rule or regulation and the parties shall modify this Agreement and/or affected Service in order to comply with such laws, rules and regulations.

SECTION 10 FORCE MAJEURE

10.1 Events of Force Majeure. Neither party shall be responsible or liable for or deemed in breach of this Agreement because of any delay or failure in the performance of its obligations under this Agreement due to reasonably unforeseeable circumstances beyond the reasonable control of the party experiencing such delay or failure, including, but not limited to, acts of God; natural disasters; war; riots; terrorism; or requirements, actions or failures to act on the part of governmental authorities preventing performance (such causes hereinafter called "Force Majeure").

10.2 Notice; Removal of Force Majeure. The party asserting that an event of Force Majeure has occurred shall provide prompt notice to the other party of the occurrence and the expected duration of the Force Majeure event. The affected party shall use commercially reasonable efforts to avoid or remove the Force Majeure event.

10.3 Termination. If the Force Majeure delay continues for thirty (30) days or more, either party may terminate the affected Services upon written notice to the other party, without penalty or liability for early termination.

SECTION 11 DISPUTE RESOLUTION

11.1 In the event of any claim, controversy or dispute between the parties under this Agreement, the parties shall first use reasonable efforts to resolve such dispute informally, pursuant to the procedures set forth below. The persons directly responsible for the administration of this Agreement (or other representatives as mutually agreed by the parties) shall first attempt to resolve any dispute. If such dispute is not resolved at the contract administration level within five (5) business days, the dispute shall be escalated to the management or officers of the parties having final authority to resolve such dispute. If the management or officers are unable to resolve the dispute within fifteen (15) business days after escalation (or such longer period as mutually agreed in writing by the parties), then the informal

dispute resolution process shall be deemed exhausted and either party may thereafter seek any remedies available to such party under applicable law and pursuant to the terms and conditions of this Agreement (except as expressly limited by this Agreement).

SECTION 12 MISCELLANEOUS

12.1 Non-Waiver. A waiver by either Party of any default or breach by the other Party of the covenants, terms or conditions of this Agreement or the failure or delay of the nonbreaching Party to exercise its remedies hereunder shall not bar the nonbreaching Party from its right to enforce such covenants, terms or conditions relating to the existing breach or to pursue its rights arising out of any subsequent default or breach thereafter by other Party.

12.2 Notices. Except as otherwise provided herein to the contrary, all notices, demands, requests, or other communications which are required to be given, served, or sent by one party to the other pursuant to this Agreement shall be in writing, and shall be personally delivered; mailed, postage pre-paid, by registered or certified mail; or by a reliable overnight courier service with delivery verification, addressed as follows:

If to Provider: **Cable One, Inc.**
 1314 North Third Street
 Phoenix, AZ 85004

If to Customer: **City of Gulfport**
 1410 24th Avenue
 P.O. Box 1780
 Gulfport, MS 39502

Each notice, demand, request, or communication which is mailed or delivered in the manner described above shall be deemed sufficiently given, served, sent or received for all purposes at such time as it is delivered to the addressee first named above for each party (with the return receipt of verification of delivery being deemed conclusive evidence of such notice), or at such time as delivery is refused by addressee upon presentation.

12.3 End Users. Customer's obligation to make all payments for Services required under this Agreement shall not be changed or relieved by virtue of any inability by Customer to collect payments or charges from End Users.

12.4 Assignment. Except as provided below, Customer may not assign this Agreement in whole or in part or Customer's rights or obligations hereunder (including without limitation by transfer of a majority interest of stock or membership interests, merger, or dissolution, which transfer of majority interest of stock or membership interests, merger or dissolution shall be deemed an assignment), to any third party without Provider's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Except as provided below, Provider may not assign its rights, duties and obligations under this Agreement without Customer's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, either party may, without prior consent, assign all but not less than all its rights, duties and obligations under this Agreement to (a) any

Affiliate of such party, (b) any entity with which or into which such party merges, or (c) any entity which purchases substantially all of the assets of such party or the applicable business unit or division thereof, and such party shall be relieved of further obligations and liabilities under this Agreement arising from and after the date of such assignment, provided that the assignee assumes such obligations and liabilities arising from and after the date of such assignment.

12.5 Governing Law. This Agreement shall be subject to and construed in accordance with the laws of the State of Mississippi, without regard to its choice of law provisions, and shall be subject to state and federal laws and regulations as such laws and regulations may be in effect from time to time.

12.6 Severability. If any provision or any part of any provision of this Agreement is or becomes invalid or unenforceable under applicable law, such provision or part shall be ineffective to the extent of such invalidity or unenforceability only, without affecting in any way the remaining parts of such provision or the remaining provisions of this Agreement.

12.7 Entire Agreement. This Agreement is the entire agreement between the parties and it supersedes all prior agreements and understanding between the parties with respect to the subject matter hereof. This Agreement and the Exhibits attached hereto may be modified only by a written agreement signed by duly authorized persons for each party.

12.8 Independent Contractor. Provider is an independent contractor under this Agreement with Customer. Neither party is the agent or legal representative of the other party by virtue of this Agreement. This Agreement does not create a license, partnership or joint venture, express or implied, between the parties.

12.9 Non-Exclusivity. This Agreement is non-exclusive. Nothing in this Agreement shall prevent Customer or Provider from entering into similar arrangements with, or otherwise providing services to, any other person or entity.

12.10 Survival. The parties' rights and obligations that by their terms and/or nature would extend beyond the termination, cancellation or expiration of this Agreement shall survive such termination, cancellation or expiration.

12.11 Interpretation. No rule of construction requiring interpretation against the drafter of this Agreement shall apply in the interpretation hereof. The titles and headings contained herein are for the convenience of the parties only and shall not affect the interpretation of this Agreement.

12.12 Exhibits, Schedules and Appendices. The following Exhibits, Schedules and Appendices are attached hereto and made a part of this Agreement:

- Exhibit A - End User List
- Exhibit B - Service Level Requirements

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed for and on its behalf as of the day, month and year first above written.

CITY OF GULFPORT, MS

CABLE ONE, INC.

By: _____

By: _____

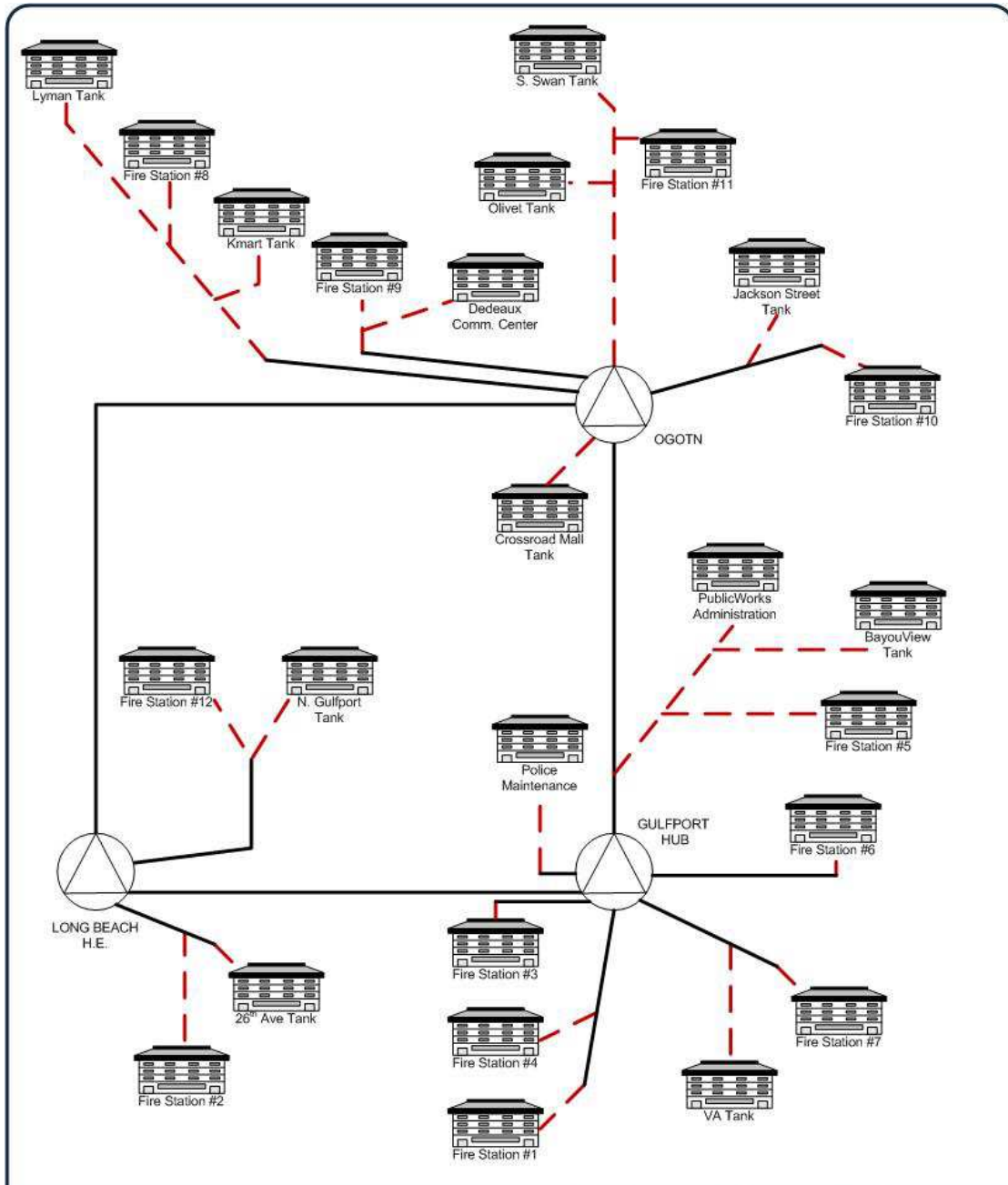
Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A INSTITUTIONAL NETWORK USER SITES



TITLE: City of Gulfport	USERNAME: TBD	DATE: 11/15/2011
	CID: TBD	ORDER: TBD
DESCRIPTION: 25 location one gigabit WAN for the city of Gulfport, MS.		WIRE YOUR BUSINESS FOR SUCCESS™

	Building/Description	Full Address
1	Fire Station 1	1515 23 rd Ave.
2	Fire Station 2	1200 42 nd Ave.
3	Fire Station 3	2324 25 th St.
4	Fire Station 4	1038 East Railroad St.
5	Fire Station 5	641 41 st St.
6	Fire Station 6	1000 East Pass Rd.
7	Fire Station 7	200 Cowan Rd.
8	Fire Station 9	15239 Dedeaux Rd.
9	Fire Station 10	12001 Dedeaux Rd.
10	Dedeaux Community Center	14416 Dedeaux Rd.
11	Public Works Admin.	4050 Hewes Ave.
12	Police Maintenance	3720 8th Ave
13		
13	26th Ave Tank	1801 26th Avenue
14	CrossRoad Mall Tank	15256 Crossroad Parkway
15	Bayou View Tank	49 51st Street
16	Jackson St Tank	At Intersection of Jackson St
17	VA Tank	200 East Beach Blvd
18	North Gulfport Tank	8273 Arkansas Avenue
19	Fire Station 12	15550 MLK Blvd.
20	Olivet Tank	400 Olivet Road
21	Fire Station 11	13000 Three Rivers Rd.
22	S. Swan Tank	15230 S. Swan Road
23	Kmart Tank	15530 Oak Lane
24	Fire Station 8	13440 Old Hwy 49
25	Lyman Tank	14140 Old Hwy 49

11G Quad Port Pluggable Anyrate (4 client)	\$11,000.00	3	\$33,000.00
XFP DWDM Tunable CT (50GHz 10G XFP)	\$3,960.00	6	\$23,760.00
XFP 10BASE-SR (B&W 10G-BASE-SR DDM (850nm))	\$295.00	6	\$1,770.00
High Power High Gain DWDM Amplifier	\$6,834.87	2	\$13,669.74
ED PSS 4 Shelf Kit (E4SHF, E4EC, E4FAN) Hardened	\$3,789.00	1	\$3,789.00
CO Shelf NAR Installation Kit (EIA/ANSI)	\$200.00	1	\$200.00
Equipment Controller (16GB)	\$2,103.00	2	\$4,206.00
Static Filter DWDM 5 Channel (E Variant)	\$3,200.00	6	\$19,200.00
24 Port Gigabit Ethernet L3 fixed chassis in a 1U form-factor	\$2,967.75	4	\$11,871.00
Modular 126W AC backup power supply. Provides backup power to one non-PoE switch.	\$222.75	4	\$891.00
Fast Ethernet chassis with Metro software in a 1U by half rack form factor with internal AC power supply.	\$520.00	25	\$13,000.00
SFP 1000Base-BX, SM Single Fiber LC, TX: 1310nm, RX: 1490nm. 0-22km, with Digital Diagnostics.	\$95.00	25	\$2,375.00
SFP 1000Base-BX, SM Single Fiber LC, TX: 1490nm, RX: 1310nm. 0-22km, with Digital Diagnostics.	\$195.00	25	\$4,875.00
10GBASE-SR SFP+	\$375.00	8	\$3,000.00
SFP 1000Base-SX GigE, MM, 850nm, 0-550m, with Digital Diagnostics.	\$45.00	25	\$1,125.00
Optical patch cables	\$20.00	52	\$1,040.00
19" X 12" x 3" wall mount Cabinet 2 door locking	\$378.70	25	\$9,467.50
SUBTOTAL			\$147,239.24
TAX & FREIGHT @ 12%			\$17,668.71
TOTAL			\$164,907.95

EXHIBIT B
SERVICES LEVEL REQUIREMENTS

SECTION 1 SERVICE PERFORMANCE

1.1 Interconnection Specifications. The Service will be delivered at 1000 Mbps interfaces over the Spoke and Hub architecture. The signal characteristics and supported MAC Layers at the Network Interface (NI) will be as specified in the IEEE 802.3-2002 standard. Unless mutually agreed upon by Provider and Customer, the Physical NI for Gigabit Services delivered on the core ring will be a duplex FC-PC connector on Provider's Fiber Distribution Panel (FDP).

1.2 Performance Standards

1.3 General. The Service standards apply on a two-way basis between the Service points of demarcation. The Service standards exclude nonperformance due to force majeure or planned interruptions for necessary maintenance purposes. The actual end-to-end availability and performance of Service may be affected by the Customer provided equipment, dependent upon the type and quality of Customer equipment used.

1.4 Bit Error Rate. The bit error rate (BER) is the percentage of bits that have errors relative to the total number of bits received in a transmission. The end-to-end Bit Error Rate standards for the Service are:

Specification	Service
Bit Error Rate	Less Than 1×10^{-10}

1.5 Packet Loss. Performance is noted in terms of packet loss. Packet Loss Ratio is defined as percentage of in-profile Ethernet frames not reliably delivered between Provider points of demarcation over a given measurement interval. The Packet Loss Ratio standards for end-to-end portions of Internet service are:

Specification	Monthly Average
Packet Loss Ratio	No more than 0.10%

1.6 Availability Objective. Availability is a percentage of total time that service is not unavailable, as defined in Section 4.0, when measured over a 30 consecutive day (720 hour) period. The end-to-end availability standards for the Service are 99.99%.

1.7 Inoperability. The Service is considered inoperative when there has been a loss of signal, or a Bit Error Rate greater than or equal to the rate specified in Section 2.2 of this Exhibit for ten or more consecutive seconds.

1.8 Repair and Scheduled Maintenance. Repair efforts will be undertaken upon notification of trouble by internal network surveillance and performance systems or by notification of trouble and release of the Service by the Customer for testing. Customer will be notified a minimum of five (5) business days in advance of any scheduled maintenance. Scheduled maintenance will be performed in a manner that minimizes any system interruption, and will be performed between 12:00 a.m. and 6:00 a.m. local time. Performance and availability standards shall not apply during scheduled maintenance periods.

SECTION 2 OPERATIONS PROCEDURES

2.1 System Operations. The Customer shall operate all equipment and systems interconnected to Provider's Fiber in a manner consistent and compliant with the Technical Standards presented in Exhibit B.

2.2 Trouble Reporting. In the event of a Trouble Report or notice of Service Interruption, the Customer shall contact Provider via the Provider Escalation List. The following information will be exchanged at the time of notification by Provider or in the event of a Trouble Report.

- The name and telephone number of the person who is reporting the trouble event.
- The date and time of the trouble report.
- Provider identification numbers – if applicable.
- Customer identification number – if applicable.
- The specifics relating to the trouble report.

Provider will maintain communication with the Customer throughout the status of the trouble resolution.

In the event higher level communication is desired by the Customer, the following Provider personnel escalation should be followed:

Trouble Report Escalation List for Provider

Level	Provider Title	Name	Normal Working Hours	After Hours
Level 1	Network Operations Center	Support Technician	_____ [Phone number]	_____ [Phone number]
Level 2	Network Operations Center Supervisor	_____	_____ [Phone number]	_____ [Phone number]
Level 3	Manager of Network Support	_____	_____ [Phone number]	_____ [Phone number]
Level 4	Director of Network Services	_____	_____ [Phone number]	_____ [Phone number]
Level 5	President, Consumer and Network Solutions	_____	_____ [Phone number]	_____ [Phone number]

Trouble Report Escalation List for Customer

Level	Title	Name	Normal Working Hours	After Hours
Level 1				
Level 2				
Level 3				

SECTION 3 MANAGED SERVICE STANDARDS

3.1 Responsibilities of the Provider include:

- a. Monitoring the operation of the Fiber based transport backbone in conjunction with Customer and End Users;
- b. Performance and fault monitoring of the Fiber transport backbone and distribution system in accordance with terms and conditions of the Agreement and Exhibit B to the Agreement;

- c. Monitoring of selected parameters and tables to allow for early identification of potential service problems;
- d. Monitoring and analyzing Fiber capacity performance; and
- e. Logging and reporting, as required, of data gathered from above monitoring activities.

3.2 Preventive Maintenance/Service Interruptions – Customer and End Users will be notified at least five (5) business days in advance of any scheduled maintenance that may interrupt service on the Fiber, unless the Customer and End Users agree to waive such time frame. Where possible, such maintenance will be scheduled at times of low usage.

3.3 Demand Maintenance/Service and Repair - Response to all Fiber network problems shall occur at all hours (24 x 365). Specifically, when Provider receives a trouble call or alarm, either by internal monitoring or by Customer or End User personnel, the Provider's Network Operations Center will ensure that appropriate technical support shall respond within ten (10) minutes after receiving a call related to a network problem (under Normal Operating Conditions the initial page to the technician on call for Fiber problems will be within the ten (10) minute time frame). The Provider shall then work continuously until the problem is resolved.

3.4 Network Support - Provider shall provide an appropriate complement of administrative, and field personnel at all times to meet the performance criteria detailed herein.

3.5 Service Call Processing and Tracking - Provider will establish mechanisms and procedures for Customer and all End Users to quickly and easily report problems. All Trouble Reports or service calls will be documented, processed, and completed in an expedient manner.

Documentation will include monthly service call reports, as required, which will include a breakdown of reasons and resolutions as well as call handling efficiency. Notwithstanding the staffing, testing and equipment and response requirements set forth herein, the Provider will provide the in-house and/or contractor staff, spare and back-up equipment, test and maintenance equipment and additional steps necessary to ensure that the Fiber network performs reliably in accordance with all standards detailed herein.

3.6 Proof of Performance - Testing will be conducted on the Fiber two (2) times per year at the same time residential Subscriber cable system testing is performed during the months of January/February and July/August. Several geographically diverse fiber test point locations will be established which are representative of worst-case performance for the network. Testing shall be completed at the mutually agreed upon entry demarcation point at the End User. If the testing will subject the Fiber capacity to Service Interruptions, Provider will work with End Users to schedule the testing so as to minimize its impact upon the End Users. Testing shall be performed to ensure compliance with all the network performance specifications included in this Exhibit and the Agreement. Tests shall be performed using standard test methodologies, as mutually agreed to by the Customer and Provider.

3.7 Power Supply Inspections - All network power supplies and back-up devices will be continuously status monitored and manually inspected at least twice per year, which will include the following checks and tests:

- Full load transfer and runtime test
- Battery condition and maintenance check, including replacement if required

- Status monitoring functional test

3.8 End User Location Performance Testing - All network performance specifications shall be met at each End User location, and the Fiber network shall at all times enable End User communications to be successfully transmitted in accordance with the reliability and availability standards incorporated herein. Provider shall schedule with each End User such testing as required to ensure successful fiber network performance at each End User location.

3.9 Physical Network Characteristics - The physical and electrical configuration of the Fiber will comply with all applicable Federal, State, and Local requirements. Inspections of all cable runs and components will be made by Provider during the Fiber construction process to ensure the integrity of the network and Provider shall keep records thereof.

3.10 Performance Documentation - All tests and checks will be documented and, upon request, filed with the Customer. At the Customer's request, all testing processes may be conducted under the observation of a representative from the Customer.

SECTION 4 SECURITY

The Provider shall at all times make commercially reasonable efforts to protect the security of the Fiber network. For purposes of this paragraph, "to protect security" means to protect those physical elements of the Fiber under the Provider's direct control from unauthorized intrusion, signal theft, tampering, wiretapping or other actions that might: (i) compromise the integrity of or degrade the signals or data carried over the Fiber; or (ii) result in the unauthorized interception and disclosure of information.