6. **PEG SERVICES**

6.1. *PEG Set Aside:*

6.1.1. Franchisee will provide the County with up to eighteen (18) PEG Channels in the aggregate, though Franchisee reserves the right to utilize for its own purposes any portion of such PEG Channels in its own discretion, until such time as the County elects to utilize such PEG Channels for their intended purpose. Except as provided in subsection 6.7.3, each PEG Channel shall be transmitted on the Cable System in standard 6 MHz, unscrambled NTSC format so that every Subscriber can receive and display the PEG signals using the same converters and signal equipment that is used for other Basic Service Channels. Further, each PEG Channel shall be delivered with transmission quality the same as or better than the transmission quality of any other Channel on Basic Cable Service.

6.1.2. The Franchisee shall carry the programming on each of the respective PEG Channels as indicated in Exhibit D. In the future, the Franchisee shall assign the PEG Channels on its channel line up as configured elsewhere within the County to the extent such channel assignments do not interfere with any other channels or fall outside the range of the Franchisee's respective channel lineup. The Franchisee shall not arbitrarily or capriciously change such channel assignments, and the Franchisee shall minimize the number of such changes; provided, however, that the Franchisee may change such channel assignments as it deems appropriate so long as (i) the Franchisee gives the access channel programmer ninety (90) days notice of such change (if commercially practicable) but in no event less than forty-five (45) days, and (ii) the Franchisee provides, free of charge, public announcements of such changes that shall include (A) to the extent Franchisee has advertising availability, advertising such PEG channel changes on advertising inserts on local channels carrying non-satellite programming in prime time at least thirty seconds per day for the time period of thirty (30) to fifteen (15) days prior to such change and two minutes per day for the fourteen (14) days prior to such change, and (B) providing notice of such changes in at least two monthly Subscriber bill inserts prior to such change (if commercially practicable) but in no event less than one monthly Subscriber bill insert; provided, however, that such bill inserts shall not be necessary in the event the Franchisee provides the requisite notice of such changes to all Subscribers in a letter separate from their bill.

6.1.3. *PEG Interconnection*:

6.1.3.1. The County shall work with the Franchisee and any existing cable operator(s) to designate a reasonable and mutually acceptable site for the PEG interconnection (the "PEG Interconnection Site"). Franchisee shall use reasonable efforts to interconnect its Cable System with the existing cable operator(s). Promptly after the Board grants the Franchise, the Franchisee shall initiate interconnection negotiations with the existing cable operator(s). Interconnection may be accomplished by direct cable, microwave link, satellite or other reasonable method of connection. Franchisee shall negotiate in good faith with existing cable operator(s) and agree upon reasonable, mutually convenient, cost-effective, and technically viable interconnection points, methods, terms and conditions. Such interconnection shall preserve the quality of the PEG signals such that the Carrier to Noise Ratio (C/N Ratio) for the PEG channel feeds at the point of interconnection shall be in the range of 45.8 dB to 49.0 dB and the minimum C/N Ratio at the end user shall be equal to or greater than 48.0 dB the majority

of the time and in all cases, shall be no less than 46.0 dB. The Franchisee and the existing cable operator(s) shall negotiate the precise terms and conditions of an interconnection agreement.

6.1.3.2. If any existing cable operator(s) refuses to interconnect, requires unreasonable costs and ongoing expenses to interconnect, or otherwise obstructs interconnection, the County shall use its best efforts to require any such cable operator(s) both to cooperate with the Franchisee and to agree to reasonable terms of interconnection. In the event Franchisee and the cable operator(s) are still unable to reach agreement on terms for an interconnection agreement, the County shall provide for interconnection to the system of the existing cable operator(s) at a County facility mutually agreed upon by the County and Franchisee, and the Franchisee shall bear the costs associated with interconnection at such a PEG Interconnection Site.

6.1.3.3. If an existing cable operator(s) will not agree to reasonable terms and conditions of interconnection in accordance with subsection 6.1.3.1 and if the County is unable to provide for a point of interconnection as in subsection 6.1.3.2, the Franchisee will be under no obligation to carry PEG programming originating on the cable system of the existing cable operator(s) or to interconnect the Cable System.

6.1.4. *Return Feed from PEG Interconnection Site to Franchisee's Headend*:

6.1.4.1. Within twelve (12) months after the Effective Date (unless the Communications Administrator extends this time period for good cause shown), the Franchisee shall provide without charge links between its headend and the PEG Interconnection Site specified in subsection 6.1.3 so that signals can be routed onto an appropriate PEG Channel. Such upstream transmission provided by the Franchisee shall include all equipment necessary for amplification, optical conversion, receiving, transmitting, switching, and headend processing of upstream PEG signals from the PEG Interconnection Site. All such equipment, including but not limited to the fiber electronics at the PEG Interconnection Site, shall be installed, repaired, and maintained in good working order by the Franchisee on the Franchisee's side of the point of interconnection, provided, however, that the Franchisee shall not be responsible for the cost of repairing any damage caused by the owner or operator of the PEG Interconnection Site or its agents or invitees. The Franchisee's obligation with respect to such upstream transmission shall be dependent on the availability to Franchisee, without charge, of required space, electrical power supply, access, and other facilities and cooperation as shall be necessary to allow the Franchisee to fulfill its duties under this Agreement with respect to such upstream transmission. The dedicated Channels may be multiplexed into backbone fiber rings at the Franchisee's video service office nearest the PEG Interconnection Site for return to the headend.

6.1.4.2. Franchisee shall be responsible for ensuring that signals for each PEG Channel are correctly routed from the PEG Interconnection Site onto the correct PEG Channel for distribution to Subscribers.

6.1.4.3. The Franchisee shall transmit the upstream feeds from the PEG Interconnection Site to the headend in such a manner as to comply with FCC

technical standards and with applicable EIA RS-250B performance standards for medium-haul video if the Franchisee deploys an analog technology for transport. The Franchisee may choose to deploy digital technology to transmit the upstream feeds from the PEG Interconnection Site to the headend in such a manner as to comply with applicable ISO/IEC 13818 standard for the Main Level of MPEG 2.

6.1.4.4. The County shall bear any costs associated with any additional PEG origination sites beyond those necessary to fulfill the requirements of this subsection 6.1.4.

6.2. *PEG Grants:*

6.2.1. Franchisee shall provide grants to the County to be used for PEG and institutional network capital expenses as determined by the County (the "PEG Grants"), which shall be paid on a quarterly basis.

6.2.2. The PEG Grants shall in the aggregate total 3% of an amount that shall be computed by subtracting the Franchise fee owing for that quarter from Gross Revenues for that quarter ("Gross Revenues Less Franchise Fees"). The Franchisee shall make such payments no later than thirty (30) days following the end of each calendar quarter. In the event the Franchisee is unable to compute the PEG Grant within the foregoing time frame, the Franchisee may make an estimated PEG Grant based on the payment for the previous quarter. Estimated payments must be trued up within thirty (30) days after the date of the estimated payment.

6.2.3. *Public Access Grant and Higher Education Grants*:

6.2.3.1. The Franchisee shall provide quarterly payments to public access and higher education users, that shall be subtracted from the amount otherwise payable to the County by the Franchisee in accordance with subsection 6.2.2 and Section 7, in amounts in the aggregate totaling 0.96% of Gross Revenues Less Franchise Fees, of which 0.8% shall be provided for public access (the "Public Access Grant") and 0.16% shall be for higher education uses ("Higher Education Grants"). The grants provided herein shall be in partial satisfaction of the amounts otherwise payable to the County in accordance with subsection 6.2.2 and Section 7.

6.2.3.2. The Public Access Grant and the Higher Education Grants shall be paid on a quarterly basis with such payments being made no later than thirty (30) days following the end of each quarter, as follows:

6.2.3.2.1. Paid to George Mason University: 0.08 percent of Gross Revenues Less Franchise Fees;

6.2.3.2.2. Paid to Northern Virginia Community College: 0.08 percent of Gross Revenues Less Franchise Fees;

6.2.3.2.3. Paid as set forth in subsection 6.2.4: 0.8 percent of Gross Revenues Less Franchise Fees.

6.2.4. *Obligation to Public Access Users*:

6.2.4.1. The Franchisee shall have an obligation to provide playback, training, outreach, administrative support and production assistance to public access users, which obligation shall be discharged so long as (A) a valid and binding contract is maintained for the provision of such services with the Fairfax Cable Access Corporation, or (B) a valid and binding contract for the provision of such services is maintained with some other public access management corporation, or (C) at the Board's option, the rights over such public access management are administered by the County pursuant to subsection 6.2.4.3, or (D) any other means, that is mutually acceptable to the Franchisee and the County, that fulfills this obligation.

6.2.4.2. In no event shall any payments made in satisfaction of any obligations under subsection 6.2.4.1 be in excess of 0.8 percent of Gross Revenues Less Franchise Fees as indicated in subsection 6.2.3.2.3.

6.2.4.3. If the Board, in its sole discretion, finds unsatisfactory a contract for access services entered into pursuant to subsection 6.2.4.1, or the performance under such a contract, then the Board shall, in its sole discretion, either undertake such management itself or reassign the Public Access Grant and any assets that the County may acquire from any such public access management corporation, to any third-party manager. Thereafter, the Franchisee's obligations pursuant to subsection 6.2.4 shall be entirely discharged by providing the Public Access Grant, together with any interest the Franchisee may have or obtain in any existing assets of the public access management corporation that were purchased with funds provided by the Public Access Grant, directly to the County.

6.2.5. If the Franchisee and the County disagree at any time as to the amounts due under subsection 6.2.2, the Franchisee shall continue paying the specified grants in the amounts paid in the last undisputed payment during the period of any such dispute, provided, however, that the County shall return any such amounts paid to the County that are later determined to be in excess of the correct amounts.

6.3. To the extent permitted by federal law, the Franchisee shall be allowed to recover from Subscribers the costs of the PEG Grants or any other costs arising from the provision of PEG services and to include such costs as a separately billed line item on each Subscriber's bill. Without limiting the forgoing, if allowed under state and federal laws, Franchisee may externalize, line-item, or otherwise pass-through interconnection costs to Subscribers.

6.4. If the Franchisee makes changes to the Cable System that require improvements to access facilities and equipment, Franchisee shall make any necessary changes to the Franchisee's headend and distribution facilities or equipment within thirty (30) days so that PEG facilities and equipment may be used as intended in this Agreement.

6.5. *Backup Facilities and Equipment*: Subject to subsection 6.1.3 and 6.1.4, the Franchisee shall design, build, and maintain all PEG upstream feeds, interconnection, and distribution facilities so that such feeds function as reliably as Franchisee's Cable System as a

whole within the County, and are no more likely to fail than is Franchisee's Cable System as a whole within the County.

6.6. *Editorial Control*: Except as expressly permitted by federal law, the Franchisee shall not exercise any editorial control over the content of programming on the PEG Channels (except for such programming as the Franchisee may cablecast on such PEG Channels).

6.7. *Use of PEG Channels, Facilities and Equipment*:

6.7.1. The County, or the entity that manages a PEG Channel, may establish and enforce rules and procedures for use of the PEG Channels pursuant to Section 611(d) of the Communications Act, 47 U.S.C. § 531(d). The County shall resolve any disputes among PEG Users regarding allocation of PEG Channels.

6.7.2. The Franchisee will provide downstream transmission of the PEG Channels on its Cable System at no charge to the County or other PEG access programmers.

6.7.3. The County or its licensees, assigns, or agents shall not transmit on the PEG Channels commercial programming or commercial advertisements to the extent that they would constitute competition with the Franchisee for such commercial programming or commercial advertisements, subject to the following:

6.7.3.1. For purposes of this subsection, "Commercial Programming or Commercial Advertisements" shall mean programming or advertisements for which the County receives payment from a third party (a party other than the County or the Franchisee), but shall not include announcements indicating that programming is underwritten by a commercial entity, such as the underwriting announcements typically displayed by the public broadcasting system.

6.7.3.2. For purposes of this subsection 6.7.3, "the County" shall be deemed to include the Fairfax County Public Schools.

6.7.4. *Costs and Payments Not Franchise Fees*: The capital grants and other support provided pursuant to Article 6 and Sections 2.10 and 3.3 do not constitute Franchise fee payments within the meaning of 47 U.S.C. § 542, but may be passed through to Subscribers as a separate line item on their monthly bills pursuant to 47 U.S.C. § 622(c)(2).

6.7.5. If capacity set aside for PEG use pursuant to this Agreement is subdivided or compressed (for example, migrated from analog to digital transmission) resulting in multiple transmission paths, the Franchisee shall provide the County eighteen PEG Channels (the "Additional PEG Channels") in addition to the PEG Channels set aside for the County in Article 6 and Exhibit D. In the event the County desires to provide alternative services to be used in association with PEG programming which the parties agree would benefit the Franchisee's Subscribers and the channels/capacity available to the County through the Channels set aside in subsection 6.1 and the Additional PEG Channels is insufficient to allow such services, the parties agree to discuss, in good faith, alternative solutions that would enable the County to deliver those services.

6.8. *Reserved and Additional PEG Channels:*

6.8.1. The Board may activate any of the Reserved and Additional PEG Channels specified in Section 6.1, subsection 6.7.5, and in Exhibit D. The process for Board consideration shall include, but not be limited to, the following:

6.8.1.1. Any educational or governmental entity that proposes to use a Channel shall submit to the Communications Administrator and the Franchisee its request to activate one of the Reserved or Additional PEG Channels ("PEG Channel Request"). The PEG Channel Request shall include: (i) documentation of community need(s) to be served by the requestor on the requested Channel, including, but not limited to, programming and hours of operation, (ii) documentation demonstrating that the programming content and hours of use cannot be supported by another Channel already in use by the PEG Channel Request applicant or, in the case of higher educational access, by another Channel designated for such use, (iii) documentation that the PEG Channel Request applicant's current PEG Channel(s) carry at least 70 hours per week of Qualified Programming during sixteen (16) consecutive weeks that occur between September 1 and June 30, and (vi) any other information the Communications Administrator deems necessary for the Board's consideration of the PEG Channel Request.

6.8.1.2. The Communications Administrator shall forward to the Board the completed PEG Channel Request and a recommendation for the Board action.

6.8.1.3. Board consideration of the PEG Channel Request shall include a public hearing that provides the opportunity for the Franchisee and other interested parties to address the Board.

6.8.1.4. The Board may direct the Franchisee to activate one of the Reserved or Additional PEG Channels, based on the information provided pursuant to subsection 6.8.1 and the public interest served, by providing written notice of its decision to the Franchisee and the entity originating the PEG Channel Request. The Franchisee shall activate such Reserved or Additional PEG Channel within one hundred eighty (180) days of the County's written notice, unless the County specifies a later date. The Franchisee shall determine the Channel number assignment after consulting with the PEG Channel Request applicant and the County.

6.8.2 The Board may place in reserve, for use by the Franchisee, any of the educational or governmental access Channels to the extent authorized by subsection 6.8.2. The process for Board consideration shall include, but not be limited to, the following:

6.8.2.1. The Franchisee shall submit to the Communications Administrator and the affected channel User its request for the Board to place in reserve, for use by the Franchisee, one of the educational or governmental access Channels (the "Franchisee's Channel Request"). The Franchisee's Channel Request shall include: (i) identification of the affected User and its Channel assignment, (ii) documentation that the User's current Channel provides less than fifteen (15) hours per week of Qualified Programming during sixteen (16) consecutive weeks that occur between September 1 and June 30, and (iii) any other information

the Communications Administrator deems necessary for the Board's consideration of the Franchisee's Channel Request.

6.8.2.2. The Communications Administrator shall forward to the Board the completed Franchisee's Channel Request and a recommendation for Board action.

6.8.2.3. Board consideration of the Franchisee's Channel Request shall include the opportunity for the affected User and other interested parties to address the Board.

6.8.2.4. The Board may direct the affected User to vacate the Channel that is the subject of the Franchisee's Channel Request, based on the information provided pursuant to subsection 6.8.2 and the public interest served, by providing written notice of its decision to the affected User and the Franchisee. The affected User shall vacate the subject Channel within one hundred eighty (180) days of the County's written notice, unless the County specifies a later date. The parties agree that thereafter the Channel subject to such action shall be considered a Reserved Channel.

6.8.3. The Board shall consider each PEG Channel Request or the Franchisee's Channel Request on its own merits and independent of any other such requests made pursuant to Section 6.8.

6.8.4. "Qualified Programming" as used in Section 6.8 generally means programming that:

6.8.4.1. relates to meeting the educational or governmental needs and interests of the County's cable television subscribers, regardless of the producer or point of origin and that;

6.8.4.2. is repeated no more than four times during the sixteen (16) week period; and

6.8.4.3. does not include bulletin board, text-based material that is broadcast and non-interactive.