

ORDINANCE NO. 22-22 AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE RENEWAL OF A CABLE TELEVISION FRANCHISE TO CABLEVISION OF OAKLAND, LLC FOR THE SUPPLYING OF CABLE TELEVISION SERVICES IN THE BOROUGH OF KINNELON, COUNTY OF MORRIS, STATE OF NEW JERSEY

WHEREAS, by Ordinance 7-73, as amended, the Mayor and Council of the Borough of Kinnelon (the "Borough") granted a non-exclusive franchise for cable television services to Micro Cable Communications Corp., d/b/a UA-Columbia Cablevision of New Jersey ("UACC"), for a period of fifteen (15) years; and

WHEREAS, by Ordinance 7-89, as amended, the Mayor and Council of the Borough, granted a non-exclusive consent for the renewal of the cable television franchise to UACC for a period of ten (10) years; and

WHEREAS, on June 25, 1990, the cable operator became United Artists Cable of New Jersey; in 1991 the cable operator became United Artists Cable Company, a TCI Company; in November 1992, the cable operator became TCI of Northern New Jersey; and, as of March 4, 1998, the cable system was transferred to Cablevision of Oakland, Inc. and on December 26, 2001 the cable system was transferred to Cablevision of Oakland, LLC (the "Company"); and

WHEREAS, by Ordinance 8-99, as amended, the Mayor and Council of the Borough granted a non-exclusive consent for the renewal of the Cable Television Franchise to the Company for a period of ten (10) years; and

WHEREAS, by Ordinance 10-11, as amended, the Mayor and Council of the Borough granted a non-exclusive consent for the renewal of the Cable Television Franchise to the Company for a period of ten (10) years; and

WHEREAS, the Company has filed with the Borough of Kinnelon an Application for Municipal Consent for the renewal of the non-exclusive cable television franchise in accordance with the law; and

WHEREAS, on July 12, 2022 a public hearing concerning the renewal of the franchise for

the placement, operation and maintenance of a cable television system was duly held, after proper public notice, pursuant to the terms and conditions of the Cable Communications Policy Act of 1984 and its amendments (47 U.S.C. 521, et seq.), the New Jersey Cable Television Act (N.J.S.A. 48:5A-1, et seq.) and administrative regulations promulgated thereunder (N.J.A.C. 14:17-1.1, et seq.), and other applicable law; and all comments and presentations regarding the qualifications of the Company for renewal of the franchise having been received and considered; and

WHEREAS, the Borough, by its governing body, hereby makes and finds the following determinations with respect to the Application for Municipal Consent (the "Application") of the Company:

- a. The Company has substantially complied with the material terms of the existing franchise and applicable law;
- b. The quality of the Company's service has been reasonable in light of community needs;
- c. The Company possesses the financial, legal, and technical ability to provide the services, facilities and equipment set forth in its Application and proposal, the terms of which are incorporated herein;
- d. The Company's Application and proposal is reasonable to meet the future cable-related community needs and interest, taking into account the cost of meeting such needs and interests.

WHEREAS, the Borough desires to grant the renewal of the franchise for cable television services to the Company under the terms and conditions as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

SECTION 1. GRANT OF NON-EXCLUSIVE FRANCHISE. The Borough hereby grants to the Company its non-exclusive consent to place in, upon, along, across, above, over and under the highways, streets, alleys, sidewalks, public ways, and public places in the Borough poles, wires,

cables, and fixtures necessary for the maintenance and operation in the Borough of a cable television system or other communications facilities and for the provision of any communication service over such facilities. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

SECTION 2. DEFINITIONS. For the purposes of the Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions given by the Federal Communications Commission, F.C.C. Rules and Regulations 47 C.F.R. Subsection 76.1 et seq.; the Cable Communications Policy Act of 1984, 47 U.S.C. 521 et seq., as amended; and the Cable Television Act, N.J.S.A. 48:5A-1 et seq. and shall in no way be construed to broaden, alter or conflict with federal or state definitions:

- a. "Borough" shall mean the Borough of Kinnelon, County of Morris, State of New Jersey.
- b. "Company" shall mean Cablevision of Oakland, LLC, the grantee of rights under this Ordinance.
- c. "State" shall mean the State of New Jersey.
- d. "Act" or "Cable Television Act" shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and subsequent amendment thereto.
- e. "Federal Act" shall mean the federal statute relating to cable communications known as the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., and the Telecommunications Act of 1996, and subsequent amendments thereto.
- f. "FCC" shall mean the Federal Communications Commission.
- g. "Board" shall mean the Board of Public Utilities of the State of New Jersey or its

successor agency.

h. "Office of Cable Television" shall mean the Board of Public Utilities of the State of New Jersey, Office of Cable Television.

i. "Application" shall mean the Application for Renewal of Municipal Consent submitted by the Company to the Borough, dated April 15, 2022, which application is on file in the Borough's office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.

j. "Standard Installation" shall mean the installation of drop cable to a customer's premises where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.

k. "Federal Regulations" shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 et seq., and subsequent amendments thereto.

l. "State Regulations" shall mean those state regulations relating to cable television, N.J.A.C. 14:17-1.1 et seq. and 14:18-1 et seq., and subsequent amendments thereto.

SECTION 3. STATEMENT OF FINDINGS. On July 12, 2022, a public hearing concerning the consent herein granted to the Company was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the Borough having received all comments regarding the qualifications of the Company to receive this consent, the Borough hereby finds the Company possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE. The consent herein granted shall be non-exclusive and shall be for a term of fifteen (15) years from the date of issuance of a Certificate of

Approval by the Board.

SECTION 5. EXPIRATION AND SUBSEQUENT RENEWAL. If the Company seeks a successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and Certificate of Approval in accordance with N.J.S.A. 48:5A-16, and applicable State and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Borough and the Company shall be bound by the terms of this municipal consent until such time as the Company converts the municipal consent (and any Certificate of Approval) into a system-wide franchise.

SECTION 6. FRANCHISE FEE. Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Borough two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers to its cable television reception service in the Borough or any amount mandated by the Act or otherwise required by law in excess of the fee provided for in this Section, which increase shall become effective ninety (90) days after the month following the modification in the Act or law that requires the increase. In the event a change in the Act or law requires a larger franchise fee to be collected, but does not fix the amount thereof, the Company and the Borough shall negotiate in good faith as to the amount of the franchise fee.

The Company may use electronic funds transfer to make any payments to the Borough required under this Ordinance.

SECTION 7. TERRITORY. The consent granted herein to the Company shall apply to the entirety of the Borough and any property hereafter annexed.

SECTION 8. PROVISION OF SERVICE. The Company shall be required to proffer service along any public right-of-way to any person's residence located in those areas of the franchise territory described herein, in accordance with the proposal for the provision of services as described in the

Application. Any additional extension of the system will be made in accordance with the Company's line extension policy as set forth in the Application. Commercial entities will be proffered service in accordance with the Company's commercial line extension policy as identified in the Application.

SECTION 9. CONSTRUCTION REQUIREMENTS. Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its plant and facilities in the Borough:

(a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces in the natural topography, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.

(b) If at any time during the period of this consent, the Borough shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Borough, shall remove, re-lay and relocate its equipment, at the expense of the Company.

(c) Upon at least 14 days' written notice, the Company shall temporarily move or remove appropriate parts of its facilities to allow for the construction or moving of buildings, use of machinery or in other similar circumstances. The expense of any such temporary removal or relocation shall be borne by the party requesting such action except when requested by the Borough, in which case the Company shall bear the costs.

(d) During the exercise of its rights and privileges under this franchise, the Company, upon notice to the Borough Clerk, emergency situations excepted, shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the

Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

SECTION 10. TECHNICAL AND CUSTOMER SERVICE STANDARDS. The Company shall comply with the technical and customer service standards established for the cable industry under applicable State and federal laws, rules and regulations.

SECTION 11. LOCAL OFFICE. During the term of this franchise, and any renewal thereof, the Company shall maintain a local business office or agent for the purpose of receiving, investigating, and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters as prescribed in N.J.S.A. 48:5A-26(d). Such local business office shall be open in no event less than 9:00 a.m. to 5:00 p.m. Monday through Friday, with the exception of Holidays.

SECTION 12. INSTALLATION OF SERVICES. The Company shall provide installation and service to any subscriber's residence within a reasonable time period under normal operating conditions in accordance with State and federal regulations.

SECTION 13. QUALITY OF SIGNAL. The Company agrees to provide quality signals in accordance with State and federal regulations.

SECTION 14. ALTERATION OF BASIC SERVICE. If required under federal Law, the Company shall not alter its basic service, including rate and channel changes, without prior notice to the Office of Cable Television and the Borough.

SECTION 15. ANNUAL SYSTEM STATUS REPORT. Upon request by the Borough, but no more than one time per year, a Company representative shall attend a Borough Council meeting to discuss any changes, improvements, new procedures or to answer any concerns the Borough may have with the provision of service in the Borough.

SECTION 16. DESIGNATION OF COMPLAINT OFFICER. The Office of Cable

Television is hereby designated as the complaint officer for the Borough pursuant to N.J.S.A. 48:5A-26. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.

SECTION 17. PERFORMANCE BOND. During the term of this franchise, and any renewal thereof, the Company shall obtain and maintain, at its sole cost and expense, a bond to the Borough in the amount of \$25,000.00. Such bond shall be to insure the faithful performance of all obligations of the Company as represented in its Application and herein.

SECTION 18. RATES. The rates of the Company shall be subject to regulation as permitted by State and federal law.

SECTION 19. FREE INSTALLATION AND SERVICE. The Company shall, subject to federal law and FCC rules and orders, provide free of charge, one (1) standard installation and monthly Basic cable television reception service to each of the following for the term of this franchise Ordinance: the Municipal Building, Department of Public Works, Kinnelon Free Public Library, Police Department, all Fire Department buildings, and all public and private accredited schools located within the municipality.

The Company shall, subject to federal law and FCC rules and orders, provide free of charge one (1) standard installation, one (1) cable modem per installation and basic cable modem service to each of the following for the term of this franchise Ordinance: the Municipal Building; the Kinnelon Free Public Library; and all public and private accredited schools located within the municipality.

This offer shall be subject to the terms, conditions and use policies of the Company, as those policies may exist from time to time.

SECTION 20. SENIOR AND DISABLED DISCOUNTS. The Company voluntarily offers a discount for senior citizens meeting the eligibility requirements pursuant to the State's

Pharmaceutical Aid for the Aged and Disabled program.

SECTION 21. INSURANCE. The Company agrees to maintain and keep in full force and effect at its sole expense at all times during the term of this franchise, and any renewal thereof, sufficient liability insurance naming the Borough as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of \$1.5 million combined single limit for bodily injury or death to one person or resulting from any one accident and for property damage resulting from any one accident. The Company shall also provide workers compensation insurance at the State mandated limited. The Company will protect, defend, indemnify, and hold harmless, the Borough from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities arising out of or resulting from the operation, construction or maintenance of the cable system provided that any such claims, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property including the loss of the use resulting therefrom and is caused in whole or in part by any negligent or willful act or omission of the Company.

SECTION 22. EMERGENCY USES AND SERVICES. The Company shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Borough. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the Borough is unable to make full use of the cable television system as contemplated herein. The Borough shall utilize reasonable and appropriate procedures for such emergency uses.

SECTION 23. LEVEL PLAYING FIELD. In the event that the Borough approves or permits a cable system to operate in the Borough on terms more favorable or less burdensome than those contained in this ordinance, then such more favorable or less burdensome terms shall be

applicable to this franchise, pursuant to approval of a petition to amend the Certificate of Approval filed with the Board as provided for under N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7.

SECTION 24. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS.

A. The Company shall continue to make available non-commercial public, educational and governmental ("PEG") access services available to the residents of the Borough as described in the Application for municipal consent. All of the Company's support for PEG access shall be for the exclusive benefit of the Company's subscribers.

B. The Borough agrees that the Company shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Borough is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses said PEG access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Borough's provision of PEG access programming on such channel.

C. The Company shall continue to provide and maintain access return lines at the Kinnelon High School Studio Facility (the "Borough Access Center"), for use by the Borough in the production of non-commercial PEG access programming on the cable system. The Company shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this Ordinance.

D. The mechanism for scheduling use of the Borough's Access Center shall be established by the Kinnelon Board of Education with the advice and consent of the Borough. The policy and rules and regulations with regard to the operation of the Borough's Access Center and programming availability guidelines, including by way of example and not limitation, scope of announcements,

program schedule, use of facilities by various groups and organizations, advocacy of legislative, budgetary or other issues, equal time and fairness doctrines shall be established solely by the Borough. Such guidelines and policy shall be strictly applied to the operation of the Borough's Access Center by the Kinnelon Board of Education. All programming produced at the Borough's Access Center shall be of a non-commercial nature. Users of the Borough's Access Center shall comply with the Company's ("PEG") Guidelines to the extent applicable.

E. In consideration for the rights granted in this Ordinance, the Company shall provide the Borough with a PEG grant in the amount of Thirteen Thousand Dollars (\$13,000.00). The Company shall provide an initial grant payment of Four Thousand Dollars (\$4,000.00) within ninety (90) days of the issuance of the Certificate of Approval by the Board. The remaining grant of Nine Thousand Dollars (\$9,000.00) shall be provided in annual installments of One Thousand Dollars (\$1,000.00) upon written request by the Borough and shall be paid within ninety (90) days from receipt of the Borough's written request.

F. The Borough agrees that all grant amounts paid pursuant to this Section shall be used for by the Borough for any cable and/or other telecommunications related purpose and/or for the exclusive support of PEG access programming such as the purchase and/or rental of PEG access equipment and facilities. On request, the Borough shall provide Cablevision with a certificate of compliance with this Section 21(f).

G. The Company shall have no further obligation to provide any PEG grant payments due and payable after the date upon which the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1.

SECTION 25. REQUEST FOR NON-FRANCHISED COMPETITIVE RELIEF. In the event that a non-franchised multi-channel video programmer provides service to residents of the

Borough that creates a significant competitive disadvantage to the Company, the Company shall have the right to request amendments to this franchise Ordinance and any Certificates of Approval that relieve the Company of regulatory burdens that create the unfair competitive disadvantage. In requesting amendments, the Company shall file with the Board a petition for approval seeking to amend this franchise Ordinance. Such petition shall: i) indicate the presence of a non-franchised competitor(s), ii) identify the basis for the Company's belief that certain provisions of the Certificate of Approval place the Company at a competitive disadvantage, and iii) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage.

Should the Company seek such amendments, the parties agree to negotiate in good faith as to appropriate changes to this franchise Ordinance and, if the parties can reach an agreement on such terms, the Borough agrees to support the Company's petition to the Board to amend this franchise Ordinance pursuant to N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7. If the parties are unable to reach an agreement on the terms on the amendment to this franchise Ordinance, the Borough acknowledges that the Company shall still have the right to petition the Board for an amendment but the Borough shall have no obligation to support that petition or the Company's request for relief from the Board.

SECTION 26. REMOVAL OF FACILITIES. Upon the expiration, termination or revocation of this franchise Ordinance, the Company, at its sole cost and expense and upon the direction of the Borough, shall remove the cables and appurtenant constructed or maintained in connection with the services authorized herein, unless the Company, its affiliated entities or assigns, should, within six (6) months after such expiration, termination or revocation, obtain certification from the FCC to operate an Open Video System, or any other federal or state certification to provide telecommunication services. The Company shall seek approval from the Board prior to dismantling its cable system in the Borough.

SECTION 27. INCORPORATION OF APPLICATION. All of the commitments and statements contained in the Application and any amendment thereto submitted in writing to the Borough by the Company except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application, any amendments thereto and any other relevant writings submitted by the Company are incorporated in this franchise Ordinance by reference and made a part hereof except to the extent they conflict with State or federal law.

SECTION 28. CONFLICTING PROVISIONS. In the event any portion of the Application or this Ordinance is in conflict with the provisions of the Cable Television Act (N.J.S.A. 48:5A-1, et seq.), the Cable Communications Policy Act of 1984 and its amendments (47 U.S.C. 521, et seq.), and/or F.C.C. Rules and Regulations (47 C.F.R. Section 76.1, et seq.), as amended, such portion shall not be construed as effective and shall be severable. The remainder of the Application and/or this Ordinance not so affected shall remain in full force and effect.

SECTION 29. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or State agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 30. INCONSISTENT ORDINANCES. Ordinances, resolutions, and regulations or parts of ordinances, resolutions, and regulations inconsistent herewith, are hereby repealed to the extent of such inconsistency.

SECTION 31. NOTICE. Notices required under this Ordinance shall in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change in writing at least thirty (30) days prior to the time such change becomes effective.

Notices to the Company shall be mailed to:

Altice USA
1 Court Square West, 49th Floor
Long island City, NY 11101
Attention: Senior Vice President for Government Affairs

With a copy to:

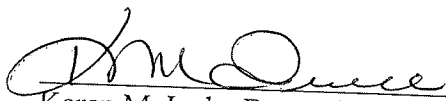
Cablevision of Oakland, LLC
c/o Altice USA
1 Court Square West
Long island City, NY 11101 Attention: Legal Department

Notices to the Borough shall be mailed to:

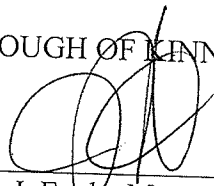
Borough of Kinnelon
130 Kinnelon Road
Kinnelon, NJ 07405
Attention: Borough Clerk

SECTION 32. EFFECTIVE DATE. This Ordinance shall take effect upon passage and publication according to law and the Company's written acceptance thereof within ten (10) days. If the Company does not accept the terms and conditions hereof, then the actions of the Borough and Company shall be governed by and subject to the provisions of the Act, the regulations related thereto and the actions of the Board and Office of Cable Television.

ATTEST:



Karen M. Iuele, Borough Clerk

BOROUGH OF KINNELON


James J. Freda, Mayor