

RIGHT OF ENTRY AGREEMENT

JUL 1 0 1992

TCI CABLEVISION OF UTAH, INC.  
4424 SOUTH 700 EAST, SUITE 210  
MURRAY, UTAH

981591 BK 1512 PG 927  
CAROL DEAN PAGE, DAVIS CNTY RECORDER  
1992 JUL 10 9:00 AM FEE 13.00 DEP MB  
REC'D FOR T C I

ATTN: Commercial Accounts

PROPERTY OWNER

PROPERTY NE 7-4N-1W  
10-028-0039

Name: FOX CREEK ASSOCIATES

Complex Name: FOX CREEK APARTMENTS

Address: 1700 NORTH 400 WEST

Address: 1700 NORTH 400 WEST

City, State, Zip: LAYTON, UTAH 84041

City, State, Zip: LAYTON, UTAH 84041

Contact Person: CAROLE CLARKE

Contact Person: CAROLE CLARK

Telephone: 801 776 6707

Telephone: 801 776 6707

This Right of Entry Agreement ("Agreement") is entered into this 5 day of OCTOBER, 19 89, by and between TCI CABLEVISION OF UTAH, INC. ("COMPANY"), and FOX CREEK ASSOCIATES ("OWNER"), whose principal place of business is at 1700 NORTH 400 WEST.

In consideration of the mutual covenants, benefits and promises set out herein, the parties mutually agree as follows:

1. OWNER hereby grants to COMPANY exclusive rights to construct, install, own, operate, maintain, repair, disconnect, replace and remove the equipment necessary to provide cable television service ("SYSTEM"), in, on, over and across the property and within the building(s) consisting of 187 units located at 1700 NORTH 400 WEST in the city of LAYTON, and the county of DAVIS, in the state of Utah (the "PROPERTY").
2. Subject to the availability thereof, and subject to any limitations in the Company's agreements with applicable programmers or program suppliers, and the terms hereof, Company agrees to provide the same cable television signals which the Company is generally providing other subscribers within its Franchise area. Programming and other services contained on basic cable television service are subject to change. Company may from time to time rearrange, delete from or otherwise offer programming contained on its basic cable television service.
3. OWNER shall provide, without charge to the COMPANY, adequate space and electricity, and right of access for the construction, installation, operations, maintenance and repair of the SYSTEM, and for marketing, disconnecting and maintaining its service to residents of the PROPERTY, including, if necessary, a key to any locked room or door that contains the COMPANY'S SYSTEM.

13.00  
TCI

4. COMPANY shall construct, install, own and maintain the SYSTEM in the building(s) described above, in accordance with all applicable regulations and codes. All parts of the SYSTEM on the PROPERTY, regardless of whether installed within or outside of building(s) and whether installed overhead, above, or underground, shall remain the personal property of COMPANY, and shall not be considered a fixture to the real estate or fixtures of the building(s) located thereon, nor shall any part of the SYSTEM be used at any time by or for the benefit of any party other than the COMPANY.

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5. COMPANY agrees to indemnify OWNER for any damage to the Property caused by COMPANY, arising from or relating to the construction, installation, operation or removal of such facilities by COMPANY. COMPANY agrees to maintain public liability insurance covering its activities on the property, in amounts of not less than \$500,000 for injury to any one person, \$500.00 aggregate for any single occurrence, and at least \$500,000 for property damage.

6. TYPE OF ACCOUNT. (Check one and have OWNER initial.)

a. ( ) (Initials of OWNER)

OWNER agrees that COMPANY shall have the right to market and contract with individual residents of the PROPERTY for service, who shall be charged and billed individually for connection to the SYSTEM at the COMPANY'S regular and current monthly service rates and connection charges applicable to the service ordered ("Individual Rate Account").

b. (✓) (Initials of OWNER)

OWNER agrees to pay for cable television service provided to all of the units of the PROPERTY by COMPANY, and further agrees to enter into and sign COMPANY'S Bulk Rate Agreement. OWNER shall be responsible for and shall pay a monthly service charge under the conditions, rules and terms specified in the Bulk Rate Agreement ("Bulk Rate Account").

7. By execution of the Agreement OWNER hereby grants COMPANY a Right of Entry and Exclusive Easement in, on, over, across, along and under the PROPERTY for the construction, installation, marketing, disconnecting, maintenance, repair, replacement and removal of all parts of the SYSTEM to serve the PROPERTY and/or adjoining properties.

8. OWNER agrees that resident managers will notify the COMPANY if and when they become aware of any damages to the COMPANY'S SYSTEM, including, but not limited to, lock boxes, cable, vault and converters.

9. It is understood and agreed that COMPANY may abandon its System in place or render the System inoperable, and COMPANY shall not be responsible for the removal thereof if such abandoned System will not interfere with the use and occupancy of the PROPERTY. The System will not be considered to be abandoned unless written notice to that effect is given by COMPANY to OWNER.

10. The term of this Agreement shall be for a period of 15 years, from the date first written above, renewable at the option of the COMPANY for an additional term of 5 years, however, the COMPANY may terminate

this Agreement with thirty (30) days written notice to the OWNER if COMPANY is unable to install or maintain the System because of any governmental law, rule or regulation or due to any other cause beyond the reasonable control of the COMPANY. If OWNER elects, in Section 6.b. above, to subscribe to a Bulk Rate Account for a term to be less than full term of this Agreement, upon expiration of the Bulk Rate Account term, the OWNER may opt to renew the Bulk Rate Agreement ("Bulk Renewal"), or in the absence of such Bulk Renewal, service to the Property shall automatically revert to an Individual Rate Account, as described in Section 6.a. above, for the remainder of the term of this Agreement.

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11. In the event either party fails to comply with any provision of this Agreement ("Default"), which Default shall not have been cured by the Defaulting party within 15 days, after receiving notice specifying such Default from the non-defaulting party, then the non-defaulting party may immediately or any time thereafter terminate this Agreement upon written notice to the Defaulting party.
12. This Agreement supercedes any and all other Right of Entry Agreements between the parties, either oral or in writing, and replaces all other or previous Right of Entry Agreements relating to the subject matter hereof for the PROPERTY, including the Agreement between FOX CREEK and TGI CABLEVISION OF UTAH dated ? and any supplemental amendments thereto.
13. The benefits and obligations of this Agreement shall be considered as a covenant running with the land, and shall inure to the benefits of, and be binding upon, the successors, assignees, heirs and personal representatives of the OWNER and COMPANY. OWNER may not assign this Agreement without prior written notice to the COMPANY and in no event unless the assignee agrees in writing to be bound by the terms of this Agreement.
14. If legal action is necessary to enforce any provision of this Agreement, the prevailing party in such action shall be entitled to recover its costs and expenses of such action, including reasonable attorney's fees as determined pursuant to such action.
15. The undersigned OWNER or authorized agent hereby represents that he/she is the OWNER of the PROPERTY, or the authorized agent of the OWNER, with full authority to bind the OWNER to the terms and conditions of this Agreement.

16. It is understood and agreed that no agency, employment, joint venture or partnership is created between the parties by this Agreement; the Company is not an affiliate of Owner; and that neither party, nor its agents or employees shall be deemed to be an agent of the other; nor shall either party have the right, power or authority to act for the other in any manner to create obligations or debts binding upon the other party.

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OWNER:

COMPANY:

FOX CREEK ASSOCIATES

TCI CABLEVISION OF UTAH, INC.

BY: 

BY: 

Signature

Signature

GEORGE ABEL

BARRY MARSHALL - VP/COO

Print Name

Print Name

Its: REGIONAL MANAGER EMERSON PROP.

Its: \_\_\_\_\_

Title

Title

DATE: 11-30-89

DATE: JAN 26 1990

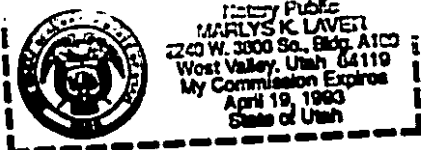
NOTARIZATION OF OWNER/AUTHORIZED AGENT SIGNATURE

EX 981591 BK 1512 PG 931

STATE OF Utah )  
COUNTY OF Salt Lake ) SS

On this 1st day of December, 1989, before me, a Notary Public in and for the State of Utah personally appeared Sharon Abel to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged the he/she signed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Marlys K. Lavett  
Notary Public

My Commission Expires: April 19, 1993

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS

On \_\_\_\_\_, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of the corporation that executed the within instrument, known to me to be the person who executed the within instrument on behalf of the corporation therein named as COMPANY and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



SERIAL# 10:028:0039 ACRES 7.49 ACRES  
TAX NAME 1993: FOX CREEK ASSOCIATES  
PROP. ADDRESS:

PAGE 1.

INFO DATE 07/10/92

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LEGAL DESCRIPTION:

A PT OF THE NE 1/4 OF SEC 17-T4N-R1W, SLM; BEG AT THE SW COR OF MEADOWBROOK HOL  
LOW, PLAT 8, SD PT BEING 709.93 FT S 89°52'30" W 854.04 FT S 0°07'30" E & 656.5  
6 FT S 0°09'12" W FR THE NE COR OF SD SEC 17; RUN TH S 0°09'12" W 70.00 FT; TH S  
89°50'48" E 30.00 FT, TH S 0°09'12" W 360.47 FT; TH N 89°50'48" W 592.47 FT TO  
THE E LN OF 400 W SFR; TH N 0°08'48" E 588.68 FT ALG SD E LN; TH N 89°46'12" E 4  
61.67 FT; TH S 0°09'12" W 161.31 FT; TH S 89°50'48" E 100.88 FT TO THE POB.  
CONT. 7.49 ACRES.