

4/22/24
6/03/24

ORDINANCE NO. M- 4449

AN ORDINANCE relating to cable television, renewing with revised terms and conditions, a nonexclusive and revocable franchise to Comcast Cable Communications Management, LLC, a limited liability corporation organized under the laws of the State of Washington (“Comcast”), pursuant to state and federal law, City Charter and City ordinance codified at Chapter 5.19, Vancouver Municipal Code, to operate, maintain, reconstruct and repair a Cable System for the purpose of providing only cable service, subject to the terms set forth in the Franchise Agreement.

WHEREAS, City Charter Section 2.12, consistent with Article 11, Section 11 of the State Constitution and state law at RCW 35.22.280, RCW 35.22.570 and RCW 35.27.280, and with the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and competition Act of 1992 and any amendments thereto, including those contained in the Telecommunications Act of 1996, (collectively, the “Cable Acts”), authorize the City Council to issue franchises to use the rights-of-way of city streets and highways for the construction and maintenance of cable television lines and other cable television facilities; and

WHEREAS, the Cable Acts at 47 USC §546 identify specific procedures to be followed by local franchising authorities, which in this case is the City of Vancouver, in order to renew a cable television franchise; and

WHEREAS, under Chapter 5.19 of the Vancouver Municipal Code (“V.M.C.”), the City Council has adopted comprehensive and detailed regulations relating to the granting and renewal of cable television franchises and the provision of cable television and related services; and

WHEREAS, the City has granted a series of nonexclusive franchises for cable television services, has approved transfer of such franchises, and has approved the change of control of the franchise-holders, resulting in cable television services being provided to the residents of Vancouver continuously since 1981; and

WHEREAS, on June 3, 2013, by Ordinance M-4053, the most recent such nonexclusive franchise for cable television services was granted to Comcast of Washington V, LLC for the period July 1, 2013, through June 30, 2023; and

WHEREAS, in order to provide additional time to complete the renewal process in an orderly manner, a twelve-month extension of the current cable franchise was granted to Comcast on June 5, 2023, by Ordinance M-4412, not to exceed June 30, 2024; and

WHEREAS, the Vancouver-Clark Telecommunications Commission (“Commission”) is established by Ch. 5.19 V.M.C. to, among other duties, review and make recommendations on all applications for franchises (including renewed franchises) to provide cable television service within the city, and in such connection hold public hearings thereon and to make written reports and recommendations to the City Council; and

WHEREAS, the Commission established a process for franchise renewal negotiations with Comcast which provided for public education as well as ascertainment of the community's future cable-related needs and interests starting in June 2021; and

WHEREAS the Commission established priority issues following extensive public discussion and ascertainment activities as outlined in Commission Resolution 2024-01, attached as EXHIBIT A; and

WHEREAS, CBG Communications, Inc., a telecommunications consulting firm engaged by the City and County, conducted a community ascertainment process and prepared assessment reports at the request of the Commission; and

WHEREAS, City and County staff, working with the guidance of the Commission, negotiated a proposed renewed franchise agreement with Comcast; and

WHEREAS, the Commission received such proposed draft franchise agreement on April 10, 2024; and

WHEREAS, in a public meeting on April 10, 2024, the Commission unanimously adopted Resolution 2024-01, which included Findings and Recommendations regarding a proposed renewed franchise agreement with Comcast; and

WHEREAS, Commission Resolution 2024-01 concludes that the "proposed renewed franchise agreement with Comcast Cable Communications Management, LLC as detailed in the cable franchise draft and side letter agreement, would meet or exceed the criteria established by federal law and would meet or exceed the Commission's identified priorities for a renewed franchise agreement with Comcast.;" and

WHEREAS, the City Council has considered all the testimony and arguments, both oral and written, and the Commission's Findings and Recommendations as contained in Commission

Resolution 2024-01 including study of all the records and the community ascertainment and assessment reports, and has analyzed all of these on the basis of the standards and criteria of federal and state law, and local ordinance, and the City Council has also relied on its own understanding and judgment as to the future cable television-related needs of the city.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Findings. Based upon the detailed and unanimous Findings and Conclusions contained in the report from the Commission dated April 10, 2024, contained in Commission Resolution 2024-01, which findings and conclusions are hereby adopted and incorporated herein as EXHIBIT A by this reference, and upon the testimony and argument presented to Council at public hearing on this Franchise Ordinance, the City Council finds and concludes that the proposed renewed Franchise Agreement with Comcast Cable Communications Management, LLC, a limited liability corporation organized under the laws of the State of Washington (hereinafter “Comcast”), provides for a cable television system that meets or exceeds the future cable-related needs of the Vancouver/Clark County community.

Section 2. Franchise Award. There is hereby granted to Comcast, pursuant to state and federal law, city charter and Chapter 5.19 of the Vancouver Municipal Code, the nonexclusive and revocable authorization to make reasonable and lawful use of the streets of the City of Vancouver to construct, operate, maintain, reconstruct, and repair a cable system for the purpose of providing only Cable Service, subject to the terms and conditions set forth in the Franchise Agreement incorporated herein by reference.

Section 3. Franchise Area. The rights and privileges granted herein shall apply within all of the City of Vancouver as now exists or as it may come to exist as a result of any annexations hereto.

Section 4. Incorporation of Franchise Agreement. The Franchise Agreement agreed to and attached hereto as EXHIBIT B is incorporated herein by this reference as if fully set forth as part of this ordinance. A copy of the Franchise Agreement is and shall be maintained on file in the office of the City Clerk and the City/County Cable Television Office.

Section 5. Cable Television Ordinance. In addition to other applicable ordinances, laws and regulations, this franchise shall be subject to the terms and provisions of Chapter 5.19 of the Vancouver Municipal Code, as amended.

Section 6. Effective Date of Ordinance and Term of Franchise. Subject to the provisions of Section 7 of this ordinance, this ordinance and the franchise awarded hereby shall go into effect July 1, 2024. The term of the franchise awarded hereby shall extend from such effective date for ten (10) years through and including July 1, 2034, unless otherwise terminated or extended as provided by the franchise.

Section 7. Acceptance of Franchise. Pursuant to Ch. 5.19 V.M.C. and the franchise agreement, Comcast shall, within 30 (thirty) days of approval by the City of award of this franchise, file with the Commission its written and sworn unconditional acceptance and promise to comply with all terms of the franchise and shall post with the Commission the security required by the franchise or this ordinance and the franchise granted hereby shall become null and void and any and all rights of Comcast to own or operate a cable system within the city under the franchise shall be terminated.

DATE OF FINAL PASSAGE by the Vancouver City Council: June 3, 2024.

SIGNED this 3rd day of June, 2024.

DocuSigned by:
Anne McEnemy-Ogle
6C89D9089EC5424...
Anne McEnemy-Ogle, Mayor

Attest:

DocuSigned by:
Natasha Ramras
BCE6734E40E94AE...
Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:
Jonathan Young
9A7DC2E31F694A2...
Jonathan Young, City Attorney

EXHIBITS:

Exhibit A - Commission Resolution 2024-01

Exhibit B – Franchise Agreement and Franchise Agreement Exhibit:

SUMMARY

ORDINANCE NO. M-4449

AN ORDINANCE relating to cable television, renewing with revised terms and conditions, a nonexclusive and revocable franchise to Comcast Cable Communications Management, LLC, a limited liability corporation organized under the laws of the State of Washington (“Comcast”), pursuant to state and federal law, City Charter and City ordinance codified at Chapter 5.19, Vancouver Municipal Code, to operate, maintain, reconstruct and repair a Cable System for the purpose of providing only cable service, subject to the terms set forth in the Franchise Agreement.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

Exhibit A

City/County Telecommunications Commission

RESOLUTION 2024 – 01

Regarding Findings and Recommendations to the Vancouver City Council and the Clark County Council Regarding Approval of a Renewed Franchise Agreement with Comcast Cable Communications Management, LLC

Section 1. Findings

- 1.1 The City of Vancouver (“City”), Washington and Clark County (“County”), Washington granted separate, but parallel, non-exclusive ten-year franchises for cable television services to Comcast of Washington V, LLC, for the period July 1, 2013, through July 1, 2023.
- 1.2 In order to provide additional time to complete the renewal process in an orderly manner, a twelve-month extension of the current cable franchise was granted to Comcast of Washington V, LLC, not to exceed June 30, 2024.
- 1.3 The Commission is established by chapter 5.19 Vancouver Municipal Code (“VMC”) and chapter 36 Clark County Code (“CCC”) to, among other duties, review and make recommendations on all applications for franchises (including renewed franchises) to provide cable television service within the City or the unincorporated County, and in such connection to hold public hearings thereon and to make written reports and recommendations to the Vancouver City Council (“City Council”) and the Clark County Council (“County Council”).
- 1.4 Section 626 of the Federal Cable Act of 1984 (“Act”) as amended in 1992 and 1996 (47 USC 546) identifies specific procedures to be followed by local franchising authorities (in this case the City and County) in order to renew a cable franchise.
- 1.5 Factors the franchise authorities may consider in renewing a franchise with an existing cable operator (in this case, Comcast Cable Communications Management, LLC) pursuant to Section 626 of the Act are limited to the following areas:
 - 1.5.1 Whether the current cable operator has substantially complied with material terms of the existing franchise and with applicable law;
 - 1.5.2 The quality of the operator’s service including signal quality, response to consumer complaints and billing practices, and whether the services provided have been reasonable in light of community needs;
 - 1.5.3 Whether the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment proposed in a new agreement; and

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- 1.5.4 Whether the proposed agreement is reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests.
- 1.6 Beginning in 2020 and continuing through this date, the Commission initiated an informal process (under the definition of the Act) that provided for public education as well as ascertainment of the community's needs and interests in preparing for franchise renewal discussions with Comcast.
- 1.7 The public education and community ascertainment process included workshop sessions of the Commission as well as more conventional ascertainment surveys, focus groups and public hearings. Most of the public sessions were televised on CVTV Channel 23, the government access channel. Details of the Commission's public education and ascertainment efforts are outlined in Exhibit 1.
- 1.8 To assist with the community ascertainment process in determining the future cable-related needs and interests of the community, the Commission retained the services of CBG Communications, Inc. ("CBG"). Their report is available as an appendix to this Resolution and their findings and recommendations are hereby incorporated as part of the Commission's Findings and Recommendations.
- 1.9 Based upon the expressed needs and interests of the community, as determined through the ascertainment process outlines above, the Commission identified the following priorities which must be met or exceeded in a renewed franchise agreement with Comcast:
 - 1.9.1 Expand customer service provisions;
 - 1.9.2 Improve density buildout requirements;
 - 1.9.3 Increase number of High-Definition ("HD") simulcast channels for Public, Education and Governmental ("PEG") programming;
 - 1.9.4 Retain or expand the current level of Washington State programming;
 - 1.9.5 Assure adequate funding for PEG capital needs;
 - 1.9.6 Update, modify and clarify certain language in the agreement.
- 1.10 Franchise renewal negotiations proceeded between Comcast and representatives of the City and County. The City/County negotiation team was composed of Jim Demmon, Cable Television Manager of the City/County Cable Television Office; Taylor Hallvik, Assistant City Attorney; and Stephen Archer, Deputy County Prosecutor. Additional support was provided to the negotiation team by Tracie Ramirez, Support Specialist III from the City/County Cable Television Office and Cary Driskell, Assistant City Attorney. Samantha Ridderbusch, Director of Government and Regulatory Affairs, for the Pacific Northwest Region and Tim

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Goodman, Senior Director of Government and Regulatory Affairs, for the Pacific Northwest Region represented Comcast.

1.11 Between October 18, 2023, and November 20, 2023, the City/County negotiation team briefed the Commission, City Council and County Council separately on the progress of negotiations. In addition, separate briefings were provided to representatives of TV ETC, the educational access provider, and public users of Comcast Business Services. The City/County negotiation team received direction and feedback during these sessions.

1.12 Based upon review and deliberations of the community ascertainment process, public testimony, and review of the written and oral record of all proceedings, the Commission evaluates the proposed franchise agreement draft, Exhibit 2, and side letter agreement, Exhibit 3, with Comcast as follows:

1.12.1 Past Performance

Based upon the Commission’s most recent review of Comcast performance as documented in the June 7, 2023 “Progress Report on the Comcast Corporation Vancouver/Clark County Franchise Agreement,” Comcast was, and remains, in compliance with all requirements of the current franchise agreement.

1.12.2 Quality of Service

Records on file with the Commission indicate that fewer than 1% of total subscribers have registered complaints about Comcast service, billing and related customer service issues since Comcast received a renewed cable television franchise in July 2013.

1.12.3 Financial, Technical and Legal Ability

Comcast has the legal ability to operate the cable system in Vancouver/Clark County. The performance guarantees outlined in the proposed renewed agreement demonstrate that Comcast has the financial, technical and legal ability to continue to operate a cable system in Vancouver/Clark County.

1.12.4 Meeting Future Cable-Related Community Needs and Interests

Based upon the community ascertainment process, testimony received during Commission proceedings, and a total review of the record, the Commission finds that the proposed new franchise agreement would meet the Future Cable-Related Needs and Interests of the Community as follows:

- i) Comcast’s commitment to simultaneously carry five of the existing PEG access channels in High-Definition (“HD”) by November 2024;

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- ii) Expansion of customer service provisions within the cable television franchise;
- iii) Preserve PEG channel access to the lowest tier available to subscribers;
- iv) Washington State and local programming identified as broad programming categories to be provided by the operator;
- v) Maintenance and potential increase to capital funding support for education, and government access programming.

1.13 Based upon the foregoing findings, the Commission concludes that the proposed renewed franchise agreement with Comcast Cable Communications Management, LLC as detailed in the cable franchise draft and side letter agreement, would meet or exceed the criteria established by federal law and would meet or exceed the Commission's identified priorities for a renewed franchise agreement with Comcast.

NOW, THEREFORE BE IT RESOLVED:

Section 2.

- 2.1 The City/County Telecommunications Commission adopts the findings and recommendations as presented in Section 1 above, including all attachments, and incorporations by reference regarding a proposed renewed franchise agreement with Comcast Cable Communications Management, LLC.
- 2.2 The Commission unanimously recommends that after all appropriate and required public hearings that the Vancouver City Council and the Clark County Council respectively award Comcast Cable Communications Management, LLC a renewed franchise effective July 1, 2024, through June 30, 2034, by ordinance to be based upon the proposed franchise agreement and these findings.
- 2.3 The Commission is confident of its recommendation; however it realizes that the final decision will be made by the legislative bodies after hearings and realizes that this Resolution will only be one factor in the final decisions of the respective Councils and that they are not bound by the findings and/or conclusions herein, which are advisory only.
- 2.4 The Commission expresses its sincere appreciation to Comcast for listening to and hearing the concerns of the residents of Vancouver/Clark County in preparing to agree to a renewed franchise agreement that is expected to meet the needs and interests of the community over the life of the franchise.

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2.5 The Commission directs staff to immediately forward a copy of this Resolution 2024 – 01 and its attachments to the Vancouver City Council and Clark County Council.

Approved (Date): 04/10/2024 ~~2024~~



Chair, Paul Dicker, City/County Telecommunications Commission

Exhibits:

Exhibit 1 – City of Vancouver/Clark County Cable Television Franchise Renewal Process – Community Ascertainment Public Process, submitted April 10, 2024

Exhibit 2 – Draft of Cable Television Franchise Agreement with Comcast Cable Communications Management, LLC, dated April 10, 2024

Exhibit 3 – Draft of Letter Agreement between Clark County and Comcast

Exhibit 1

**City of Vancouver/Clark County
Cable Television Franchise Renewal Process**

Community Ascertainment Public Process

August 2020 – April 2024

Note: All meetings and work sessions of the City/County Telecommunications Commission have been open to the public and televised LIVE on CTVV Channel 23/323HD.

I. Telecommunications Commission

- A. August 2020 – Comcast sends letter to initiate informal franchise renewal process
- B. September 2020 – City/County acknowledge Comcast’s letter of February to initiate informal renewal process
- C. June 2021 –Regular session discussing cable franchise priority issues, summary of current franchise, legal & regulatory framework, comparison of recently negotiated Comcast national and local franchises, and review of initial timeline
- D. January 2022 – Work session with CBG Communications to review Community Ascertainment Report
- E. October 2023 - Work session to review highlights of negotiated franchise and solicit feedback
- F. March 2024 – Work session to review proposed cable franchise

II. Vancouver City Council & Clark County Council

- A. November 2023 – Separate workshop sessions to review highlights of negotiated franchise and solicit feedback

III. Focus Groups & Surveys

- A. June 2021 – Residential Subscribers/Non-subscriber mail survey conducted with both cable subscribers and non-subscribers (598 responses received)
- B. August 2021 –CBG Communications, Inc. met with the designated educational and government access providers to discuss needs and tour facilities
- C. August 2021 – CBG Communications, Inc. held community and stakeholder focus groups. Included representatives from: WSU Vancouver Creative Media and Digital Culture Program, Clark County Arts Commission, West Hazel Dell Neighborhood Association, East Fork Alliance Neighborhood Association and the Clark County Youth Council

- D. September – November 2021 – Conducted on-line survey of subscribers and non-subscribers (532 people completed the survey)

IV. Negotiation Sessions – City/County Negotiation Team/Comcast

- | | |
|------------------------|-------------------------|
| 1. August 2, 2022 | 33. July 18, 2023 |
| 2. August 16, 2022 | 34. July 26, 2023* |
| 3. September 6, 2022 | 35. August 1, 2023 |
| 4. September 22, 2022* | 36. August 15, 2023 |
| 5. October 4, 2022 | 37. August 29, 2023 |
| 6. October 11, 2022 | 38. September 1, 2023* |
| 7. October 17, 2022* | 39. September 5, 2023 |
| 8. November 1, 2022 | 40. September 14, 2023* |
| 9. December 1, 2022* | 41. September 19, 2023 |
| 10. December 5, 2022* | 42. September 28, 2023* |
| 11. December 6, 2022 | 43. October 3, 2023 |
| 12. January 3, 2023 | 44. October 12, 2023* |
| 13. January 13, 2023* | 45. October 16, 2023* |
| 14. January 17, 2023 | 46. October 17, 2023 |
| 15. February 7, 2023 | 47. November 7, 2023 |
| 16. February 15, 2023* | 48. November 13, 2023 |
| 17. February 21, 2023 | 49. November 21, 2023 |
| 18. March 2, 2023* | 50. November 27, 2023* |
| 19. March 7, 2023 | 51. December 5, 2023 |
| 20. March 14, 2023* | 52. December 15, 2023* |
| 21. March 21, 2023 | 53. December 19, 2023 |
| 22. April 4, 2023 | 54. January 10, 2024* |
| 23. April 17, 2023* | 55. January 16, 2024 |
| 24. April 18, 2023 | 56. January 22, 2024* |
| 25. May 1, 2023* | 57. January 23, 2024 |
| 26. May 2, 2023 | 58. February 6, 2024 |
| 27. May 15, 2023* | 59. February 8, 2024* |
| 28. May 16, 2023 | 60. February 20, 2024* |
| 29. May 24, 2023* | 61. February 22, 2024* |
| 30. June 6, 2023 | 62. March 5, 2024 |
| 31. June 20, 2023 | 63. March 7, 2024* |
| 32. June 29, 2023* | 64. March 26, 2024* |

**City/County Staff only negotiation planning sessions*

V. Community Outreach

- A. Franchise renewal information and updates on Telecommunications Commission page on City’s website (linked to CVTV and County sites)

B. Telecommunications Commission regular meeting updates

1. June 2, 2021
2. September 1, 2021
3. December 1, 2021
4. January 19, 2022
5. March 2, 2022
6. June 1, 2022
7. June 15, 2022
8. December 7, 2022
9. March 1, 2023
10. April 19, 2023
11. June 7, 2023
12. October 18, 2023
13. December 6, 2023
14. March 6, 2024
15. March 20, 2024
16. April 3, 2024

Exhibit B

**CABLE TELEVISION SYSTEM
FRANCHISE RENEWAL AGREEMENT**

Between

CITY OF VANCOUVER, WASHINGTON

and

**COMCAST CABLE COMMUNICATIONS
MANAGEMENT, LLC**

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CABLE TELEVISION SYSTEM FRANCHISE AGREEMENT

This Cable Television System Franchise Agreement ("Agreement") is entered into in Vancouver, Washington, this 1st day of July, 2024, by and between the **CITY OF VANCOUVER** ("Grantor" or "City"), and **COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC** ("Grantee").

WHEREAS, the Grantor is authorized to grant one or more nonexclusive Franchises to construct, operate and maintain a cable television system within the municipal boundaries of the City; and

WHEREAS, the Grantor has considered the financial condition, technical ability and legal qualifications of Grantee; and

WHEREAS, the Grantor, after such consideration, analysis and deliberation as are required by applicable law, has approved and found sufficient the financial, technical and legal qualifications of Grantee to provide cable television service within the City; and

WHEREAS, the Grantee is willing to accept this Agreement subject to such terms and conditions, and to abide by those terms and conditions; and

WHEREAS, the public has had adequate notice and opportunity to comment on Grantee's application to provide cable television service within the City;

NOW, THEREFORE, in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and the adequacy of which is hereby acknowledged, the Grantor and Grantee do hereby agree as follows:

SECTION 1. DEFINITIONS

For the purposes of this Agreement and all exhibits attached hereto, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 "**Access**" means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including Grantor and its designees, of the Cable System to acquire, create, receive, and distribute video, Cable Service, and signals as permitted under applicable law, including, but not limited to:

(A) "**Public Access**" which means Access where organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users;

(B) **“Educational Access”** which means Access where Schools, colleges and universities are the primary users of programming and service;

(C) **“Governmental Access”** which means Access where governmental institutions or their designees are the primary users of programming and service; and

(D) **“PEG Access”** which means Public Access, Educational Access, and Governmental Access, collectively.

1.2 “Access Center” means a facility or facilities where Public, Educational, or Governmental use signals are managed and delivered to the Grantee for Downstream transmission to Subscribers or to other Access Centers via a dedicated connection.

1.3 “Access Channel” means any Channel, or portion thereof, designated for non-commercial Access purposes or otherwise made available to facilitate or transmit Access programming or service.

1.4 “Affiliate” when used in connection with Grantee means any corporation, Person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.5 “Basic Service” means any service tier which includes the retransmission of local television broadcast signals and Public, Educational and Governmental Access Channels or as such service tier may be further defined by federal law.

1.6. “Cable Act” means the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992 and any amendments thereto, including those contained in the Telecommunications Act of 1996, as amended.

1.7 “Cable Operator” means any Person or groups of Persons, including Grantee, who provide Cable Service over a Cable System and directly or through one or more Affiliates own a significant interest in such Cable System or who otherwise control or are responsible for, through any arrangement, the management and operation of such a Cable System.

1.8 “Cable Service” means the one-way transmission of video programming or other programming service to Subscribers, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.9 “Cable System” shall have the meaning set forth in the Cable Act.

1.10 “Telecommunications Commission” means the Telecommunications Commission which advises the City of Vancouver/Clark County on matters pertaining to cable television.

1.11 “Channel” means a time or frequency slot or technical equivalent on the Cable System in a specified format, discretely identified and capable of carrying full motion color video and audio, and may include other non-video subcarriers and digital information.

1.12 “Designated Access Provider” means the entity or entities designated by the Grantor to manage or co-manage Public, Educational or Governmental use Channels and facilities. The Grantor may be a Designated Access Provider.

1.13 “Downstream” means the transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.

1.14 “FCC” means the Federal Communications Commission.

1.15 “Franchise” means the non-exclusive and revocable authorization or renewal thereof for the construction or operation of a Cable System such as is granted by this Agreement, whether such authorization is designated as a Franchise, license, resolution, contract, certificate, agreement or otherwise.

1.16 “Franchise Area” means the area within the jurisdictional boundaries of the City, including any areas annexed by Grantor during the term of this Agreement.

1.17 “Gross Revenues” means all amounts earned by the Grantee and derived from the operation of Grantee's Cable System to provide Cable Services within the Franchise Area in accordance with Generally Accepted Accounting Principles and shall be construed broadly to include, all revenues derived by Grantee or an Affiliated Entity that is the cable operator of the Cable System from the operation of Grantee's Cable System to provide Cable Services within the Franchise Area. Gross revenues include, by way of illustration and not limitation:

- fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including, but not limited to, pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, video-on-demand Cable Services and other video services);
- broadcast retransmission fees;
- regional sports programming fees;
- inside wiring service plans and maintenance charges;
- installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;

- fees paid to Grantee for channels designated for commercial leased access use and shall be allocated on a pro rata basis using total Cable Service subscribers within the Franchise Area;
- converter, remote control, set-top unit, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined herein;
- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Franchise Area;
- revenues from program guides;
- franchise fees;
- Public, Education and Government (“PEG”) Fees;
- FCC Regulatory Fees;
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the Franchise Area; and
- all other revenues derived from the operation of Grantee's Cable System to provide Cable Services within the Franchise Area, regardless of whether initially recorded to an Affiliate.

“Gross Revenues” shall also include any amounts received or earned by any Affiliate of the Grantee in whatever form and from all sources, derived from the operation of the Grantee’s Cable System to provide cable services within the Franchise Area. However, “Gross Revenues” shall not be double counted. Revenues of both Grantee and an Affiliate that represent a transfer of funds between the Grantee and the Affiliate, and that would otherwise constitute “Gross Revenues” of both the Grantee and the Affiliate, shall be counted only once for purposes of determining “Gross Revenues.”

“Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to Comcast EffecTV or their successors associated with sales of advertising on the Cable System within the Franchise Area allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

“Gross Revenues” shall exclude revenues from high speed cable modem service unless it is determined to be a Cable Service under federal law or regulation, programming launch fees, reimbursements by programmers of marketing costs incurred by Grantee for introduction of new programming pursuant to written marketing agreements, 3rd party ad sales commissions, bad debt written off by Grantee in the normal course of business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period collected, and any taxes of general applicability collected from subscribers and paid to a governmental entity.

To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a pro rata basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Franchise Area. Grantor reserves its right to review and to challenge Grantee’s calculations. Late fees will be treated like bundled services as described in this Section.

Grantee reserves the right to change the allocation methodologies set forth in this definition in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Grantee will explain and document the required changes to Grantor as part of the next quarterly franchise fee report, upon request and as part of any audit or review of franchise fee payments, and any such changes shall be subject to the following subsection.

Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles (“GAAP”) as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Notwithstanding the forgoing, Grantor reserves its right to challenge Grantee’s calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.18 “**Headend**” means a facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switches, modulators, processors and all other related equipment and facilities.

1.19 “**High Definition**” (“**HD**”) means, for the purposes of this Franchise, a display format for digital television transmissions of PEG Channels transmitted in a 16:9 aspect ratio with a resolution of 1080p, or the highest resolution used for the delivery of HD signals of local broadcast stations, if lower than 1080p.

1.20 “**Interconnect**” means the provision by Grantee of technical, engineering, physical, and all other necessary components to provide and adequately maintain a physical linking of Grantee's Cable System for PEG Access programming under Section 9.7 of this Franchise with any other designated cable system or any separate communications network so that services of technically adequate quality may be sent to and received from such other cable systems to the extent required by this Franchise.

1.21 “**Leased Access Channel**” means any Channel or portion of a Channel commercially available for programming for a fee or charge by Grantee to members of the general public.

1.22 “**Origination Point**” means a location other than an Access Center, where Public, Educational or Governmental use programming is delivered to the Grantee for Upstream transmission.

1.23 “**Person**” means any individual, natural Person, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.24 “**Programming**” means the process of causing television programs or other patterns of signals in video, voice or data formats to be transmitted on the Cable System, and includes all programs or patterns of signals transmitted or capable of being transmitted, on the Cable System.

1.25 “**Public Right-of-Way**” means the surface of, the space below and above, along, and upon each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under City authority or by others authorized by the City and located within the Franchise Area: streets, roadways, highways, avenues, lanes, alleys, sidewalks, planter areas not including moveable planter boxes, easements, other City rights-of-way and similar areas.

1.26 “**School**” means any accredited educational institution public or private primary and secondary schools.

1.27 “**Standard Definition**” (“**SD**”) means, for the purposes of this Franchise, a display format for digital television transmissions of PEG Channels transmitted in a 4:3 aspect ratio with a resolution of 480p, or the highest resolution used for the delivery of SD signals of local broadcast stations, if lower than 480p.

1.28 “**Subscriber**” means any Person who elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of, or in connection with, the Cable System, and whose premises are physically wired and lawfully activated to receive Cable Service from Grantee's Cable System.

(A) “**Residential Subscriber**” which means any Subscriber who receives Cable Service delivered to single or multiple dwelling units, excluding such multiple dwelling units billed on a

bulk-billing basis. For the purpose of this definition, “dwelling unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is lawfully occupied for residential purposes. Buildings with more than one set of facilities for cooking shall be considered multiple dwelling units unless the additional facilities are clearly accessory.

1.29 “Upstream” means the carrying of a transmission to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) Grantor hereby grants to Grantee a nonexclusive and revocable authorization to make reasonable and lawful use of the Public Rights-of-Way within the Franchise Area to construct, operate, maintain, reconstruct, and repair a Cable System for the purpose of providing only Cable Services, subject to the terms and conditions set forth in this Agreement.

(B) This Agreement is intended to convey limited rights and interests only as to those Public Rights-of-Way in which the Grantor has an actual interest. It is not a warranty of title or interest in any right-of-way; it does not provide the Grantee any interest in any particular location within the right-of-way; and it does not confer rights other than as expressly provided in the grant hereof. This Agreement does not deprive the Grantor of any powers, rights or privileges it now has, or may later acquire in the future, to use, perform work on or to regulate the use of and to control the Grantor's Public Rights-of-Way covered by this Agreement, including without limitation the right to perform work on its roadways, right-of-way or appurtenant drainage facilities, including constructing, altering, paving, widening, grading, or excavating thereof.

(C) This Agreement is subject to the general lawful police power of Grantor affecting matters of municipal concern and not merely existing contractual rights of Grantee. Nothing in this Agreement shall be deemed to waive the requirements of the other codes and ordinances of general applicability enacted, or hereafter enacted, by Grantor.

(D) This Agreement authorizes Grantee to engage in providing Cable Service, as that term is defined in 47 U.S.C. Sec. 522(6), as amended. This Agreement shall not be interpreted to prevent the Grantor from imposing lawful additional conditions, including additional compensation conditions for use of the rights-of-way should Grantee provide service other than Cable Service. However, this Agreement shall not be read as a concession by Grantee that it needs authorization to provide service other than Cable Service.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Agreement, that any Affiliate or joint venture or partner of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the

management or operation of the Cable System in the Franchise Area will also comply with the terms and conditions of this Agreement.

2.2 Use of Public Rights-of-Way

Subject to Grantor's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Public Rights-of-Way, and public easements within the Franchise Area such wires, cables, conductors, ducts, conduits, vaults, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System for the provision of Cable Service within the Franchise Area. Grantee shall comply with all applicable construction codes, laws, ordinances, regulations and procedures, now in effect or enacted hereafter, and must obtain any and all necessary permits from the Public Works Department prior to commencing any construction activities. Grantee, through this Agreement, is granted extensive and valuable rights to operate its Cable System for profit using Grantor's public rights-of-way and public utility easements within the Franchise Area in compliance with all applicable Grantor construction codes and procedures. As trustee for the public, Grantor is entitled to fair compensation to be paid for these valuable rights throughout the term of this Agreement.

2.3 Duration

The term of this Agreement shall be for ten (10) years and all rights, privileges, obligations and restrictions pertaining thereto shall be from the effective date of this Agreement through July 1, 2034, unless extended or terminated sooner as hereinafter provided.

2.4 Effective Date

The effective date of this Agreement shall be July 1, 2024, unless Grantee fails to file an unconditional written acceptance of this Agreement and post the security required hereunder by the date specified by Grantor's approving ordinance, in which event this Agreement shall be null and void, and any and all rights of Grantee to own or operate a Cable System within the Franchise Area under this Agreement are hereby terminated.

2.5 Franchise Nonexclusive

This Agreement shall be nonexclusive, and is subject to all prior rights, interests, agreements, permits, easements or licenses granted by Grantor to any Person to use any public right-of-way, easement, or property for any purpose whatsoever, including the right of Grantor to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. Grantor may at any time grant authorization to use the public rights-of-way for any purpose not incompatible with Grantee's authority under this Agreement and for such additional Franchises for Cable Systems as Grantor deems appropriate, upon such terms and conditions as Grantor deems appropriate.

2.6 Grant of Other Franchises – Competitive Equity

(A) The Grantee acknowledges and agrees that the Grantor may be required by federal law, and reserves the right, to grant one or more additional franchises to provide Cable Service within the Franchise Area. If any additional competitive franchise is granted by the Grantor to provide Cable Service in the Grantee's Franchise Area, and the competitive franchise is for an area where services have been extended by the Grantee and the Grantee believes the competitive franchise contains material terms and conditions that are, taken together, more favorable or less burdensome than the terms or conditions of this Franchise Agreement, then Grantor and Grantee shall negotiate amendments to this Franchise to ensure that the material provisions of such other franchises and this Franchise are, taken together, materially equivalent or to the extent as may be required by law. "Material terms and conditions" include but are not limited to: franchise fees; system build-out requirements, except for the exemptions as described in Section (B) below; performance bonds or similar instruments; public, education and government access channels and PEG capital support; customer service standards; required reports and related record keeping; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity. The parties agree that, notwithstanding any provision of this subsection, the Grantor shall not be obligated to comply with the provisions of this subsection to the extent doing so would cause the Grantor to violate applicable laws or FCC rules. Video Programming services delivered over broadband internet service networks are specifically exempted from the requirements of this Section so long as Grantor does not have lawful authority to regulate the provision of video programming services over such broadband internet service networks within the Franchise Area.

(B) The provisions of subsections (A) and (C) do not apply if the Grantor is ordered or required to issue a Franchise on different terms and conditions or it is legally unable to do so; and the relief is contingent on the new Cable Operator actually commencing provision of service in the market to its first customer. In the event that this agreement is modified pursuant to subsection (A) and the new Cable Operator's franchise is revoked by Grantor within five (5) years from the effective date of this Agreement, then the Grantor, upon one hundred eighty (180) days' notice to the Grantee, may implement this Agreement with its original terms. These subsections (A) and (C) also do not apply to open video systems, nor do they apply to common carrier systems exempted from Franchise requirements pursuant to 47 U.S.C. Section 571; or to systems that serve less than five percent (5%) of the geographic area of the Grantor, if that geographic area is not being provided service by the Grantee at the time an application is made for a franchise by a new Cable Operator.

(C) In the event that a competitive franchise is granted by Grantor and does not meet an exemption as described in Section 2.6(A) and (B) above which contains material terms and conditions that, taken together, are more favorable or less burdensome than the terms of this Franchise, and notice thereof is duly provided by Grantee, the Grantee shall submit to Grantor in writing (1) the basis for Grantee's belief that certain provisions of its Franchise place Grantee at a competitive disadvantage; (2) the provisions of this Franchise that Grantee desires to be

amended; and (3) specific language modifying any such Franchise provisions. Grantor and Grantee shall negotiate in good faith such amendments to the Franchise within one hundred twenty (120) days, unless otherwise agreed to by the parties. If the parties fail to reach agreement in informal negotiations, either party may thereafter initiate mediation and the other agrees to participate in mediation in good faith. Each party shall bear its own cost for mediation. In the event the parties are not able to reach agreement in informal negotiations or mediation, Grantee may exercise its rights under Subsection (D) below.

(D) Grantee's notice to Grantor under this Subsection (C) shall be deemed to be Grantee's renewal notification pursuant to Section 626 of the Cable Act. Grantee may elect at any time prior to the commencement of the Grantee's thirty-six (36) month renewal window provided by 47 USC §546 to file a written notice indicating an election to shorten the term of this Franchise, and thereafter the term of Grantee's Franchise shall, one hundred twenty (120) days from the Grantee's written notice, be shortened so that the Franchise shall be deemed to expire on a date thirty six (36) months from the end of the one hundred twenty (120) days. Grantee shall immediately thereafter secure franchise renewal rights pursuant to Section 626 of the Cable Act with no further notice to the Grantor required. The Grantor and Grantee shall then enter into proceedings consistent with Section 626 for renewal of this Franchise. The Grantor and Grantee shall have all rights and obligations provided under said Section 626 (47 U.S.C. Section 546).

2.7 Police Powers

Grantee's rights hereunder are subject to the lawful police powers of Grantor to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all applicable laws and ordinances enacted, or hereafter enacted, by Grantor or any other legally-constituted governmental unit having lawful jurisdiction over the subject matter hereof.

2.8 Relations to Other Provisions of Law

This Franchise Agreement and all rights and privileges granted under the Franchise are subject to, and the Grantee must exercise all rights in accordance with, applicable law, including the Cable Ordinance, as amended over the Franchise term. However, this Franchise is a contract, subject only to the Grantor's exercise of its police and other powers and applicable law, and any amendments based on changes in federal and state law, made by agreement of Grantee and Grantor in accordance with Section 2.9. This Franchise does not confer rights or immunities upon the Grantee other than as expressly provided herein. In the case of any conflict between the express terms of the Cable Ordinance and this Franchise Agreement, the Franchise Agreement shall govern. Grantee does not waive its right to challenge the lawfulness of a particular enactment, including on the grounds that a particular action is an unconstitutional impairment of contractual rights. The Franchise issued and the Franchise fee paid hereunder are not in lieu of any other required permit, authorization, fee, charge or tax, unless expressly stated herein.

2.9 Change of Law

In the event there is a change in federal or state statute or regulation applicable to the Cable System or to this Agreement, the Grantor or Grantee may notify the other party of its desire to amend this Agreement in order to comply with the change in statute or regulation. The Grantor and Grantee may amend this Agreement to comply with such change in statute or regulation provided such amendment is approved by the Grantor and Grantee. Grantor and Grantee shall work diligently within a one hundred twenty (120) day period after notification to negotiate a mutually agreeable amendment.

2.10 Effect of Acceptance

By accepting the Agreement, the Grantee: (1) acknowledges and accepts the Grantor's legal right to issue and enforce the Agreement; (2) agrees that it will not oppose the Grantor's intervening in any proceeding affecting the Cable System; (3) accepts and agrees to comply with each and every provision of this Agreement; and (4) agrees that the Agreement was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary. Notwithstanding the provisions of Section 5.3, the Grantee shall not be obligated to indemnify Grantor in a proceeding affecting the Cable System in which the Grantor chooses to intervene.

SECTION 3. FRANCHISE FEE AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Agreement and in consideration of permission to use Grantor's Public Rights-of-Way, Grantee shall pay as a Franchise fee to Grantor, throughout the duration of this Agreement, an amount equal to five percent (5%) of Grantee's Gross Revenues derived from the operation of the Cable System to provide Cable Service in the Franchise Area. Accrual of such Franchise fees shall commence as of the effective date of this Agreement. The Franchise fees are in addition to all other fees, assessments, taxes or payments of general applicability that the Grantee may be required to pay under any federal, state or local law. This Agreement and the Franchise fees paid hereunder are not in lieu of any other generally applicable required permit, authorization, fee, charge or tax.

3.2 Payments

Grantee's Franchise fee payments to Grantor shall be computed quarterly. Each quarterly payment shall be due and payable no later than forty-five (45) days after the last day of the preceding quarter.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by Grantor that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim Grantor may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to Grantor, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount.

3.5 Annual Franchise Fee Reports

Upon request, Grantee shall, no later than one-hundred twenty (120) days after the end of the calendar year, furnish to Grantor a certified statement by an officer of the company stating the total amount of Gross Revenues and all payments, deductions and computations for the period covered by the payments.

3.6 Audits

On an annual basis, upon thirty (30) days' prior written notice, Grantor shall have the right to conduct an independent audit of Grantee's records reasonably related to the administration or enforcement of this Agreement, in accordance with generally accepted accounting principles. The audit may review payments made and supporting records up to and including three (3) years of previously unaudited years, prior to the date of initiation of the audit. The Telecommunications Commission may hire for both the Grantor and Clark County an independent certified public accountant to audit the Grantee's financial records, in which case the Grantee shall provide all necessary records to the certified public accountant. If the audit shows that Franchisee fees have been underpaid by five percent (5%) or more, Grantee shall pay the reasonable cost of the combined audit up to \$30,000.

3.7 Interest on Late Payments

In the event that a franchise fee payment or other sum is not received by the Grantor on or before the due date, or is underpaid, the Grantee shall pay in addition to the payment, or sum due, interest from the due date at a rate equal to the interest rate specified for judgments entered in the Superior Court of the State of Washington.

3.8 Alternative Remedies

If any Section, subsection, paragraph, term or provision of this Franchise Agreement or any ordinance, law, or document incorporated herein by reference is held by a court of competent jurisdiction to be invalid, unconstitutional or unenforceable, such holding shall be confined in its operation to the Section, subsection, paragraph, term or provision directly involved in the controversy in which such holding shall have been rendered and shall not in any way affect the validity of any other Section, subsection, paragraph, term or provision hereof. Under such a circumstance, the Grantee shall, upon the Grantor's request, meet and confer with the Grantor to consider amendments to the Franchise Agreement. The purpose of the amendments shall be to place the parties, as nearly as possible, in the position that they were in prior to such determination, consistent with applicable law. In the event the parties are unable to agree to a modification of this Agreement within one hundred twenty (120) days, either party may either (1) resort to litigation to amend the Agreement; or (2) shorten the Agreement to 36 months, at which point either party may invoke the renewal procedures under 47 U.S.C. subsection 546. Each party agrees to participate in up to thirty-two (32) hours of negotiation during the one hundred twenty (120) day period.

3.9 Additional Commitments Not Franchise Fees

No term or condition in this Agreement shall in any way modify or affect Grantee's obligation to pay Franchise fees to Grantor. Although the total sum of Franchise fee payments and additional commitments set forth elsewhere in this Agreement may total more than five percent (5%) of Grantee's Gross Revenues in any 12-month period, Grantee agrees that the additional commitments herein are not Franchise fees as defined under any federal law, nor are they to be offset or credited against any Franchise fee payments due to Grantor.

3.10 Costs of Publication

Grantee shall pay the reasonable cost of newspaper notices and publication pertaining to the renewal of this Agreement and any amendments thereto, as such notice or publication is reasonably required by applicable law.

3.11 Tax Liability

Payment of the Franchise fees under this Agreement shall not exempt Grantee from the payment of any generally applicable license, permit fee or other generally applicable fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by Grantor.

3.12 Payment on Termination

If this Agreement terminates for any reason, the Grantee shall file with the Grantor within ninety (90) calendar days of the date of the termination, a financial statement, showing the Gross

Revenues received by the Grantee since the end of the previous fiscal year. The Grantor reserves the right to satisfy any remaining financial obligations of the Grantee to the Grantor by utilizing the funds available in a performance bond or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

Grantor is vested with the power and right to regulate the exercise of the privileges permitted by this Agreement in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under state and local law, to any agent, in its sole discretion.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Service shall be subject to regulation by Grantor to the full extent authorized by applicable federal, state and local laws.

4.3 Filing of Rates and Charges

(A) Throughout the term of this Agreement, Grantee shall maintain on file with Grantor a complete schedule of applicable rates and charges for Cable Service provided under this Agreement. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Grantee shall provide upon request from Grantor a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms and conditions established by Grantee for Leased Access Channels.

4.4 Time Limits Strictly Construed

Whenever this Agreement sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a material violation of this Agreement and sufficient grounds for Grantor to invoke any relevant provision of this Agreement. However, in the event that Grantee is prevented or delayed in the performance of any of its obligations under this Agreement by reason beyond the reasonable control of Grantee, such as acts of God (for example, floods, tornadoes, earthquakes or unusually severe weather conditions), Grantee's performance shall be excused during the force majeure occurrence and Grantee thereafter shall, under the circumstances, promptly perform the affected obligations under this Agreement or procure a substitute for such obligation which is satisfactory to Grantor. Grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

4.5 Performance Evaluation Sessions

(A) Grantor may hold performance evaluation sessions every three (3) years on the anniversary date of the effective date of this Agreement. All such evaluation sessions shall be conducted by Grantor.

(B) Special evaluation sessions related to potential franchise violations may be held at any time by Grantor during the term of this Agreement.

(C) All performance evaluation sessions shall be open to the public and announced at least one week in advance in the Franchise Area.

(D) Evaluation sessions shall deal with the Grantee's performance of the terms and conditions of the Franchise and compliance with state and federal laws and regulations.

(E) As part of the performance evaluation session, Grantee shall submit to the Grantor a plant survey report, or map, acceptable to the Grantor which includes a description of the portions of the Franchise Area that are cabled and have all Cable Services available. Such report shall also include the number of miles of overhead and underground cable plant. If the Grantor has reason to believe that a portion or all of the Cable System does not meet the applicable FCC technical standards or other required codes and standards, the Grantor, at its expense, retains the right to appoint a qualified independent engineer to evaluate and verify the technical performance of the Cable System.

(F) During evaluations under this Section, Grantee shall fully cooperate with Grantor and shall provide such information and documents as necessary and reasonable for Grantor to perform the evaluation.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Insurance Requirements

(A) General Requirement. Grantee must have adequate insurance in full force and effect at its own cost and expense during the entire term of this Agreement to protect against claims for injuries to Persons or damages to property which in any way relate to, arise from, or are connected with this Agreement or involve Grantee, its agents, representatives, contractors, subcontractors and their employees.

(B) Initial Insurance Limits. Grantee must keep insurance in effect in accordance with the minimum insurance limits herein set forth by the Grantor from time to time. The Grantee shall obtain policies for the following initial minimum insurance limits:

- (1) Commercial General Liability insurance with limits of no less than three

million dollars (\$3,000,000.00) per occurrence and three million dollars (\$3,000,000.00) general aggregate. Coverage shall include severability of interests with respect to each additional insured. Such insurance shall cover liability arising from premises, operations, property damage, independent contractors, products-completed operations, bodily injury, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse, or underground property damage. The Grantor shall be included as an additional insured under the Grantee's Commercial General Liability insurance policy with respect to this Franchise Agreement.

(2) Commercial Automobile Liability Insurance covering all owned, non-owned, hired and leased vehicles, with a minimum combined single limit for bodily injury and property damage of three million dollars (\$3,000,000.00) per accident. The policy shall contain a severability of interest provision with respect to each additional insured.

(3) Employer's Liability: Three million dollars (\$3,000,000);

(4) Workers Compensation: With coverages and limits in accordance with applicable State of Washington statutes;

(5) Excess or Umbrella Liability Insurance shall be written with limits of not less than three million dollars (\$3,000,000.00) per occurrence and annual aggregate. The Excess or Umbrella Liability requirements and limits may be satisfied instead through Grantee's Commercial General Liability and Automobile Liability Insurance, or any combination thereof that achieves the overall required limits.

(C) The Grantee shall cause each of its subcontractors to provide insurance coverage reasonably appropriate to the scope of each such subcontractor's work.

(D) Failure on the part of the Grantee to maintain the insurance as required may constitute a material breach of this Agreement.

5.2 Deductibles and Self-Insured Retentions

If Grantee changes its policy to include a self-insured retention, the Grantee shall give notice of such change to the Grantor. Grantor's approval will be given if the self-insured retention is consistent with standard industry practices. Any deductible or self-insured retention of the policies shall not in any way limit Grantee's liability to the Grantor.

(A) Endorsements.

(1) All policies shall contain, or shall be endorsed so that:

(a) The Grantor, its officers, officials, employees, boards, commissions and agents are to be covered as, and have the rights of, additional insureds with

respect to liability arising out of activities performed by, or on behalf of, Grantee under this Agreement or applicable law, or in the construction, operation or repair, or ownership of its Cable System;

(b) The Grantee's insurance coverage shall be primary insurance with respect to the Grantor, its officers, officials, employees, boards, commissions and agents. Any insurance or self-insurance maintained by the Grantor, its officers, officials, employees, boards, commissions and agents shall be in excess of the Grantee's insurance and shall not contribute to it; and

(c) Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

(2) All policies shall contain, or shall be endorsed so that:

(a) The policy shall not be suspended, voided, canceled, or reduced in coverage or in limits, nor shall the intention not to renew be stated by the insurance company except after forty-five (45) days prior written notice, return receipt requested, has been provided to Grantor's representative pursuant to Section 19.2.

(B) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A: VII."

(C) Verification of Coverage. The Grantee shall furnish the Grantor with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices and are to be received and approved by the Grantor prior to the commencement of activities associated with this Agreement. The Grantee hereby warrants that its insurance policies satisfy the requirements of this Agreement.

(D) Adequacy of Limits and Coverage. It is agreed that the insurance requirements shall not in any way act to reduce or otherwise alter the liability of Grantee herein. No representation is made that the minimum insurance requirements of this Franchise are sufficient to cover the obligations of Grantee hereunder.

5.3 Indemnification

(A) Scope of Indemnity. Grantee shall, at its sole cost and expense, indemnify, hold harmless, and defend the Grantor and its officers, officials, boards, commissions, agents, volunteers and employees against any and all claims for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses,

including, but not limited to, third party claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of, or by reason of, the design, construction, excavation, reconstruction, operation, maintenance or repair of its Cable System or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this Agreement provided, however, the Grantee will not be obligated to indemnify Grantor for damage or injury resulting from the sole and willful negligence of Grantor. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Grantee and the Grantor, its officers, officials, employees, and volunteers, the Grantee's liability hereunder shall be only to the extent of the Grantee's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. The provisions of this section shall survive the expiration or termination of this Agreement. Without limiting in any way the Grantee's obligation to indemnify the Grantor and its officers, officials, boards, commissions, agents, and employees, as set forth above, this indemnity provision also includes damages and liabilities such as:

(1) Casualty or accident to Persons or property, in any way arising out of or through the acts or omissions of the Grantee, its contractors, subcontractors and their officers, employees, or agents, or to which the Grantee's negligence shall in any way contribute;

(2) Arising out of any claim for invasion of the right of privacy; for defamation of any Person, firm or corporation; for the violation or infringement of any copyright, trademark, trade name, service mark, or patent; for a failure by the Grantee to secure consents from the owners, licensees/licensors or authorized distributors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise; or for violation of any other right of any Person, provided, however, that Grantee will not be required to indemnify Grantor for any claims arising out of use of PEG Access Channels by Grantor and/or Designated Access Providers;

(3) Arising out of Grantee's failure to comply with the provisions of any federal, state or local statute, ordinance, rule or regulation applicable to the Grantee with respect to any aspect of its business to which this Agreement applies; and

(4) Arising from any third party suit, action or litigation, whether brought by a competitor to Grantee or by any other Person or entity, whether such Person or entity does or does not have standing to bring such suit, action or litigation if such action (1) challenges the authority of the Grantor to issue this Agreement to Grantee; or (2) alleges that, in issuing this Agreement to Grantee, the Grantor has acted in a disparate or discriminatory manner.

(B) Indemnification for Relocation. Grantee shall indemnify Grantor for any damages, claims, documented additional costs or reasonable expenses assessed against, or

payable by, Grantor arising out of, or resulting from, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with a relocation required by Grantor. Grantee shall always be provided reasonable notice to perform such relocation, except in the case of an emergency and therefore the obligation to indemnify would not apply.

(C) Additional Circumstance. Grantee shall also indemnify, defend and hold Grantor harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of the lawful actions of Grantor in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(D) Duty to Give Notice and Tender Defense. The Grantor shall give the Grantee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this Section. In the event any such claim arises, the Grantor or any other indemnified party shall tender the defense thereof to the Grantee and the Grantee shall have the obligation and duty to defend, settle or compromise any claims arising thereunder, and the Grantor shall cooperate fully therein. Grantee shall consult and cooperate with Grantor while conducting its defense of Grantor. Grantor may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense, then Grantee shall not be liable for any attorneys' fees, expenses or other costs that Grantor may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.3(F) is required. In that event, the provisions of Paragraph 5.3(F) shall govern Grantee's responsibility for Grantor's attorney's fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting Grantor without Grantor's approval. In the event that the Grantee declines defense of the claim in violation of Section 5.3, the Grantor may defend such claim and seek recovery from Grantee its expenses for reasonable attorneys' fees and disbursements, including expert witness fees, incurred by Grantor for defense and in seeking such recovery.

(E) Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this subsection.

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between Grantor and the counsel selected by Grantee to represent Grantor, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by Grantor in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and Grantor desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then Grantor shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. Grantor's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the

reasonable value of any services rendered by Grantor's Attorney or his/her assistants or any employees of Grantor or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided Grantor by Grantee.

(G) Exclusions. The indemnification set forth in this section shall not apply to claims arising between the Grantor and Grantee related to the obligations set forth in this Franchise, such as: franchise fee audit disputes, non-compliance with customer service standards, or the franchise renewal process. In all such matters the parties shall each bear their own costs of the dispute unless otherwise provided by applicable law.

5.4 Faithful Performance Bond

(A) The Grantee shall furnish proof of the posting of a faithful performance bond running to the Grantor, in a form approved by the Grantor, with good and sufficient surety approved by the Grantor in the total sum of two hundred thousand dollars (\$200,000.00), conditioned that the Grantee shall well and truly observe, fulfill, and perform each term and condition of this Franchise. Such bond shall be posted as provided in Section 2.4 and by the Grantee throughout the term of this Franchise.

(B) Grantee shall pay all premiums charged for any bond required under Section 5.4 (A), and unless the Grantor specifically directs otherwise, shall keep the same in full force and effect at all times through the later of either:

(1) The remaining term of this Franchise; or

(2) If required by the Grantor, the removal of all of Grantee's system installed in Grantor's Public Rights-of-Way and other public property.

(C) The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without thirty (30) days written notice first given to the Grantor. During the term of the bond, Grantee shall file with the Grantor a duplicate copy of the bond along with written evidence of payment of the required premiums unless the bond otherwise provides that the bond shall not expire or be terminated without thirty (30) days prior written notice to the Grantor. Notice shall be given in conformity with section 19.2 of this Franchise Agreement.

(D) In a form approved by the Grantor, the Grantee may provide an irrevocable letter of credit, guaranty in lieu of bond, or other form of financial assurance in lieu of a faithful performance bond. The alternative form of financial assurance shall give the Grantor in all material respects the same rights and guarantees provided by a faithful performance bond.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

The Grantee shall meet the following customer service standards and requirements. The term “normal operating conditions” as used in the subsections below shall mean those service conditions within the control of Grantee as defined under 47 C.F.R. Section 76.309 (c)(4)(ii).

(A) Telephone Responsiveness. The Grantee shall maintain, on average as verifiable by statistical data, sufficient customer service staff and telephone line capacity to handle normal call volume with a minimum of delay to customers measured as follows:

(1) Under normal operating conditions, the customer will receive a busy signal less than 3% of the time during any quarter.

(2) Under normal operating conditions, telephone answer time by a trained customer representative, including wait time, shall not exceed thirty (30) seconds. Grantee may use an Automated Response Unit (“ARU”) or Voice Response Unit (“VRU”) in answering and distributing calls from customers. If a foreign language option is provided, and the subscriber does not enter an option, the menu may default to the first tier menu of English options. After the first tier menu (not including a foreign language rollout) has run through three (3) times, if customers do not select any option, the ARU or VRU may forward the call to a queue for a live representative. Grantee may reasonably substitute this requirement with another method of handling calls from customers who do not have touch-tone telephones. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis. Measurement of this standard shall include all calls received by Grantee from subscribers whether they are answered by a live representative, by an automated attendant, or abandoned after 30 seconds of call waiting. If a call needs to be transferred, transfer time shall not exceed an additional 30 seconds.

(B) Service and Repair Calls.

(1) Under normal operating conditions, at least 95% of the time measured on a quarterly basis, requests from subscribers for repair and maintenance service must be responded to, and repairs must commence within twenty-four (24) hours of being notified for service interruptions and within twenty-four (24) hours or prior to the end of the next business day, whichever is earlier, for all other repair and maintenance service. Grantee will work diligently to complete repair and maintenance for service interruptions or other repairs not requiring on-premises work within twenty-four (24) hours under normal circumstances and diligently to complete all other repairs within seventy-two (72) hours under normal circumstances.

(2) Under normal operating conditions, at least ninety-five percent (95%) of the time measured on a quarterly basis, as a normal operating procedure, upon subscriber request

the Grantee shall offer either a specific appointment time or a pre-designated block of time (not to exceed four hours) for subscriber service appointments to be scheduled Monday through Saturday in the morning, the afternoon, and after 5:00 p.m.

(a) The Grantee shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(b) If a Grantee 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.

(3) As a normal operating procedure, and with particular regard to the needs of working or mobility-limited customers, upon subscriber request the Grantee shall arrange for pickup and/or replacement of converters or other company equipment at the subscriber's address, or else a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

(4) Under normal operating conditions, at least ninety-five percent (95%) of the time measured on a quarterly basis, where the service requested is installation of service, standard installations shall be performed by the Grantee within seven (7) business days after an order has been placed. "Standard" installations, for the purposes of this Section, shall mean those that are located up to one-hundred twenty-five (125) feet from the existing distribution system.

(C) Disconnection.

(1) The Grantee may disconnect a subscriber if:

(a) at least thirty (30) days have elapsed without payment after the due date for payment of the bill of the affected subscriber; and

(b) the Grantee has provided at least ten (10) days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.

(2) Regardless of Subsection 1 hereof, the Grantee may disconnect a subscriber for cause at any time if the Grantee in good faith determines that the subscriber has tampered with or abused company equipment, is proven to be abusive or threatening to employees or representatives, or is or may be engaged unlawfully in theft of cable services, or is causing a system violation of FCC rules or regulations.

Nothing in these standards shall limit the right of Grantee to deny Cable Service for non-payment of previously provided Cable Services, refusal to pay any required deposit, theft of Cable Service, damage to Grantee's equipment, proven abusive and/or

threatening behavior towards Grantee's employees and representatives, or, unless prohibited by law, refusal to provide credit history information or refusal to allow Grantee to validate the identity, credit history and credit worthiness via an external credit agency.

(3) The Grantee shall promptly disconnect any subscriber who so requests from the Grantee's cable system. No period of notice prior to voluntary termination of service may be required of subscribers by the Grantee. No charge may be imposed by the Grantee for any cable services delivered after the date of the disconnect request, other than contractually obligated early termination fees or charges. Upon the later of the date of actual disconnection or the return of all company equipment to Grantee, the Grantee shall under normal operating conditions, within thirty (30) days return to such subscriber the amount of the deposit, if any, collected by Grantee from such subscriber, less any disputed amounts owed to Grantee for cable services or charges prior to the date of disconnection.

(D) Credits Upon Outage. Except for planned outages where subscribers are provided reasonable notification in advance, upon a subscriber's request the Grantee shall provide a pro-rated twenty-four (24) hour credit to the subscriber's account for any period of four (4) hours or more during which that subscriber experienced the effective loss or substantial impairment of video or audio service on the system.

(E) Downgrade Charges. Grantee may impose Downgrade Charges in a manner consistent with applicable law.

(F) Billing Information Required. The Grantee's bill to subscribers shall itemize each category of service, equipment, or other applicable fees, and state clearly the charge therefore. The Grantee shall make its best effort to inform subscribers as clearly as possible when payments are due and when late fees and disconnection may occur.

(G) Information to Subscribers.

(1) Upon installing initial service to or reconnecting each customer, and upon request thereafter, the Grantee shall advise the customer, in writing, of:

(a) the equipment and services currently available (including parental lock-out devices) and the rates and charges which apply;

(b) the amount and criteria for any deposit required by Grantee, if applicable, and the manner in which the deposit will be refunded;

(c) the Grantee's policies and procedures by which complaints or inquiries of any nature will be addressed;

(d) the toll-free telephone number and address of the Grantee's office to which complaints and inquiries may be reported;

(e) the Grantee's practices and procedures for protecting against invasions of subscriber privacy;

(f) service termination policy;

(g) billing procedures shall be clearly explained and easily accessible in a customer friendly location; additionally, the portion of the Grantee's bill retained by the customer shall include a phone number for requesting billing procedures;

(h) the notice and referral information, as set forth in Subsection 2 hereof;

(i) liability specifications;

(j) converter/subscriber terminal policy; and

(k) breach of agreement policy.

(2) Notice to Subscribers.

(a) The Grantee shall inform the Grantor and subscribers in writing within thirty (30) days, prior to any changes in programming or increases in rates, costs, or charges to subscribers, or any channel repositioning within the control of Grantee.

(b) All Grantee promotional materials, announcements, and advertising of residential cable services to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all Grantee prepared promotional materials must clearly and accurately disclose price terms and any restrictions for use. Likewise, in the case of telephone orders, the Grantee shall take appropriate steps to ensure that Grantee customer service representatives clearly and accurately disclose price terms and any restrictions for use to potential customers in advance of taking the order.

(c) Grantee must provide the name, address and phone number of the Grantor on subscriber's monthly bills unless Grantor, in writing, requests that such information be omitted.

(3) Complaint Acknowledgment. Within ten (10) days following receipt of a complaint by e-mail, telephone, written letter or other means, received at the Grantee's principal business from a subscriber, the Grantee shall provide an acknowledgment to the subscriber of receipt of the complaint. Within ten (10) days following receipt of a complaint made by or forwarded by the Grantor via e-mail, telephone, written letter or other means, received by a representative of the Grantee, the Grantee shall advise the Grantor of any action the Grantee has

taken or intends to take in response to the complaint. This requirement does not apply to complaints submitted for processing by a regulatory agency other than the City, such as the FCC.

H. Complaint Resolution.

(1) The Grantor may take all necessary steps to ensure that all subscribers and members of the general public have recourse to a satisfactory hearing of any complaints, where there is evidence that the Grantee has not settled the complaint of the person initiating the complaint.

(2) For purposes of this section, a "complaint" is a grievance received by Grantee pursuant to subsection (G)(3) of this Section related to Cable Service provided within the Franchise Area that is reasonably remediable by the Grantee, but does not include grievances regarding the content of programming or information services other than grievances regarding broad categories of programming, and does not include customer contacts resulting in routine service calls that resolve the customer's problem satisfactorily to the customer.

I. Failure to Resolve Complaints. If Grantee fails to resolve a "complaint" within thirty (30) days following the date on which a complaint was made to the Grantor and communicated to Grantee, then Grantee may be deemed in violation of the Franchise, and Grantor may assert any of the remedies set out in Section 15.1 and Section 15.3.

6.2 Subscriber Privacy

Grantee will comply with privacy rights of Subscribers in accordance with federal, state and local law.

6.3 Local Office

Throughout the Agreement term, the Grantee must maintain, at a minimum, one (1) customer service center conveniently located in the City of Vancouver/Clark County Franchise Area to provide Subscribers the opportunity for the receipt and pickup of Subscriber equipment and for bill payments and complaints. Under normal operating conditions the Customer Service Center must be adequately staffed and able to respond to subscribers and the public not less than forty-five (45) hours per week, with a minimum of eight (8) hours per day on weekdays, including some evening hours, and five (5) hours on weekends. Grantee shall install telephones and other equipment so that customer complaints and service requests can be received by Grantee on a 24-hour basis at a toll-free telephone number. Grantee shall also provide online chat capability to answer questions on a 24/7 basis. Grantee shall have the option to substitute the service center requirement by providing for pick up or drop off of equipment free of charge in any one of the following manners: (a) by having Grantee representative going to the customer's residence, or (b) by using a prepaid mailer. Grantee also has the option to provide payment drop off locations within the Franchise Area. Grantee shall provide Grantor and

Subscribers with at least one hundred twenty (120) days' notice of election to discontinue the service center.

6.4 Emergency Broadcast

Grantee will activate the Emergency Alert System (EAS) in compliance with the provisions and amendments of FCC Regulations Part 11, the Washington State EAS plan, and the local area EAS plan that applies to Clark County.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

(A) Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to Grantor. Grantor shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations and Affiliated entities which are reasonably related and necessary to the administration or enforcement of the terms of this Agreement. Grantee shall not deny Grantor access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, affiliated entity or a third party. Grantor may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One copy of all reports and records required under this or any other Section shall be furnished to Grantor at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that Grantor inspect them at one of Grantee's local area offices. If any books or records of Grantee are not kept in a local area office and not made available in copies to Grantor upon written request as set forth above, and if Grantor determines that an examination of such records is necessary or appropriate to the performance of any of Grantor's duties, administration or enforcement of this Agreement, then all reasonable travel expenses incurred in making such examination shall be paid by Grantee. If any books or records of Grantee are not kept in a local office, Grantee will provide or otherwise make such documents available for inspection and review at the local office within ten (10) working days.

(B) Grantee shall at all times maintain and allow Grantor access and the right to review a full and complete set of plans, records and "as built" maps showing the exact location of all Cable System equipment installed or in use in the Franchise Area, exclusive of electronics, Subscriber drops and equipment provided in Subscribers' homes. These maps shall be maintained in a standard geospatial format and medium agreed upon by the Grantor and the Grantee.

7.2 Confidentiality

Grantor agrees to treat as confidential any books and records that constitute proprietary or confidential information under federal or state law, to the extent Grantee makes Grantor aware of

such confidentiality. Grantee shall be responsible for clearly and conspicuously marking or identifying as "Confidential" on each page that contains confidential or proprietary information. If Grantor believes it must release any such books and records marked or identified as "Confidential" in the course of enforcing this Agreement, in response to a public record request, subpoena or other court order, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If Grantor receives a demand from any Person for disclosure of any information designated by Grantee as confidential, Grantor shall, so far as consistent with applicable law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time so Grantee may take appropriate steps to protect the information from disclosure.

7.3 Copies of Federal and State Documents

Upon request, Grantee shall submit to Grantor a list, or copies of actual documents, of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporations or Affiliates to any federal, state or local courts; regulatory agencies or other government bodies if such documents specifically relate to the operations of Grantee's Cable System within the Franchise Area. Grantee may claim such information and documents are confidential, privileged or proprietary consistent with applicable public records law.

7.4 Complaint File and Reports

(A) Grantee shall keep an accurate and comprehensive file of any and all complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. Those files shall remain open to Grantor during normal business hours. Upon written request, Grantee shall provide an executive summary report of previous quarter (within 45 days of the end of the preceding quarter) to Grantor, which shall include the following information:

- (1) Nature, type, status and resolution of customer complaints;
- (2) Number, duration, general location and customer impact of unplanned service interruptions;
- (3) Any significant construction activities which affect the quality or otherwise enhance the service of the Cable System;
- (4) Average response time for service calls;
- (5) Phone activity report that includes use of automated response unit or voice response unit in answering and distributing calls from Subscribers at all call centers whether the calls are answered by a live representative, by an automated attendant or abandoned after 30 seconds of call waiting;

- (6) New areas constructed and available for Cable Service, including multiple dwelling units;
- (7) Video programming changes (additions/deletions);
- (8) Subscriber reports indicating the total number of Subscribers by service categories in such format as Grantee customarily prepares such reports and may be considered confidential per Section 7.2; and
- (9) Such other information about special problems, activities, or achievements as Grantee may want to provide Grantor.

(B) Grantor shall also have the right to request such information as appropriate and reasonable to determine whether or not Grantee is in compliance with applicable Customer Service Standards as referenced in Section 6.1, Technical Standards and other requirements of this Franchise. Grantee shall fully cooperate with Grantor and shall provide such information and documents as necessary and reasonable for Grantor to evaluate compliance. Grantee reserves the right to object to any request made under this Section as unnecessary, unreasonable or inappropriate under the circumstances.

7.5 Inspection of Facilities

Grantor may inspect upon request any of Grantee's facilities and equipment to confirm performance under this Agreement at any time upon at least twenty-four (24) hours' notice, or, in case of an emergency upon demand without prior notice. Nothing herein shall prevent Grantor or its agents from performing inspections of the Cable System in the Rights-of-Way or on private property, with owners' permission as needed, at any time and without prior notice.

7.6 False Statements

Any intentional false or misleading statement or representation in any report required by this Agreement may be deemed a material violation of this Agreement and may subject Grantee to all remedies, legal or equitable, which are available to Grantor under this Agreement or otherwise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee's cable television system shall provide the widest diversity of programming possible. Grantee shall provide at least the following broad categories of programming to the extent such categories are reasonably available:

- (1) Educational programming;

- (2) Washington State news and information;
- (3) Sports;
- (4) General entertainment (including movies);
- (5) Children/family-oriented;
- (6) Arts, culture and performing arts;
- (7) Foreign language;
- (8) Science/documentary;
- (9) Weather information;
- (10) Programming addressed to diverse ethnic and minority interests in the Franchise Area;
- (11) National, state, and local government affairs; and
- (12) Local programming regarding the City/Clark County, as well as regional issues, events and affairs.

8.2 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter.

8.3 Leased Access Channels

Grantee shall meet the requirements for Leased Access Channels imposed by federal law.

8.4 Continuity of Service

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are satisfied. Subject to the *force majeure* provisions of this Agreement, Grantee shall use its best efforts to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances.

(B) In the event of a change in ownership, or in the event a new Cable Operator acquires the Cable System in accordance with this Agreement, Grantee shall cooperate with Grantor and such new Cable Operator in maintaining continuity of service to all Subscribers.

8.5 Service for the Disabled

Grantee shall comply with the Americans with Disabilities Act, any amendments thereto and any other applicable federal, state or local laws or regulations.

SECTION 9. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

9.1 General Definitions

With respect to purposes of this section, the following definitions will apply with respect to Public, Educational and Governmental use of the Cable Channels as provided herein.

(A) The term “channel”, as used in this Section, referencing access channels, refers to the channels designated for Public, Educational and Governmental (PEG) access use. The channels can be used to transmit signals in any format, and can be used to transmit audio only, video, or other information (including, by way of example and not limitation, secondary audio, text, digital information, high definition signals and compressed signals). A non-standard NTSC use shall be subject to the Grantee’s prompt prior review and approval to ensure that the use will not cause unreasonable technical interference with other channels. Such uses must be in furtherance of PEG uses. Additionally, there shall not be any lease of such PEG capacity without the express written permission of the Grantee.

(B) The term “Access Center” refers to a facility or facilities listed in Exhibit A where Public, Educational or Governmental use signals are managed and delivered to the Grantee for Downstream transmission to Subscribers, or to other Access Centers via a dedicated connection.

(C) “Designated Access Providers” refers to the entity or entities designated by the Grantor to manage or co-manage Public, Educational and Governmental use channels. The Grantor can be a Designated Access Provider.

(D) The term “Origination Point” refers to a location listed in Exhibit A, other than an Access Center, where Public, Educational and Governmental use programming is delivered to the Grantee for Upstream transmission.

(E) The term “PEG” refers to “Public, Educational and Governmental.”

9.2 Management and Control of Access Channels

(A) Grantor may authorize Designated Access Providers to control and manage the use of any and all Access facilities provided by Grantee under this Agreement, including,

without limitation, the operation of Access channels. To the extent of such designation by Grantor, as between the Designated Access Provider and Grantee, the Designated Access Provider shall have sole and exclusive responsibility for operating and managing such Access facilities. The Grantor or its designee may formulate rules for the operation of the Public Access channel, consistent with this Franchise; such rules shall not be designed to control the content of Public Access programming. Nothing herein shall prohibit the Grantor from authorizing itself to be a Designated Access Provider.

(B) Grantee shall cooperate with Grantor and Designated Access Providers in the use of the Cable System and Access facilities for the provision of PEG Access.

(C) Except as provided in this Franchise, the Grantor shall allocate Access resources to Designated Access Providers only. Grantee shall cooperate with the Grantor in such allocations, in such manner as the Grantor shall direct.

(D) If the Grantor designates new Access providers, or if a current Designated Access Provider moves its site or location at its own instigation after the effective date of this Franchise, the direct costs to construct the Cable System from the new site or location to the nearest distribution point of the Cable System shall not be the responsibility of Grantee and may be funded from the Capital Access Contribution under Section 9.8 of this Franchise.

9.3 Channel Capacity and Use

(A) Upon the Effective Date of this Agreement, all Access channels provided for herein are administered by the Grantor or designee.

(B) Downstream Channels. As of the Effective Date, Grantee shall provide five (5) Downstream High Definition (HD) channels for distribution of Public, Educational, and Governmental Access programming; and one (1) standard definition ("SD") Downstream Channel for distribution of Public Access Programming. Grantee shall continue to also provide all of the PEG Access channels in Standard Definition (SD) format, until SD format is no longer utilized on the Cable System. If Grantee discontinues carriage of the "Community Area Network" Public Access on channel 11 on all of Grantee's cable systems located in the Portland Oregon Designated Market Area, Grantee may also discontinue carriage of this channel on the cable system in the Franchise Area, as the term Franchise Area is defined in the Franchise.

(C) Initially and throughout the term of this Franchise, Grantee shall provide operating fiber-optic cable-based connections sufficient to enable character generated, pre-recorded and live cablecasts from Origination Points and Access Centers listed in Exhibit A to enable the distribution of PEG Access programming to Residential Subscribers on Access channels and to all Interconnection points on the Cable System.

9.4 Standard Definition (SD) Channels

Grantee shall carry all components of the standard definition Access Channel signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the programming. SD PEG channels shall be made available on Grantee's channel lineup in the same manner as regular commercial SD channels. With respect to signal quality, Grantee shall not be required to carry a PEG Access Channel in a higher quality format than that of the Channel signal delivered to Grantee, but Grantee shall distribute the Access Channel signal without degradation. Upon reasonable written request by a Designated Access Provider, Grantee shall verify signal delivery to Subscribers with the Designated Access Provider, consistent with the requirements of this Section.

9.5 High Definition (HD) Channels

Grantee shall continue to carry three (3) existing Access Channels in high definition (HD) format Channels for PEG Access use. In addition, within 120 days written notice from Grantor, Grantee will provide two (2) additional existing Access Channels in high definition (HD) format Channels for PEG Access use. Grantee shall also simultaneously carry the standard digital Access Channels provided under Section 9.4. Grantee shall carry all components of the HD format Access Channel Signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the programming. The Designated Access Provider shall be responsible for providing the Access Channel signal in an HD format to the demarcation point at the designated point of origination for the Access Channel. Grantee shall transport and distribute the Access programming without degradation. Grantee shall provide all necessary equipment including HD encoders or its equivalent outside the demarcation point at the Designated Access Provider Channel origination point, at its Headend and hubs or similar distribution facilities necessary to deliver the Access Channel(s) in the HD format to Subscribers. HD PEG channels shall be made available on Grantee's channel lineup in the same manner as regular commercial HD channels. With respect to signal quality, Grantee shall not be required to carry an HD PEG Access Channel in a higher quality format than that of the Channel signal delivered to Grantee, but Grantee shall distribute the HD Access Channel Signal without degradation. Grantee shall verify signal delivery to Subscribers with the Designated Access Provider, consistent with the requirements of this Section, in a manner and on a timetable as to ensure that the HD format Access Channels are continuously and reliably offered to Subscribers.

The Grantor acknowledges that receipt of HD format Access Channels may require Subscribers to buy or lease special equipment, or pay additional HD charges applicable to HD services. Grantee shall not be obligated to provide complimentary HD receiving equipment to institutional or courtesy accounts as a result of the obligations set forth in this Section 9.5, except for HD receiving equipment provided to Access Centers to verify reliable delivery of the Access Channels to subscribers, consistent with required standards.

9.6 Relocation of Access Channels

Grantee shall provide Grantor with a minimum of sixty (60) days' notice, and use its best efforts to provide one-hundred-twenty (120) days notice, prior to the time Public, Educational, and Governmental Access channel designations are changed. Grantee shall consult with Grantor prior to making a final determination regarding any changes in PEG Access channel designations/assignments. Any new channel designations for the Public, Educational and Governmental Access channels provided pursuant to this Agreement shall be in full compliance with FCC signal quality standards and the requirements in Section 9.12 of this Franchise.

9.7 Access Interconnections

(A) Upon request by the Grantor, and based on a demonstrated need, Grantee shall work in good faith with the Grantor to interconnect with other cable operators at a designated meet point and not at Grantee's headend or hubs in order to hand off PEG Access Channel signals for the purposes of sharing PEG Programming throughout the Franchise Area. Such interconnection shall preserve the technical quality of the PEG Access Channels without degradation to Grantee's demarcation at the designated meet point of the interconnect. The Grantor shall not require such interconnection without the prior consent of Grantee, which shall not be unreasonably withheld. Grantee shall not be obligated to interconnect with any cable system providing competitive Cable Services within the Franchise Area, except that Grantee shall use reasonable efforts to agree with a competitive Cable Services provider on reasonable terms, conditions and costs of a viable interconnection of the PEG Access Channel signals. Any incremental, direct capital costs incurred by Grantee to interconnect may be paid by the Grantor from the Capital Access Contribution or other arrangement.

(B) Grantee shall take all necessary technical steps to ensure that technically adequate signal quality and routing/switching systems are initially and continuously provided for all Access Interconnections. The cost for any equipment dedicated to Access Interconnection shall be shared on a pro rata basis or as mutually agreed upon among all participating jurisdictions and paid to Grantee.

9.8 Support for Access Capital Costs

(A) Except as otherwise provided herein, during the term of this Agreement, Grantee shall provide to the Grantor one percent (1 %) of Gross Revenues (the "Capital Access Contribution") for Public, Educational and Governmental Access, including, but not limited to, PEG Access facilities and equipment (and repair of such equipment). Grantee shall make payments quarterly, following the effective date of this Agreement for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than forty-five (45) days following the end of the quarter. Grantor shall have discretion to allocate such payments for Access costs in accordance with applicable law.

(B) The Grantor shall provide a report annually to the Grantee on the use of the funds provided to the Grantor under Section 9.8 (A). Reports shall be submitted to the Grantee within one hundred twenty (120) days of the close of the Grantor's fiscal year. Grantee may review records of the Grantor and Designated Access Providers regarding the use of funds described in such report. Grantor agrees that the report shall document that, for each dollar spent on PEG support for Access, an equivalent amount will be spent, in aggregate, by Grantor and Designated Access Providers on operating support for PEG Access.

(C) Grantee may conduct a financial review or audit for the purpose of verifying whether use of the PEG fee is in accordance with this Franchise. The Grantee shall notify the Grantor in writing at least thirty (30) days prior to the date of an audit or review and identify the relevant financial records of Grantor and the Designated Access Provider that Grantee wants to review. The time period of the review or audit shall be for PEG fee payments received no more than thirty-six (36) months prior to the date the Grantee notifies the Grantor of its intent to perform an audit or review. The Grantor and recipients of the PEG fee shall make such documents available for inspection and copying. Documents shall be reviewed during normal business hours at a time and place made available by the Grantor or the Designated Access Provider.

Grantee shall promptly provide the Grantor with written notice of the audit or review's conclusions and reasons therefor. The Grantor shall have sixty (60) days to provide a written response. If the Grantor disputes Grantee's conclusions, the parties shall attempt in good faith to reach a mutually acceptable resolution. If the parties are unable to agree, either party may submit the issue to non-binding mediation or pursue any legal remedies. If it is determined that any PEG fee has not been used in accordance with this Franchise, then within 30 days, one of the following actions shall occur:

- (1) If the Grantor determines that the recipient has access to sufficient unrestricted funds, the Grantor may require either:
 - (a) That the recipient expend its unrestricted funds to achieve the stated purposes of the original PEG funding not spent in accordance with this Franchise; or,
 - (b) Upon demand, the recipient shall return the full amount of the PEG funding amount not spent in accordance with this Franchise to the PEG funding account.
- (2) If the Grantor determines that the recipient does not have access to sufficient unrestricted funds, the Grantor may decide to either:
 - (a) Directly reimburse the PEG funding account for the amount not spent in accordance with this Franchise; or,
 - (b) Allow the Grantee to reduce future PEG payments by the amount not spent in accordance with this Franchise.

(3) The decision as to which of these options to exercise, under this Section shall be at the Grantor's sole discretion.

9.9 Access Support Not Franchise Fees

(A) Grantee agrees that financial support for Access Capital Costs arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect Grantee's obligations to pay franchise fees to Grantor. Grantee agrees that although the sum of Franchise Fees and the payments set forth in this Section may total more than five percent (5%) of Grantee's Gross Revenues in any 12-month period, the additional commitments shall not be offset or otherwise credited in any way against any franchise fee payments under this Agreement.

(B) Grantor recognizes franchise fees and certain additional commitments are external costs as defined under the Federal Communications Commission rate regulations in force at the time of adoption of this Franchise and Grantee has the right and ability to include franchise fees and certain other commitments on the bills of cable customers.

9.10 Access Channels On Lowest Tier

All Access channels provided to Subscribers under this Agreement shall be included by Grantee on its lowest tier available to Subscribers. If Basic Service or its equivalent is no longer provided to all Subscribers, then Grantee shall ensure that PEG channels continue to be provided to all Subscribers.

9.11 Technology Changes and Migrations

(A) Except as otherwise provided in Section 9.5 of this Agreement, in the event Grantee makes any change in the Cable System and related equipment and Facilities or in Grantee's signal delivery technology, which directly or indirectly substantially affects the signal quality or transmission of Access services or programming, Grantee shall, at its own expense, take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, and full training of Grantor's Access Personnel to ensure that the capabilities of Access services are not diminished or adversely affected by such change.

(B) Whenever Grantee or its affiliates provide PEG Access channels in a more advanced, successor format (such as HD4K) in any Cable System in the Portland Metropolitan area, Grantee shall also migrate the HD channels described in this Franchise to such more advanced format. The Grantor acknowledges any such change may require the purchase of special equipment.

9.12 Technical Quality

Grantee shall maintain all Upstream and Downstream Access services, channels and Interconnections at the same level of technical quality and reliability required by this Agreement and all other applicable laws, rules and regulations for Residential Subscriber channels. Grantee shall provide routine maintenance and shall repair and replace all transmission equipment, including modulators, associated cable and equipment in use upon the effective date of this Franchise, necessary to carry a quality signal to and from Grantor's facilities.

SECTION 10. GENERAL PUBLIC RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Construction

(A) Subject to applicable laws, regulations and ordinances of Grantor and the provisions of this Franchise, Grantee may perform all construction necessary for the operation of its Cable System. All construction and maintenance of any and all Grantee's facilities within Public Rights-of-Way incidental to Grantee's Cable System shall, regardless of who performs the construction, be and remain Grantee's responsibility. Grantee shall apply for, and obtain, all permits necessary for construction or installation of any facilities, and for excavating and laying any facilities within the Public Rights-of-Way including rebuilding pavement, sidewalk, curb and gutter plus associated traffic control to Grantor's standards. The Grantee will warrant the condition of any pavement patches, curb work and sidewalk work until such time as the Grantor reconstructs or structurally rehabilitates those facilities. Grantee shall pay all applicable fees of the requisite construction permits.

(B) Prior to beginning any construction, Grantee shall provide Grantor with a construction schedule for work in the Public Rights-of-Way. All construction shall be performed in compliance with this Franchise and all applicable Grantor Ordinances and Codes. When obtaining a permit, Grantee shall inquire in writing about other construction currently in progress, planned or proposed, in order to investigate thoroughly all opportunities for joint trenching or boring. The Grantor reserves the right to limit days and hours of construction activity. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees and franchisees so as to reduce as far as possible the number of street cuts or other excavations in the Public Rights-of-Way.

(C) If the Grantee proposes street excavations or borings in order to install maintain, or alter its facilities, then Grantee shall apply for utility-street/right-of-way permit. If Grantee damages Grantor's underground facilities, then Grantee, at Grantee's cost, shall immediately repair the damaged facilities to as good as prior condition. All Grantee work to repair or replace damaged facilities shall be warranted until such time as the Grantor reconstructs or structurally rehabilitates the facility that is repaired or replaced.

10.2 Location of Facilities

In doing work in the Public Right-of-Way, Grantee shall comply with all applicable statutes, including but not limited to contacting the Utility Notification Center established pursuant to Chapter 19.122 RCW. Grantee shall further comply with applicable ordinances, standards, rules, regulations and ordinances of Grantor when working within the Public Right-of-Way. If the Grantee's facilities create a safety hazard, such as impeding the sight distances or a hazard such as a fixed object, the Grantee shall immediately remedy the situation to the satisfaction of the City Public Works Director or designee upon notice by the Grantor.

10.3 Relocation

(A) Relocation Within Public Rights-of-Way. Grantor shall have the right to require Grantee to change the location of any part of Grantee's Cable System within the Public Rights-of-Way when the public convenience requires such change, and the expense thereof shall be paid by Grantee. Should Grantee fail to remove or relocate any such facilities by the date established by Grantor, Grantor may effect such removal or relocation, and the expense thereof shall be paid by Grantee, including all costs and expenses incurred by Grantor due to Grantee's delay. If Grantor requires Grantee to relocate its facilities located within the Public Rights-of-Way, Grantor shall make a reasonable effort to provide Grantee with an alternate location within the Public Rights-of-Way.

If funds which Grantor received, are available to impacted occupants of the Public Rights-of-Way for the purpose of defraying the cost of relocating or removing facilities and Grantee relocates or removes its facilities as required by Grantor under this Franchise, the Grantor shall notify Grantee of such funding available to reimburse Grantee for such costs to the extent permitted or allowed by the funding source or applicable state law.

(B) Movement of Cable System For and By Grantor. The Grantor may remove, replace, modify or disconnect Grantee's facilities and equipment located in the public right-of-way or on any other property of the Grantor in the case of fire, disaster, or other emergency, or when a project of the Grantor's makes the removal, replacement, modification or disconnection necessary. Except during an emergency, the Grantor shall attempt to provide reasonable notice to Grantee prior to taking such action and shall, when feasible, provide Grantee with the opportunity to perform such action. Following notice by the Grantor, Grantee shall remove, replace, modify or disconnect any of its facilities or equipment within any Public Right-of-Way, or on any other property of the Grantor, except that the Grantor shall provide at least sixty (60) days' written notice of any major capital improvement project which would require the removal, replacement, modification or disconnection of Grantee's facilities or equipment. If the Grantee fails to complete this work within the time prescribed and to the Grantor's satisfaction, the Grantor may cause such work to be done and bill the reasonable cost of the work to the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the Grantor. If in response to a request by the Grantor the Grantee removes or replaces any portion of its Cable System at its own expense in order to accommodate the installation or repair of a

communications system used by the Grantor to provide commercial services in competition with Grantee, then Grantor shall reimburse Grantee for the reasonable expense of the removal or replacement.

(C) Movement for Other Franchise Holders or Utilities. If any removal, replacement, modification or disconnection is requested by another franchise holder or utility to accommodate the construction, operation or repair of the facilities or equipment of such other franchise holder or utility, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee and such other franchise holder or utility shall determine how costs associated with the removal or relocation shall be allocated.

(D) Movement for Other Permittees. At the request of any Person holding a valid over legal load or structure move permit issued by Grantor, and upon reasonable advance notice by the Person holding the permit, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment or payment of the full amount in advance.

10.4 Restoration of Public Rights-of-Way and Property

(A) Disturbance of Public Right-of-Way Surface. Whenever Grantee disturbs the surface of any Public Right-of-Way for any purpose, Grantee shall promptly restore the Public Right-of-Way in accordance with applicable ordinances, standards, rules, and regulations of Grantor. When any opening is made by Grantee in a hard surface pavement in any Public Right-of-Way, Grantee shall refill within twenty-four (24) hours the opening and restore the surface to a condition satisfactory to Grantor. In cases where seasonal conditions do not allow full restoration within twenty-four (24) hours, Grantee will patch the surface consistent with the requirements of the Grantor, and then permanently restore the surface as soon as conditions allow.

(B) Public Right-of-Way Excavations. If Grantee excavates the surface of any Public Right-of-Way, Grantee shall be responsible for restoration in accordance with applicable ordinances, standards, rules, and regulations of Grantor within the area affected by the excavation. Grantor may, after providing notice to Grantee, refill or repave any opening made by Grantee in the Public Right-of-Way, and the expense thereof shall be paid by Grantee. Grantor may, after providing notice to Grantee, perform any required work, or remove or repair any work done by Grantee which, in the determination of Grantor, is inadequate. The cost thereof, including the costs of inspection and supervision, shall be paid by Grantee. All excavations made by Grantee in the Public Rights-of-Way shall be properly safeguarded for the prevention of accidents. All of Grantee's work under this Agreement, and this Section in particular, shall be done in compliance with applicable rules, regulations and ordinances of Grantor. Prior to making any Public Right-of-Way cuts or openings, Grantee shall obtain the required construction permit from Grantor.

(C) Protection, Repair and Restoration of Property.

(1) The Grantee shall protect public and private property from damage in connection with construction, maintenance and repair of its Cable System. If damage occurs the Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(2) If public or private property is disturbed or damaged, the Grantee shall restore the property to as good as the former condition, normal wear and tear excepted. The Grantee agrees to undertake all work related to the installation, construction or maintenance of its Facilities within the Public Rights-of-Ways in compliance with federal, state and local law as adopted or amended. Public Rights-of-Way or other Grantor property shall be restored, in a manner consistent with applicable ordinances, standards, rules and regulations of Grantor. If restoration of Public Right-of-Way or other property of the Grantor is not satisfactorily performed within a reasonable time, the City Public Works Director or designee may, after prior notice to the Grantee, or without notice where the disturbance or damage may create an immediate risk to public health or safety, or cause delay or added expense to a public project, cause the repairs to be made at the Grantee's expense and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the Grantor. If suit is brought upon Grantee's failure to pay for repair or restoration, and if judgment in such a suit is entered in favor of the Grantor, then the Grantee shall pay all of the Grantor's actual costs and expenses resulting from the non-payment, including damages, interest from the date the bill was presented, disbursements, attorneys' fees and litigation-related costs. Private property must be restored promptly, considering the nature of the work that must be performed and in no event later than seventy-two (72) hours except for circumstances beyond Grantee's control.

(D) Notice – Private Property. Prior to entering onto private property to construct, operate or repair its Cable System, Grantee shall give the Person residing on or using the property adequate written notice (such as a door hanger which clearly identifies the anticipated construction) that it intends to work on the property, a description of the work it intends to perform and a name and phone number the Person can call to protest or seek modification of the work. Work shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners, residents and users.

10.5 Maintenance and Workmanship

(A) Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of Grantor, or with any other pipes, wires, conduits, pedestals, structures, equipment or other facilities that may have been laid in the Public Rights-of-Way by, or under, Grantor's authority.

(B) Grantee shall provide and use any equipment necessary to control and carry Grantee's cable television signals so as to prevent injury to Grantor's property or property

belonging to any Person. Grantee, at its own expense, shall repair, change and improve its facilities to keep them in good repair, and safe and presentable condition.

10.6 Reservation of Grantor Public Right-of-Way Rights

(A) Nothing in this Agreement shall prevent Grantor or utilities owned, maintained or operated by public entities other than Grantor, from constructing or repairing sewers; grading, paving, repairing or altering any Public Right-of-Way; constructing, repairing or removing water mains, sewers, surface water or storm sewers; or constructing, repairing, or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

(B) However, if any of Grantee's Cable System interferes with the construction or repair of any Public Right-of-Way or public improvement, including, but not limited to construction, repair or removal of streets, sidewalks, traffic signals, street lighting, water mains, sewers, surface water or storm sewers, Grantee shall remove or replace Grantee's Cable System in the manner Grantor shall direct. Should Grantee fail to remove, adjust or relocate its facilities within a reasonable period of time established by Grantor in its written notice to Grantee, Grantor may effect such removal, adjustment or relocation, and the expense thereof shall be paid by Grantee, including all reasonable costs and expenses incurred by Grantor due to Grantee's delay. Grantor shall in no event be liable for any damage to any portion of Grantee's Cable System on account of the removal, adjustment or relocation of Grantee's facilities pursuant to this subsection.

10.7 Public Right-of-Way Vacation

If any Public Right-of-Way or portion thereof used by Grantee is vacated by Grantor during the term of this Agreement, unless Grantor specifically reserves to Grantee the right to continue its installation in the vacated Public Right-of-Way, Grantee shall, without delay or expense to Grantor, remove its facilities from such Public Right-of-Way, and restore, repair or reconstruct the Public Right-of-Way where such removal has occurred, and place the Public Right-of-Way in such condition as may be required by Grantor. In the event of failure, neglect or refusal of Grantee, after thirty (30) days' notice by Grantor, to restore, repair or reconstruct such Public Right-of-Way, Grantor may do such work or cause it to be done, and the reasonable cost thereof shall be paid by Grantee within thirty (30) days of receipt of an invoice and documentation, and failure to make such payment shall be considered a material violation of this Agreement.

10.8 Discontinuing Use of Facilities

Whenever Grantee intends to discontinue using any facility within the Public Rights-of-Way, Grantee shall submit for Grantor's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that Grantor allow it to remain in place. Notwithstanding Grantee's request that any

such facility remain in place, Grantor may require Grantee to remove the facility from the Public Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. Grantor may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a schedule set by Grantor. Until such time as Grantee removes or modifies the facility as directed by Grantor, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Public Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, Grantor may choose to use such facilities for any purpose whatsoever including, but not limited to, public, governmental, or educational purposes.

10.9 Hazardous Substances

(A) Grantee shall comply with all applicable local, state and federal laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Public Rights-of-Way.

(B) Grantee shall maintain and inspect its Cable System located in the Public Rights-of-Way. Upon reasonable notice to Grantee, Grantor may inspect Grantee's facilities in the Public Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Agreement, Grantee shall also remove all residue of hazardous substances related thereto.

10.10 Undergrounding of Cable

(A) Wiring. Where all electric and telephone utility wiring is installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, Grantee's Cable System lines or wiring and equipment shall also be placed underground on a nondiscriminatory basis with other wire line service at no additional expense to the Grantor. Related Cable System equipment such as pedestals must be placed in accordance with applicable ordinances, standards, rules, and regulations of Grantor. However, nothing in this Franchise shall be construed to require Grantee to place underground its pedestals, appurtenances and equipment. In areas where electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(B) Poles, Conduit and Equipment.

(1) The Grantee shall utilize existing poles and conduit wherever possible.

(2) This Agreement does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the City or any other Person without their permission. Grantor may request copies of agreements for use of poles, conduits or other utility facilities upon demonstrated need and subject to protecting Grantee's proprietary information from disclosure to third parties.

If the Grantee has infrastructure that is on private easements, or is on private property by prescriptive rights, the Grantee will be responsible in all cases for the costs associated with relocating the infrastructure from the private easement or unperfected easements on private land to new locations due to roadway projects requiring moving of the infrastructure. The Grantee shall be entitled to recoup its costs for such relocating from the entity that requested the relocation including the Grantor when applicable.

10.11 Codes

Grantee shall adhere to all applicable building and zoning codes currently or hereafter in effect. Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to not cause unreasonable interference with the use of said public or private property by any Person. In the event of such interference, Grantor may require the removal or relocation of Grantee's lines, cables and other appurtenances from the property in question.

10.12 Standards

(A) All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. The Grantee must comply with all safety requirements, rules and practices and employ all necessary devices as required by applicable law during construction, operation and repair of its Cable System. By way of illustration and not limitation, the Grantee must comply with applicable National Electrical Code, National Electrical Safety Code, Occupational Safety and Health Administration (OSHA) Standards and the Vancouver Municipal Code.

(B) Grantee shall ensure that the drops are properly bonded to the electrical power ground at the home, consistent with the applicable requirements of the National Electrical Code and the National Electrical Safety Code. All non-conforming or non-performing drops shall be replaced by Grantee as necessary.

10.13 Tree Trimming.

Subject to acquiring prior written permission of the Grantor, the Grantee shall have the authority to trim trees that overhang a Public Right-of-Way of Grantor so as to prevent the branches of such trees from coming in contact with its Cable System, in accordance with applicable codes and regulations and current, accepted professional tree trimming practices.

SECTION 11. SYSTEM DESIGN

(A) As of the effective date of this Franchise, the Cable System utilizes a fiber to the node architecture. All active electronics will be 750 MHz capable equipment, or equipment of higher bandwidth.

The Cable System is two-way capable and able to support two-way high speed cable modem service via the Cable System. Passive devices will pass a minimum bandwidth of 750MHz.

As of the effective date of this Franchise, the Cable System is capable of delivering as many as 200 channels or more including but not limited to digital music and video on demand to Subscribers.

(B) The system performance, capacity and services offered may be reviewed to assure the system keeps pace with changes in technology and is at least comparable to other systems in the Portland Metropolitan area.

SECTION 12. Compliance Procedures

(A) Grantee shall comply with technical standards required by the FCC and this Franchise. Compliance shall include, at a minimum:

- (1) Initial proof of performance for any construction;
- (2) Responding to subscriber complaints; and
- (3) Responding to Grantor's requests relating to compliance with applicable technical standards, in accordance with 47 CFR § 76.1717.

(B) Grantee shall promptly take such corrective measures as are necessary to correct any performance deficiencies fully and to prevent their recurrence as far as possible. Grantee's failure to correct deficiencies identified shall be a violation of this Franchise.

(C) As required by FCC Rules, Grantee shall conduct cumulative leakage index tests and other tests designed to demonstrate compliance with FCC requirements. Grantee shall provide Grantor summary written reports of the results of such tests.

SECTION 13. SERVICE EXTENSION, CONSTRUCTION, AND INTERCONNECTION

13.1 Equivalent Service

It is Grantee's general policy that all residential dwelling units in the Franchise Area have equivalent availability to Cable Service from Grantee's Cable System under nondiscriminatory rates and reasonable terms and conditions. Grantee shall not arbitrarily refuse to provide Cable Service to any Person within its Franchise Area, provided that Grantee is authorized to activate the upgraded system node by node.

13.2 Service Availability

(A) New Construction. Except for circumstances beyond Grantee's control and subject to Section 13.2 (B) and (C), Grantee shall provide Cable Service within thirty (30) days following request for service in newly constructed areas. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request.

(B) Required Extensions of Service. The Cable System, as constructed as of the date of the passage and final adoption of this Franchise, substantially complies with the material provisions hereof. Whenever the Grantee shall receive a request for service from a potential customer where there are at least four (4) residences within 1,056 aerial cable-bearing strand feet (one-fifth cable mile) or twenty (20) residences within a mile of its trunk or distribution cable capable of supporting the additional distance, or at least eight (8) residences within 1,056 underground trench feet (one-fifth mile) of trunk or distribution cable or forty (40) residences within a mile of its trunk or distribution cable capable of supporting the additional distance it shall extend its Cable System to such customers at no cost to said customers for Cable System extension, other than the usual connection fees for all customers within ninety (90) days except for circumstances beyond Grantee's control.

(C) Customer Charges for Extensions of Service. Potential subscribers requesting service but not entitled to availability of service under Section 13.2 (B) shall be provided service under the following circumstances, through contractual agreement between the Grantee and the person requesting service for payment of line extension construction costs:

(1) Grantee shall provide service at its normal, published installation charge for the initial 125 (one-hundred twenty-five) feet of extension.

(2) The subscriber and the Grantee shall share equally the actual cost of the extension for the distance over 125 (one-hundred twenty-five) feet but less than five hundred (500) feet.

(3) The subscriber shall pay all costs for the extension for the distance greater than five hundred (500) feet.

(4) The amount of cable extension as measured in feet, which is the basis for the cost sharing, will be computed as follows: The starting point shall be a point at the nearest reasonably usable existing cable plant using public right-of-way, exclusive of a street crossing; provided that the Grantee shall make a reasonable effort to secure and use private rights of way if the use of such rights of way reduces the cost of the line extension to the subscriber. The actual length of cable needed from the starting point to the subscriber's home shall be the total number of feet. The cost of the project from the starting point to the home shall be divided by the total number of feet. The resultant cost per foot shall be used to compute each party's share. Street bores or crossings needed to bring the existing cable plant to the requesting subscriber's side of the street shall be included as part of any line extension greater than 125 (one-hundred twenty-five) feet, otherwise these costs shall not be charged to the subscriber.

13.3 Connection of Public Facilities

(A) As voluntary initiative, Grantee shall, at no cost to Grantor, provide at least one (1) outlet of Basic and expanded basic programming or its equivalent to all Grantor's buildings, as designated by the Grantor, and all libraries and Schools passed by the Cable System within the Franchise Area, except for home schools and buildings or facilities housing jail populations. In addition, Grantee shall provide, at no cost to the Grantor or other agency, one (1) outlet of Basic and expanded basic programming or its equivalent to all future public buildings passed by the Cable System within the Franchise Area if the drop line to such building does not exceed one-hundred twenty-five (125) cable feet or if Grantor or other agency agrees to pay the incremental cost of such drop line in excess of one-hundred twenty-five (125) cable feet, including the cost of such excess labor and materials. Outlets of Basic and expanded basic programming provided in accordance with this subsection may be used to distribute Cable Service throughout such buildings at the cost of Grantor or agency, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. The Cable Service provided in this Section shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Grantor shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System. The Grantor shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this Section. If additional outlets of Basic Cable and expanded basic service and other services are provided to such buildings, the building owner/occupant shall pay Grantee's usual installation and service fees.

(B) The parties acknowledge that as of the Effective Date of this Franchise agreement, Grantee continues to provide Complimentary Services to certain schools, libraries, and public institutions within the Franchise Area. In the event Grantee elects, to the extent permitted by applicable laws, to charge the marginal cost to Grantee of providing Complimentary Services, Grantee agrees that it will do so only after providing Grantor with one hundred twenty (120) days' prior written notice. Grantee agrees not to unfairly or unreasonably

discriminate against the Grantor with respect to other Washington served local franchising authorities, with respect to the deduction or calculation of costs for Complimentary Services.

The Grantor shall have the right to have all or a portion of the Complimentary Services provided by the Grantee discontinued, directly billed to the recipient, or offset against franchise fee payments, in the event Grantee elects to impose a charge against the Grantor for the Complimentary Services as set forth in the preceding paragraph.

SECTION 14. STANDBY POWER AND STATUS MONITORING

(A) Grantee shall provide standby power generating capacity at the Cable System Headend capable of providing at least twelve (12) hours of emergency operation. Grantee shall maintain standby power system supplies, rated for at least four (4) hours duration, throughout the trunk and distribution networks. In addition, throughout the term of this Agreement, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours.

(B) Grantee shall continue to utilize status monitoring of the cable system which can continually monitor the system for signal quality on the forward and return spectrums of the system. In addition, the Grantee shall maintain status monitoring for all power supplies in its headend(s) and hub(s) as well as the distribution system.

Status monitoring shall be capable of notifying the Grantee, 24/7 of system problems including utility power outages that will negatively affect its customers.

SECTION 15. FRANCHISE VIOLATIONS; REVOCATION OF FRANCHISE

15.1 Procedure for Remediating Franchise Violations

(A) If Grantor believes that Grantee has failed to perform any obligation under this Agreement or has failed to perform in a timely manner, Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged violation. Grantee shall have thirty (30) days from the date of receipt of such notice to:

(1) Respond to Grantor, contesting Grantor's assertion that a violation has occurred, and request a hearing in accordance with subsection C below; or

(2) Cure the violation; or

(3) Notify Grantor that Grantee cannot cure the violation within the thirty (30) days, because of the nature of the violation and notify the Grantor in writing of what steps the Grantee shall take to cure the violation including the Grantee's projected completion date for

such cure. In such case, Grantor shall set a hearing date within thirty (30) days of receipt of such response in accordance with subsection (B) below.

(B) In the event that the Grantee notifies the Grantor that it cannot cure the violation within the thirty (30) day cure period, Grantor or its designee may set a public hearing within thirty (30) days of Grantor's receipt of such notice to review and determine whether the Grantee has taken reasonable steps to cure the violation and whether the Grantee's proposed plan and completion date for cure are reasonable. In the event such plan and completion date are found to be reasonable, the same shall be approved by the Grantor, who may waive all or part of the liquidated damages for such extended cure period in accordance with the criteria set forth in subsection (E) of this section.

(C) In the event that the Grantee fails to cure the violation within the thirty (30) day basic cure period, or within an extended cure period approved by the Grantor or designee pursuant to subsection (B), the Grantor or designee shall set a public hearing to determine what sanctions shall be applied. In the event that the Grantee contests the Grantor's assertion that a violation has occurred, and requests a hearing in accordance with subsection (A)(1) above, the Grantor or designee shall set a public hearing within sixty (60) days of the Grantor's receipt of the hearing request to determine whether the violation has occurred, and if a violation is found, what sanctions shall be applied.

(D) In the case of any hearing pursuant to this Section, Grantor shall notify Grantee of the hearing in writing and at the hearing, Grantee shall be provided an opportunity to be heard and to present evidence in its defense. The Grantor shall also hear any other Person interested therein.

(E) The liquidated damages set forth in Section 15.3 of this Agreement may be reduced at the discretion of the Grantor or designee, taking into consideration the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

- (1) Whether the violation was unintentional;
- (2) Whether substantial harm resulted;
- (3) Whether there is a history of prior violations of the same or other requirements;
- (4) Whether there is a history of overall compliance; and/or
- (5) Whether the violation was voluntarily disclosed, admitted or cured.

(F) If, after the public hearing, Grantor or designee determines that a violation exists, Grantor or designee may utilize one or more of the following remedies:

(1) Order Grantee to correct or remedy the violation within a reasonable timeframe as Grantor or designee shall determine;

(2) Establish the amount of liquidated damages set forth in Section 15.3, taking into consideration the criteria provided for in subsection (E) of this Section; provided that amounts in excess of fifty thousand dollars (\$50,000) shall be subject to Subsection (G) of this Section;

(3) Revoke this Agreement, subject to subsection (G) of this Section; and/or

(4) Pursue any other legal or equitable remedy available under this Franchise or any applicable law.

(G) This Agreement shall not be revoked nor shall liquidated damages in an amount in excess of fifty thousand dollars (\$50,000) be imposed except by the Vancouver City Council after notice and hearing as set forth in this Section.

(H) The determination as to whether a violation of this Agreement has occurred shall be within the sole discretion of the Grantor or its designee, provided that any such final determination shall be subject to review by a court of competent jurisdiction under applicable law.

15.2 Revocation

(A) In addition to all other rights and powers retained by the Grantor under this Franchise or otherwise, the Grantor reserves the right to revoke this Franchise and all rights and privileges of the Grantee hereunder, in whole or in part, in the event of a material violation of its terms and conditions. A material violation by the Grantee shall include, but shall not be limited to, the following:

(1) Violation of any material provision of this Franchise, or any material rule, order, regulation or determination of the Grantor or authorized agent made pursuant to this Franchise;

(2) Attempt to evade any material provision of this Franchise or to practice any fraud or deceit upon the Grantor or its Subscribers;

(3) Failure to restore service after forty-eight (48) consecutive hours of interrupted service system-wide, except when approval of such interruption is obtained from the Grantor or designee or;

(4) Material misrepresentation of fact in the application for or negotiation of this Franchise.

15.3 Liquidated Damages

(A) Amounts. Because the Grantee's failure to comply with provisions of the Agreement will result in injury to the Grantor, and because it will be difficult to estimate the extent of such injury in certain instances, the Grantor and the Grantee agree to the following liquidated damages for the following violations. These damages represent both parties' best estimate of the damages resulting from the specified injury.

(1) For failure to extend Cable Service within the Franchise Area as required in this Franchise: two-hundred fifty dollars (\$250) per incident per day.

(2) For failure to provide for Public, Educational, and Governmental Access Channels required in this Franchise: five-hundred dollars (\$500) per incident per day.

(3) For violation of applicable customer service standards: two hundred fifty dollars (\$250) per incident per day.

(4) For all other material violations of this Franchise, other than those specified in this section, for which actual damages may not be ascertainable: one-hundred fifty dollars (\$150) per incident per day for such material provision of this Franchise that is violated.

(B) Date of Violation, Notice and Opportunity to Cure. The date of violation will be the date of the event and not the date the Grantee receives notice of the violation, provided, if Grantor has actual knowledge of the violation and fails to give the Grantee the notice called for herein, then the date of the violation shall be no earlier than ten (10) business days before the Grantor gives Grantee the notice of the violation. The Grantor must provide written notice of a violation. Upon receipt of notice, the Grantee will have a period of thirty (30) days to cure the violation or thirty (30) days to present to the Grantor a reasonable remedial plan. The Grantor shall decide whether to accept or reject the remedial plan presented by the Grantee. Liquidated damages occur only in the event that either a cure has not occurred within thirty (30) days or the Grantor rejects the remedial plan. The procedures provided in Section 15, shall be utilized to impose any liquidated damages.

(C) Collection of Liquidated Damages. The collection of liquidated damages by the Grantor shall in no respect affect:

(1) Compensation owed to Subscribers; or

(2) The Grantee's obligation to comply with all of the provisions of this Agreement or applicable law; or

(3) Equitable remedies available to the Grantor, provided that collection of liquidated damages shall be the exclusive monetary remedy for the particular incident for which it is imposed other than reasonable attorney fees and costs if applicable.

15.4 Removal

(A) In the event of revocation of this Franchise, pursuant to Section 15.2 of this Franchise, or expiration, following the renewal process pursuant to Section 17.1 of this Franchise, Grantor may order the removal of the above-ground Cable System facilities and such underground facilities as required by Grantor in order to achieve reasonable engineering or Public Right-of-Way-use purposes, from the Franchise Area at Grantee's sole expense within a reasonable period of time as determined by Grantor. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Public Rights-of-Way, public places and private property in as good a condition as that prevailing prior to Grantee's removal of its equipment.

(B) If Grantee fails to complete any required removal to the satisfaction of Grantor, Grantor may cause the work to be done and Grantee shall reimburse Grantor for the reasonable costs incurred within thirty (30) days after receipt of an itemized list of the costs or Grantor may recover the costs through the Performance Bond provided by Grantee.

15.5 Receivership and Foreclosure

(A) At the option of Grantor, subject to applicable law, this Agreement may be revoked one-hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding unless:

(1) The receivership or trusteeship is vacated within one-hundred twenty (120) days of appointment; or

(2) The receiver(s) or trustee(s) have, within one-hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Agreement, and have remedied all violations under the Agreement. Additionally, the receiver(s) or trustee(s) shall have executed an agreement duly approved by the court having jurisdiction, by which the receiver(s) or trustee(s) assume and agree to be bound by each and every term and provision of this Agreement.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, Grantor may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Agreement shall be revoked sixty (60) days after service of such notice, unless:

(1) Grantor has approved the transfer of the Agreement, in accordance with the procedures set forth in this Agreement and as provided by law; and

(2) The purchaser has agreed with Grantor to assume and be bound by all of the terms and conditions of this Agreement.

15.6 No Recourse Against Grantor

Grantee shall not have any monetary recourse against Grantor or its officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Agreement or the enforcement thereof, as provided by applicable federal, state and local law. The rights of the Grantor under this Agreement are in addition to, and shall not be read to limit, any immunities the Grantor may enjoy under federal, state or local law.

15.7 Nonenforcement by Grantor

Grantee is not relieved of its obligation to comply with any of the provisions of this Agreement by reason of any failure of Grantor to enforce prompt compliance. Grantor's forbearance or failure to enforce any provision of this Agreement shall not serve as a basis to stop any subsequent enforcement. The failure of the Grantor on one or more occasions to exercise a right or to require compliance or performance under this Agreement or any applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing. Any waiver of a violation is not a waiver of any other violation, whether similar or different from that waived.

15.8 Relationship of Remedies

The remedies provided for in this Agreement are cumulative and not exclusive except as provided in Section 15.3 hereof; the exercise of one remedy shall not prevent the exercise of another, or any rights of the Grantor at law or equity.

SECTION 16. ABANDONMENT

16.1 Effect of Abandonment

If the Grantee abandons its System during the Agreement term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the Grantor, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the Grantor or until the Agreement is revoked and a new Franchisee is selected by the Grantor; or obtain an injunction requiring the Grantee to continue operations. If the Grantor is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the Grantor or its designee for all reasonable costs, expenses and damages incurred.

16.2 What Constitutes Abandonment

The Grantor shall be entitled to exercise its options and obtain any required injunctive relief if:

(A) The Grantee fails to provide Cable Service in accordance with this Agreement over a substantial portion of the Franchise Area for forty-eight (48) consecutive hours, unless the Grantor authorizes a longer interruption of service; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Agreement.

SECTION 17. FRANCHISE RENEWAL AND TRANSFER

17.1 Renewal

(A) The Grantor and Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of Grantee's Agreement shall be governed by and comply with the provisions of Section 626 of the Cable Acts, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

(B) In addition to the procedures set forth in said Section 626(a), the Grantor agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and Grantor agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the Grantor and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Agreement and the Grantor may grant a renewal thereof. Grantee and Grantor consider the terms set forth in this Section to be consistent with the express provisions of Section 626 of the Cable Acts.

17.2 Transfer of Ownership or Control

(A) The Cable System and this Agreement shall not be sold, assigned, transferred, leased, or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger, consolidation, nor shall title thereto, either legal or equitable, or any right, interest, or property therein pass to or vest in any Person or entity, without the prior written consent of the Grantor, which consent shall not be unreasonably withheld.

(B) The Grantee shall promptly notify the Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise on the acquisition or accumulation by any Person or group of Persons of fifty-one percent (51%) of the shares or the general partnership interest in the Grantee. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to

secure indebtedness, or (ii) a transfer or change in control to an entity directly or indirectly owned or controlled by Comcast Corporation. Every change, transfer or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until the Grantor shall have consented thereto.

(C) The parties to the sale or transfer shall make a written request to the Grantor for its approval of a sale or transfer and furnish all information required by law and the Grantor.

(D) The Grantor shall render a final written decision on the request within one-hundred twenty (120) days of the request, provided it has received all requested information. Subject to the foregoing, if the Grantor fails to render a final decision on the request within one-hundred twenty (120) days, such request shall be deemed granted unless the requesting party has failed to provide required documentation regarding the transferee's qualifications or the requesting party and the Grantor agree to an extension of time.

(E) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the Grantor, Grantee shall file with the Grantor a copy of the deed, Agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee.

(F) In reviewing a request for sale or transfer, the Grantor may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the Grantor in so inquiring. The Grantor may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, provided, however, any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective controlling party or transferee and to the resolution of outstanding and unresolved issues of noncompliance with the terms and conditions of this Agreement by Grantee.

(G) The consent or approval of the Grantor to any transfer by the Grantee shall not constitute a waiver or release of any rights of the Grantor, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this Franchise.

(H) Notwithstanding anything to the contrary in this Section, the prior approval of the Grantor shall not be required for any sale, assignment or transfer of the Agreement or Cable System for cable television system usage to an entity controlling, controlled by or under the same common control as Grantee provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the Grantor and must agree in writing to comply with all provisions of the Agreement. No consent shall be required for a transfer in trust, by mortgage, by other hypothecation, by assignment of any rights, title, interest of Grantee in the Franchise or Cable System in order to secure indebtedness.

SECTION 18. SEVERABILITY

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

SECTION 19. MISCELLANEOUS PROVISIONS

19.1 Preferential or Discriminatory Practices Prohibited

Grantee shall not discriminate in hiring, employment or promotion on the basis of race, color, creed, ethnic or national origin, religion, age, sex, sexual orientation, marital status, or physical or mental disability. Throughout the term of this Agreement, Grantee shall fully comply with all equal employment or nondiscrimination provisions and requirements of federal, state and local law and, in particular, FCC rules and regulations relating thereto.

19.2 Notices

Throughout the term of the Agreement, Grantee shall maintain and file with Grantor a designated legal or local address for the service of notices by mail. A copy of all notices from Grantor to Grantee shall be sent, postage prepaid, to such address and such notices shall be effective upon the date of mailing. General updates may be communicated electronically as appropriate, agreed to and acknowledged by both parties. At the effective date of this Agreement, such addresses shall be:

- (1) Comcast Cable
Attn: Government Affairs
11308 SW 68th Parkway
Tigard, OR 97223

With copy to: Comcast Cable
Attn: West Division/Government Affairs
9401 E Panorama Cir.
Centennial, CO 80122

All notices to be sent by Grantee to Grantor under this Agreement shall be sent, postage prepaid, and such notices shall be effective upon the date of mailing. At the effective date of this Agreement, such address shall be:

City of Vancouver
Cable TV Office
P.O. Box 1995
Vancouver, WA 98668-1995

With copy to:
Vancouver City Attorney
P.O. Box 1995
Vancouver, WA 98668-1995

19.3 Binding Effect

This Agreement shall be binding upon the parties hereto, their permitted successors and assigns.

19.4 Authority to Amend

This Agreement may be amended at any time by written agreement between the parties.

19.5 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Washington.

19.6 Captions

The captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of any provisions of this Agreement.

19.7 Construction of Agreement

The provisions of this Agreement shall be liberally construed to promote the public interest.

19.8 Force Majeure

(A) For purposes of this Franchise, the term “Force Majeure” shall mean acts of God, landslides, earthquakes, lightning, fires, hurricanes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, acts of terrorism or of the public enemy, strikes, explosions, lockouts or other industrial disturbances, insurrections, public riots, large-scale failure of utilities, documented work delays caused by waiting for utility providers to service or monitor utility poles to which Grantee’s facilities are attached and documented unavailability of materials and/or qualified labor to perform the work necessary; and other similar events which are not reasonably within the control of the distressed party.

(B) If either party is wholly or partially unable to carry out or perform its obligations under this Franchise as a result of Force Majeure, the distressed party shall not be deemed in violation or default during the duration of the Force Majeure. The distressed party shall take

immediate and diligent steps to comply as soon as possible under the circumstances, and shall take all necessary corrective steps to remedy as expeditiously as possible the non-compliant responsibilities and duties affected by the Force Majeure. The distressed party shall give prompt notice of such Force Majeure, describing the same in reasonable detail. The distressed party's obligations under this Franchise shall not be deemed in violation or default for the duration of the Force Majeure.

19.9 Attorneys' Fees

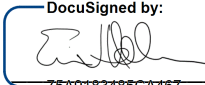
In the event of litigation between the parties, the prevailing party in such action shall be entitled to recover, in addition to damages, injunctive relief, reasonable costs and expenses, including, but not limited to, reasonable attorney fees, court costs and expert witness fees subject to court approval. Such costs such shall include reasonable attorney fees, costs and expenses incurred at trial and appeal.

19.10 Survival

The provisions of Sections 3.12 - Payment on Termination, 5.3 - Indemnification, 7.2 - Confidentiality, 10.3 - Relocation, 10.8 - Discontinuing Use of Facilities, 15.3 - Liquidated Damages, Section 15.4 - Removal, and 16 - Abandonment and of any other indemnity provisions elsewhere contained in this Agreement shall survive the expiration or earlier revocation of this Agreement.

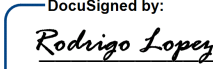
AGREED TO THIS 3rd DAY OF June, 2024

CITY OF VANCOUVER

By: 
75A9183485CA467...

Title: City Manager

COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

By: 
F89DB8EF44654F1...

Title: Regional Sr. vice President

Approved as to form:


9A7DC2E31F694A2...

City Attorney

EXHIBIT "A"

**ORIGINATION SITES and ACCESS CENTERS
VANCOUVER/CLARK COUNTY CABLE TELEVISION SYSTEM**

Origination Points and Access Centers

City/County Cable TV Office – CVTV Studio*
415 W. 6th Street
Vancouver, WA 98668

Vancouver City Hall, Council Chambers
415 W. 6th Street
Vancouver, WA 98668

Vancouver Community Library
901 C. Street
Vancouver, WA 98660

Clark County Public Service Center
1300 Franklin Street
Vancouver, WA 98660

City of Vancouver Water Resource Education Center
4600 S.E. Columbia Way
Vancouver, WA 98661

Port of Vancouver, USA
3103 Lower River Road
Vancouver, WA 98660

Clark County Emergency Communications Center
710 W. 13th Street
Vancouver, WA 98663

Gaiser Hall, Clark College
1800 E. McLoughlin Blvd.
Vancouver, WA 98663

Firstenburg Community Center
700 N.E. 136th Ave.
Vancouver, WA 98684

Vancouver Hilton
301 W. 6th Street
Vancouver, WA 98660

Educational Service District 112*
2500 N.E. 65th Ave.
Vancouver, WA 98661

Fire District 5 Regional Training Center
11606 N.E. 66th St. Bldg. B
Vancouver, WA

*Denotes Access Centers