

ORDINANCE NO. 2448

AN ORDINANCE granting an extension of the cable television system franchise now held by Comcast of Washington V, LLC from July 3, 2006 through July 2, 2011.

WHEREAS, the City of Camas is authorized to grant one or more non-exclusive franchises to construct, operate and maintain a cable television system within the municipal boundaries of the City of Camas; and

WHEREAS, Comcast of Washington V, LLC is subject to that certain Cable Television System Franchise Agreement with the City of Camas; and

WHEREAS, after such consideration, analysis and deliberation as is required by law, the City has found that Comcast of Washington V, LLC has sufficient financial, technical and legal qualifications to provide cable television service within the City of Camas; and

WHEREAS, representatives of the City of Camas and Comcast of Washington V, LLC have negotiated a Cable Television System Franchise Agreement with terms therein acceptable to the City of Camas, now therefore,

THE COUNCIL OF THE CITY OF CAMAS DO ORDAIN AS FOLLOWS:

Section I

The City hereby approves that certain Cable Television System Franchise Agreement between the City of Camas, Washington and Comcast of Washington V, LLC effective July 3, 2006 and expiring July 2, 2011.

Section II

This ordinance shall take force and be in effect five (5) days from and after its publication according to law.

PASSED by the Council and APPROVED by the Mayor this 3RD day of July, 2006.

SIGNED: Paul Davis
Mayor

ATTEST: John M. Durgan
Clerk

APPROVED as to form:
Shawn D. Meagher
City Attorney



Comcast Cable
9605 SW Nimbus Avenue
Beaverton, OR 97008

September 5, 2006

Mr. Shawn R. MacPherson, Esq.
Knapp, O'Dell & MacPherson
430 NE Everett Street
Camas, WA 98607

VIA Overnight Mail

Re: Comcast Franchise Renewal

Dear Shawn:

I am in receipt of your letter explaining that the City has been unable to locate the two signed original Franchise Agreements from Comcast, and requesting that Comcast sign a newly executed Franchise Agreement between the City of Camas and Comcast of Washington V, LLC. We have also reviewed the Franchise Agreement you provided for us to execute. Your explanation of the events and the accompanying endorsements by Mayor Dennis are appreciated.

Please find enclosed, the executed Franchise Agreement between the City of Camas and Comcast of Washington V, LLC. Also enclosed for your files is another executed Letter of Acceptance. We have already provided the city with the accompanying Certificates of Insurance, Letter of Credit and Performance Bond.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

Kevin Bell
Senior Director, Government Affairs

Cc: Lloyd Halverson, Camas Administrator
Curt Henninger, SVP/GM Comcast
Debbie Luppold, Division VP, Government Affairs Comcast

Enclosures

Lloyd Halverson
City Administrator
City of Camas
PO Box 1055
Camas, WA 98607

LETTER OF ACCEPTANCE AND PROMISE

To: City of Camas

1. Comcast of Washington V, LLC, a limited liability company (the Grantee), under the laws of the state of Washington, through its authorized representative(s) below signed does hereby submit this sworn and notarized Letter of Acceptance and Promise as required pursuant to Section 18.9 of the Franchise Agreement.
2. The signatory to this letter has full authority to make the statements and representations in this letter on behalf of the Grantee.
3. The Grantee, by and through the below signed and sworn representative(s) hereby unconditionally accepts and promises to comply with all terms, provisions and conditions of the cable Franchise granted by the City of Camas, Washington (the Franchise Authority).
4. This Letter of Acceptance and Promise is binding upon the Grantee as of the effective date of the Franchise Agreement, July 3, 2006.

Comcast of Washington V, LLC

By: 

Title: Senior Vice President

Date: 9/1/06

CABLE TELEVISION SYSTEM FRANCHISE AGREEMENT

Between

CITY OF CAMAS, WASHINGTON

and

COMCAST OF WASHINGTON V, LLC

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CABLE TELEVISION SYSTEM FRANCHISE AGREEMENT

PLD CLK

This Cable Television System Franchise Agreement ("Agreement") is entered into in Camas, Washington, this 3rd day of June, 2006, by and between the **CITY OF CAMAS** ("Grantor" or "City"), and **COMCAST OF WASHINGTON V, 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 "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.

1.2 "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.

1.3. "Cable Acts" mean 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, and any future federal cable television legislation.

1.4 "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.

1.5 "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.

1.6 “Cable System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves Subscribers without using any public right-of-way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand service; (4) an open video system that complies with federal statutes; or (5) any facilities of any electric utility used solely for operating its electric utility systems.

1.7 “Channel” means a portion of the electromagnetic spectrum which is used in a Cable System and is capable of delivering a television Channel, as television Channel is defined by the FCC in other applicable regulations.

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

1.9 “FCC” means the Federal Communications Commission.

1.10 “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.

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

1.12 “Gross Revenues” means all amounts accrued by Grantee or its Affiliates, in whatever form and from all sources, from the operation of Grantee's Cable System to provide Cable Service within the Franchise Area, as determined in accordance with generally accepted accounting principles. "Gross Revenues" shall include, without limitation, all amounts for all Cable Services, including, but not limited to, Basic, expanded basic, premium, and pay-per-view services, advertising sales and installation fees and charges. "Gross Revenues" shall also include any revenue received by any Affiliate of Grantee where such revenue in the ordinary course of business has been paid or should have been paid to Grantee from the operation of its Cable System to provide Cable Service within the Franchise Area. By way of illustration and not limitation, this definition would include revenue derived from the sale of Cable System advertising time by an Affiliate of Grantee. "Gross Revenues" shall not include bad debt, sales taxes, or other taxes which are collected by Grantee on behalf of, and for payment to, the local, state or federal government.

1.13 "**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.

1.14 "**Interconnect**" means the provision by Grantee of technical, engineering, physical, and all other necessary components to maintain a physical linking of Grantee's Cable System and Cable Service or any designated Channel or signal pathway thereof with neighboring Cable Systems, so that Cable Service of technically adequate quality may be sent to, and received from, other systems in accordance with this Agreement.

1.15 "**Leased Access Channel**" means any Channel commercially available for programming for a fee or charge by Grantee to members of the general public.

1.16 "**Person**" means any individual, natural Person, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.17 "**School**" means any accredited educational institution, public or private, excluding charter schools, but including primary and secondary Schools, and colleges and universities.

1.18 "**Street**" means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the Franchise Area: Streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way and similar public property and areas.

1.19 "**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) "**Commercial Subscriber**" which means any Subscriber other than Residential Subscriber.

(B) "**Residential Subscriber**" which means any Person who receives Cable Service delivered to single or multiple dwelling units, excluding such multiple dwelling units billed on a bulk-billing basis.

1.20 "**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 Streets 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. This Agreement shall be the only authorization required of the Grantee to utilize public rights-of-way for the purposes described herein.

(B) This Agreement is intended to convey limited rights and interests only as to those Streets 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 Streets 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. This Agreement shall not be interpreted to require the Grantee to comply with most-favored-community requirements of the Grantor.

(D) 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 Streets and Ways

Subject to Grantor's supervision and control, and further subject to any limitations set forth within any generally applicable public rights-of-way and public easement agreements and ordinances and policies, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public Streets, including 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 lawful and 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.

3. Duration

The term of this Agreement and all rights, privileges, obligations and restrictions pertaining thereto shall be for a period of five (5) years from the effective date of this Agreement through ~~June 20, 2011~~, unless extended or terminated sooner as hereinafter provided.

PLD CH
July 2

2.4 Effective Date

The effective date of this Agreement shall be, June 20, 2006, unless Grantee fails to file an unconditional written acceptance of this Agreement and post the security required hereunder by July 20, 2006 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 Street, 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

(A) In the event the Grantor enters into a Franchise, permit, license, authorization, or other agreement of any kind with any other Person or entity other than the Grantee to enter into the Grantor's public ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area, in which the Grantee is actually providing Cable Service under the terms and conditions of this Agreement or is required to extend Cable Service to under the provisions of Section 13.2 of this Agreement, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

(B) If Grantor grants a Franchise to a third party for service to an area that Grantee is not actually serving or required to extend service to, and which has material provisions that are not reasonably comparable to those contained herein, Grantor shall offer Grantee a Franchise to serve the same area under terms and conditions that are reasonably comparable to those set forth in the Franchise Agreement entered into with the third party.

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, 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. 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 this Franchise Agreement and the express terms of generally applicable ordinances, this Franchise Agreement shall govern, provided that, in cases of conflict between this Franchise Agreement and any ordinance of general application enacted pursuant to the Grantor's police power, the ordinance 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 and to the extent consistent with federal law.

2.9 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.

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 Streets, 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 to the extent consistent with federal law.

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

Grantee shall, no later than one-hundred twenty (120) days after the end of each calendar year, furnish to Grantor a statement stating the total amount of Gross Revenues and all payments, deductions and computations for the period covered by the payments. Such statement shall be reviewed by an independent certified public accountant prior to submission to Grantor.

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 Grantor may hire 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 four percent (4%) or more, Grantee shall pay the total cost of the audit.

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, either party may request to meet and confer with the other party 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 sixty (60) 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 sixteen (16) hours of negotiation during the sixty (60) 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, nor are they to be offset or credited against any Franchise fee to the extent consistent with federal law.

3.10 Costs of Publication

Grantee shall pay the reasonable cost of newspaper notices and publication pertaining to this Agreement and any amendments thereto, as such notice or publication is reasonably required by Grantor or 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 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, certified by an independent certified public accountant, 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 Letter of Credit 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 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly-available rate card), and shall be nondiscriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with governing law, with similar rates and charges for all Subscribers receiving similar Cable Service, without regard to race, color, familial, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability, or geographic location in the Franchise Area. Grantee shall provide equivalent Cable Service to all residential Subscribers at similar rates and to commercial Subscribers as authorized by applicable laws. Nothing herein shall be construed to prohibit:

- (A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns;
- (B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens;
- (C) Grantee from establishing different and nondiscriminatory rates and charges and classes of service for commercial customers, as well as different nondiscriminatory monthly rates for classes of commercial customers as allowable by federal law and regulations; or
- (D) Grantee from establishing different and nondiscriminatory rates and charges for residential Subscribers as allowable by federal law and regulations.

4.4 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 provided that Grantee shall make reasonable efforts to notify Grantor in writing in advance of such promotions.

(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.

4.5 Performance Evaluation Sessions

(A) Grantor may hold regular performance evaluation sessions annually on the anniversary dates of the effective date of this Agreement. All such evaluation sessions shall be conducted by Grantor.

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

(C) All regular evaluation sessions shall be open to the public and announced at least one week in advance in a newspaper of general circulation 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 annual 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 and location 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, 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 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 (Comprehensive Form Premises Insurance): Two-million dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage, and for those policies with aggregate limits, a one-million dollars (\$2,000,000) aggregate limit;

(2) Automobile Liability: Two-million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage; and

(3) Employer's Liability: Two-million dollars (\$2,000,000), to include workers compensation statutory liability.

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. Any such self-insured retention shall be 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, 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, and agents. Any insurance or self-insurance maintained by the Grantor, its officers, officials, employees, 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 sixty (60) days prior written notice, return receipt requested, has been given to the City Administrator.

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

(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 and City laws.

5.3 Indemnification

Grantee hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, engineers, and consultants from any and all claims, costs, judgments, awards, or liability to any person arising from injury or death of any person or damage to property to the extent that the negligent acts or omissions of the Grantee in performing under this Franchise are the proximate cause.

The Grantee further releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, engineers, and consultants from any and all claims, costs, judgments, awards or liability to any person arising against the City solely by virtue of the Grantee's exercise of the rights granted herein, or based on the City's inspection or lack of inspection of work performed by the Grantee, its agents and servants, officers or employees in connection with work authorized on the City's property or property over which the City has control pursuant to this Franchise, or pursuant to any other permit or approval issued in connection with this Franchise. This covenant of indemnification shall include but not be limited by this reference, claims against the City arising as a result of the negligent acts or omissions of the Grantee, its agents, servants, officers, or employees in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction, or work in any public right-of-way or other public place in performance of work or services permitted under this Franchise.

Inspection or acceptance by the City of any work performed by the Grantee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

In the event that the Grantee refuses the tender of defense in any suit or any claim, said tender having been made pursuant to the indemnification clauses contained herein, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of the Grantee, then the Grantee shall pay all of the City's costs for defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of the City, including reasonable

attorneys' fees of recovering under this indemnification clause.

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 City, its officers, employees and agents, the Grantee hereunder shall be liable only to the extent of the Grantee's negligence. The provisions of this Section shall survive the expiration or termination of this Franchise.

The Grantee releases and waives any and all claims against the City, its officers, agents, employees or contractors for damage to or destruction of the Grantee's facilities caused by or arising out of activities conducted by the City, its officers, agents, employees and contractors, in the public ways, rights-of-way, easements, or property subject to this Franchise, except to the extent any such damage or destruction is caused by or arises from the negligence or any willful or malicious action on the part of the City, its officers, agents, employees, or contractors. The Grantee further agrees to indemnify, hold harmless and defend the City against any claims for damages, including, but not limited to, business interruption damages and lost profits, brought by or under users of the Grantee's facilities as the result of any interruption of service due to damage or destruction of the user's facilities caused by or arising out of activities conducted by the City, its officers, agents, employees, or contractors to the extent any such damage or destruction is caused by or arises from the negligence or any willful or malicious actions on the part of the Grantee .

5.4 Letter of Credit

(A) No later than the effective date of this Agreement, Grantee shall establish and provide to Grantor, as security for the faithful performance by Grantee of all provisions of this Agreement, a Letter of Credit in the amount of ten thousand dollars (\$10,000). The Letter of Credit shall be filed in a form acceptable to the Grantor and issued by a financial institution acceptable to the Grantor, provided the Grantor, in its sole discretion, may direct that the Letter of Credit be issued by a local financial institution.

(B) The Letter of Credit shall be maintained at ten thousand dollars (\$10,000) throughout the term of this Agreement.

(C) The Letter of Credit may be assessed by Grantor for various purposes including, but not limited to, the following:

(1) Failure of Grantee to pay Grantor sums due under the terms of this Agreement;

(2) Reimbursement of costs borne by Grantor to correct violations of this Agreement not corrected by Grantee;

(D) Grantee agrees that it shall not attempt, through litigation or otherwise, to prevent or inhibit Grantor from drawing on the Letter of Credit. Grantee shall have the right of a de novo court appeal if Grantee believes the Letter of Credit has not been properly drawn in accordance with this Agreement. Any funds Grantor erroneously or wrongfully withdraws from the Letter of Credit shall be returned to Grantee, with interest from the date of withdrawal at a rate

equal to the interest rate specified for judgments entered in the Superior Court of the State of Washington, within thirty (30) business days of a final determination that the withdrawal was in error or wrongful.

(E) If Grantee fails within thirty (30) days after the date of written notice to pay to Grantor any franchise fees, assessment or taxes lawfully due which Grantor determines can be remedied by a draw upon the Letter of Credit, Grantor may thereafter withdraw the amount thereof from the Letter of Credit. Upon such withdrawal, Grantor shall notify Grantee of the amount and date thereof. Within seven (7) days following receipt by Grantee of written notice from Grantor that any amount has been withdrawn from the Letter of Credit, Grantee shall restore such Letter of Credit to the amount required under this Agreement. Failure by Grantee to so restore the Letter of Credit shall be considered a material violation of this Agreement.

(F) The Letter of Credit deposited pursuant to this Section shall become the property of Grantor in the event that this Agreement is lawfully terminated or revoked for cause by reason of the violation by Grantee, and Grantee has exhausted all of its remedies relating thereto. Grantee, however, shall be entitled to the return of the Letter of Credit deposited in accordance with this Section, or any portion thereof remaining upon normal expiration of this Agreement.

(G) The rights reserved to Grantor with respect to the Letter of Credit are in addition to all other rights of Grantor whether reserved by this Agreement or authorized by law or equity, and no action, proceeding or exercise of a right with respect to such Letter of Credit shall constitute a waiver of any other right Grantor may have.

5.5 Performance Bond

(A) Concurrent with the effective date of this Agreement, Grantee shall post a performance bond in the amount of fifty thousand dollars (\$50,000). The Grantor agrees to sign all documents necessary to release performance bonds no longer required under this franchise within a reasonable period of time.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

The Grantee shall meet or exceed any customer service standards adopted by the FCC and, to the extent the same are stricter or address different matters, those adopted now or in the future by the Grantor.

6.2 Subscriber Privacy

Grantee will comply with privacy rights of Subscribers in accordance with federal law.

6.3 Local Office

Throughout the Agreement term, the Grantee must maintain a, conveniently located customer service center which will

be open during normal business hours, as defined by the FCC, to provide Subscribers the opportunity for the receipt and pickup of Subscriber equipment and for bill payments and complaints. 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.

6.4 Emergency Broadcast

In accordance with, and at the time required by, the provisions of FCC Regulations Part 11, Subpart D, Section 11.51, as such provisions may from time to time be amended, EAS activation will be accomplished in compliance with the FCC approved Washington State EAS plan and the Local Area EAS plan that applies to Clark County, which has already been submitted for approval to the Washington State Emergency Communications Committee (WSECC).

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 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 format and medium agreed upon by the Grantor and the Grantee. Nothing in this section shall be construed to require Grantee to provide Grantor with copies of construction plans, records and "as built" maps.

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 stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under state or federal law. If Grantor believes it must release any such confidential books and records in the course of enforcing this Agreement, 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. Until otherwise ordered by a court or agency of competent jurisdiction, Grantor agrees that, to the extent permitted by state and federal law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person.

7.3 Copies of Federal and State Documents

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 shall submit such list or documents to Grantor no later than thirty (30) days after filing, mailing or publication thereof. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, state, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or state agency. Any such confidential material determined to be exempt from public disclosure shall be retained in confidence by Grantor and its authorized agents and shall not be made available for public inspection.

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. Grantee shall provide an executive summary report quarterly (within 45 days of the end of the preceding quarter) to Grantor, which shall include the following system-wide information:

- (1) Nature and type 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; and
- (5) Phone activity report.

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 in this section shall be construed to require Grantee to provide Grantor with copies of facility

maps.

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

(A) 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.

(B) Grantee shall not delete any broad category of programming within its control.

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. The subscriber shall bear any costs associated with the parental control or lockout device.

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. GENERAL STREET USE AND CONSTRUCTION

9.1 Construction

(A) Subject to applicable laws, regulations and ordinances of Grantor and the provisions of this Agreement, Grantee may perform all construction necessary for the operation of its Cable System. All construction and maintenance of any and all facilities within Streets incident 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 Streets, although nothing in this Agreement shall be interpreted to require Grantee to guarantee that any customer or lessee has procured necessary permits and authorizations. Grantee shall pay, prior to issuance, 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 Streets. All construction shall be performed in compliance with this Agreement and all applicable City 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. 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.

9.2 Location of Facilities

Within forty-eight (48) hours after notification of any proposed Street excavation, Grantee shall, at Grantee's expense:

- (A) Mark on the surface all of its underground facilities within the area of the proposed excavation;
- (B) Notify the excavator of any unlocated underground facilities in the area of the proposed excavation; or
- (C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation.

9.3 Relocation

Grantor shall have the right to require Grantee to change the location of any part of Grantee's Cable System within the Streets 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 within thirty (30) days written notice, 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 Streets, Grantor shall make a reasonable effort to provide Grantee with an alternate location within the Streets. If funds are available for the purpose of defraying the cost of relocation, the Grantor shall reimburse the Grantee for the cost of relocation.

9.4 Restoration of Streets

(A) Whenever Grantee disturbs the surface of any Street for any purpose, Grantee shall promptly restore the Street to at least its prior condition. When any opening is made by Grantee in a hard surface pavement in any Street, Grantee shall ensure that the area is traffic accessible before leaving the site, and upon completion of the project shall refill within twenty-four (24) hours the opening and restore the surface to a condition satisfactory to the Director of Public Works or designee.

(B) All survey monuments disturbed or displaced shall be referenced and replaced as required by WAC 332-120 and the Camas Benchmark System second order, first class specifications. The referencing and replacement of survey monuments shall be performed by a licensed land surveyor. The Public Works Director shall have final approval of the completeness of all restoration work and Grantee shall warrant said restoration work for a period of two (2) years.

(C) If Grantee excavates the surface of any Street, Grantee shall be responsible for restoration in accordance with applicable regulations of the City within the area affected by the excavation. Grantor may, after providing notice to Grantee, refill or repave any opening made by Grantee in the Street, and the expense thereof shall be paid by Grantee. Grantor may, after providing notice to Grantee, 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 Streets 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 strict compliance with all rules, regulations and ordinances of Grantor. Prior to making any Street or right-of-way cuts or openings, Grantee shall provide written notice to Grantor.

9.5 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 Streets 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.

9.6 Reservation of Grantor Street Rights

Nothing in this Agreement shall prevent Grantor or utilities owned, maintained or operated by public entities other than Grantor, from constructing sewers; grading, paving, repairing or altering any Street; repairing or removing water mains; or constructing 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. However, if any of Grantee's Cable System interferes with the construction or repair of any Street or public improvement, including construction, repair or removal of a sewer or water main, Grantee's Cable System shall be removed or replaced in the manner Grantor shall direct, and Grantor shall in no event be liable for any damage to any portion of Grantee's Cable System. Any and all such removal or replacement shall be at the expense of Grantee. Should Grantee fail to remove, adjust or relocate its facilities by the date established by Grantor's 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.

9.7 Use of Conduits by Grantor

Grantor may install or affix and maintain wires and equipment owned by Grantor for municipal purposes in or upon any and all of Grantee's ducts, conduits or equipment in the Streets and other public places without charge to Grantor, to the extent space therein or thereon is reasonably available, and pursuant to all generally applicable City Ordinances and Codes. For the purposes of this Subsection 10.7, "municipal purposes" includes, but is not limited to, the use of the structures and installations by Grantor for fire, police, traffic, water, or signal systems, but not for Cable Service purposes in competition with Grantee. Grantee shall not deduct the value of such use of its facilities from its Franchise fees payable to Grantor. Grantor's right to use Grantee's ducts completely satisfies any requirement the Grantor may lawfully impose regarding the use of Grantee ducts by others or the construction of new facilities for others.

9.8 Street Vacation

If any Street 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 Street, Grantee shall, without delay or expense to Grantor, remove its facilities from such Street, and restore, repair or reconstruct the Street where such removal has occurred, and place the Street 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 Street, Grantor may do such work or cause it to be done, and the reasonable cost thereof, as found and declared by Grantor, 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.

9.9 Discontinuing Use of Facilities

Whenever Grantee intends to discontinue using any facility within the Streets, 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 Street 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 Street, 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.

9.10 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 Streets.

(B) Grantee shall maintain and inspect its Cable System located in the Streets. Upon reasonable notice to Grantee, Grantor may inspect Grantee's facilities in the Streets 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.

9.11 Undergrounding of Cable

(A) Wiring.

(1) Where electric or telephone utility wiring is installed underground at the time of Cable System construction, or when such wiring is subsequently placed underground, all 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 or Subscribers. Related Cable System equipment such as pedestals must be placed in accordance with applicable Code requirements and underground utility rules as interpreted by the Grantor's Director of Public Works. In areas where both electric and 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.

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

(3) 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. Copies of agreements for use of poles, conduits or other utility facilities must be provided upon request by the Grantor subject to protecting Grantee's proprietary information from disclosure to third parties.

(B) Repair and Restoration of Property.

(1) The Grantee shall protect public and private property from damage. 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 its former condition, normal wear and tear excepted. Public right-of-way or other Grantor property shall be restored, in a manner and within a timeframe approved by the Grantor's Director of Public Works. If restoration of public right-of-way or other property of the Grantor is not satisfactorily performed within a reasonable time, the Director of Public Works may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, or cause delay or added expense to a public project or activity, 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. Unless adverse weather conditions occur, 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 unless otherwise agreed to between the Grantee and the private property owner.

(3) 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 notice. Upon written request of the Grantor, Grantee shall provide at least twenty-four (24) hours 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.

(C) 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 or activity of the Grantor's makes the removal, replacement, modification or disconnection necessary or less expensive for the Grantor. 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. Grantor shall not be liable for any direct, indirect, or any other such damages suffered by any person or entity of any type as a direct or indirect result of the Grantor's actions under this Section. 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 thirty (30) 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 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.

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

(E) Movement for Other Permittees. At the request of any Person holding a valid permit and upon reasonable advance notice, 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 in advance.

(F) Tree Trimming. Subject to acquiring prior written permission of the City, the Grantee shall have the authority to trim trees that overhang a public right-of-way of the City 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.

9.12 Codes

Grantee shall strictly adhere to all 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.

9.13 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 the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

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

SECTION 10. SYSTEM DESIGN

10.1 Subscriber Network

(A) The cable system shall meet or exceed all applicable technical and performance standards of the FCC.

(B) The Grantee shall also comply with all applicable testing requirements of the FCC. Upon request, Grantee shall advise the Grantor of schedules and methods for testing the Cable System within the Service Area to determine compliance with the provisions of applicable FCC technical standards. Representatives of the Grantor may witness the tests.

(C) Written records of all system tests required to be performed by or for the Grantee shall be maintained at Grantee's business office, and shall be available for inspection during Grantee's normal business hours by the Grantor upon written request. Grantee, upon written request of Grantor, shall provide a summary or complete copies of such tests results prepared in accordance with FCC rule.

(D) Whenever it is necessary to shut off or interrupt service for the purpose of making repairs or maintaining the Cable System, Grantee shall do so at such times as will cause the least amount of inconvenience to Subscribers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to Subscribers. Notwithstanding anything to the contrary, Grantee's obligation to provide, replace, construct, maintain or operate the Cable System under this Franchise shall be excused for any period during which such service is prevented or interrupted by causes beyond the control of Grantee including acts of nature, fire, flood unavoidable casualty, extraordinary delays in transportation, strikes or power interruption, or regulations. Cable Service shall thereafter be restored as soon as reasonably possible.

(E) 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 be laid in the Public Rights of Way by, or under, Grantor's authority.

10.2 Institutional Network

"Institutional Network" means a communication network which is operated by the Grantee and which is generally available only to Subscribers who are not residential Subscribers, and interconnects specific public buildings for the transmission and receipt of voice, data, video and other communications between specific points in the discrete network within the Service Area.

The Grantee's charges for the use of such network shall be at comparable rates and on similar terms and conditions as that offered by the Grantee to other municipal users in the State of Washington for similar services. Nothing herein should be construed as a requirement for the Grantee to construct an Institutional Network without fair reimbursement

of the capital cost to provide such facilities.

SECTION 11. TEST AND COMPLIANCE PROCEDURES

Upon request, Grantee shall advise Grantor of schedules and methods for testing the Cable System on a regular basis to determine compliance with the provisions of applicable FCC technical standards. Tests may be witnessed by representatives of Grantor, and written test reports may be made available to Grantor upon request.

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

SECTION 12. SERVICE EXTENSION, CONSTRUCTION, AND INTERCONNECTION

12.1 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.

12.2 Service Availability

(A) New Construction. Grantee shall provide Cable Service within sixty (60) days 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. Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Agreement;

(2) At a nondiscriminatory installation charge for a standard installation, consisting of a one-hundred twenty-five (125) foot drop, with additional charges for non-standard installations computed according to a nondiscriminatory methodology for such installations, adopted by Grantee and provided in writing to Grantor; and

(3) At nondiscriminatory monthly rates for residential Subscribers.

(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 at least fifteen (15) residences within 1320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, 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, provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided under Section 2.6 of this Franchise.

(C) Customer Charges for Extensions of Service. No Customer shall be refused service arbitrarily. However, for unusual circumstances, such as a Customer's request to locate his cable drop underground, existence of more than one-hundred twenty-five (125) feet of distance from distribution cable to connection of service to Customers, or a density of less than fifteen (15) residences per 1320 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and Customers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet of its trunks or distribution cable and whose denominator equals fifteen (15) residences. Customers who request service hereunder will bear the remainder of the construction and other costs on a *pro rata* basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential Customers be paid in advance.

12.3 Connection of Public Facilities

Grantee shall, at no cost to Grantor, provide at least one (1) outlet of Basic and expanded basic programming to all City buildings, as designated by the Grantor, and all libraries and Schools. In addition, Grantee shall provide, at no cost to the building owner, one (1) outlet of Basic and expanded basic programming to all such future public buildings 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, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained.

SECTION 13. STANDBY POWER

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 two (2) 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 two (2) hours. This outage plan and evidence of requisite implementation resources shall be presented to Grantor no later than ninety (90) days following the effective date of this Agreement.

SECTION 14. FRANCHISE VIOLATIONS; REVOCATION OF FRANCHISE**14.1 Procedure for Remedying 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, in the event that the violation is deemed material by the Grantor, 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 the event the violation is deemed a material violation by Grantor, 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, and the violation is deemed a material violation by Grantor, Grantor or its designee shall 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;

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

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

(G) This Agreement shall not be revoked nor shall liquidated damages be imposed except by 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.

14.2 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 forfeit and terminate 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 other Agreement between Grantor and Grantee, or any material rule, order, regulation or determination of the Grantor or authorized agent made pursuant to this Franchise or other Agreement;
- (2) Attempt to evade any material provision of this Franchise or to practice any fraud or deceit upon the Grantor or its Subscribers or customers;
- (3) Failure to maintain the cable system as provided in Section 11;
- (4) 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;
- (5) Material misrepresentation of fact in the application for or negotiation of this Franchise; or
- (6) If Grantee becomes insolvent, or the subject of a bankruptcy proceeding.
- (7) If Grantee constructs or operates a Cable System within the public rights-of-ways of the City or upon City property without a franchise;
- (8) If Grantee constructs or operates a Cable System at an unauthorized location;
- (9) If Grantee transfers working control of the Grantee without necessary authorization;
- (10) If Grantee sells, assigns or transfers Grantee's franchise without authorization;
- (11) If Grantee abandons the Cable System or a portion thereof in the public rights-of-way or upon City property;
- (12) If Grantee fails to relocate or remove facilities as required in Section 10 of this Agreement; and
- (13) If Grantee fails to pay compensation to the City as required in this Agreement.

14.3 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: twenty-five dollars (\$25) per day, per affected potential Subscriber.
- (2) For failure to provide any capability for Public, Educational, and Governmental use of the system required in this Agreement: fifty dollars (\$50) for each violation per day.

(3) For violation of applicable customer service standards: twenty-five dollars (\$25) per violation per day.

(4) For all other material violations of this Agreement, other than those specified in this section, for which actual damages may not be ascertainable: twenty-five dollars (\$25) per day for each provision of this Agreement 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 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) Other remedies available to the Grantor.

14.4 Removal

(A) In the event of termination, expiration or revocation of this Agreement, 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 Street-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 Streets, 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 Letter of Credit provided by Grantee.

14.5 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 thirty (30) 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.

14.6 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, in accordance with the provisions of 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.

14.7 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.

14.8 Relationship of Remedies

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

SECTION 15. ABANDONMENT

15.1 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.

15.2 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 16. FRANCHISE RENEWAL AND TRANSFER

16.1 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.

16.2 Transfer of Ownership or Control

(A) The Cable System, its capacity 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 percent (50%) of the shares or the general partnership interest in the Grantee, except that this sentence shall not apply in the case of a transfer to any Person or group already owning at least a fifty percent (50%) interest of the shares or the general partnership interest in the Grantee. 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 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.

SECTION 17. 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 18. MISCELLANEOUS PROVISIONS

18.1 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.

18.2 Force Majeure

The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary.

18.3 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. At the effective date of this Agreement, such addresses shall be:

To the Franchising Authority:

City of Camas

P.O. Box 1055 / 616 NE 4th Avenue

Camas, WA 97607

To the Grantee:

Comcast

9605 SW Nimbus Avenue

Beaverton, OR 97008

Attn: General Manager

with a copy to:

Comcast Cable Communications, Inc.

1500 Market Street

Philadelphia, PA 19102

Attn: Government Affairs Department

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 Camas

City Administrator

P.O. Box 1055

Camas, WA 98607

18.4 Binding Effect

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

18.5 Authority to Amend

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

18.6 Governing Law

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

18.7 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.

18.8 Construction of Agreement

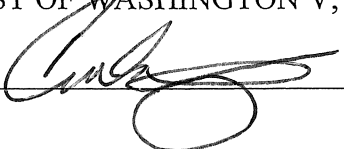

The provisions of this Agreement shall be liberally construed to promote the public interest.

18.9 Acceptance

This Agreement shall not become effective unless and until an ordinance is passed by the City Council granting the Agreement. Within thirty (30) days after the effective date of the ordinance granting the Franchise, or within such extended period of time as the Council in its discretion may authorize, the Grantee shall file with the Mayor or designee an unconditional written acceptance of the franchise to the City Attorney, together with the bonds, certificate of insurance, and security fund as required by this Agreement.

AGREED TO THIS 3rd DAY OF JULY 2006

COMCAST OF WASHINGTON V, LLC CITY OF CAMAS

By:  By: 

Title: SENIOR VICE PRESIDENT Title: Mayor