

ATTACHMENT A

DRAFT DATED 6-23-21

THE CITY OF REDMOND, WASHINGTON

AND

COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

AND

COMCAST CABLE COMMUNICATIONS, LLC

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CABLE FRANCHISE AGREEMENT

This Cable Television Franchise (“Franchise” or “Agreement”) is entered into in Redmond, Washington, this 6th day of July, 2021, by and between Redmond, Washington, a body corporate and politic (hereinafter “Grantor” or the “City”), and Comcast Cable Communications Management, LLC and Comcast Cable Communications, LLC (who are jointly and severally referred to herein as “Grantee”). Grantor and Grantee are sometimes referred to hereinafter collectively as the “parties.”

WHEREAS, the parties entered into a Franchise dated June 18, 2013; and

WHEREAS, the parties desire to enter into a new Franchise as set forth below; and

WHEREAS, the Grantor has identified the future cable-related needs and interests of the City and its residents, has considered the financial, technical and legal qualifications of Grantee, and has determined that Grantee’s plans for operating and maintaining its System are adequate, in a public proceeding affording due process to all parties; and

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

WHEREAS, the City is authorized by applicable law to grant a renewal of one or more nonexclusive franchises to operate and maintain cable television Systems within the boundaries of the City.

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

SECTION 1. DEFINITIONS

For the purposes of this Franchise, 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 discretionary. A list that follows the use of the word “including” is intended to illustrate examples, not an exhaustive list, unless the context clearly indicates otherwise.

1.1 “Access” or “Access Programming” includes Educational Access and Governmental Access, and means the availability for noncommercial use by various agencies and institutions, including the City and its designees, of the Cable System to acquire, create, receive, and distribute video Cable Services and other services and signals as permitted under Applicable Law including:

a. “Educational Access” means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, “school” means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges and universities.

b. “Government Access” means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 “Access Channel” means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming or services.

1.3 “Activated” means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

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

1.5 “Applicable Law” means any law, statute, ordinance, judicial decision, executive order or regulation having the force and effect of law that determines the legal standing of a case or issue.

1.6 “Bad Debt” means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.7 “Basic Service” is the level of programming service which includes the retransmission of local television Broadcast Channels and is made available to all Cable Service Subscribers in the Franchise Area.

1.8 “Broadcast Channel” means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.

1.9 “Broadcast Signal” means a television or radio signal transmitted over the air to a wide geographic audience and received by a Cable System by antenna, microwave, satellite dishes or any other means.

1.10 “Cable Act” means the Title VI of the Communications Act of 1934, as amended.

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

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

1.13 “Cable System” means any facility, including Grantee’s, 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 (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) 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 services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.14 “Channel” means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television Channel (as television Channel is defined by the FCC by regulation).

1.15 “Chief Operating Officer” means the Chief Operating Officer of the City or designee.

1.16 “City” is the City of Redmond, Washington, a body politic and corporate under the laws of the State of Washington.

1.17 “City Council” means the Redmond City Council, or its successor, the governing body of the City of Redmond, Washington.

1.18 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.

1.19 “Designated Access Provider” means the entity or entities designated now or in the future by the City to manage or co-manage Access Channels and facilities. The City may be a Designated Access Provider.

1.20 “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service and does not include Premium Services.

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

1.22 “Dwelling Unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation, and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units unless the additional facilities are clearly accessory.

1.23 “FCC” means the Federal Communications Commission.

1.24 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.25 “Finance Director” means the director of the City’s Finance Department or designee.

1.26 “Franchise” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the City and Grantee, containing the specific provisions of the authorization granted, including references, specifications requirements, and other related matters.

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

1.28 “Franchise Fee” includes any tax, fee or assessment of any kind imposed by the City on Grantee or Subscribers, or both solely because of their status as such. The term Franchise Fee does not include:

(A) Any tax, fee or assessment of general applicability (including any such tax, fee, or assessment on both utilities and Cable Operators or their services, but not including a tax, fee, or assessment that is unduly discriminatory against Cable Operators or cable Subscribers);

(B) Capital costs that are required by the Franchise to be incurred by Grantee for Educational or Governmental Access facilities, including the support required in Section 9.4;

(C) Requirements or charges incidental to the awarding or enforcing of the Franchise, including but not limited to, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or

(D) Any fee imposed under Title 17, United States Code.

1.29 “Grantee” means jointly and severally Comcast Cable Communications Management, LLC, or its lawful successor, transferee or assignee and Comcast Cable Communications, LLC, or its lawful successor, transferee or assignee.

1.30 “Gross Revenues” means and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliate entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the City. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to Residential or Commercial Subscribers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, and video-on-demand Cable Services);

- installation, reconnection, downgrade, upgrade, or similar charges associated with changes in subscriber Cable Service levels;
- fees paid to Grantee for channels designated for commercial/leased access use, which shall be allocated on a *pro rata* basis using total Cable Service Subscribers within the City;
- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined herein;
- late fees, convenience fees, and administrative fees, which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total Subscriber revenues within the City;
- revenues from program guides;
- Franchise Fees;
- FCC Regulatory Fees;
- Except as provided in subsection (B) below, any fee, tax, or other charge assessed against Grantee by a municipality, which Grantee chooses to pass through and collect from its Subscribers; and
- commissions from home shopping Channels and other Cable Service revenue sharing arrangements, which shall be allocated on a *pro rata* basis using total Cable Service Subscribers within the City.

(A) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System Subscribers within the City and shall be allocated on a *pro rata* basis using total Cable Service Subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to Franchise Fees shall include all commissions, representative fees, Affiliate entity fees, or rebates paid to National Cable Communications and Effectv or their successors associated with sales of advertising on the Cable System within the City and allocated according to this subsection using total Cable Service Subscribers reached by the advertising.

(B) “Gross Revenues” shall not include:

- actual Bad Debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total Subscriber revenues within the City;

- any taxes on services furnished by the Grantee which are imposed directly on any Subscriber or user by the State, City or other governmental unit and which are collected by the Grantee on behalf of said governmental unit;
- Access Fees;
- launch fees and marketing co-op fees; and
- unaffiliated third-party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, State or local law. The allocations shall be done for each bundled package separately, and updated and revised within sixty (60) days, each time an element within the package has its rate card changed including when an element is substituted for another element within the bundled package. It is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the City. The City reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this subsection 1.30 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee will explain and document the required changes to the City within three (3) months of making such changes, and as part of any audit or review of Franchise Fee payments, and any such changes shall be subject to subsection 1.30 (E) below. If new Cable Service revenue streams develop from Grantee's operation of its Cable System within the City, those new revenue streams shall be included within Gross Revenues, unless the parties agree otherwise.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the FASB, EITF and/or the SEC. Notwithstanding the forgoing, the City reserves its right to challenge Grantee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.31 "Headend" means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and Interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

- 1.32** “Leased Access Channel” means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.
- 1.33** “Municipal Code” means the Redmond City Code adopted for application and enforcement within the City of Redmond, Washington.
- 1.34** “Person” means any individual, sole proprietorship, partnership, joint venture, association, limited liability entity or corporation, or any other form of entity or organization.
- 1.35** “Premium Service” or “Pay Service” means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.
- 1.36** “Residential Subscriber” means any Subscriber who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.
- 1.37** “Right-of-Way” means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property in which the City now or hereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System, provided, however, Right-of-Way shall not include parks and open spaces or where conservation easements prohibit development. No reference herein to a “Public Right-of-Way” shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and Grantee shall be deemed to gain only those rights to use as are properly in the City and as the City may have the undisputed right and power to give.
- 1.38** “State” means the State of Washington.
- 1.39** “Subscriber” or “Customer” means any Person who or which has entered into an agreement to receive 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, and who or which has not been disconnected for failure to adhere to Grantee’s regular and nondiscriminatory terms and conditions for receipt of service.
- 1.40** “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.
- 1.41** “Tier” means a group of Channels for which a single periodic subscription fee is charged.
- 1.42** “Upstream” means carrying 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) The City hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way and any compatible easements, to the extent they comply with the provisions of 47 U.S.C. § 541(a)(2), within the City to construct, operate, maintain, reconstruct, and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise. This Franchise shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable City ordinance existing as of the Effective Date, as defined in subsection 2.3.

(C) Each and every term, provision, or condition herein is subject to the provisions of State law, federal law, and the ordinances and regulations enacted by the Redmond City Council pursuant thereto, portions of which may be codified in the Municipal Code. To the extent there is any conflict between any provision of the Municipal Code as it exists on the Effective Date of this Franchise and this Franchise, the terms of this Franchise shall control. Subject to the City's right to exercise its police power under subsection 2.5, the City may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

(D) This Franchise shall not be interpreted to prevent the City from imposing additional lawful conditions for use of the Rights-of-Way as allowed by Applicable Law should Grantee provide service other than Cable Service, nor shall this Franchise be interpreted to either prevent or authorize Grantee from making any other lawful uses of the Cable System as permitted by Applicable Law.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of 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 obligations of this Franchise.

(F) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other generally applicable permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

(2) Any generally applicable permit, agreement, or authorization required by the City for Right-of-Way users in connection with operations on or in the Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any generally applicable permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits, or in or on other structures.

(G) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide Grantee with 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.

(H) This Franchise authorizes Grantee to engage in providing Cable Service, as that term is defined in 47 U.S.C. Sec. 522(6), as amended. Neither the City nor the Grantee waive any rights they may have under Applicable Law as to the lawful use of the Cable System for other services and the regulatory obligations related to such services.

2.2 Use of Rights-of-Way

(A) Subject to the City's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the City such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the City. Grantee, through this Franchise, is granted extensive and valuable rights to operate its Cable System for profit using the City's Rights-of-Way in compliance with all applicable City construction codes and procedures. As trustee for the public, the City is entitled to fair compensation as provided for in Section 3 of this Franchise to be paid for these valuable rights throughout the term of the Franchise.

(B) Grantee must follow City established nondiscriminatory requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by the City or others, including others that may be installing communications facilities. Within limits reasonably related to the City's role in protecting public health, safety, and welfare, the City may require that Cable System facilities be installed at a particular time, at a specific place, or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with City's requirements; and may remove or require removal of any facility that is not installed by Grantee in compliance with the requirements established by the City, or which is installed without prior City approval of the time, place, or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Rights-of-Way through joint trenching and other arrangements.

2.3 Effective Date and Term of Franchise

Except as provided herein, the term of this Franchise and all rights, privileges, obligations and restrictions pertaining thereto shall commence on July 6, 2021 (the “Effective Date”) and shall expire in five (5) years on July 5, 2026, unless lawfully terminated sooner as hereinafter provided. If written notice is given from Grantee to the City between July 6, 2025 and December 5, 2025, and if both the City and the Grantee mutually agree, the term of this Franchise shall be extended until July 5, 2031, unless lawfully terminated sooner as hereinafter provided. If such written notice is not given during this time period or if the City and the Grantee do not mutually agree to so extend the term, then the term of this Franchise shall expire on July 5, 2026, unless lawfully terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive and subject to all prior rights, interests, easements, or licenses granted by the City to any Person to use any property, Right-of-Way, right, interest, or license for any purpose whatsoever, including the right of the City to use the same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The City may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee’s authority under this Franchise and for such additional franchises for Cable Systems as the City deems appropriate, subject to subsection 2.6.

2.5 Police Powers

Grantee’s rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted or hereafter enacted by the City or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City shall have the right to adopt from time to time such ordinances as it may deem necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the City’s police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

(A) Grantee acknowledges and agrees that the City reserves the right to hereinafter grant one (1) or more additional franchises or other similar lawful authorization to utilize the Rights-of-Way in order to provide Cable Services or similar video programming service within the City. If the City grants such an additional franchise or other similar lawful authorization that permits other providers to utilize the Rights-of-Way for Cable Services or similar video programming services containing material terms and conditions that differ from Grantee’s material obligations under this Franchise, or declines to require such franchise or other similar lawful authorization where it has the legal authority to do so, then the City agrees that the obligations in this Franchise will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that are imposed upon the other providers, or provide

relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: Franchise Fees and Gross Revenues; complimentary services; insurance; System build-out requirements; security instruments; Education and Government Access Channels and support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent. Prior to formal consideration of a competitive franchise to provide Cable Services or similar video programming service, the City shall provide written notice to Grantee. Video Programming Services (as defined in the Cable Act) delivered over wireless broadband networks are specifically exempted from the requirements of this Franchise.

(B) The modification process of this Franchise as provided for in subsection 2.6 (A) shall only be initiated by written notice by Grantee to the City regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise that are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; and (3) providing text for any proposed Franchise amendments to the City, with a written explanation of why the proposed amendments are necessary and consistent. Notwithstanding any modification of this Franchise pursuant to the provisions of this subsection 2.6, should any entity, whose authorization to provide Cable Services or similar video programming service resulted in a triggering of the amendments under this Section, cease to provide such services within the City, the City may provide ninety (90) days' written notice to Grantee of such fact, and the City and Grantee shall enter into good faith negotiations to determine which of the original terms, conditions and obligations of this Franchise shall be reinstated and fully effective.

(C) Upon receipt of Grantee's written notice as provided in subsection 2.6 (B), the City and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the City and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include the modifications.

(D) In the alternative to Franchise modification negotiations as provided for in subsection 2.6 (C), or if the City and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the City hereinafter grants to another multi-channel video programming provider, with the understanding that Grantee may use its current system design and technology infrastructure to meet any requirements of the new franchise, so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the City shall immediately commence proceedings to replace this Franchise with the franchise issued to the other multi-channel video programming provider.

(E) Notwithstanding anything contained in this subsection 2.6(A) through (D) to the contrary, the City shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar video programming services available for purchase by subscribers or customers under its franchise agreement with the City.

(F) Notwithstanding any provision to the contrary, at any time that a wireline facilities based entity, legally authorized by State or federal law, makes available for purchase by subscribers or customers Cable Services or multiple Channels of video programming within the Franchise Area without a franchise or other similar lawful authorization granted by the City that permits a new entrant to utilize the Rights-of-Way granted by the City, then:

(1) Grantee may negotiate with the City to seek Franchise modifications as per subsection 2.6(C) above; or

(2) the term of Grantee's Franchise shall, upon ninety (90) days' written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice, and Grantee shall be deemed to have timely invoked the renewal process under 47 USC 546; or,

(3) Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable" and invoke the modification procedures set forth in Section 625 of the Cable Act.

For the purposes of this section, a "wireline facilities based entity" means an entity, including the City, that owns, controls or manages a significant portion of the wireline facilities located in the City's Rights-of-Way, over which the video programming services are delivered.

2.7 Familiarity with Franchise

Grantee acknowledges and warrants by acceptance of the rights, privileges, and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms, and conditions herein. Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise, and finds that the same are commercially practicable at this time and consistent with all local, State, and federal laws and regulations currently in effect, including the Cable Act.

2.8 Effect of Acceptance

By accepting the Franchise, Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and (3) agrees that the Franchise 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 PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the City's Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the City, throughout the duration of and consistent with this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues. The City has granted an additional agreement to another wireline Cable Service provider. Grantee shall not be required to pay more than the Franchise Fee percentage imposed by other wireline agreement(s) required from other wireline Cable Service provider(s).

3.2 Payments

Grantee's Franchise Fee payments to the City shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than thirty (30) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City 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 the City concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

3.5 Audits

Not more than once every three (3) years, upon thirty (30) days' prior written notice, the City, including the City's Finance Director, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise. Pursuant to subsection 1.30, as part of the Franchise Fee audit/review, the City shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. An independent audit/review of Grantee's records may be conducted more frequently if the City has a reasonable basis upon which to believe an error in the Franchise Fee calculation has occurred. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the Subscriber counts per package and the revenue allocation per package for each package that was available for City Subscribers during the audit period. To the extent that the City does not believe that the relevant

data supplied is sufficient for the City to complete its audit/review, the City may require other relevant data maintained in Grantee's ordinary course of business. For purposes of this subsection 3.5, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample Subscriber bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the City to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more (or such other contract underpayment threshold as set forth in a generally applicable and enforceable regulation or policy of the City related to audits), Grantee shall pay the total cost of the audit/review, such cost not to exceed five thousand dollars (\$5,000) for each year of the audit period. The City's right to audit/review and Grantee's obligation to retain records necessary to complete any audit under this subsection shall expire consistent with the applicable statute of limitations period under State law; provided, however, that this would not apply to a time period covered under a previous audit.

3.6 Late Payments

In the event any quarterly Franchise Fee payment is not received within thirty (30) days from the date the payment was due to the City, Grantee shall pay interest on the amount due of one percent (1% per month (twelve percent [12%] per annum) on any unpaid balance of the Franchise Fee due, until all payments due are paid in full. Any unpaid fee or interest due under this Franchise that remains unpaid shall constitute a debt to the City, collectible in accordance with the Redmond City Code.

3.7 Underpayments and Overpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest as applicable for late payments under subsection 3.6 of this Franchise, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the City. If an overpayment is discovered, Grantee may take an offset against future Franchise Fee payments, with no interest or other cost to the City.

3.8 Alternative Compensation

In the event the obligation of Grantee to compensate the City through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the City compensation equivalent to the compensation paid to the City by other similarly situated users of the City's Rights-of-Way for Grantee's use of the City's Rights-of-Way, provided that in no event shall such payments exceed the equivalent of five percent (5%) of Grantee's Gross Revenues (subject to the other provisions contained in this Franchise), to the extent consistent with Applicable Law.

3.9 Maximum Legal Compensation

The parties acknowledge that, at present, applicable federal law limits the City to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise the City is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise may

be amended unilaterally by the City, by resolution of the City Council, to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the City hereunder, provided that Grantee has received at least ninety (90) days' prior written notice from the City of such amendment, so long as all franchised wireline cable operators in the City are paying the same Franchise Fee amount commencing within ninety (90) days of the Effective Date of the increase for Grantee. Conversely, in the event that at any time throughout the term of this Franchise, Grantor is only authorized to collect an amount which is less than five percent (5%) of Gross Revenues in any twelve (12) month period, such change shall be made, consistent with law, with sixty (60) days written notice to Grantee, provided that all franchised wireline cable operators in the Franchise Area over which the Grantor has jurisdiction are treated in an equivalent manner.

3.10 Tax Liability

The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use, utility, business and occupation, and other taxes, business license fees, or other payments. Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax, or charge on the business, occupation, property, or income of Grantee that may be lawfully imposed by the City. Any other license fees, taxes, or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.11 Financial Records

Grantee agrees to meet with a representative of the City upon request to review Grantee's methodology of recordkeeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the City deems necessary for reviewing reports and records.

3.12 Payment on Termination

If this Franchise terminates for any reason, Grantee shall file with the City within ninety (90) calendar days of the date of the termination, a financial statement, signed by a representative of Grantee under penalty of perjury under the laws of the State of Washington, showing the Gross Revenues received by Grantee since the end of the previous fiscal year. The City reserves the right to satisfy any remaining financial obligations of Grantee to the City by utilizing the funds available in the letter of credit or other security provided by Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The City shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest or to delegate that

power and right, or any part thereof, to the extent permitted under federal, State, and local law, to any agent in its sole discretion.

(B) Nothing in this Franchise shall limit nor expand the City's right of eminent domain under State law.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the City 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 be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or,

(C) The offering of rate discounts for Cable Service; or,

(D) The establishing of different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.4 Cross Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross subsidization.

4.5 Reserved Authority

Both Grantee and the City reserve all rights they may have under the Cable Act and any other relevant provisions of federal, State, or local law.

4.6 Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a breach of this Franchise and sufficient grounds for the City to invoke any relevant remedy in accordance with subsection 13.1 of this Franchise. While Grantee agrees to use its best efforts to respond to electronic requests by the City for information, books or records within the time set forth in this Franchise, the parties agree that Grantee's failure to respond to the electronic request, if such error was inadvertent or unintentional, shall not be

deemed a breach of this Franchise. Notwithstanding the foregoing, the parties hereby agree that it is not the City's intention to subject Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area, or where strict performance would result in practical difficulties and hardship to Grantee which outweighs the benefit to be derived by the City and/or Subscribers.

4.7 Franchise Amendment Procedure

Either party may at any time seek an amendment of this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, or such other time as the parties may agree, the City and Grantee shall meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the City Council for its approval. If so approved by the City Council and Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment.

4.8 Late Fees and Other Assessments

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that Grantee imposes upon a Subscriber solely for late payment of a bill shall be deemed a late fee.

(B) Nothing in this subsection shall be deemed to create, limit, or otherwise affect the ability of Grantee to impose other assessments, charges, fees, or sums other than those permitted by this subsection, for Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule, or regulation.

(C) Grantee's late fee and disconnection policies and practices shall be nondiscriminatory and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of the City without regard to the neighborhood or income level of the Subscriber.

4.9 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation that is satisfactory to the City. Those conditions that are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions, all of which have a direct and substantial impact on Grantee's ability to provide Cable Services in the City and were not caused and could not have been avoided by Grantee, who used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably

required by the City to substantiate Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the City with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend, and hold the City, its officers, officials, boards, commissions, agents, and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the City while conducting its defense of the City. Grantee shall not be obligated to indemnify the City to the extent of the City's negligence or willful misconduct.

(B) Indemnification for Relocation. Subject to federal and State laws, Grantee shall indemnify Grantor for any damages, claims, additional costs or expenses assessed against, or payable by, Grantor related to, arising solely out of, or resulting solely from Grantee's failure to remove, adjust or relocate any of its facilities in the Streets in a timely manner in accordance with any relocation required by Grantor.

(C) Additional Circumstances. Grantee shall also indemnify, defend and hold the City harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) The lawful actions of the City in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise.

(D) Procedures and Defense. If a claim or action arises, the City or any other indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The City may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense, then Grantee shall not be liable for any attorneys' fees, expenses, or other costs the City may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in subsection 5.1(F) is required. In that event, the provisions of subsection 5.1(F) shall govern Grantee's responsibility for City's

attorneys' fees, expenses, or other costs. In any event, Grantee may not agree to any settlement of claims affecting the City without the City's written approval.

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

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the City and the counsel selected by Grantee to represent the City, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the City in defending itself with regard to any action, suit, or proceeding subject to indemnification by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and the City desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then the City shall be required to obtain Grantee's consent to the engagement of such counsel, experts, or consultants, such consent not to be unreasonably withheld. The City's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees and court costs, and shall also include the reasonable value of any services rendered by the City Attorney or his/her assistants or any employees of the City or its agents, but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided to the City by Grantee, except in the event of a conflict of interest where such duplication may be required.

(G) Duty to Give Notice. The Grantor shall give the Grantee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this Section. In the event any such claim arises, the Grantor or any other indemnified party shall tender the defense thereof to the Grantee and the Grantee shall have the obligation and duty to defend any claims arising thereunder, and the Grantor shall cooperate fully therein.

5.2 Insurance

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

(1) Commercial General Liability insurance with limits of no less than five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the City, its officers, officials and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the City, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable. Coverage may take the form of a primary layer and a secondary or umbrella layer, but the combination of layers must equal five million dollars (\$5,000,000) at a minimum.

(2) Commercial Automobile Liability insurance with minimum combined single limits of five million dollars (\$5,000,000) each occurrence with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System in the City. The policy shall contain a severability of interest provision.

(3) Workers Compensation Insurance in accordance with State law requirements.

(B) The insurance shall not be canceled or materially changed so as to be out of compliance with these requirements without thirty (30) days' written notice first provided to the City, via certified mail, and ten (10) days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.

5.3 Deductibles/Certificate of Insurance

Any deductible of the policies shall not in any way limit Grantee's liability to the City.

(A) Endorsements.

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

(a) The City, its officers, officials, boards, commissions, 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 Franchise or Applicable Law, or in the construction, operation or repair, or ownership of the Cable System;

(b) Grantee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, boards, commissions, employees, and agents. Any insurance or self-insurance maintained by the City, its officers, officials, boards, commissions, employees, and agents shall be in excess of 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.

(B) Acceptability of Insurers. Each of the required insurance policies shall be with insurers qualified to do business in the State of Washington with a Best's rating of no less than "A- VII".

(C) Verification of Coverage. Grantee shall furnish the City 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.

(D) Self-Insurance. In the alternative to providing a certificate of insurance to the City certifying insurance coverage as required above, Grantee may provide self-insurance in the same amount and level of protection for Grantee and the City, its officers, officials, boards, commissions, agents, and employees as otherwise required under this subsection. The adequacy of self-insurance shall be subject to the periodic review and approval of the City.

5.4 Security

(A) Grantee shall provide a performance bond, in a form acceptable to the City, in the amount of Two Hundred Fifty Thousand dollars (\$250,000) (the “Security”) to ensure the faithful performance of its responsibilities under this Franchise and Applicable Law in accordance with the procedures set forth in the performance bond. The performance bond shall be issued by a corporate surety authorized to do surety business in the State of Washington. Grantee shall not be required to obtain construction bonds, other performance bonds or warranty bonds notwithstanding the City’s permitting or other City Code requirements. Grantee shall pay all premiums or costs associated with maintaining the performance bond, and shall keep the same in full force and effect at all times (including for a period of one [1] year after the term or termination of this Franchise) and shall immediately replenish the performance bond upon a payment from it. Grantee shall not cancel the performance bond without obtaining an alternative performance bond in conformance with this Franchise. If there is an uncured breach by Grantee of a material provision of this Franchise or a claim by the City of a pattern of repeated violations of any provision(s) of this Franchise by Grantee, then the City may require, in addition to the performance bond described herein, and Grantee shall establish and provide within thirty (30) days from receiving notice from the City, to the City as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit, under terms and conditions and from a financial institution satisfactory to the City, in the amount of fifty thousand dollars (\$50,000).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this subsection, then the letter of credit shall be maintained at fifty thousand dollars (\$50,000) until the alleged uncured breach has been resolved.

(C) After completion of the procedures set forth in subsection 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the City for purposes including, but not limited to, the following:

- (1) Failure of Grantee to pay the City sums due under the terms of this Franchise;

(2) Reimbursement of costs borne by the City to correct Franchise violations not corrected by Grantee; and,

(3) Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements.

(D) The City shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(E) Grantee shall have the right to appeal to the Hearing Examiner for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the City 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 prime rate of interest as quoted in the Wall Street Journal.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

The Grantee shall comply with the customer service standards set forth in Part 76, Sections 76.309, 76.1602, 76.1603 and 76.1619 of the FCC's Rules and Regulations as amended. The Grantee shall comply in all respects with the customer service requirements established by the FCC. Additionally, Grantee shall comply with Customer Service Standards as provided in the Municipal Code as it exists on the date of adoption of this Franchise. The City reserves its right to amend customer service standards under its police powers and federal law. If the City intends to exercise this right, it will enter into discussions with Grantee prior to such amendments.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in federal or State law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise or the requirements of any applicable Customer Service Standard. Upon request, Grantee will provide to the City a sample of the Subscriber contract or service agreement then in use.

6.4 Notice to the City

Grantee shall use reasonable efforts to furnish information provided to Subscribers or the media in the normal course of business to the City.

6.5 Identification of Local Franchise Authority on Subscriber Bills

Within sixty (60) days after written request from the City, Grantee shall place the City's phone number on its Subscriber bills, to identify where a Subscriber may call to address escalated complaints.

6.6 Customer Service Location(s)

Throughout the Franchise term, the Grantee will endeavor to maintain, at a minimum, one (1) bill payment location and/or one (1) customer service location conveniently located within the City limits which will be open during Normal Business Hours and, in some instances, may provide Subscribers the opportunity to pick up (certain types of equipment depending upon size and subject to storage availability on site) and return Subscriber equipment and to make bill payments. Grantee shall be allowed reasonable periods of time to establish or relocate to another location which is in close proximity to the City and convenient for Subscribers. In addition, Grantee shall at all times maintain an online customer support center where customers may access information related to services and products, make bill payments or "speak" with a virtual customer service representative. Grantee is encouraged to provide a website whereby Subscribers can request service credits and make service changes.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

(A) In lieu of the reporting requirements in Section 5.60 of the Municipal Code, Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the City. In addition to any other records that may be provided for under any other section of this Franchise, and without limiting the provisions of Section 10 of this Franchise, the City, including the City's Finance Director and Public Works Director or their designees, shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations and Affiliates, which are reasonably related to the administration or enforcement of the terms of this Franchise, or Grantee's use of and location within the City's Rights-of-Way. Records subject to this subsection 7.1 include, without limitation, FCC filings on behalf of Grantee, its parent corporations, or Affiliates which directly relate to the operation of the Cable System in the City; SEC filings; listing of Cable Services, rates, and Channel line-ups; Cable Services added or dropped; Channel changes; all planned construction activity; Right-of-Way route maps in GIS format; beginning and ending plant miles; total homes passed for the previous twelve (12) months; and any significant technological changes occurring in the Cable System; federal and State reports; reports of Subscriber complaints in the City and how such complaints are resolved.

(B) Grantee shall not deny the City access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate, or a third party. The City 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 (1) copy of all reports

and records required under this or any other subsection shall be furnished to the City, 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 require that the City or its designee inspect them at Grantee's local offices. For purposes of clarity, any requirements to provide as-built maps shall not be considered too voluminous or unable to be copied for security purposes with respect to the provisions of this subsection (B). If any books or records of Grantee are not kept in a local office and are not made available in copies to the City or its designee upon written request as set forth above, and if the City determines that an examination of such records is necessary or appropriate for the performance of any of the City's duties, administration or enforcement of this Franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality

(A) To the extent that books and records related to the City's oversight and enforcement authority are confidential, the information may be provided to the City or its duly authorized agent(s) pursuant to a non-disclosure agreement whereby the City and/or its duly authorized agent agrees not to make such information public, to the extent such nondisclosure complies with the State Public Records Act, Chapter 42.56 of the Revised Code of Washington, and to the extent Grantee makes the City or its duly authorized agent 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 and exempt from public disclosure under State law.

(B) As a public agency, records and information provided to or otherwise used by the City may be subject to a request submitted under the State Public Records Act. In such an event, Grantee agrees to cooperate fully with the City in satisfying the City's duties and obligations under the Public Records Act, subject to Grantee's rights under this Agreement and RCW 42.56.540. If a request is received for records Grantee has submitted to the City and has identified as confidential, proprietary or protected trade secret material, the City will use its best efforts to provide Grantee with notice of the request in accordance with RCW 42.56.540 and a reasonable time (of no less than 10 days) within which Grantee may seek an injunction to prohibit the City's disclosure of the requested record. The City is not required to assert on Grantee's behalf any exemption based on trade secret, proprietary or confidential information, provided, however, the City may assert such exemption if the City itself believes in good faith that an exemption applies to the requested records. Grantee agrees to defend, indemnify and hold the City, its officers, officials, boards, commissions, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the assertion of an exemption to disclosure under the Public Records Act based upon records claimed or identified by Grantee as confidential, proprietary or protected trade secret material. The provisions of this subsection shall survive the expiration or termination of this Franchise.

SECTION 8. PROGRAMMING, COMPLIMENTARY CABLE SERVICE, CONTINUITY OF SERVICE AND SERVICE FOR THE DISABLED

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (A) Educational programming;
- (B) Washington news, weather and information;
- (C) Sports;
- (D) General entertainment (including movies);
- (E) Children/family-oriented;
- (F) Arts, culture, and performing arts;
- (G) Foreign language;
- (H) Science/documentary;
- (I) National news, weather, and information; and,
- (J) Educational, and Government Access, to the extent required by this Franchise.

8.2 Deletion or Reduction of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the City.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date of this Franchise shall be deemed the mix and quality of Cable Services required under this Franchise throughout its term.

8.3 Obscenity

Grantee shall not transmit, or permit to be transmitted over any Channel subject to its editorial control, any programming which is obscene under, or violates any provision of, Applicable Law relating to obscenity, and which is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming that is obscene under, or violative

of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Complimentary Cable Service

The Grantor acknowledges that the Grantee currently provides certain complimentary video services to schools, libraries, and municipal buildings, without charge. The Grantee agrees to voluntarily continue, until it elects to discontinue, the provision of complimentary services. At such time as the Grantee elects to discontinue the provision of complimentary services, the Grantee agrees that it will do so only after providing the Grantor with at least one hundred twenty (120) days' prior written notice. Such notice shall document the proposed offset or service charges so that the Grantor can make an informed decision as to whether to keep the services. Upon written notice from the Grantee, the Grantor shall be given the full one hundred twenty (120) days to review the list of outlets receiving complimentary service and shall have the right to discontinue receipt of all or a portion of the outlets receiving complimentary service provided by the Grantee in the event the Grantee elects to discontinue the provision of complimentary service as set forth herein. In the event federal law is overturned in whole or in part by Congressional action, the FCC or through judicial review, both parties will meet promptly to discuss what impact such action has on the provision of the in-kind cable-related contributions to which this subsection applies.

8.5 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. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.6 Continuity of Service Mandatory

(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 honored. Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

(B) In the event of a change of Grantee, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the City, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during

which it operates the Cable System, and shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

(C) In the event Grantee fails to operate the Cable System for four (4) consecutive days without prior approval of the Chief Operating Officer, or without just cause, the City may, at its option, operate the Cable System itself or designate another Cable Operator to operate the Cable System until such time as Grantee restores service under conditions acceptable to the City or a permanent Cable Operator is selected. If the City is required to fulfill this obligation for Grantee, Grantee shall reimburse the City for all reasonable costs or damages that are the result of Grantee's failure to perform.

8.7 Services for the Disabled

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Access Channels

(A) Upon the effective date of this Franchise, the Grantee shall maintain the Grantor's two (2) standard definition format Access Channels for Subscribers within the Franchise Area. The two standard definition Access Channels are both Government Access Channels currently being programmed by the Grantor and located on Channels 21 and 73. Upon the activation of the new HD Access Channel under subsection 9.1(C), the Grantee shall maintain the Grantor's standard definition Access Channel on Channel 21 and the HD Access Channel within the Franchise Area. The Grantor shall have the right, but not the obligation, at any time to make use of the channel capacity provided for in this Franchise for purposes of Educational Access use.

(B) The Grantor acknowledges that the Grantee's Cable System provides additional benefits to Access programming needs beyond the requirements listed above. This is accomplished through the inclusion of other regional Access programming, including the Lake Washington School District programming (in standard definition format rather than high definition format), within the regional channel line-up that services the Franchise Area. The Grantee will endeavor to provide the Subscribers in the Franchise Area with the other regional Access Channels so long as the programmers offer them for use on the Cable System.

(C) Simulcast High Definition Access Channel:

(1) The Grantee agrees to simulcast one (1) Access Channel in high-definition (HD Access Channel) format under the following conditions:

(a) Upon the Grantor's written request, the Grantee shall have three (3) months to activate the simulcast HD Access Channel.

(b) The Grantee shall be responsible for all capital engineering costs associated with fulfilling the request to activate the simulcast HD Access Channel.

(c) The Grantor or any Designated Access Provider shall be responsible for acquiring all equipment necessary to produce programming in HD.

(d) Upon activation of the simulcast HD Access Channel, Grantee shall own and maintain the encoder equipment used to transmit the HD Access Channel signal from Grantor's Demarcation Point.

(e) The Grantor shall provide the HD Access Channel signal as specified by the Grantee's engineering standards, as amended by the Grantee from time to time because of changes in technology.

(f) Upon Grantor's receipt and activation of the HD channel from Grantee, Grantor shall return one (1) standard definition Channel, currently located on Channel 73, to the Grantee for Grantee's use within ten (10) days. Grantee shall pay for any of Grantee's costs in connection with the return of the one (1) standard definition Channel.

(2) The Grantor acknowledges that the simulcast HD Access Channel will be available only to those Subscribers who elect to subscribe to Grantee's high-definition Cable Service, receive a high-definition set-top converter, and pay all fees associated therewith.

(3) Grantee shall have sole discretion to determine the Channel placement of the simulcast HD Access Channel within its high-definition channel line-up but shall endeavor to locate it near other similar channels.

(4) At such time as the HD Access Channel is activated, the Grantor and/or Designated Access Provider will provide a standard definition Access Channel and a HD Access Channel signal in a single high definition format. At that time, Grantee will broadcast the high definition signal on the HD Access Channel and also down-convert the high definition signal for simultaneous additional broadcast on the standard definition Access Channel.

9.2 Control and Connectivity of Access Channels

(A) The Grantor may authorize Designated Access Providers to control, operate and manage the use of any and all Access facilities provided by Grantee under this Franchise, including, without limitation, the operation of Access Channels. The Grantor or its designee may formulate rules for the operation of the Access Channels, consistent with this Franchise.

(B) Regarding the Grantor's and Designated Access Providers use of Access facilities and Access Channels, Grantee shall fully cooperate with requests from the Grantor, and provide all necessary assistance related thereto.

(C) As of the effective date of this Franchise, the Grantee maintains and shall continue to make available at its cost and expense, in accordance with Applicable Law, a Fiber Optic return line to the Grantor's Demarcation Point at City Hall to facilitate the Grantor's current Access connectivity to Grantee's Headend. If the Grantor desires to relocate or expand the fiber optic return line(s) to new location(s) over the term of this Franchise, upon one hundred twenty (120) days written request by the Grantor and at the Grantor's cost for Grantee's reasonable time and materials, the Grantee shall construct the requested new fiber optic return line(s). Grantee shall provide at its cost and expense the new Fiber Optic return line in accordance with Applicable Law. Grantee shall be entitled to recover maintenance and repair costs of return lines in a manner consistent with Applicable Law.

9.3 Location and Quality of Access Channels

(A) All standard definition Access Channels provided to Subscribers under this Franchise shall be included by Grantee as a part of the lowest Tier of service provided to all Subscribers in the Franchise Area or as otherwise provided by Applicable Law.

(B) The parties agree that it is the responsibility of the Grantor and/or their Designated Access Provider(s) to provide a quality Access signal to the Grantee at the point of demarcation, which meets or exceeds the FCC technical standards. In addition to the foregoing, the Grantee agrees that it will deliver to Subscribers an Access signal, including, but not limited to, closed captioning, stereo audio, and other elements associated with the programming, of the same quality it receives from the Grantor or Designated Access Provider(s) without degradation and in accordance with the FCC technical standards. The Grantee shall not unreasonably discriminate against Access Channels with respect to accessibility and functionality. There shall be no restriction on Grantee's technology used to deploy and deliver standard definition or high definition signals so long as the requirements of the Franchise are otherwise met. FCC and generally accepted industry technical standards shall be used for all testing and assessment of quality under this subsection.

(C) The Grantee, at its cost and expense, shall provide Headend equipment and routine maintenance and repair and replace, if necessary, any of Grantee's equipment required to carry the Access signal to and from the Grantor's Access origination point and the Grantee's Headend for the Access Channels.

(D) If Grantee makes a change in its Cable System and related equipment and facilities, or in its signal delivery technology, which directly or indirectly affects the signal quality or method or type of transmission of Access programming or services, Grantee, at its cost and expense, shall take necessary technical steps and provide necessary technical assistance, including the acquisition of all necessary equipment and full training of Access personnel, to ensure that the capabilities of Access Channels and delivery of Access programming are not

diminished or adversely affected by such change. For example, live and taped programming must be cablecast with as good or better signal quality than existed prior to such change.

(E) Grantee shall provide as much notice as possible but not less than one hundred twenty (120) days advance written notice to the Grantor prior to any relocation of an Access Channel. In connection with the movement of any of the Grantor controlled Access Channels, Grantee, at Grantee's cost and expense, shall provide a bill message on subscriber's bills, if requested by the Grantor.

9.4 Access Capital Contribution

(A) Upon ninety (90) days written request by the City to Grantee, Grantee shall collect and remit to the Grantor, as support for any lawful capital Access use, thirty-five cents (\$0.35) per Residential Subscriber per month (excluding free service accounts), payable quarterly with Franchise Fees as an "Access Fee." This shall continue during the Franchise term. Grantee shall not be responsible for collecting or paying the Access Fee with respect to gratis or bad debt accounts. It is understood that pursuant to federal law, Grantee has the right to pass through the costs of Access Fee payments to Residential Subscribers, and Grantee shall be obligated to pay no more than the amount it actually collects from such Residential Subscribers.

(B) For purposes of this Section only, the Access Fees shall not be collected and remitted on the Cable Services received by Subscribers residing in Multiple Dwelling Units billed on a bulk-billing basis or Subscribers receiving Cable Service on a gratis or complimentary basis. Grantee shall make Access Fee payments quarterly, following the effective date of this Franchise for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than thirty (30) days following the end of the quarter and shall be accompanied by a written report to the City, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement of Access Fee payments. The City shall have sole discretion to allocate the expenditure of such payments for any capital costs related to Access.

(C) The Access Fees shall not be treated as Franchise Fees for purposes of 47 U.S.C. § 542 or any other purpose, and shall at no time be offset or deducted from Franchise Fee payments made to the Grantor under this Franchise.

(D) The Grantor shall have discretion to allocate the Access Fees in accordance with applicable law. To the extent the Grantor makes access capital investments using Grantor funds prior to receiving the monthly Access Fee funds, the Grantor is entitled to apply the subsequent monthly Access Fee payments from Grantee toward such Grantor capital investments. The Grantor agrees that the Access Fees may be treated as external costs under applicable federal law.

(E) Upon the Grantee's written request, the Grantor shall submit a report no more frequently than annually on the use of the Grantor specific Access Channels and capital Access Fees. The Grantor shall submit a report to the Grantee within one hundred twenty (120) days of

a written request. The Grantee may review the records of the Grantor regarding the use of the Access Fees.

(F) The Grantor shall dedicate the time, personnel and other resources needed to operate the Access Channels designated herein.

9.5 Access Signals

Any and all costs associated with the Access Channels or signals after the Access Channels/signals leave the Access provider's side of the fiber termination panel, or any designated playback center or other equipment or demarcation point, shall be borne entirely by Grantee. In addition, any and all other costs associated with the Access Channels or signals before the Access Channels/signals leave the Access providers' side of the fiber termination panel, or any designated playback center or other equipment or demarcation point shall be borne entirely by Grantor.

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

10.1 Right to Construct

Subject to Applicable Law, regulations, rules, resolutions, and ordinances of the City and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the City, of which Grantee is made aware, regarding Right-of-Way issues that may impact the Cable System.

10.3 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of the City of which Grantee is made aware to anticipate joint trenching and 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 in order to reduce as much as possible the number of Right-of-Way cuts within the City.

10.4 General Standard

All work authorized and required hereunder shall be done in a safe, thorough, and workmanlike manner. All installations of equipment shall be permanent in nature, durable, and installed in accordance with good engineering practices consistent with applicable permit requirements.

10.5 Permits Required for Construction

Prior to doing any work in the Right-of Way or other public property, Grantee shall apply for and obtain appropriate permits from the City. As part of the permitting process, the City may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees for the requisite City permits received by Grantee.

10.6 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify the City of the need for such repairs. Grantee may initiate such emergency repairs and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.7 Compliance with Applicable Codes

(A) City Construction Codes. Grantee shall comply with all applicable State and City construction codes, including without limitation the City of Redmond design and construction standards; the State building codes adopted through the State Building Code Council and as amended locally by the City, including without limitation the International Building Code, the International Fire Code, and the International Mechanical Code; the Electronic Industries Association Standard for Physical Location and Protection of Below-Ground Fiber Optic Cable Plant; and all applicable zoning codes and regulations.

(B) Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time. Antenna supporting structures (towers) shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, State, and local codes or regulations.

(C) Safety Codes. Grantee shall comply with all federal, State, and City safety requirements, rules, regulations, laws, 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, Grantee shall comply with the National Electric Code, National Electrical Safety Code, and Occupational Safety and Health Administration (OSHA) Standards.

10.8 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. 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 the City, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by or under the City's authority. Grantee's Cable System shall be located, erected, and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the City may deem proper to make, or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation, or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, the City may require the removal or relocation of Grantee's lines, cables, equipment, and other appurtenances from the property in question at Grantee's expense.

10.9 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the City's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change, and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights. Further, any street cuts made and repaired shall be performed in accordance with all City construction codes.

10.10 Hazardous Substances

(A) Grantee shall comply with any and all Applicable Laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

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

(C) The provisions of subsection 5.1 shall apply to any claims against the City arising out of a release of hazardous substances caused by Grantee's Cable System.

10.11 Locates

Prior to doing any work in the Right-of-Way, Grantee shall give appropriate notices to the City and to the notification association established in Ch. 19.122 RCW, as amended.

Within forty-eight (48) hours after any City employee, contractor, franchisee, licensee, or permittee notifies Grantee of a proposed Right-of-Way excavation or the need for a design locate, Grantee shall, at Grantee's expense:

(A) Mark on the surface all of its located underground facilities within the area of the proposed excavation or design;

(B) Notify the excavator of any unlocated underground facilities in the area of the proposed excavation or design; or

(C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation or design.

10.12 Notice to Private Property Owners

(A) Except in the case of an emergency involving public safety or service interruption to a large number of customers, Grantee shall give reasonable advance notice to private property owners or legal tenants of work on or adjacent to private property prior to entering upon private premises.

(B) Nothing herein shall be construed as authorizing access or entry to private property or any other property where such right to access or entry is not otherwise provided by law.

10.13 Underground Construction, Use of Poles and Joint Trenching

(A) When required by general ordinances, resolutions, regulations, or rules of the City or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense, unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the City. Related Cable System equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, 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.

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

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper City authorities.

(E) This Franchise does not grant, give, or convey to 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.

(F) Grantee and the City recognize that situations may occur in the future where the City may desire to place its own cable or conduit for Fiber Optic cable in trenches or bores opened by Grantee. Grantee agrees to cooperate with the City in any construction by Grantee that involves trenching or boring, provided that the City has first notified Grantee in some manner that it is interested in sharing the trenches or bores in the area where Grantee's construction is occurring and the City enters into a contract with Grantee consistent with RCW 80.36.150, this Franchise and the Municipal Code. Grantee shall allow the City to lay its cable, conduit, and Fiber Optic cable in Grantee's trenches and bores, provided there is reasonable space available and the City shares in the cost of the trenching and boring on the same terms and conditions as Grantee, or otherwise in accordance with Applicable Law. The City shall be responsible for maintaining its respective cable, conduit, and Fiber Optic cable buried in Grantee's trenches and bores under this subsection. Any conduit, cable or Fiber Optic Cable installed pursuant to this subsection shall not be used for the purpose of competing with Grantee in the provision of Cable Services.

10.14 Undergrounding of Multiple Dwelling Unit Drops

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Units where determined to be technologically feasible in agreement with the owner and/or owner's association of the Multiple Dwelling Units.

10.15 Burial Standards

(A) Depths. Unless otherwise required by law, Grantee and its contractors shall comply with the following burial depth standards. In no event shall Grantee be required to bury its cable deeper than electric or gas facilities or existing telephone facilities in the same portion of the Right-of-Way, so long as those facilities have been buried in accordance with Applicable Law:

- (1) Underground cable drops from the curb shall be buried at a minimum depth of twelve (12) inches unless a sprinkler system or other construction concerns preclude it, in which case underground cable drops shall be buried at a depth of at least six (6) inches.
- (2) Feeder lines shall be buried at a minimum depth of eighteen (18) inches.
- (3) Trunk lines shall be buried at a minimum depth of thirty-six (36) inches.
- (4) Fiber Optic cable shall be buried at a minimum depth of thirty-six (36) inches.

In the event of a conflict between this subsection and any generally applicable construction code standard, the generally applicable construction code standard shall control.

(B) Timeliness. Cable drops installed by Grantee to residences shall be buried according to these standards within one (1) calendar week of initial installation, or at a time mutually agreed upon between Grantee and the Subscriber. When freezing surface conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial, and shall provide the Subscriber with Grantee's telephone number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

10.16 Cable Drop Bonding

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with applicable code requirements. All non-conforming or non-performing cable drops shall be replaced by Grantee as necessary.

10.17 Prewiring

Any ordinance or resolution of the City that requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

10.18 Repair and Restoration of Property

(A) Grantee shall protect public and private property from damage. If damage occurs, Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(B) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Restoration of Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by Grantee within a reasonable time, the City may, after prior notice to Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials, and equipment, Grantee shall pay the City.

(D) Restoration of Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed.

10.19 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any City Right-of-Way, or upon the addition to the City of any area in which Grantee owns or operates any such facility,

Grantee shall, at the City's request, submit to the City a statement describing all such facilities involved, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise.

10.20 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Rights-of-Way, Grantee shall submit for the City'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 the City permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the City may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety and convenience, or otherwise serve the public interest at no cost to the City. The City 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 the City. Until such time as Grantee removes or modifies the facility as directed by the City, 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 Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the City may choose to use such facilities for any purpose whatsoever, including but not limited to Access purposes.

10.21 Survey and Movement of Cable System Facilities for City Purposes

(A) Within thirty (30) days of the City's request, Grantee shall submit as-built plans verified by a professional engineer as to exact location of Grantee's facilities, or other information as the City may request that identifies the exact location of Grantee's facilities, within the boundaries of the area requested by the City. Grantee shall determine and advise the City of the exact location of Grantee's facilities without cost to the City, its contractors, or any authorized agents.

(B) The City shall have the right to require Grantee to, at the City's request, locate (which may include potholing) and survey Grantee's facilities and equipment, relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the City for public purposes, in the event of an emergency; or when the public health, safety, or welfare requires such change. For example, without limitation, this movement of or the request to locate Grantee's facilities may be needed by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the City for public purposes. Such work shall be performed at Grantee's expense. Except when a shorter time is necessitated due to an emergency, Grantee shall, within forty-five (45) days' written notice by the City, or such longer period as the City may specify, complete all work to temporarily or permanently relocate, remove, replace, modify, or disconnect any of its facilities and equipment located in the Rights-

of-Way or on any other property of the City. In the event of any capital improvement project exceeding five hundred thousand dollars(\$500,000) in expenditures by the City, which requires the removal, replacement, modification, or disconnection of Grantee's facilities or equipment, the City shall provide at least sixty (60) days' written notice to Grantee. Following notice by the City, if all users of the Right-of-Way relocate aerial facilities underground as part of an undergrounding project, Grantee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. If the City requires Grantee to relocate its facilities located within the Rights-of-Way, the City will work collaboratively with Grantee to identify available alternate locations within the Rights-of-Way for Grantee to relocate its facilities at Grantee's cost.

(C) If Grantee fails to complete this work within the time prescribed above and to the City's satisfaction, the City may cause such work to be done and bill the cost of the work to Grantee, including all costs and expenses incurred by the City due to Grantee's delay. In such event, the City shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, Grantee shall pay the City. In any event, if Grantee fails to timely relocate, remove, replace, modify or disconnect Grantee's facilities and equipment, and that delay results in any delay damage accrued by or against the City, Grantee will be liable for all documented costs of construction delays attributable to Grantee's failure to timely act. Grantee reserves the right to challenge any determination by the City of costs for construction delays related to an alleged failure to act in accordance with this subsection 10.21.

10.22 Reimbursement of Grantee Costs

Grantee specifically reserves any rights it may have under Applicable Law for reimbursement of costs related to undergrounding or relocation of the Cable System, and nothing herein shall be construed as a waiver of such rights.

10.23 Movement of Cable System Facilities for Other Franchise Holders

If any removal, replacement, modification, or disconnection of the Cable System is required to accommodate the construction, operation, or repair of the facilities or equipment of another City 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. Grantee may require that the costs associated with the removal or relocation be paid by the benefited party.

10.24 Temporary Changes 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.

10.25 Reservation of City Use of Right-of-Way

Nothing in this Franchise shall prevent the City or public utilities owned, maintained, or operated by public entities other than the City from constructing sewers, grading, paving, repairing or altering any Right-of-Way, laying down, 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.

10.26 Tree Trimming

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the City's Rights-of-Way which interferes with Grantee's Cable System. Grantee shall comply with any general ordinance or regulations of the City regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1) week's written notice has been given to the owner or occupant of the premises abutting the Right-of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may prune such tree at his or her own expense during this one (1) week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.27 Inspection of Construction and Facilities

The City may inspect any of Grantee's facilities, equipment, or construction at any time upon at least twenty-four (24) hours' notice or, in case of emergency, upon demand without prior notice. The City shall have the right to charge generally applicable inspection fees therefore. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the City establishes. The City has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so and to charge Grantee for its costs. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the City.

10.28 Stop Work

(A) On notice from the City that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the City.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the Person doing the work, or posted on the work site;

- (3) Be sent to Grantee by overnight delivery at the address given herein;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

Grantee shall be liable for all costs incurred by the City and associated with Grantee's violation and the City's issuance of the stop work order. Grantee reserves the right to challenge any City determination of Grantee's obligations under this Section.

10.29 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the City's ordinances, regulations, and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations, and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors, subcontractors, and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors, or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other Applicable Law governing the work performed by them.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) The parties acknowledge that Grantee has a Cable System to a hybrid fiber coaxial (HFC) fiber-to-the-node system architecture, with Fiber Optic cable deployed from its Headend to nodes and tying into a coaxial system serving Subscribers. The Cable System is capable of delivering high quality signals that meet or exceed FCC technical quality standards regardless of any particular manner in which the signal is transmitted.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

(C) All construction shall be subject to the City's permitting process.

(D) Grantee and the City shall meet, at the City's request, to discuss the progress of the design plan and construction.

(E) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

(F) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the City no later than thirty (30) days following receipt of a request.

11.3 Emergency Alert Capability

Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the City shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

11.4 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including but not limited to the FCC), State and local technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The City shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.5 Customer Complaints and Cable System Performance Testing

(A) Upon written request, Grantee shall provide to the City a copy of its current written process for resolving complaints about the quality of the video programming services signals delivered to Subscribers and shall provide the City with any amendments or modifications to the process at such time as they are made.

(B) Grantee shall, at Grantee's expense, maintain all aggregate data of Subscriber complaints escalated through the City related to the quality of the video programming service signals delivered by Grantee in the City for a period of at least one (1) year, and individual Subscriber complaints from the City for a period of at least three (3) years, and make such information available to the City at Grantee's office upon reasonable request.

(C) Grantee shall maintain written records of all results of its Cable System tests performed by or for Grantee. Copies of such test results will be provided to the City upon reasonable request.

- (D) Grantee shall perform any tests required by the FCC.

11.6 Additional Tests

Where there exists other evidence which in the judgment of the City casts doubt upon the reliability or technical quality of Cable Service, the City shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the City in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis which may be required.

SECTION 12. SERVICE AVAILABILITY

(A) In General. Except as otherwise provided herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the City. 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. Except as otherwise provided herein, Grantee shall provide such service:

- (1) With no line extension charge except as specifically authorized elsewhere in this Franchise.
- (2) At a non-discriminatory installation charge for a standard installation consisting of a one hundred twenty-five (125) foot drop from Grantee's existing cable plant and connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations;
- (3) At non-discriminatory monthly rates for Residential Subscribers.

(B) Customer Charges for Extension of Service. In lieu of the requirements in the Municipal Code, Grantee agrees to extend its Cable System to all persons living in areas with a residential density of twenty-five (25) homes per mile of Cable System plant. If the residential density is less than twenty-five (25) homes per 5,280 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 purposes of determining the amount of capital contribution in aid of construction to be borne by Grantee and potential

customers in the area where service may be expanded, Grantee's non-discriminatory policy currently provides that Grantee will contribute a per-home credit for each home passed in any construction required to reach the home of the requesting potential customer, and such customer(s) will be responsible for all remaining costs. Grantee will prepare and provide a written estimate of the extension costs, which shall indicate the portion of costs attributable to both Grantee and the potential requesting customer(s). A copy of this written estimate shall be provided to the City upon request. In the event that Grantee makes changes to its line extension policies, such changes will be applied on a non-discriminatory basis to potential customers and Subscribers within the Franchise Area.

(C) Service to Newly Annexed Areas. Grantee shall have the right but not the obligation to extend the Cable System into any area annexed after the Effective Date of this Agreement which is not contiguous or is partially contiguous to the present Franchise Area of the City or to any area that is technically infeasible. Nothing herein shall require Grantee to expand its Cable System to serve or to offer service to any area annexed by the City if such area is then served by another Cable Operator.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remediating Franchise Violations

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

(1) respond to the City, contesting the City's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below;

(2) cure the default; or

(3) notify the City that Grantee cannot cure the default within the thirty (30) days because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the City in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the City may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with subsection (A)(1), or the City orders a meeting in accordance with subsection (A)(3), the City shall set a meeting to investigate said issues or the existence of the alleged default. The City shall notify Grantee of the meeting in writing, and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the

meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If after the meeting the City determines that a default exists, the City shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable timeframe as the City shall determine. In the event Grantee does not cure within such time to the City's reasonable satisfaction, the City may:

- (1) In the absence of payment by Grantee, withdraw an amount from the Security or letter of credit as monetary damages;
- (2) Recommend the revocation of this Franchise pursuant to the procedures in subsection 13.2; or,
- (3) Pursue any other legal or equitable remedy available under this Franchise or any Applicable Law.

(D) The determination as to whether a violation of this Franchise has occurred shall be within the discretion of the City, provided that any such final determination may be subject to appeal to a court of competent jurisdiction under Applicable Law.

13.2 Revocation

(A) In addition to revocation in accordance with other provisions of this Franchise, the City may revoke this Franchise and rescind all rights and privileges associated with this Franchise in the following circumstances, each of which represents a material breach of this Franchise:

- (1) If Grantee fails to perform any material obligation under this Franchise or under any other agreement, ordinance, or document regarding the City and Grantee;
- (2) If Grantee willfully fails for more than forty-eight (48) hours to provide continuous and uninterrupted Cable Service;
- (3) If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the City or Subscribers;
- (4) If Grantee becomes insolvent or if there is an assignment for the benefit of Grantee's creditors; or
- (5) If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise.

(B) Following the procedures set forth in subsection 13.1 and prior to forfeiture or termination of the Franchise, the City shall give written notice to Grantee of its intent to revoke the Franchise and set a date for a revocation proceeding. The notice shall set forth the exact nature of the noncompliance.

(C) Any proceeding under the subsection above shall be conducted by the City's Hearing Examiner and open to the public. Grantee shall be afforded at least forty-five (45) days' prior written notice of such proceeding. The Hearing Examiner will conduct the proceeding as provided for in this subsection, and the Hearing Examiner will make a recommendation to the City Council concerning revocation of Grantee's Franchise.

(1) At such proceeding, Grantee shall be provided a fair opportunity for full participation including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding, and the cost shall be shared equally between the parties. The City Council shall hear any Persons interested in the revocation and shall allow Grantee, in particular, an opportunity to state its position on the matter.

(2) Within forty-five (45) days after the hearing, the Hearing Examiner shall make its recommendation to the City Council concerning revocation. Within forty-five (45) days of receiving the Hearing Examiner's recommendation, the City Council shall determine whether to revoke the Franchise and declare that the Franchise is revoked and the letter of credit forfeited. If the City determines that the Franchise is to be revoked, the City shall set forth the reasons for such a decision and shall transmit a copy of the decision to Grantee. The City's decision may provide one final opportunity for Grantee to avoid revocation by a stated date if the breach at issue is capable of being cured and Grantee takes appropriate remedial action within the time and in the manner and on the terms and conditions that the City Council determines are reasonable and appropriate under the circumstances. Grantee shall be bound by the City's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

(3) Grantee shall be entitled to such relief as the Court may deem appropriate.

(4) The City Council may at its sole discretion take any lawful action that it deems appropriate to enforce the City's rights under the Franchise in lieu of revocation of the Franchise.

13.3 Procedures in the Event of Termination or Revocation

(A) If this Franchise expires without renewal after completion of all processes available under this Franchise and federal law or is otherwise lawfully terminated or revoked, the City shall have the right to require Grantee to remove all or any portion of the System utilized exclusively for the provision of Cable Services from all Rights-of-Way and public property within the City and may, subject to Applicable Law, allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the City's satisfaction that it needs additional time to complete the sale.

(B) In the event that a sale has not been completed in accordance with subsections (A)(1) and/or (A)(2) above, the City may order the removal of the above-ground Cable System

facilities and such underground facilities from the City at Grantee's sole expense within a reasonable period of time, as determined by the City. 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 Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to and agrees not to request compensation of any sort therefore.

(C) If Grantee fails to complete to the City's satisfaction any removal required by subsection 13.3(B), after written notice to Grantee the City may cause the work to be done, and Grantee shall reimburse the City for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the City may recover the costs through the letter of credit provided by Grantee.

(D) The City may seek legal and equitable relief to enforce the provisions of this Franchise.

(E) Grantee shall have no obligation to remove the Cable System where it utilizes the System to provide other non-Cable Services and has any other authority under Applicable Law to maintain facilities in the Public Rights-of-Way, or where Grantee is able to find a purchaser of the Cable System who then or will subsequently hold such authorization.

13.4 Bankruptcy, Receivership and Foreclosure

(A) At the option of the City, subject to Applicable Law, this Franchise 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 receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the City may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice unless:

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

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

13.5 No Monetary Recourse Against the City

Grantee shall not have any monetary recourse against the City or its officers, officials, boards, commissions, agents or employees for any loss, costs, expenses, or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State, and local law. The rights of the City under this Franchise are in addition to and shall not be read to limit any immunities the City may enjoy under federal, State, or local law.

13.6 Alternative Remedies

No provision of this Franchise shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate or any other remedy at law or in equity.

13.7 Assessment of Monetary Damages

(A) The City may assess against Grantee monetary damages (i) up to five hundred dollars (\$500) per day for general construction delays not otherwise addressed in this Franchise, violations of Access obligations or payment obligations, (ii) up to two hundred fifty dollars (\$250) per day for any other material breaches, or (iii) up to one hundred dollars (\$100) per day for defaults, and collect the assessment as specified in this Franchise. Damages pursuant to this subsection shall accrue for a period not to exceed one hundred twenty (120) days per violation proceeding. Such damages shall accrue beginning thirty (30) days following Grantee's receipt of the notice required by subsection 13.1, or such later date if approved by the City in its sole discretion, but may not be assessed until after the procedures in subsection 13.1 have been completed. The City shall provide Grantee the opportunity to pay the assessment within the timeframes specified in this Franchise. To assess any amount from the letter of credit, the City shall follow the procedures for withdrawals from the letter of credit set forth in the letter of credit and in this Franchise, which procedures have been approved by the City under subsection 5.4.

(B) The assessment does not constitute a waiver by the City of any other right or remedy it may have under the Franchise or Applicable Law to recover from Grantee any additional damages, losses, costs, and expenses that are incurred by the City by reason of the breach of this Franchise.

13.8 Effect of Abandonment

If Grantee abandons its Cable System during the Franchise term or fails to operate its Cable System in accordance with its duty to provide continuous service, the City, at its option,

may operate the Cable System; designate another entity to operate the Cable System temporarily until Grantee restores service under conditions acceptable to the City, or until the Franchise is revoked and a new franchisee is selected by the City; or obtain an injunction requiring Grantee to continue operations. If the City is required to operate or designate another entity to operate the Cable System, Grantee shall reimburse the City or its designee for all reasonable costs, expenses, and damages incurred.

13.9 What Constitutes Abandonment

The City shall be entitled to exercise its options in subsection 13.8 if:

(A) Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for four (4) consecutive days, unless the City authorizes a longer interruption of service; or

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

13.10 Removal

(A) In the event of termination, expiration, revocation or nonrenewal of this Franchise, and after all appeals from any judicial determination are exhausted and final, Grantor may order the removal of the System facilities 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 and shall leave all Rights-of-Way, public places and private property in as good a condition as that prevailing prior to Grantee's removal of its equipment.

(B) If Grantee fails to complete any required removal to the satisfaction of Grantor, Grantor may cause the work to be done, and Grantee shall reimburse Grantor for the reasonable costs incurred within thirty (30) days after receipt of an itemized list of Grantor's expenses and costs, or Grantor may recover its expenses and costs from the Security, or pursue any other judicial remedies for the collection thereof. Any expenses incurred in the collection by Grantor of such obligation shall be included in the monies due Grantor from Grantee, including reasonable attorneys' fees, court expenses and expenses for work conducted by Grantor's staff or agents.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

(A) The City and Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, 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 City 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 the City agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the City and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the City may grant a renewal thereof. Grantee and the City consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

(C) Should the Franchise expire without a mutually agreed upon renewed franchise agreement and Grantee and City are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis with the same terms and conditions as provided in the Franchise, and Grantee and City shall continue to comply with all obligations and duties under the Franchise until final City action is taken to renew or terminate the Franchise pursuant to this Franchise and Applicable Law and all appeals are resolved.

14.2 Transfer of Ownership or Control

(A) The Cable System and this Franchise 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, or 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 City, which consent shall be by the City Council, acting by ordinance/resolution.

(B) Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of control of Grantee. The word “control” as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of Grantee shall make this Franchise subject to cancellation unless and until the City shall have consented in writing thereto.

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

(D) In seeking the City’s consent to any change in ownership or control, the proposed transferee or controlling entity shall indicate whether it:

- (1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

(4) Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee or controlling entity; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) The City shall act by ordinance on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. The City and Grantee may by mutual agreement at any time extend the 120-day period. Subject to the foregoing, if the City 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 City agree to an extension of time.

(F) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the City, Grantee shall file with the City a copy of the deed, agreement, lease or other written instrument evidencing the closing of such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee or controlling entity, and the transferee or controlling entity shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control in which Grantee is not replaced by another entity, Grantee will continue to be bound by all of the provisions of the Franchise, subject to Applicable Law, and will not be required to file an additional written acceptance.

(G) In reviewing a request for sale or transfer, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the City in so inquiring. The City may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the City shall not be required for any sale, assignment, change of control or transfer of the Franchise or Cable System 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 City and must agree in writing to comply with all of the provisions of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the City; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

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

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

In connection with the performance of work under this Franchise, Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws and, in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent via overnight delivery postage prepaid to such respective address, and such notices shall be effective upon the date of mailing. These addresses may be changed by the City or Grantee by written notice at any time. At the Effective Date of this Franchise:

Grantee's address shall be:

Comcast Cable Communications Management, LLC and
Comcast Cable Communications, LLC
900 132nd ST SW
Everett, WA 98204
Attention: Franchising Department

The City's address shall be:

City of Redmond
15670 NE 85th Street
Redmond, WA 98052
Attention: Chief Operating Officer

With a copy to:

City of Redmond
15670 NE 85th Street
Redmond, WA 98052
Attention: City Attorney

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the City for all costs incurred in publishing this Franchise, if such publication is required.

16.5 Binding Effect

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

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of the City at any time to require performance by Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.8 Challenges to City Ordinances

Grantee reserves all rights it may have to challenge the lawfulness of any City ordinance. The City reserves all of its rights and defenses to such challenges.

16.9 Reasonableness of Consent or Approval

Whenever under this Franchise “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, as well as business and economic considerations.

16.10 Entire Agreement

This Franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral negotiations between the parties.

16.11 Governing Law

This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Washington (as amended), the Cable Act as amended, any applicable rules, regulations, technical standards and orders of the FCC, and any other applicable local, State and federal laws, rules, regulations, legislation or orders (as such now exist, are later amended or subsequently adopted). Nothing contained herein shall be deemed a waiver of any rights or protections of Grantor or Grantee existing under such laws or regulations.

16.12 Cumulative Rights

Subject to Applicable Law, all rights and remedies given to the City by this Agreement or retained by the City herein or given to the Grantee by this Agreement or retained by the Grantee shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the City or Grantee, at law or in equity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Agreement or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the City or Grantee and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.

16.13 Jurisdiction

Venue for any judicial dispute between the City and Grantee arising under or out of this Franchise shall be in King County Superior Court, Washington, or in the United States District Court in Seattle.

16.14 Attorneys' Fees

If any action or suit arises in connection with this Franchise, attorneys' fees, costs and expenses in connection therewith shall be paid in accordance with the determination by the court.

IN WITNESS WHEREOF, this Franchise is signed in the name of the City of Redmond, Washington this ___ day of _____, 2021.

ATTEST:

CITY OF REDMOND, WASHINGTON:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney

Accepted and approved this _____ day of _____, 2021.

ATTEST:

COMCAST CABLE COMMUNICATIONS
MANAGEMENT, LLC

By: _____

Title: _____

ATTEST:

COMCAST CABLE COMMUNICATIONS,
LLC

By: _____

Title: _____