

ORDINANCE NO. 1075

AN ORDINANCE OF THE CITY OF LAKE FOREST PARK, WASHINGTON, GRANTING A NONEXCLUSIVE CABLE FRANCHISE AGREEMENT TO COMCAST OF COMCAST OF WASHINGTON I and IV, PROVIDING FOR FRANCHISE FEES, TERM OF FRANCHISE, FRANCHISE AREA, TECHNICAL STANDARDS AND EVALUATIONS, REPORTING REQUIREMENTS, ACCESS CHANNELS, PENALTIES, BOND AND INSURANCE PROVISIONS IN CONNECTION WITH OPERATING A CABLE SYSTEM FOR THE DISTRIBUTION OF TELEVISION SIGNALS; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, Comcast of Washington I, Inc. and Comcast of Washington IV, Inc. (formerly known as United Community Antenna System, Inc. and TCI Cablevision of Washington, Inc. and jointly known and referred to herein as "Comcast") currently hold two franchise agreements for the use of city streets and rights-of-ways for the construction, operation, maintenance and reconstruction of a cable communication system in the City of Lake Forest Park, Washington ("City"); and

WHEREAS, both Comcast franchise agreements with the City were initially scheduled to expire on April 7, 2006, but have been extended on several occasions and are now scheduled to expire on December 31, 2014; and

WHEREAS, and the City of Lake Forest Park and other cities have been engaged in joint franchise renewal negotiations with Comcast, in accordance with the provisions of 47 U.S.C. § 546; and

WHEREAS, the franchise agreement with Comcast discussed during those regional negotiations meets community needs, subject to some revisions, additions and changes; and

WHEREAS, it is in the public interest to adopt a new franchise agreement arising out of the regional franchise renewal process currently underway;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Grant of Franchise. A cable television franchise is hereby granted to Comcast of Washington I, Inc. and Comcast of Washington IV, Inc., under the terms and conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

Section 2. Compliance with Franchise Terms. As a condition of the franchise granted by this ordinance, Comcast shall provide its written and acknowledged unconditional acceptance and promise to comply with all provisions, terms and conditions of Exhibit A. By the adoption of this Ordinance the City of Lake Forest Park agrees to comply with all provisions of the same.

Section 3. Performance Bond and Insurance. Comcast shall provide a performance bond and maintain such insurance policy as required by Exhibit A.

Section 4. Acceptance. The rights and privileges granted pursuant to this Ordinance shall not become effective until its terms and conditions are accepted by Comcast. Acceptance shall be accomplished by the submission of a written instrument, executed and sworn to by a corporate officer of the Franchisee before a Notary Public, and filed with the City as provided in Section 2.10.2 of Exhibit A within sixty (60) days after the effective date of this Ordinance. Such instrument shall evidence the unconditional acceptance of the terms hereof and a promise to comply with and abide by the provisions, terms and conditions hereof.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED BY A MAJORITY of the Lake Forest Park City Council this 24th day of July, 2014, and signed into authentication this 25th day of July, 2014.

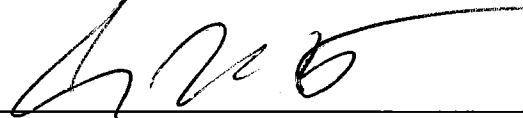
APPROVED:


Mary Jane Goss, Mayor

ATTEST/AUTHENTICATED:


Evelyn Jahed, City Clerk

APPROVED AS TO FORM:



Ann Marie Soto, City Attorney

Introduced: July 24, 2014
Adopted: July 24, 2014
Posted: July 28, 2015
Published: July 28, 2014
Effective: August 2, 2014

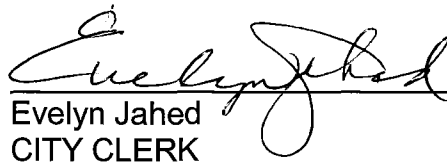
SUMMARY OF ORDINANCE NO. 1075

of the City of Lake Forest Park, Washington

On the 24th day of July, 2014, the City Council of the City of Lake Forest Park, passed Ordinance No. 1075. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF LAKE FOREST PARK, WASHINGTON, EXTENDING A NONEXCLUSIVE CABLE FRANCHISE AGREEMENT WITH COMCAST OF WASHINGTON I and IV, PROVIDING FOR FRANCHISE FEES, TERM OF FRANCHISE, FRANCHISE AREA, TECHNICAL STANDARDS AND EVALUATIONS, REPORTING REQUIREMENTS, ACCESS CHANNELS, PENALTIES, BOND AND INSURANCE PROVISIONS IN CONNECTION WITH OPERATING A CABLE SYSTEM FOR THE DISTRIBUTION OF TELEVISION SIGNALS; PROVIDING FOR SEVEREABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION..

The full text of this Ordinance will be mailed upon request.
DATED this 24th day of July, 2014.


Evelyn Jahed
CITY CLERK

ACCEPTANCE AND ACKNOWLEDGEMENT OF FRANCHISE

This Acknowledgement of Franchise is made this ____ day of 2014, by and between Comcast of Washington I and IV, Inc. ("Comcast") and the City of Lake Forest Park, Washington, a Washington municipal corporation ("City").

Whereas City conferred a franchise on Comcast in Ordinance No. 1075 (the "Cable Franchise");

Whereas Comcast wishes to accept, agree to and acknowledge the Cable Franchise as required therein;

Now, Therefore, Comcast acknowledges and agrees as follows:

1. Acceptance. Comcast accepts and acknowledges the Cable Franchise granted to it, subject to the terms and conditions of Ordinance No. 1075 and Exhibit A thereto, adopted July 24, 2014 by the City of Lake Forest Park, Washington. All terms and conditions of the Cable Franchise, and Ordinance No. 1075 and Exhibit A thereto of the City of Lake Forest Park, Washington are hereby ratified and confirmed, and Comcast hereby unconditionally accepts and promises to comply with all provisions, terms and conditions of the Cable Franchise during its term and any extensions thereof.

COMCAST

By: _____

Its: _____

Dated: _____

[Notarized on the Following Page]

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2014, before me personally appeared _____, to me known to be the _____ of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that _____ was authorized to execute said instrument.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2010.

NOTARY PUBLIC in and for the State
of Washington, residing at _____
My commission expires: _____

EXHIBIT A TO ORDINANCE 1075

FRANCHISE

Between

LAKE FOREST PARK, WASHINGTON

And

**COMCAST OF WASHINGTON I, INC. AND COMCAST
OF WASHINGTON IV, INC.**

July 24, 2014

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Franchise

This Cable Franchise (hereinafter, the "Franchise") is entered into by and between the City of Lake Forest Park (hereinafter, "City") and Comcast of Washington I, Inc. and Comcast of Washington IV, Inc., two corporations duly organized under the applicable laws of the State of Washington (hereinafter, "Grantee").

WHEREAS, the City wishes to grant Grantee a nonexclusive franchise to construct, install, maintain, extend and operate a cable communications system in the Franchise Area as designated in this Franchise;

WHEREAS, the City is a "franchising authority" in accordance with Title VI of the Cable Act (*see* 47 U.S.C. §522(10)) and Washington State law;

WHEREAS, the Grantee has installed a Hybrid Fiber Coax Cable System that occupies the Rights-of-Way within the Franchise Area, and Grantee desires to use the Hybrid Fiber Coax Cable System to provide Cable Services (as hereinafter defined) in the Franchise Area;

WHEREAS, the City has identified the future cable-related needs and interests of the City, has considered the financial, technical and legal qualifications of Grantee, and has determined that Grantee's Cable System is adequate, in a full public proceeding affording due process to all parties;

WHEREAS, the City desires to protect and manage the Rights-of-Way, require standards of customer service, receive financial compensation for Grantee's use of the Rights-of-Way as provided by federal law, obtain complimentary Cable Services for public buildings, obtain use of educational and governmental channels, establish certain reporting and record access requirements, and provide for the future cable-related needs of its residents;

WHEREAS, the previously-granted franchise expired by its terms on ___, and the City and Grantee agreed to multiple extensions during the process of negotiating a new nonexclusive cable franchise to Grantee that is consistent with the public interest; and

WHEREAS, the City and Grantee have reached agreement on the terms and conditions set forth herein and the parties have agreed to be bound by those terms and conditions.

NOW, THEREFORE, in consideration of the City's grant of a franchise to Grantee, Grantee's promise to provide Cable Service to residents of the Franchise Area pursuant to and consistent with the Cable Act (as hereinafter defined), the promises and undertakings herein, and other good and valuable consideration, the receipt and the adequacy of which are hereby acknowledged,

THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

The City, having determined that the financial, legal, and technical ability of Grantee is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise with Grantee for

the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

SECTION 1. Definition of Terms.

For the purpose of this Franchise, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them herein. The word "shall" is always mandatory and not merely directory.

1.1 "Access" means the availability for noncommercial use by various educational and governmental agencies, institutions and organizations in the community, including the City and its designees, of Channels on the Cable System designated for such use as permitted under applicable law:

(A) "Educational Access" means Access where Schools are the primary users having editorial control over programming.

(B) "Governmental Access" means Access where governmental institutions or their designees are the primary users having editorial control over programming.

(C) "Educational and Governmental Access" or "EG Access" means the availability for noncommercial use of a Channel or Channels on the Cable System by various governmental and educational agencies including the City and its designees.

1.2 "Access Channel" means any Channel, or portion thereof, designated for noncommercial Access purposes or otherwise made available to facilitate or transport Access programming.

1.3 "Affiliate" means, when used in connection with Grantee, any Person who owns or controls, is owned by or controlled by, or is under common ownership or control with Grantee.

1.4 "Bad Debt" means amounts lawfully owed by a Subscriber and accrued as revenue on the books of Grantee, but not collected after reasonable efforts by Grantee.

1.5 "Basic Service" means, at a minimum, all signals of domestic television broadcast stations provided to any Subscriber (except a signal secondarily transmitted by satellite carrier beyond the local Franchise Area of such station, regardless of how such signal is ultimately received by the Cable System), any educational and governmental programming required by the Franchise to be carried on the Basic Service Tier, and any additional Video Programming signals and service voluntarily added to the Basic Service Tier by the Cable Operator.

1.6 "Cable Act" means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and as amended by the Telecommunications Act of 1996, and any amendments thereto, 47 U.S.C. § 521 *et. seq.*

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

1.8 “Cable Service(s)” means (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service, 47 U.S.C. § 522(6).

1.9 “Cable System” means Grantee’s facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and that is provided to multiple Subscribers within a community, but such term does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves Subscribers without using any public right-of-way; (3) a facility of a common carrier that 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 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; (4) an open video system that complies with § 653 of the Cable Act; or (5) any facilities of any electric utility used solely for operating its electric utility systems, 47 U.S.C. Sec. 522 (7). When used herein, the term “Cable System” shall mean Grantee’s Cable System in the Franchise Area.

1.10 “Channel” means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel, whether delivered in an analog or digital format.

1.11 “City” means Lake Forest Park, Washington.

1.12 “Control” means the ability to exercise *de facto* or *de jure* control over day-to-day policies and operations or the management of Grantee’s affairs.

1.13 “Dwelling Units” 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.

1.14 “FCC” means the Federal Communications Commission or successor governmental entity thereto.

1.15 “Franchise” means this document and any amendments or modifications hereto.

1.16 “Franchise Area” means the area within the present legal boundaries of the City as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

1.17 “Gross Revenues” means any and all revenue derived directly or indirectly by Grantee or its Affiliates from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with Generally Accepted Accounting Principles (“GAAP”).

1.17.1 Gross revenues shall include, but shall not be limited to, the following:

- (a) Fees charged for Basic Service;
- (b) Fees charged to Subscribers for any service tier other than Basic Service;
- (c) Fees charged for premium Channel(s), e.g. HBO, Cinemax, or Showtime;
- (d) Fees charged to Subscribers for any optional, per-Channel, or per-program services;
- (e) Charges for installation, additional outlets, relocation, disconnection, reconnection, and change-in-service fees for Cable Service;
- (f) Fees for service calls;
- (g) Rental of Customer equipment, including converters (e.g. set top boxes, high definition converters, and digital video recorders) and remote control devices;
- (h) Advertising sales revenue, minus commissions due to advertising agencies that arrange for the advertising buy, as calculated under GAAP;
- (i) Revenue from leased Access Channel(s);
- (j) Revenues received in connection with the carriage of home shopping Channels;
- (k) Fees for any and all music services that are deemed to be a Cable Service over a Cable System;
- (l) Revenue from the sale of program guides; and/or
- (m) Late payment fees

1.17.2 Gross Revenues shall not include:

- (a) Sales of capital assets or sales of surplus equipment;
- (b) Program launch fees;

(c) Any fees or charges collected from Subscribers or other third parties for EG Grant;

(d) Bad Debt; provided, however, that all or part of any such Bad Debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected; and/or

(e) 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.

1.17.3 The value of the complimentary Cable Services provided herein shall not increase or decrease Gross Revenues for the purpose of calculating Franchise Fees.

1.18 “Locally Scheduled Original Programming” means Government Access or Educational Access programming that is created by the City or their designated Access provider(s) including edited coverage of live programming. Such Locally Scheduled Original Programming shall not be considered as qualifying as such after two (2) cablecasts (initial airing and first repeat). Automated Video Programming filler, such as cablecasts of highways and roads, AM/FM Radio programming, NASA or video bulletin boards does not constitute Locally Scheduled Original Programming that qualifies herein.

1.19 “Person” means any natural person or any association, firm, partnership, joint venture, corporation, limited liability company or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the City.

1.20 “Public Rights-of-Way” or “Rights-of-Way” means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, lane, drive, circle or other public right-of-way, including, but not limited to, utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the City in the Franchise Area, which shall entitle the City and Grantee to the use thereof for the purpose of constructing, installing, operating, repairing, upgrading and maintaining the Cable System. Public Rights-of-Way shall also mean any easement now or hereafter held by the City within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle Grantee to the use thereof for the purposes of constructing, installing, operating, and maintaining Grantee’s Cable System over existing poles and wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and appurtenant to the Cable System.

1.21 “School” means any State accredited K-12 educational institution, public or private, but excluding home schools.

1.22 “State” means the State of Washington.

1.23 “Subscriber” or “Customer” means a Person who lawfully receives Cable Service over the Cable System with Grantee’s express permission.

SECTION 2. Grant of Authority.

2.1 Grant. The City hereby grants to Grantee under the Cable Act a nonexclusive Franchise authorizing Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Rights-of-Way within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Rights-of-Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System.

2.2 Grant of Authority. Subject to the terms and conditions of this Franchise and the Cable Act, the City hereby grants Grantee the right to own, construct, operate and maintain a Cable System along the Rights-of-Way within the Franchise Area, in order to provide Cable Service. No privilege or power of eminent domain is bestowed by this grant; nor is such a privilege or power bestowed by this Franchise.

2.3 Franchise Subject to Federal, State and Local Law. Notwithstanding any provision to the contrary herein, this Franchise is subject to and shall be governed by all applicable provisions now existing or hereafter amended of federal, State and local laws and regulations.

2.4 Use of Rights-of-Way for non-Cable Service. This Franchise is an express authorization to provide Cable Services. This Franchise is not a bar to the imposition of any lawful condition on Grantee with respect to Grantee's non-Cable Services, telecommunication services or information services, whether similar, different or the same as conditions specified herein. This Franchise does not relieve Grantee of any obligation it may have to obtain from the City an authorization to provide non-Cable Services nor relieve Grantee of its obligation to comply with any such authorization(s) that may be lawfully required. However, this Franchise shall not be read as a concession by Grantee that it needs authorization to provide non-Cable Services.

2.5 No Rights by Implication. 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:

2.5.1 Any other 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;

2.5.2 Any permit, agreement or authorization required by the City for Rights-of-Way users in connection with operations on or in Rights-of-Way or public property; or

2.5.3 Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise.

2.6 Conveyance of Rights. 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 Rights-of-Way; it does not provide the Grantee with any interest in any particular location within the Rights-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

2.7 No Waiver. The failure of City on one or more occasions to exercise a right or to require compliance or performance under this Franchise, the Cable Act or any other applicable State or Federal law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the City nor to excuse Grantee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

2.8 Police Power and Other Ordinances. Grantee's rights hereunder are subject to the police powers of City to adopt and enforce ordinances necessary to the safety, health and welfare of the public, and Grantee agrees to comply with all applicable laws, ordinances and regulations lawfully enacted pursuant to the police powers of City, or hereafter enacted in accordance therewith, by City or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City reserves the right to exercise its police powers, notwithstanding anything in this Franchise to the contrary. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of City's police powers shall be resolved in favor of the latter provided that such actions do not obviate the material provisions of this Franchise.

2.9 Term of Franchise. The term of this Franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be seven (7) years (the "Term") from the Effective Date of this Franchise. Upon commencement of the franchise renewal period described in the Cable Act, the parties will meet to discuss a possible extension of this Franchise.

2.10 Effective Date. This Franchise and the rights, privileges and authority granted hereunder shall take effect and be in force from and after the Effective Date of this Franchise. The Effective Date of this Franchise shall be _____.

2.10.1 Within sixty (60) days after Grantee's receipt of the City Council approved Franchise, Grantee shall signify its acceptance of this Franchise by executing a written acceptance of this Franchise. Grantee shall file such written acceptance of the Franchise along with any accompaniments as required by this Section 2.10.1 with the City Clerk. Such written acceptance shall be accompanied by the certificates of insurance specified in Section 0 and the evidence of the Security as specified in Section 9.4. This Franchise is voidable by the City unless accepted in writing with the required accompaniments as specified by this Section 2.10.1 by Grantee within this timeframe.

2.10.2 The grant of this Franchise shall have no effect on Grantee's duty under the prior franchise, in effect prior to the Effective Date of this Franchise, to indemnify or insure the City against acts or omissions occurring during the period that the prior franchise was in effect, nor shall it affect Grantee's liability to pay all Franchise Fees which were due and owed under a prior franchise.

2.11 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.

2.12 Reservation of Authority. Nothing in this Franchise shall (1) abrogate the right of the City to perform any public works or public improvements of any description, (2) be construed as a waiver of any codes or ordinances of general applicability promulgated by the City, or (3) be construed as a waiver or release of the rights of the City in and to the Public Rights-of-Way.

2.13 Grant Not Exclusive. The Franchise and the rights granted herein to use and occupy the Rights-of-Way to provide Cable Services shall not be exclusive, and City reserves the right to grant other franchises for similar uses or for other uses of the Rights-of-Way, or any portions thereof, to any Person, or to make any such use themselves, at any time during the Term of this Franchise. Any such rights which are granted shall not adversely impact the authority as granted under this Franchise and shall not interfere with existing facilities of the Cable System.

2.14 Grant of Other Franchises; Competitive Equity. Grantee acknowledges and agrees that the City reserves the right to grant one or more additional franchises subsequent to this Franchise to provide Cable Service within the Franchise Area; provided, the City agrees that it shall amend this Franchise to include any material terms or conditions that it makes available to the new entrant within ninety (90) days of Grantee's request, so as to ensure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: Franchise Fees; insurance; System build-out requirements; security instruments; Access Channel and support; customer service standards; required reports and related record keeping; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word-for-word identical franchise or authorization so long as the regulatory and financial burdens on each entity are materially equivalent. If any subsequent franchise is granted by the City or by transfer, extension or renewal which, in the reasonable opinion of Grantee, contains materially more favorable or less burdensome terms or conditions than this Franchise, the City agrees that it shall amend this Franchise to include any more materially favorable or less burdensome terms or conditions in a manner mutually agreed upon by City and Grantee.

In the event an application for a new cable television franchise is filed with the City proposing to serve the Franchise Area, in whole or in part, the City shall serve or require to be served a copy of such application upon Grantee by registered or certified mail or via nationally recognized overnight courier service.

2.14.1 In the event that a wireline multichannel video programming distributor provides video service to the residents of the City under the authority granted by federal or State legislation or other regulatory entity, Grantee shall have a right to request Franchise amendments that relieve Grantee of regulatory burdens that create a competitive disadvantage to Grantee. In requesting amendments, Grantee shall file a petition seeking to amend the Franchise. Such petition shall: (1) indicate the presence of such wireline competitor; (2) identify the basis for Grantee's belief that certain provisions of the Franchise place Grantee at a competitive disadvantage; and (3) identify the regulatory burdens to be amended or repealed in order to

eliminate the competitive disadvantage. The City shall not unreasonably withhold consent to Grantee's petition.

2.15 Conditions of Sale. If a renewal or extension of Grantee's Franchise is denied or the Franchise is lawfully terminated, and the City lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

2.16 Transfer upon Revocation. Grantee and the City agree that in the case of a final determination of a lawful revocation of the Franchise, the City shall give Grantee at least one hundred twenty (120) days from the effective date of the revocation to effectuate a transfer of its Cable System to a qualified third party. Furthermore, Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during this period. If, at the end of that time, Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the City, the City shall have the right to purchase the Cable System pursuant to applicable law. It is further agreed that Grantee's continued operation of the Cable System during the one hundred twenty (120) day period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the City or Grantee.

SECTION 3. Construction and Maintenance of the Cable System.

3.1 Permits and General Obligations. Grantee shall be responsible for obtaining, at its own cost and expense, all permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain or repair the Cable System, or any part thereof, prior to the commencement of any such activity. Construction, installation, and maintenance of the Cable System shall be performed in a safe manner using materials that meet or exceed industry standards, and that comply with all city codes and regulations applicable to work performed in the Public Rights-of-Way. All facilities, poles, conduits, cables, and equipment installed by Grantee for use in the Cable System in accordance with the terms and conditions of this Franchise shall be located so as to minimize interference with the designated use of the Public Rights-of-Way at the time of Cable System facilities installation.

3.2 Conditions on Occupancy of Public Rights-of-Way.

3.2.1 Relocation at Request of City. Except as provided herein, upon thirty (30) days prior written notice to Grantee, City shall have the right to require Grantee to relocate any part of Grantee's Cable System within the Public Rights-of-Way when the safety, health or welfare of the public requires such change, and the expense thereof shall be paid by Grantee. City is not required to provide thirty (30) days prior written notice in the event of an emergency. Should Grantee fail to remove or relocate any such facilities by the date established by City, City may remove or relocate such facilities, and the expense thereof shall be paid by Grantee, including all costs and expenses incurred by City due to Grantee's delay. If City requires Grantee to relocate its facilities located within the Public Rights-of-Way, City shall make a reasonable effort to provide Grantee with an alternate location within the Public Rights-of-Way. This Section 3.2.1 does not apply to overhead facilities that are converted to underground facilities, consistent with Section 3.4. If public funds are available to any Person using such

Public Rights-of-Way for the purpose of defraying the cost of any of the foregoing, the City shall upon written request of Grantee make application for such funds on behalf of Grantee.

3.2.2 Temporary Relocation at Request of Third Party. Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the City to move any structure, temporarily move its facilities to permit the moving of such structure; provided (i) Grantee may impose a reasonable charge on any Person for the movement of its facilities, and such charge may be required to be paid in advance of the movement of its wires or cables; (ii) Grantee is granted a permit for such work by the City if a permit is needed; and (iii) Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary relocation.

3.2.3 Restoration of Rights-of-Way. Whenever Grantee disturbs the surface of any Rights-of-Way for any purpose, Grantee shall promptly restore the Rights-of-Way to a condition reasonably comparable to the condition of the Rights-of-Way immediately prior to such disturbance. When any opening is made by Grantee in a hard surface pavement in any Rights-of-Way, Grantee shall promptly refill the opening and restore the surface as required by its permit. If Grantee fails to promptly restore the Rights-of-Way, the City may, after providing reasonable notice to Grantee, refill or repave any opening made by Grantee in the Rights-of-Way, and the reasonable expense thereof shall be paid by Grantee. The City may, after providing reasonable notice to Grantee, repair any work done by Grantee that, in the determination of the City, does not conform to applicable City specifications. The reasonable cost thereof, including the costs of inspection and supervision, shall be paid by Grantee.

3.3 Safety Requirements. The Grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent accidents that may cause damage or injuries. All work undertaken on the Cable System shall be performed in substantial accordance with applicable FCC or other federal and State regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Public Rights-of-Way.

3.4 Aerial and Underground Construction. If all of the distribution lines of all of the wireline service providers, such as telecommunications service providers, as defined in RCW 35.99.010, a utility service provider or a Cable Operator (collectively "Service Providers") in any portion of the Franchise Area are underground, Grantee shall place its Cable System's distribution cables underground within that area; provided that such underground locations are physically capable of accommodating Grantee's cable and other equipment without substantial and material technical degradation of the Cable System's signal quality. In any portion(s) of the Franchise Area where the distribution lines of any of the respective Service Providers are both aerial and underground, Grantee shall have the discretion to construct, operate, and maintain all of its distribution cables, or any part thereof, aerially or underground. In areas where a Service Provider's 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. Grantee shall be entitled to seek reimbursement for its share of funds to offset the cost of placing its facilities underground as may be provided by RCW Ch. 35.99 and/or then-applicable state law, City code or City regulation. Grantee shall utilize existing conduit wherever possible.

3.4.1 The City shall not be required to obtain easements for Grantee. Grantee shall, to the extent economically feasible, participate with other providers in joint trench projects to relocate its overhead facilities underground and remove its overhead facilities in areas where utilities are being converted to underground facilities.

3.4.2 Nothing in this Section shall be construed to require Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as Customer taps, line extenders, system passive devices, amplifiers, power supplies, fiber splices, nodes, pedestals, or other related equipment.

3.4.3 In the event of a City driven facilities relocation project that requires conversion of overhead facilities to underground for purposes of health, safety or public welfare, Grantee agrees to bear the costs of converting Grantee's Cable System from an overhead system to an underground system as follows:

(A) Joint Supplied Trench. To the extent physically and economically practicable, Grantee shall participate in the joint supplied trench. If Grantee chooses to relocate its facilities separately, it may do so, provided the work is done consistent with the City's relocation schedule.

(B) Utility Trench and Vault/Pedestal Engineering: Grantee and other utilities located in the joint trench shall each pay their proportionate share of the engineering for the joint trench.

(C) Conduit and Vaults/Pedestals Placement: Grantee and other utilities located in the joint trench shall each pay their proportionate share of the cost of labor and materials it takes to place conduits and vaults/pedestals in the supplied joint trench.

(D) If the direct costs of Grantee's approved labor and materials exhibits are not agreeable to the City or its contractor, Grantee shall have the option to hire its own contractor(s) to complete the work in accordance with Grantee's approved labor and materials exhibits at the time of the project.

(E) If Grantee chooses to hire its own contractor(s) the City and its contractor(s) are responsible for coordinating with Grantee's contractor(s) to provide reasonable notice and time to complete the placement of Grantee's conduits and vaults/pedestals in the supplied joint trench. If Grantee fails to complete the placement of Grantee's conduits and vault/pedestals in the supplied joint trench as provided in the City's relocation schedule after reasonable notice and time to complete such placement, the City may complete the placement of Grantee's conduits and vault/pedestals in the supplied joint trench with the costs to be borne by Grantee pursuant to Sections 3.4.3.B, C. and D above.

(F) Within the conversion area, and in addition to the costs borne by Grantee pursuant to Sections 3.4.3.B, C. and D above, Grantee shall be responsible for its proportionate share of any on-site coordination, performance of traffic control and trenching.

3.4.4 In the event of a Local Improvement District (LID) project is used to finance an aerial to underground conversion of Grantee's facilities, Grantee shall be reimbursed by the LID funding for all expenses incurred as a result of the project to the extent allowed by federal law, RCW Ch. 35.99 or other applicable state or local law or regulation.

3.4.5 In the event an underground conversion of cable facilities is required as part of the street improvement condition(s) of a new subdivision and/or other non-City-owned development, Grantee may require the developer to be responsible for all time and material costs associated with the conditioned underground conversion of cable facilities.

3.4.6 Grantee shall utilize existing poles and conduit wherever possible.

3.5 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 and 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 applicable law. Grantee shall be jointly and severally liable for all property and personal damages and for correcting all damage caused by any contractor or subcontractor working on Grantee's behalf.

3.6 Construction and Maintenance.

3.6.1 Subject to applicable laws and this Franchise, Grantee shall perform all maintenance, construction, repair and upgrades necessary for the operation of its Cable System in the Rights-of-Way. All work regarding Grantee's System shall, regardless of who performs the work, be and remain Grantee's responsibility.

3.6.2 Grantee's Cable System shall be constructed and maintained in such a 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 Rights-of-Way by, or under, the City's authority.

3.6.3 Grantee shall provide and use any equipment necessary to control and carry Grantee's signals so as to prevent damage to the City's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities and equipment to keep them in good repair and in a safe and presentable condition.

3.6.4 Grantee's Cable System shall be located, erected and maintained so as not to endanger the lives of Persons, or to unnecessarily hinder or obstruct the free use of Rights-of-Way or other public property.

3.6.5 Grantee shall give reasonable notice to private property owners of construction work in adjacent Rights-of-Way.

3.6.6 In the event that emergency repairs are necessary, Grantee shall notify the City of the repairs made on the next business day. Grantee shall initiate such emergency repairs

as soon as reasonably practical following discovery of the emergency. Grantee shall apply for appropriate permits within two (2) business days after discovery of the emergency, or as soon as reasonably practical.

3.7 One Call Notification. Prior to doing any work in the Rights-of-Way, Grantee shall follow established procedures, including contacting the Utility Notification Center in Washington and comply with all applicable State statutes. Grantee shall also comply with generally applicable ordinances and permitting requirements before digging in the Rights-of-Way.

3.8 Rights-of-Way Vacation. If any Rights-of-Way or portion thereof used by Grantee is vacated by the City during the Term of this Franchise, unless the City specifically reserves to Grantee the right to continue the use of vacated Rights-of-Way, Grantee shall, without delay or expense to the City, remove its facilities from such Rights-of-Way and restore, repair or reconstruct the Rights-of-Way where such removal has occurred. In the event of failure, neglect or refusal of Grantee to restore, repair or reconstruct such Rights-of-Way after thirty (30) days written notice from the City, the City may do such work or cause it to be done, and the reasonable cost thereof shall be paid by Grantee within thirty (30) days of receipt of an invoice and documentation.

3.9 Standards. All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. Grantee must comply with all federal, State and local safety requirements, rules, regulations, laws and practices, and deploy 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 must comply with the National Electrical Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards in effect at the time of the work being performed.

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

3.9.2 Grantee shall endeavor to maintain all equipment lines and facilities in an orderly manner, including, but not limited to, the removal of all bundles of unused cable.

3.9.3 All installations of equipment, lines and facilities shall be installed in accordance with good engineering practices and of sufficient height to comply with all federal, State and local regulations, ordinances and laws.

3.9.4 Any opening or obstruction in the Rights-of-Way or other public places made by Grantee in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly marked and visible at night.

3.9.5 Grantee and the City agree that nothing in this Franchise shall give Grantee the right to construct new poles without prior City approval. Furthermore, nothing contained in this Franchise gives Grantee a right of pole attachment to City facilities or facilities owned by third parties.

3.10 Stop Work. On notice from the City that any work is being conducted 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. The stop work order shall:

3.10.1 Be in writing;

3.10.2 Be given to the Person doing the work and be posted on the work site;

3.10.3 Be sent to Grantee by overnight delivery at the address given herein;

3.10.4 Indicate the nature of the alleged violation or unsafe condition; and

3.10.5 Establish conditions under which work may be resumed.

3.11 Joint Trenching/Boring. To the extent it is technically and economically feasible, Grantee shall joint trench or share bores or cuts and work with other providers (such as, but not limited to, telecommunications, gas and electric companies), licensees, permittees and franchisees so as to reduce the number of Right-of-Way cuts within the City.

3.12 GIS Mapping. Upon thirty (30) days written request by the City, Grantee shall provide a route map of those basic portions of the Cable System that are located within the Public Right-of-Way in either a digital format or hard copy. The format of the data for overlaying on the City's GIS mapping system shall utilize NAD 83 as the horizontal datum. The data shall indicate overhead cables and underground cables, pole mounted features and ground mounted features.

3.13 Trimming of Trees and Shrubbery. Grantee shall have the authority to trim trees or other natural growth interfering with, damaging, or restricting access to any of its Cable System facilities in the Rights-of-Way. All such trimming shall be done at Grantee's sole cost and expense. Grantee shall be responsible for any damage caused by such trimming and shall make every attempt to trim such trees and shrubbery in a fashion that maintains their aesthetic appeal. Grantee shall comply with all local laws and regulations with respect to trimming of trees and shrubbery and with all generally applicable landscaping regulations, including but not limited to Lake Forest Park Municipal Code Ch. 16.14, as it now reads and as hereafter amended.

3.14 Reservation of Rights-of-Way. Nothing in this Franchise shall prevent the City or public utilities from constructing any public work or improvement in the Public Rights-of-Way. If the City does not require relocation of Grantee's facilities as part of such public work or improvement, the City will make a good faith effort to avoid damage to Grantees facilities adjacent to such public work or improvement.

3.15 Inspection of Facilities. Upon reasonable notice, the City may inspect any of Grantee's Facilities or equipment within the Rights-of-Way and on other public property. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under applicable law, may order Grantee 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

inspect, repair and correct the unsafe condition if Grantee fails to do so, and to reasonably charge Grantee therefor.

SECTION 4. Service Obligations

4.1 General Service Obligation. Grantee shall make Cable Service available to every residential dwelling unit within the Franchise Area where the minimum density is at least twenty-five (25) Dwelling Units per strand mile in areas served by overhead facilities and sixty (60) Dwelling Units per strand mile in areas served by underground facilities. Subject to this density requirement, Grantee shall offer Cable Service at standard installation rates to all new Dwelling Units or previously unserved Dwelling Units located within one hundred twenty-five (125) aerial feet or sixty (60) underground trench feet of the Grantee's distribution cable. Grantee may elect to provide Cable Service to areas not meeting the above density and distance standards. Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a line extension or a drop in excess of the above standards. Any such additional charge shall be the fully allocated cost of the installation that exceeds the standards set forth above.

4.2 Complimentary Cable Service. Historically, Grantee has provided complimentary Cable Service to municipal buildings, fire stations, police stations, Schools and libraries throughout the Franchise Area. The Cable Service described herein is a voluntary initiative that Grantee agrees to continue throughout the Term of this Franchise. As part of Grantee's voluntary initiative, Grantee will provide without charge, for service or installation, one outlet of Basic Service to those buildings that are owned or leased by the City for administrative purposes, fire and police stations, Schools and libraries, provided that they are located within one hundred twenty-five (125) aerial feet (a Standard Installation) of its Cable System. Grantee shall not be required to provide complimentary Cable Service to those buildings or portions of buildings that are not owned or leased by the City, that are not occupied and used by and for governmental administrative or educational purposes (i.e. utility offices, storage facilities, etc.) or where it would normally enter into a commercial contract to provide Cable Service, such as a prison/jail or a golf course. In instances where the City is leasing and occupying the building, the City shall be responsible for acquiring any necessary right of entry agreement and paying any associated fees that may be required by the building's owner. If the City wishes to discontinue its use of this service, it is responsible for the return of any and all equipment to the Grantee. The City and/or its designees are responsible for all Grantee's on premise equipment.

4.2.1 The Cable Service provided in accordance with this subsection shall not be distributed beyond the originally installed outlet without authorization from Grantee. If additional outlets are requested, the building owner and/or occupant shall be required to pay the usual installation fees associated therewith; but no recurring monthly fees. To the extent that complimentary service is provided, there shall be no offset against Franchise Fees for such service. Outlets of Cable Service provided in accordance with this Section 4.2.1 may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Such outlets may only be used for lawful purposes consistent with Grantee's regular service practices. In the event that there is another wireline service provider (or providers) providing Cable Service within the City, the decision of which service provider will provide the

complimentary service shall be decided on a case by case basis in an effort to maintain equitable burdens on each provider.

4.2.2 The Cable Service provided herein, shall not be used for commercial purposes, and the City shall take reasonable steps to limit display in public areas. In addition, the City shall take reasonable precautions to prevent any inappropriate use of the Cable Service or the Cable System that could result in damage to the Cable System.

4.3 Obscenity. Grantee shall not transmit, or permit to be transmitted, over any Channel subject to its editorial Control any programming that is obscene under applicable federal, State or local laws.

4.4 Services for the Disabled. Grantee shall comply with the Americans with Disabilities Act and any amendments or successor legislation thereto.

4.5 Parental Control Device. Upon request by any Subscriber, Grantee shall make available at no charge 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 Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter.

4.6 No Discrimination. Neither Grantee nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other Person, shall discriminate or permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial, and other business obligations to Grantee are satisfied. Grantee shall not however be required to continue service to a Subscriber who cannot meet their financial obligations to Grantee or who is verbally or physically abusive, harassing, or threatening to Grantee or any of its employees, agents, representatives, contractors, subcontractors, or consultants. Nothing contained herein shall prohibit Grantee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice.

4.7 New Developments. The City shall provide Grantee with written notice of the application for formal approval of a new subdivision and/or planned development within the Franchise Area, so that Grantee may contact the developer(s) to ascertain whether the developer(s) is seeking underground installation and/or conversion of cable facilities as part of the proposed development(s).

SECTION 5. Rates, Fees, Charges and Deposits.

5.1 Rate Regulation. All of Grantee's rates and charges related to Cable Services shall be subject to regulation by the City to the full extent authorized by applicable federal, State and local laws.

5.2 Notice of Rate Changes. Grantee shall notify both the City and its Customers of any changes to its rates in conformance with federal law; provided, however, that prior to the

implementation of any change in rates of charges for any service or equipment provided by the Grantee, the Grantee shall provide the City a minimum of thirty (30) days prior written notice of any such change. Grantee shall not be required to provide prior notice of any rate change that is a result of a regulatory fee, Franchise fee, or any other fee, tax, assessment or charge of any kind imposed by any federal agency, State or the City.

5.3 No Rate Discrimination. All rates and charges shall be published (in the form of a publicly available rate card), and shall be nondiscriminatory for all Persons of similar classes, under similar circumstances and conditions and without regard to neighborhood or income. Nothing herein shall be construed to prohibit:

5.3.1 The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns;

5.3.2 The offering of reasonable discounts to similarly situated Persons;

5.3.3 The offering of bulk discounts for multiple Dwelling Units.

5.4 Low Income Discount. Grantee has historically granted a thirty percent (30%) discount to Subscribers who are low income and are aged sixty-five (65) years or older or disabled to its Basic Cable Service (provided they are not already receiving a package discount and provided further they are the legal owner or lessee/tenant of the dwelling unit). Grantee, as a voluntary initiative, is encouraged to continue to offer a discount to these individuals. For purposes of this discount, Subscribers are considered low income if their combined disposable income from all sources does not exceed the Housing and Urban Development Standards for the Seattle/Everett Area for the current and preceding calendar year. As of the Effective Date of this Franchise, Grantee is offering this low income discount as described herein.

5.5 Leased Access Channel Rates. Grantee shall offer Leased Access Channel capacity on such terms and conditions and rates as may be negotiated with each lessee, subject to the requirements of Section 612 of the Cable Act. Upon request, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels or portions of such Channels.

5.6 Late Fees. 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 is a late fee and shall be applied in accordance with State law.

SECTION 6. Customer Service.

6.1 Customer Service Standards. Customer Service requirements are set forth in Exhibit A, which shall be binding unless amended by written consent of the parties.

6.2 Privacy Protection. Grantee shall comply with all applicable federal and State privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

SECTION 7. Oversight and Regulation.

7.1 **Franchise Fees.** Grantee shall pay to the City a Franchise Fee in an amount equal to five percent (5%) of Gross Revenues derived from the operation of the Cable System to provide Cable Service in the Franchise Area ("Franchise Fee"). In accordance with Title VI of the Cable Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise Fee shall be a calendar year provided, however, that Grantee shall not be compelled to pay any higher percentage of Franchise Fees than any other Cable Operator providing Cable Service in the same portion of the Franchise Area. If during the Term of this Franchise, the FCC, federal or State government, or the courts change the amount a City can collect for Franchise Fees, then this Franchise shall be amended to correspond to such changed Franchise Fee amount and such change shall be imposed on all similarly situated Cable Operators operating in the same portion of the Franchise Area. Franchise Fees are not a tax.

7.2 **Payments.** The payment of Franchise Fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. Grantee shall be allowed to submit or correct any payments that were inadvertently omitted, provided such correction is made within ninety (90) days following the close of the calendar quarter for which such payments were applicable, without incurring any interest expenses pursuant to Section 7.5. At City's option, if there are overpayments of Franchise Fees, City may choose to either refund any such overpayments to Grantee, or Grantee shall withhold future Franchise Fee payments until such time as said overpayment is recovered. If City chooses the option to refund such overpayments, then no interest shall accrue on such overpayments provided City refunds the overpayments within sixty (60) days notice from Grantee. Notwithstanding the foregoing, the parties may agree on a different timeframe or terms of repayment.

7.3 **Additional Compensation.** In the event that Franchise Fees are prohibited by any law or regulation, Grantee shall pay to the City that amount, if any, which is required in accordance with applicable law.

7.4 **Quarterly Reports.** Each Franchise Fee payment shall be accompanied by a report prepared by a representative of Grantee showing the basis for the computation of the Franchise Fees paid during that period.

7.5 **Interest Charge on Late Payments.** Late payments for any Franchise Fees due pursuant to this Section, EG Fees due pursuant to Section 11.7 and liquidated damages due pursuant to Section 13.1 shall be subject to interest at the then-current rate set forth in RCW 19.52.020, which as of the date of execution of this Franchise is twelve percent (12%) per annum from the date that such payment is due.

7.6 **No Release.** The City's acceptance of payment shall not be construed as an agreement that the amount paid was correct, nor shall acceptance be construed as a release of any claim which the City may have for additional sums due under this Franchise. The period of limitation for recovery of Franchise Fees payable hereunder shall be six (6) years from the date on which payment by Grantee was due.

7.7 No Limitation on Taxing Authority. Nothing in this Franchise shall be construed to limit any authority of the City to impose any tax, fee, or assessment of general applicability. Nothing in this Franchise is intended to preclude Grantee from exercising any right it may have to challenge the lawfulness of any tax, fee, or assessment imposed by the City or any State or federal agency or authority, or intended to waive any rights the Grantee may have under 47 U.S.C. § 542.

7.8 Additional Commitments Not Franchise Fees. No term or condition in this Franchise shall in any way modify or affect Grantee's obligation to pay Franchise Fees. Although the total sum of Franchise Fee payments and additional commitments set forth elsewhere in this Franchise may total more than five (5%) of Grantee's Gross Revenues in any 12-month period, Grantee agrees that the additional commitments regarding EG funding and Access Channels are excluded from the definition of Franchise Fees herein and are not Franchise Fees, nor are they to be offset or credited against any Franchise Fee payments due to the City. Additionally, complimentary Cable Service, as described in Section 4.2, shall not be offset against Franchise Fees either, unless otherwise mutually agreed upon by Grantee and City. City and Grantee agree that any utility tax, business and occupation tax or similar tax shall be in addition to any Franchise Fees required herein and there shall be no offset against Franchise Fees subject to applicable law.

7.9 Franchise Fee Audit.

7.9.1 Upon thirty (30) days prior written notice, but not more often than once each calendar year, the City shall have the right to inspect Grantee's financial records as necessary to enforce any of the provisions of this Franchise and to calculate any amounts of Gross Revenue or Franchise Fees calculated as a percentage thereon and determined by City to be payable or previously payable pursuant to this Franchise. Provided Grantee cooperates in making all relevant records available upon request, the City will in good faith attempt to complete each audit within six (6) months, and the audit period shall not be any greater than the previous six (6) years. Any additional amounts due to the City as a result of the audit shall be paid within sixty (60) days following written notice to the Grantee by the City, which notice shall include a copy of the audit findings, and Grantee's agreement that the audit findings are correct. If the audit shows that there has been an underpayment of franchise fees by five percent (5%) or more in a calendar year, then Grantee shall pay the cost of the audit, such amount not to exceed \$15,000.

7.9.2 Upon the completion of any such audit by the City, the City shall provide to Grantee a final report setting forth the City's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, Grantee shall have thirty (30) days from the receipt of the report to provide the City with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall seek to agree upon a "Final Settled Amount." For purposes of this Section, the term "Final Settled Amount(s)" shall mean the agreed upon underpayment, if any, by Grantee to the City. If the parties cannot agree on a "Final Settled Amount," either party may bring an action to have the disputed amount determined by a court of law.

7.9.3 Any “Final Settled Amount(s)” due to the City as a result of such audit shall be paid to the City by Grantee within sixty (60) days from the date the parties agree upon the “Final Settled Amount.” Once the parties agree upon a Final Settled Amount and such amount is paid by Grantee, the City shall have no further rights to audit or challenge the payment for that period. If it was found that there was an underpayment of Franchise Fees pursuant to this Section, Grantee shall pay, in addition to the amount due, interest, calculated from the date the underpayment was originally due until the date payment is made by Grantee.

7.9.4 In the event the “Final Settled Amount(s)” is an overpayment by Grantee, the City shall either reimburse Grantee within sixty (60) days of the date the parties agree upon the Final Settled Amount or, upon Grantee’s approval, the City may choose to have Grantee withhold future Franchise Fee payments until such time as said overpayment is recovered. If the City fails to refund the overpayment to Grantee within sixty (60) days, then interest at the rate specified in Section 7.5 shall accrue beginning on the sixty-first (61st) day following the determination of the Final Settled Amount.

7.10 Bundled Services. If Cable Services subject to the Franchise Fee required under this Section 7 are provided to Subscribers in conjunction with Non Cable Services, the Franchise Fee shall be applied only to the Gross Revenues of the Cable Services, as reflected on the books and records of Grantee in accordance with GAAP. Grantee shall allocate charges for Cable/Non Cable Services on a pro rata basis in accordance with the then-published rates for Cable and Non-Cable Services, so as not to diminish Franchise Fees to the City.

7.11 Maintenance of Books, Records, and Files.

7.11.1 Books and Records. Throughout the Term of this Franchise, Grantee agrees that the City, upon reasonable prior written notice to Grantee and a signed non-disclosure agreement, may review Grantee’s books and records necessary to determine compliance with the terms of this Franchise. The Grantee shall make such books and records available to the City at Grantee’s business office (unless a substitute location is otherwise agreed upon), during normal business hours, and without unreasonably interfering with Grantee’s business operations. Grantee will make reasonable efforts to duplicate and make records available at Grantee’s business offices in King County, Washington. Such books and records shall include any records required to be kept in a public file by Grantee pursuant to the rules and regulations of the FCC. All such documents pertaining to financial matters that may be the subject of an inspection by the City shall be retained by Grantee for a minimum period of six (6) years.

7.11.2 File for Public Inspection. Throughout the Term of this Franchise, Grantee shall maintain a file available for public inspection which shall include all documents required pursuant to the FCC’s rules and regulations. The public inspection file shall be maintained at Grantee’s business office and will be available to the public during normal business hours.

7.11.3 Proprietary Information. To the extent that Grantee is required by this Franchise to disclose information that it reasonably deems to be proprietary or confidential in nature, Grantee shall mark such information accordingly, and the City agrees to treat any such information as confidential and only to disclose it to those employees, representatives, and

agents of the City that have a need to know in order to enforce this Franchise and who agree to maintain the confidentiality of all such information. Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act or any other applicable federal or State privacy law. For purposes of this Section 7.11, the terms “proprietary or confidential” include, but are not limited to, information relating to the Cable System design, Customer lists, marketing plans, financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by Grantee to be competitively sensitive. In the event that the City receives a public records request under RCW 42.56 or similar law for the disclosure of information Grantee has designated as confidential, trade secret or proprietary, the City shall promptly provide notice of such disclosure so that Grantee can take appropriate steps to protect its interests.

7.11.4 Records Required. Upon written request, but no more frequently than once a year, City may request a report which may include any or all of the following, depending on the needs of the City:

(A) Records of all written complaints received by Grantee for a period of up to three (3) years. The term “complaint” as used herein refers to escalated concerns about any aspect of the Cable System or Grantee’s cable operations;

(B) Records of outages for the previous year, indicating date, duration, area, and the number of Subscribers affected, type of outage, and cause;

(C) Records of service calls for repair and maintenance for the previous year, indicating the date and time service was required, the date of acknowledgment, the date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was resolved;

(D) Records of installation/reconnection and requests for service extension for the previous year, indicating the date of request, date of acknowledgment, and the date and time service was extended;

(E) If specifically requested by the City:

1. The most recent annual report.
2. The number of Subscribers with Basic Service; and

(F) Such other reports with respect to its local operation as are necessary to monitor compliance with this Franchise.

7.12 Performance Evaluations. Upon written notification, the City may hold performance evaluation sessions no more than once every twelve months to ensure proper performance of the provisions of this Franchise.

7.12.1 All evaluation sessions shall be open to the public.

7.12.2 Topics which may be discussed at any evaluation session include, but are not limited to, Subscriber figures for each classification of service, construction issues, Cable Service rate structures, Franchise Fee payments, liquidated damages, free or discounted Cable Service, application of new technologies, Cable System performance, Cable Services currently provided and programming offered, future plans of Grantee for new services or programs, Subscriber Complaints, privacy, modifications to this Franchise, judicial and FCC rulings, line extension policies and the City's or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

7.12.3 During evaluations under this Section 7.12, Grantee shall fully cooperate with the City and shall provide such information and documents as the City may reasonably require, to perform the evaluation.

SECTION 8. Transfer or Renewal of Franchise.

8.1 Franchise Transfer. Subject to Section 617 of the Cable Act, 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 (hereinafter "Transfer of the Franchise") without the prior written consent of the City, which consent shall not be unreasonably withheld.

8.1.1 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 stock ownership but includes actual working Control in whatever manner exercised. Every change, transfer or acquisition of Control of Grantee, except as noted in Section 8.1.7, shall make this Franchise subject to cancellation unless and until the City shall have consented thereto which consent shall not be unreasonably withheld.

8.1.2 The parties to the Transfer of the Franchise or change of Control shall make a written request to the City for its approval of the Transfer of the Franchise or change of Control and shall furnish all information required by law. In reviewing a request related to a Transfer of the Franchise or change in Control, the City may inquire into any matter reasonably related to the ability and willingness of the prospective transferee or controlling party to perform, in accordance with 47 CFR § 76.502.

8.1.3 In seeking the City's consent to any change in ownership or Control, the proposed transferee or controlling party shall indicate whether, as applicable, it:

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

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

(C) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a Cable System;

(D) Is financially solvent, by submitting financial data, including financial information as required by FCC Form 394; and

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

8.1.4 In reviewing a request for the Transfer of the Franchise or change of Control, 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 Transfer of the Franchise or change of Control upon such terms and conditions as it deems reasonably appropriate and as are consistent with federal law; provided, however, that any such terms and conditions so attached shall be related to the legal, technical and financial qualifications of the prospective controlling party or transferee. Additionally, such Person shall effect changes as promptly as practicable in the operation of the Cable System, if any changes are necessary to cure any violations or defaults presently in effect or ongoing.

8.1.5 The City shall act by ordinance or resolution on the request within one hundred twenty (120) days of the request, provided it has received all information required by law, such as a completed FCC Form 394. 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.

8.1.6 Within sixty (60) days of Closing of any Transfer of the Franchise or change of Control, if approved or deemed granted by the City, Grantee shall file with the City a copy of the deed(s), agreement(s), lease(s) or other written instrument(s) evidencing such Transfer of the Franchise or change of Control, certified and sworn to as correct by Grantee and the transferee or new controlling entity. In the case of a Transfer of the Franchise or change of Control, the transferee or the new controlling entity shall upon request by the City file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to applicable law.

8.1.7 Notwithstanding anything to the contrary in this Section 8.1, the prior approval of the City shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an Affiliate; provided that the proposed assignee or transferee agree in writing to comply with all of the provisions of the Franchise, subject to applicable law. 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. In the event of a change in Control, the Grantee will continue to be bound by all provisions of the Franchise.

8.1.8 The consent or approval of the City to any Transfer of the Franchise or change in Control shall not constitute a waiver or release of any rights of the City.

8.2 Renewal of Franchise.

8.2.1 The City and Grantee agree that any proceedings undertaken relative to the renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act.

8.2.2 In addition to the procedures set forth in Section 626 of the Cable Act, the City shall notify Grantee of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of Grantee under the current Franchise Term. The City further agrees that such assessments shall be provided to Grantee promptly so that Grantee has adequate time to submit a proposal under Section 626 of the Cable Act.

8.2.3 Notwithstanding anything to the contrary, Grantee and the City further agree that at any time during the Term of the current Franchise, while affording the public appropriate notice and opportunity to comment, the City and Grantee may agree to undertake and finalize informal negotiations regarding renewal of the Franchise and the City may grant a renewal thereof.

SECTION 9. Insurance and Indemnity

9.1 Insurance Requirements.

9.1.1. General Requirement. Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

(A) Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or an equivalent form and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit. Property damage liability insurance shall not exclude coverage for the following hazards: X – Explosion, C- Collapse, and U- Underground.

(B) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

(C) Excess or Umbrella Liability insurance with limits not less than \$5,000,000 per occurrence and annual aggregate. This Excess or Umbrella liability insurance shall apply above, and be at least as broad in coverage scope, as the Contractors Commercial General Liability and Automobile Liability insurance. This requirement may be satisfied instead through the Grantee's Commercial General Liability and Automobile Liability insurance, or any combination thereof.

(D) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

(E) Additional Insured. The City shall be included as an additional insured under each of the insurance policies required in this Section except Workers' Compensation Insurance. All insurance policies required hereunder shall provide or be endorsed so that the City is covered as, and have the rights of, an additional insured with respect to liability assumed by Grantee under this Franchise or applicable law, or in the construction, operation, upgrade, maintenance, repair, replacement or ownership of the Cable System. Grantee shall provide to the City either (1) a true copy of an endorsement covering City as an Additional Insured for each insurance policy required in this Section and providing that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by City of any certificate showing less coverage than required is not a waiver of Grantee's obligations to fulfill the requirements.

9.1.2 The Contractor's Automobile Liability, Commercial General Liability, and Excess or Umbrella Liability insurance, policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City, but only for losses assumed by the Contractor hereunder. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

9.1.3 Each policy shall not be canceled or terminated so as to be out of compliance with these requirements without Grantee first sending forty-five (45) days written notice to the City via mail, and ten (10) days notice for nonpayment of any premium. If the insurance is canceled or terminated so as to be out of compliance with the requirements of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, until all work required to be performed under the terms of this Franchise is satisfactorily completed and, in the case of Commercial General Liability Insurance, for at least one (1) year after expiration of this Franchise. However, if coverage is not afforded due to any failure of Grantee to comply with the claim reporting provisions of any policy(ies) or any breach of an insurance policy warranty, Grantee will indemnify the City for losses the City otherwise would have been covered for as an additional insured.

9.1.4 Grantee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Franchise. Each of the required insurance policies shall be with sureties qualified to do business in the State of Washington with an A- or better rating for financial condition and financial performance by Best Key Rating Guide, Property/Casualty Edition.

9.2 Verification of Coverage. In addition to the other requirements of this Section, Grantee shall furnish the City with certificates of insurance reflecting at least the minimum coverage and policy limits required hereunder. The certificates for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices, and are to be received by the City within forty-five (45) days of the time of acceptance of this Franchise by

Grantee with existing insurance coverage to be maintained by Grantee until that date. Grantee hereby warrants that its insurance policies satisfy the requirements of this Franchise.

9.3 Indemnification.

9.3.1 Indemnity. Grantee agrees to indemnify, save and hold harmless, and defend the City, its elected officials, officers, authorized agents, boards and employees, acting in official capacity, from and against any liability, damages or claims, costs, expenses, settlements or judgments arising out of, or resulting from the granting of this Franchise or Grantee's activities, any casualty or accident to Person or property that occurs as a result of any construction, excavation, operation, maintenance, reconstruction or any other act done pursuant to the terms of this Franchise, provided that the City shall give Grantee timely written notice of its obligation to indemnify the City. Notwithstanding the foregoing, Grantee shall not indemnify the City for any damages, liability or claims resulting from the willful misconduct, concurrent negligence, or breach of obligation of the City, its officers, authorized agents, employees, attorneys, consultants, or independent contractors for which the City is legally responsible, or for any activity or function conducted by any Person other than Grantee in connection with EG Access or EAS.

9.3.2 Defense of Claims. With respect to Grantee's indemnity obligations set forth in this Section 9.3, Grantee shall provide the defense of any claims or actions brought against the City. Nothing herein shall be deemed to prevent the City from cooperating with Grantee and participating in the defense of any litigation by its own counsel at its own cost and expense; provided, however, that after consultation with the City, Grantee shall have the right to defend, settle or compromise any claim or action arising hereunder, and Grantee shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the terms of any such proposed settlement includes the release of the City, and the third party is willing to accept the settlement, but the City does not consent to the terms of any such settlement or compromise, Grantee shall not settle the claim or action, but its obligation to indemnify the City shall in no event exceed the amount of such settlement.

9.3.3 Separate Representation. If separate representation to fully protect the interests of both parties is necessary, such as a conflict of interest between the City and the counsel selected by Grantee to represent the City, Grantee shall pay reasonable attorneys' fees and expenses incurred by the City in defending itself with regard to any action, suit or proceeding indemnified by Grantee. The City's fees and expenses shall include all out-of-pocket expenses, such as consultants and expert witness fees, and shall also include the reasonable value of any services rendered by the City Attorney/Prosecuting Attorney's Office 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 the City by Grantee.

9.3.4 Indemnification for Relocation. Subject to applicable law, Grantee shall indemnify the City for any damages, claims, additional costs or expenses assessed against, or payable by, the City related to, arising out of, or resulting from Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the City.

9.3.5 Duty of Defense. 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 Section 9.3.

9.3.6 Indemnification of Grantee. To the extent permitted by law, the City shall indemnify, defend and hold harmless Grantee for claims arising out of the City's use of the EG Access Channels and/or the Emergency Alert System.

9.3.7 Grantee's Further Responsibilities. Grantee shall indemnify and hold harmless the City from any workers' compensation claims to which Grantee may become subject during the Term of this Franchise. It is further specifically and expressly understood that, solely to the extent required to enforce the indemnification provided per this Franchise, Grantee waives its immunity under RCW Title 51; provided, however, the foregoing waiver shall not in any way preclude Grantee from raising such immunity as a defense against any claim brought against Grantee by any of its employees or other third party. This waiver has been mutually negotiated by the parties.

9.4 Security. Grantee shall provide a single Franchise performance bond or Letter of Credit (the "Security") to ensure Grantee's faithful performance of any and all of the terms and conditions of this Franchise. The Franchise performance bond shall be in the amount of fifty thousand dollars (\$50,000). The City reserves the right, consistent with the Lake Forest Park Municipal Code, Chapter 12.04 and/or as amended, to require (and Grantee shall provide) such additional construction and/or right-of-way excavation bonds in a form reasonably acceptable to the City. Grantee shall pay all premiums or costs associated with maintaining the Security or any subsequent bonds required hereunder, and shall keep the same in full force and effect at all times. The parties agree that the Grantee's maintenance of the bond(s) required in this subsection shall not be construed to excuse unfaithful performance by the Grantee or limit the liability of Grantee to the amount of the bond(s) or otherwise limit the City's recourse to any other remedy available at law or equity.

SECTION 10. System Description and System Facilities.

10.1 System Description. Prior to the Effective Date of this Franchise, Grantee undertook a voluntary upgrade of its 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.

10.2 Technological Improvements. Throughout the Term of this Franchise, Grantee shall provide additional Cable System facilities and equipment, expand Cable System Channel capacity and otherwise upgrade or rebuild its Cable System as required to incorporate improvements in technology as necessary to reasonably meet the needs and interests of the community, in light of the cost thereof.

10.3 Technical Requirement. Grantee shall operate, maintain and construct the Cable System so as to continue the provision of high quality signals and reliable delivery of Cable

Services. The Cable System shall meet or exceed any and all technical performance standards of the FCC as published in subpart K of 47 C.F.R. §76, the National Electrical Safety Code, the National Electrical Code and any other applicable federal law and the laws of the State of Washington as amended (the "Technical Requirements").

10.4 Cable System Performance Testing. Grantee shall perform all tests on its Cable System as required by the FCC (including at least one (1) test point located within the City) and shall maintain written records of its test results. Copies of such test results will be provided to the City upon request. Upon request, Grantee shall notify the City prior to any required technical proof of performance testing and, the City may witness such testing. If the Cable System fails to meet any portion of a proof of performance test, Grantee shall promptly take such measures as are necessary to correct any performance deficiencies identified as part of the technical testing. Sites shall be re-tested within five (5) days following correction until correction has been confirmed and satisfactory results are obtained.

10.5 Additional Tests. Where there exists a pattern of poor technical performance or signal quality, the City may upon thirty (30) days prior written notice, require Grantee to conduct performance testing on other test points located within the City. 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 such testing. This report shall include the following information:

10.5.1 The nature of the complaint or problem which precipitated the special tests;

10.5.2 The Cable System component tested;

10.5.3 The equipment used and procedures employed in testing;

10.5.4 The method, if any, in which such complaint or problem was resolved; and

10.5.5 Any other information pertinent to said tests and analysis which may be required.

10.6 Standby Power. Grantee shall provide standby power generating capacity at the Cable System Headend capable of providing at least twelve (12) hours of emergency operation. Grantee shall maintain standby power supplies that supply back-up power for at least two (2) hours duration throughout the distribution networks and four (4) hours duration at all nodes and hubs.

10.7 Emergency Alert System. The Grantee shall provide an operating Emergency Alert System in accordance with the provisions of State and federal laws, including FCC regulations.

SECTION 11. Educational and Governmental Access.

11.1 Access Channels. In order to meet the demonstrated community need for Access Channels and programming, Grantee shall continue to make available the Governmental and Educational Access Channels active and programmed as of the Effective Date of this Franchise. Provided that the FCC does not declare effective competition, as defined in 47 U.S.C. §543 and

47 C.F.R. §76.905, the Access Channel(s) shall be made available at no extra charge to Subscribers on Grantee's lowest tier of service.

11.2 Change in Cable System Technology. In the event Grantee makes any change in the Cable System technology, which affects the signal quality or transmission of any Access Channel programming, Grantee shall take all necessary technical steps to ensure the delivery of Access programming is not diminished or adversely affected.

11.3 Triggers for Additional Access Channel. The City may require Grantee to make available one (1) additional activated Downstream Channel when the Access Channel required by Section 0 are used for Locally Scheduled Original Programming at least forty-eight (48) hours per week between 10:00 A.M. and 10:00 P.M., Monday through Friday during any consecutive ten (10) week period ("Threshold Requirement"). The initial showing and first repeat shall count towards the Threshold Requirement. To meet the Threshold Requirement the City must produce distinct Locally Scheduled Original Programming. Programming from either of the Access Channels cannot be included in the calculation of the Threshold Requirement.

11.4 Management and Control of Access Channels. Grantee does not have any editorial Control over the Access Channel programming. The City 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 the Access Channels. The City or its designee may formulate rules for the operation of the Access Channels. Nothing herein shall prohibit the City from authorizing itself to be a Designated Access Provider. Grantee shall cooperate with City and Designated Access Providers in the use of the Cable System for the provision of Access Channels.

11.5 Underutilized Access Channels. Grantee and the City agree that it is their mutual goal to fully and efficiently use the Channel capacity of the Cable System, which may include Grantee's use of underutilized Access Channels. If Grantee believes that any Access Channel is underutilized, it may file a request with the City to use that Access Channel. The City shall in its sole discretion render a decision regarding the matter within sixty (60) days of receiving the request. Should the City find that the Access Channel may be used by Grantee, then Grantee may begin using such Channel ninety (90) days after receipt of the decision. If a Designated Access Provider wants to begin using the Channel and has adequate amounts of programming to place on the Channel, then upon sixty (60) days written notice from the City, Grantee shall discontinue using the Access Channel.

11.6 Access Channel Location. Grantee will use reasonable efforts to minimize the movement of Access Channel assignments. Grantee shall provide to the City a minimum of sixty (60) days notice, and use its best efforts to provide ninety (90) days notice, prior to any relocation of its Access Channels, unless the change is required by federal law, in which case Grantee shall give the City the maximum notice possible. In the event of Access Channel relocation, Grantee shall provide notice to Subscribers in the same manner as notice is provided for any other Channel relocation.

11.7 Support for Access Capital Costs.

11.7.1 In an effort to meet the demonstrated community need for Access programming, and upon forty-five (45) days written notice by City, Grantee shall collect from Subscribers an amount as set by the City periodically throughout the term of this Franchise not to exceed twenty-five cents (\$0.25) per Subscriber per month ("EG Fee"). The EG Fee may be used for Access related capital expenditures, such as production equipment and/or a studio. The EG Fee may be adjusted or waived by the City at any time, but not more than once per year. Grantee shall remit the EG Fee at the same time as quarterly Franchise Fee payments hereunder are payable. The parties agree to confer in good faith as to the amount of the EG Fee following five (5) years from the Effective Date of this Franchise. Grantee shall not be responsible for paying the EG Fees with respect to gratis or Bad Debt accounts. The City can inquire as to the status of any such accounts, and Grantee agrees to meet with the City, upon request, to discuss such matters as necessary.

11.7.2 The City shall have the discretion to allocate the EG Fees in accordance with applicable law, and shall submit a summary of capital expenditures from the EG Fees to Grantee within sixty (60) days of the end of each calendar year. The summary shall include financial information showing all EG Fees received, EG expenses used for EG Access purposes and the ending balance.

11.7.3 To the extent the City makes Access capital investments using City funds prior to receiving the EG Fees, the City is entitled to apply the EG Fee payments from Grantee toward such City capital investments necessary for the programming of its Access Channels. The City and Grantee agree that any EG Fees shall be referred to on Subscribers' bills as an "EG Fee," or language substantially similar thereto.

11.7.4 The EG Fees provided for in this Section shall not be offset or credited against any Franchise Fee payments.

11.8 Return Connectivity.

11.8.1 Prior to the commencement of this Franchise, Grantee constructed and has maintained a fiber optic return line from City's EG origination site to its headend. Upon written request of the City, Grantee may construct and maintain additional EG origination sites at other locations within the Franchise Area, for the purpose of delivering Access programming. All costs for fiber optic connectivity to additional EG origination sites shall be paid by the City in advance of construction. All requests for construction of additional EG origination sites must be made six (6) months prior to when construction would occur. Grantee may require that a reasonable deposit of the estimated project cost be paid in advance.

11.8.2 Upon completion of the requested work by the City and upon submission by Grantee of a proper invoice for payment of the cost incurred, City shall pay Grantee within thirty (30) days of receipt. All work shall be performed in a cost-effective manner to minimize the costs to the City.

11.9 Interconnection. Grantee shall within six (6) months of written notice from the City interconnect the Access Channels of the Cable System with any other geographically adjacent Cable System not owned or operated by Grantee upon the directive of the City and

approval of the Grantee and owner of the other Cable System. Interconnections shall be located at the City's EG origination site or at another location mutually agreed upon by City and Grantee.

SECTION 12. Enforcement of Franchise.

12.1 Notice of Violation or Default. In the event the City believes that Grantee has not complied with a term or provision of the Franchise, the City may (but shall not be required to) informally discuss the matter with Grantee. If the City does not initiate informal discussion, or if such discussions do not lead to resolution of the problem within a reasonable time frame, the City shall then notify Grantee in writing of the exact nature of the alleged noncompliance (the "Noncompliance Notice").

12.2 Grantee's Right to Cure or Respond. Grantee shall have thirty (30) days from the receipt of the City's Noncompliance Notice: (A) to respond to the City, contesting the assertion of the alleged noncompliance or default; (B) to cure such default; or (C) in the event that, by nature of the default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

12.3 Public Hearing. In the event Grantee fails to respond to the City's Noncompliance Notice or that the alleged default is not remedied within thirty (30) days or the date projected by Grantee (provided such projection is also acceptable to the City), the City may schedule a public hearing to investigate the alleged default. Such public hearing may be held no less than thirty (30) business days therefrom. If such a public hearing is scheduled, the City shall notify Grantee in writing of the time and place of such hearing and provide Grantee with a reasonable opportunity to be heard, to present evidence in its defense, and to question witnesses.

12.4 Options Following Public Hearing. If the City determines (with or without a hearing) that a default exists, Grantee and the City may agree on a plan and schedule to cure the default. Absent such agreement, the City shall order Grantee to correct or remedy the default or breach within such reasonable timeframe as the City shall determine. In the event Grantee does not cure the default within such time to the City's reasonable satisfaction, the City may:

12.4.1 Pursue the revocation of this Franchise pursuant to the procedures in Section 13 in the event of a material breach of this Franchise; or

12.4.2 Pursue any other legal or equitable remedy available under this Franchise or any applicable law.

SECTION 13. Damages.

13.1 Liquidated Damages. The City and Grantee recognize the delays, expense and unique difficulties involved in proving in a legal proceeding, the actual loss suffered by the City as a result of Grantee's breach of certain provisions of this Franchise. Accordingly, instead of requiring such proof, the City and Grantee agree that Grantee shall pay to the City, the sums set forth below for each day or part thereof that Grantee shall be in breach of specific provisions of this Franchise. Such amounts are agreed to by both parties as a reasonable estimate of the actual

damages the City would suffer in the event of Grantee's breach of such provisions of this Franchise.

13.1.1 Subject to the provision of written notice to Grantee and a thirty (30) day right to cure period, the City may assess against Grantee liquidated damages as follows: one hundred dollars (\$100.00) per day for failure to provide the Access Channel(s); one hundred fifty dollars (\$150.00) per day for each material violation of the Customer Service Standards; and fifty dollars (\$50.00) per day for failure to provide reports or notices as required by this Franchise.

13.1.2 City shall provide Grantee a reasonable extension of the thirty (30) day right to cure period described in Section 0 if Grantee has commenced work on curing the violation, is diligently and continuously pursuing the cure to completion and requested such an extension, provided that any such cure is completed within one hundred and twenty (120) days from the written notice of default.

13.1.3 Liquidated damages may be assessed for no more than seventy-five (75) calendar days for any individual incident.

13.1.4 In the event Grantee fails to cure within the specified cure period, or any agreed upon extensions thereof, liquidated damages accrue from the date the City notifies Grantee that there has been a violation.

13.2 Recovery of Amounts. The recovery of amounts under Section 0 and 0 shall not be construed as a limit on the liability of Grantee under the Franchise or an excuse of unfaithful performance of any obligation of Grantee. Similarly, the imposition of liquidated damages are not intended to be punitive, but rather, for City cost recovery purposes.

13.3 Alternative Remedies. No provision of this Franchise shall be deemed to bar the City from seeking appropriate judicial relief. 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 either party to recover damages, as allowed under applicable law, or to seek and obtain judicial enforcement (including specific performance) of either party's obligations, injunctive relief or mandate, or any other remedy at law or in equity. The City specifically does not, by any provision of this Franchise, waive any right, immunity, limitation or protection otherwise available to the City, its officers, officials, City Council, Boards, commissions, agents, or employees under federal, State, or local law. Further, the City and Grantee also recognize the delays, expense, unique difficulties and actual loss that the City may incur as a result of Grantee's breach of certain material provisions of this Franchise other than those listed in Section 13.1.1 above, including but not limited to Grantee's obligation to relocate any part of its Cable System in the Public Rights-of-Way and maintain the safety of any of Grantee's work on said Cable System, that liquidated or actual damages for such other certain breaches could not be reasonably estimated and would be insufficient to redress the actual injury suffered by the City, and that in such event the City shall be entitled to seek specific performance.

SECTION 14. Termination of Franchise.

14.1 Revocation. This Franchise may be revoked and all rights and privileges rescinded if:

14.1.1 There is an uncured violation of any material obligation under this Franchise;

14.1.2 Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the City or Subscribers;

14.1.3 Grantee makes a material misrepresentation of fact in the negotiation of this Franchise;

14.1.4 There is a foreclosure or involuntary sale of the Cable System;

14.1.5 Grantee willfully fails to provide services as specified in this Franchise;

14.1.6 Grantee becomes insolvent or if there is an assignment for the benefit of Grantee's creditors; or

14.1.7 There is a pattern or practice of material violation of any requirement of this Franchise.

14.2 Grantee Without Fault. Notwithstanding Section 14.1, none of the foregoing shall constitute a material violation or breach if Grantee is without fault or if the violation or breach occurs as a result of circumstances beyond Grantee's reasonable Control. Grantee shall bear the burden of proof in establishing the existence of such circumstances.

14.3 Revocation Notice. Should the City seek to revoke this Franchise after following the procedures set forth in this Section 14, the City shall give written notice to Grantee of such intent to revoke this Franchise. This notice of intent to revoke ("Revocation Notice") is in addition to the Noncompliance Notice pursuant to Section 14. The Revocation Notice shall set forth the specific nature of the noncompliance. Grantee shall have thirty (30) days from receipt of such Revocation Notice to object in writing and to state its reasons for such objection. In the event the City has not received a satisfactory response from Grantee, it may then seek revocation of the Franchise at a second Public Hearing (the "Revocation Hearing"). The City shall cause to be served upon Grantee at least thirty (30) days prior to the Revocation Hearing a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

14.4 Revocation Hearing. At the Revocation Hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the testimony of Persons as permitted by law, and to question and/or cross examine witnesses. The public hearing shall be on the record and a written transcript shall be made available to Grantee within ten (10) business days.

14.5 Findings and Conclusions. Following the Revocation Hearing, Grantee shall be provided up to thirty (30) days to submit its proposed findings and conclusions in writing and thereafter the City shall determine (i) whether an event of default has occurred; (ii) whether such event of default is excusable; and (iii) whether such event or default has been cured or will be cured by Grantee. The City shall also determine whether to revoke the Franchise based on the information presented or, where applicable, grant additional time to Grantee to effect any cure.

If the City determines that the Franchise shall be revoked, the City shall promptly provide Grantee with a written decision setting forth its reasoning. Grantee may seek such judicial review of the City's decision as may be available by applicable law.

14.6 Enforcement in Lieu of Revocation. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the Franchise in lieu of revocation of the Franchise.

14.7 Technical Violation. The City agrees that it is not its intention to subject Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

14.7.1 Instances or matters where a violation or a breach of the Franchise by Grantee was good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area or on the City; or

14.7.2 Where there existed circumstances reasonably beyond the Control of Grantee and which precipitated a violation by Grantee of the Franchise, or which were deemed to have prevented Grantee from complying with a term or condition of the Franchise.

SECTION 15. Miscellaneous Provisions.

15.1 Authority and Changes in the Law. The City shall be vested with the power and right to administer and enforce the requirements of this Franchise and the regulations and requirements of applicable law, including the Cable Act, or to delegate that power and right, or any part thereof, to the extent permitted under law, to any agent in the sole discretion of the City. Grantee and the City shall be entitled to all rights and be bound by all changes in local, State and federal law that occur subsequent to the Effective Date of this Franchise. Grantee and the City acknowledge that their rights and obligations under this Franchise are explicitly subject to all such changes.

15.2 Actions of Parties. In any action by the City or Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld, delayed or conditioned.

15.3 Amendments. Amendments to this Franchise shall be mutually agreed upon, in writing by the parties.

15.4 Attorneys' Fees. If any action or suit arises in connection with this Franchise (excluding Franchise renewal proceedings), the substantially prevailing party shall be entitled to recover all of its reasonable attorneys' fees, costs and expenses (including but not limited to expert witness fees) reasonably incurred in connection therewith along with such other relief that the court deems proper.

15.5 Binding Acceptance. This Franchise shall bind and benefit the parties hereto and their respective successors and assigns.

15.6 Captions. The captions and headings of Sections throughout this Franchise are intended solely to facilitate reading and reference to the sections and provisions of this Franchise. Such captions shall not affect the meaning or interpretation of this Franchise.

15.7 Costs to be Borne by Grantee. Grantee shall pay all costs of publication of this Franchise and any and all notices prior to any public meeting or hearing in connection with this Franchise.

15.8 Cumulative Rights. Subject to applicable law, all rights and remedies given to the City by this Franchise or retained by the City herein 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, 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 Franchise 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 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.

15.9 Entire Franchise. This Franchise, including the Exhibit, embodies the entire understanding and agreement of the City and Grantee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral.

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

15.11 Governing Law. This Franchise shall be governed, construed and enforced in accordance with the laws of the City of Lake Forest Park as amended, the State of Washington as amended, federal law including the Cable Act as amended, any applicable rules, regulations and orders of the FCC as amended and applicable local laws now existing or hereafter amended or adopted.

15.12 Equal Employment Opportunity. Grantee shall comply with all applicable federal and State laws affording nondiscrimination in employment to all individuals regardless of their race, color, religion, age, sex, national origin, sexual orientation or physical disability.

15.13 Modification. No provision of this Franchise shall be amended or otherwise modified, in whole or in part, except by an instrument in writing, duly executed by the City and Grantee, which amendment shall be authorized on behalf of the City through the adoption of an appropriate resolution, ordinance or order by the City, as required by applicable law.

15.14 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 that would indicate any such relationship with the other.

15.15 Notices. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class, registered or certified mail, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the City:

17425 Ballinger Way NE
Lake Forest Park, WA 98155
Attn.: City Manager

To the Grantee:

Comcast of Washington I, Inc. and Comcast of Washington IV, Inc.
PO BOX 97007
Redmond, WA 98073-9707
Attn.: Government Affairs

with a copy to:

Comcast of Washington I, Inc. and Comcast of Washington IV, Inc.
15815 25th Ave. W.
Lynnwood, WA 98087
Attn: Government Affairs Dept.

15.16 No Third-Party Beneficiaries. Nothing in this Franchise is or was intended to confer third-party beneficiary status on any Person or any member of the public to enforce the terms of this Franchise.

15.17 Reservation of Rights. Nothing in this Franchise shall be construed as a waiver of any rights, substantive or procedural, Grantee or City may have under Federal or State law unless such waiver is expressly stated herein.

15.18 Preemption. In the event that federal or State law preempts a provision or limits the enforceability of a provision of this Franchise, the provision shall be read to be preempted to the extent required by law. In the event such federal or State law is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall

thereafter be binding on the parties hereto, without the requirement of further action on the part of the City or Grantee.

15.19 Recitals. The recitals set forth in this Franchise are incorporated into the body of this Franchise as if they had been originally set forth herein.

15.20 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

15.21 Venue. Except as provided by Section 14.5, the venue for any dispute related to this Franchise shall be the United States District Court for the Western District of Washington, or the King County Superior Court.

15.22 Waiver. The failure of either party at any time to require performance by the other of any provision hereof shall in no way be a waiver thereof unless specifically waived in writing. Nor shall the waiver by either party 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.

15.23 Independent Review. The City and Grantee each acknowledge that they have had opportunity to receive independent legal advice in entering into this Franchise and that both the City and Grantee understand and fully agree to each and every provision of this Franchise.

(SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, this Franchise has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth above:

City:

By: _____

Name: _____

Title: _____

COMCAST _____

By: _____

Name: _____

Title: _____

Approved as to form:

City Attorney

Attest:

City Clerk

EXHIBIT

Exhibit A: Customer Service Standards

EXHIBIT A

Section 1. **POLICY**

- A. The Grantee shall be permitted to resolve citizen Complaints prior to action or involvement by the LFA.
- B. If a Complaint is not resolved by the Grantee to the citizen's satisfaction, the LFA may intervene. In addition, where a pattern of, or unremedied, noncompliance with the Customer Service Standards ("Standards") is identified, the LFA may choose to follow the procedures contained in these Standards. If the noncompliance is not addressed to the satisfaction of the LFA, monetary or other sanctions may be imposed to encourage compliance.
- C. These Standards are intended to be of general application; however, the Grantee shall be relieved of any obligations hereunder if it is unable to perform due to circumstances beyond its reasonable control, as described in Subsection 14.11 of the Franchise. The Grantee shall seek to render efficient service and to make repairs promptly. In addition, the Grantee may, and is encouraged, to exceed these Standards for the benefit of its Customers and such shall be considered performance for the purposes of these Standards.

Section 2. **DEFINITIONS**

When used in these Standards, the following words, phrases, and terms shall have the meanings given below.

"Complaint" shall mean an initial or repeated Customer expression of dissatisfaction, whether written or oral, that is referred beyond a Customer Service Representative at the Call Center, or to the Grantee's system office or regional office or corporate headquarters, or to the LFA for resolution. This does not include routine inquiries and service requests.

"Customer" shall mean any person who lawfully receives Cable Service from the Grantee.

"Customer Service Representative" or "CSR" shall mean any person employed by the Grantee to assist, or provide service to Customers, whether by answering telephone calls, answering Customers' questions, or performing other customer service related tasks.

"Grantee" shall mean Comcast of Washington I and IV, Inc..

"LFA" shall mean the City of Lake Forest Park, Washington.

"Normal Business Hours" shall mean those hours during which most similar businesses in the LFA are open to serve Customers. In all cases, "Normal Business Hours" must include some evening hours, with Customer Service Representatives available, at least one night per week and some weekend hours.

“Normal Operating Conditions” shall mean those service conditions that are within the control of the Grantee. Those conditions that are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, and severe or unusual weather conditions. Those conditions that are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

“Service Interruption” shall mean the loss of picture or sound on one or more cable channels.

Section 3. **COURTESY**

All employees of the Grantee shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with Customers.

Section 4. **ACCESSIBILITY**

- A. The Grantee is encouraged to provide customer service centers. If provided, customer service shall be available at a service center or centers at least nine consecutive hours on Monday through Friday, ending no earlier than 6:00 p.m., and at least four consecutive hours on Saturdays, ending no earlier than 1:00 p.m. The service center(s) shall be fully staffed with Customer Service Representatives offering the following services to Customers who come to the service center(s): bill payment, equipment return (at designated locations), processing of change of service requests, and response to other Customer inquiries and requests. The Grantee shall post a sign at the service center(s) advising Customers of its hours of operation and of the addresses and telephone numbers at which to contact the LFA and the Grantee if the service center is not open at the times posted. The Grantee shall also make available its web site and e-mail address to its Customers. The Grantee shall also provide free exchanges of faulty converters at the Customer's address at a convenient time that is mutually agreed upon.
- B. The Grantee shall maintain local telephone access lines or a toll free telephone number that shall be available 24 hours a day, seven days a week for service/repair requests and billing inquiries.
- C. The Grantee shall have dispatchers and technicians on call 24 hours a day, 7 days a week, including legal holidays.
- D. Trained Customer Service Representatives will be available to respond to Customer telephone inquiries during Normal Business Hours. Under Normal Operating Conditions, telephone answer time shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis. Under Normal Operating Conditions, the Grantee shall maintain adequate telephone line capacity to ensure that telephone calls are answered as provided in these Standards.

- E. After Normal Business Hours, the telephone lines may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Customer Service Representative on the next business day.
- F. Under Normal Operating Conditions, the total number of calls receiving busy signals shall not exceed three percent (3%) of the total telephone calls. This standard shall be met ninety percent (90%) or more of the time measured quarterly.
- G. The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with any of the telephone answering standards above unless and until the LFA requests such actions based on a historical record of Customer inquiries or Complaints indicating a clear failure to comply.

Section 5. **RESPONSIVENESS**

A. Residential Installation

- 1. Under Normal Operating Conditions, Grantee shall complete all standard residential installations requested by Customers within seven (7) business days after the order is placed. This standard shall be measured on a quarterly basis and must be met ninety-five percent (95%) of the time. "Standard" residential installations are those located within one hundred twenty-five (125) aerial feet or sixty (60) trench feet if underground, from the existing distribution system. If the Customer requests a nonstandard residential installation, or the Grantee determines that a nonstandard residential installation is required, the Grantee shall provide the Customer in advance with a total installation cost estimate and an estimated date of completion.
- 2. Absent unusual circumstances, all underground cable drops from the curb to the home shall be buried at a depth of no less than twelve inches (12"), and within a reasonable period of time from the initial installation, or at a time mutually agreed upon between the Grantee and the Customer. In all instances, the Grantee must comply with the State's One Call requirements.

B. Service Appointments

- 1. Customers requesting installation of Cable Service or service to an existing installation may choose a four-hour block of time for the service appointment between 8:00 a.m. and 6:00 p.m. or another block of time mutually agreed upon by the Customer and the Grantee. The Grantee may not cancel an appointment with a Customer after 5:00 p.m. on the day before the scheduled appointment, except for appointments scheduled within twelve (12) hours after the initial call.
- 2. If the Grantee's representative is running late for an appointment with a Customer and will not be able to keep the appointment as scheduled, the Grantee or the Grantee's representative shall contact the Customer. The appointment shall be rescheduled as necessary at a time that is convenient for the Customer.

3. The Grantee shall be deemed to have responded to a request for service under the provisions of this section, when a technician arrives within the agreed upon time to initiate the work specified in the work order. If the Customer is absent when the technician arrives, the technician shall leave written notification of timely arrival.

C. Outages and Service Interruptions

1. Except in times of emergency, if there is a system outage (loss of reception on all channels) resulting from Grantee equipment failure affecting five (5) or more Customers, the Grantee shall respond in accordance with its outage response procedures, and in no event more than two (2) hours after the third (3rd) Customer call is received and shall remedy the problem as quickly as possible.
2. Under Normal Operating Conditions, the Grantee shall use its best efforts to correct service interruptions resulting from Grantee's equipment failure by the end of the next calendar day, but in no event longer than forty-eight (48) hours and Customers will not be charged for such service calls.
3. In the event of a service disruption through Grantee's error, service shall be restored at the earliest time possible and Customers will not be charged for such service calls.
4. The Grantee shall keep an accurate and comprehensive file of any and all Complaints regarding the Cable System or its operation of the Cable System, in a manner consistent with the privacy rights of Customers, and the Grantee's actions in response to those Complaints. Upon request, Grantee shall provide the LFA an executive summary of all Customer Complaints received within the past twelve (12) months.
5. Absent unusual circumstances, the Grantee shall use its best efforts to initiate repairs on all outages and service interruptions for any cause beyond the control of the Grantee within thirty-six (36) hours, after the conditions beyond its control have subsided but not later than forty-eight (48) hours.

D. TV Reception

1. The Cable Service signal quality provided by the Grantee shall meet or exceed technical standards established by the Federal Communications Commission ("FCC"). The Grantee shall interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and six a.m. (6:00 a.m.).
2. If a Customer experiences poor signal quality (whether it relates to a visual or audio problem) which is attributable to the Grantee's equipment, the Grantee shall respond and repair the problem no later than the day following the Customer call, provided that the Customer is available and the repair can be made within the

allotted time. If an appointment is necessary, the Customer may choose a block of time, as described in Subsection B.1 of this Section.

E. Problem Resolution

A Customer Service Representative shall have the authority to provide credit, waive fees, schedule service appointments and change billing cycles, where appropriate. Any difficulties that cannot be resolved by the Customer Service Representative shall be referred to the appropriate supervisor who shall contact the Customer within twenty-four (24) hours and resolve the problem within forty-eight (48) hours or within such other timeframe as is acceptable to the Customer and the Grantee.

F. Billing, Credits, and Refunds

1. Grantee shall provide a clear and concise bill every month and shall allow at least a reasonable number of days from the beginning date of the applicable service period for payment of a Customer's bill for that period.
2. The Grantee shall issue refund checks promptly but no later than either the Customer's next billing cycle following resolution of the request or within thirty (30) days, whichever is earlier, or the return of the equipment supplied by the Grantee if service is terminated. Credits for service will be issued no later than the Customer's next billing cycle following the determination that a credit is warranted.
3. Grantee shall not, except to the extent expressly permitted by law, impose any fee or charge for service calls to a Customer's premises to perform any repair or maintenance work related to Grantee's equipment necessary to receive Cable Service, except where such problem is caused by a negligent or wrongful act of the Customer (including, but not limited to a situation in which the Customer reconnects Grantee's equipment incorrectly or installs Customer provided equipment) or by the failure of the Customer to take reasonable precautions to protect Grantee's equipment (for example, a dog chew).
4. Upon request, Grantee shall provide the LFA with a rate card with all applicable rates and charges related to Cable Service. In addition, Grantee shall provide the LFA, upon request, a copy of any billing insert related to rates or customer service, provided it is not promotional material.

G. Notice/Work

1. Except in the case of an emergency involving public safety or service interruption to a large number of Customers, the Grantee shall give reasonable notice to property owners or legal tenants prior to entering private premises. The notice shall specify the type of work to be performed. In the case of an emergency, however, the Grantee shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Nothing herein shall be construed as authorizing access or entry to private property. Any work on private property shall be conducted in accordance with an

agreement between the Grantee and the property owner. If damage is caused by any Grantee activity, the Grantee shall replace or repair the damaged property to as good a condition as before the Grantee's activity commenced. Adjacent or affected property owners shall be notified by mail or door hanger at least one week in advance of the installation of pedestals or other major construction or installation projects in the Rights-of-Way or on private property.

Section 6. SERVICES FOR CUSTOMERS WITH DISABILITIES

- A. For any Customer with a disability, the Grantee shall, at no charge, deliver and pick up converters at the Customer's home. In the case of a malfunctioning converter, the technician shall provide another converter, hook it up and ensure that it is working properly, and shall return the defective converter to the Grantee.
- B. The Grantee shall make available TDD/TTY service with trained operators, who can provide every type of assistance rendered by the Customer Service Representatives, for any hearing-impaired Customer at no charge.
- C. The Grantee shall provide free use of a remote control unit to mobility-impaired Customers (if disabled, in accordance with Subsection D of this Section).
- D. Any Customer with a disability may request the remote control unit described above by providing the Grantee with a letter from the Customer's physician stating the need, or by making the request to the Grantee's installer or service technician, where the need for the special service can be visually confirmed.

Section 7. CUSTOMER INFORMATION

- A. Upon installation and at any time thereafter, the Customer may request, or upon its own initiative, the Grantee shall provide the following information in a legible written form:
 - 1. Products and services offered by the Grantee, including its channel lineup;
 - 2. The Grantee's complete range of service options and the prices for these services;
 - 3. Instruction on the use of cable TV service and standard DVD/VCR hookups;
 - 4. The Grantee's billing, collection and disconnection policies;
 - 5. Customer privacy requirements;
 - 6. All applicable Complaint procedures, including Complaint forms, and the telephone numbers and mailing addresses of the Grantee and the FCC, as well as the contact information for the LFA;
 - 7. Use and availability of parental control/lock out devices;
 - 8. Special services for Customers with disabilities; and

9. Days, times of operation, and location of the service center(s).
- B. Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to Customers a minimum of thirty (30) days in advance of such change(s) if the change is within the control of the Grantee. The Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, Franchise Fee, or any other fee, tax, assessment or charge of any kind imposed by any federal agency, State or the LFA.
- C. All officers, agents, and employees of the Grantee or its contractors or subcontractors who are in personal contact with Customers shall wear on their outer clothing identification cards bearing their name and photograph. The Grantee shall account for all identification cards at all times. Every vehicle of the Grantee shall be visually identified to the public as working for the Grantee. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor or subcontractor, and shall be further identified as contracting or subcontracting for the Grantee. All CSRs shall identify themselves orally to callers immediately following the greeting during each telephone contact with the public.
- D. If possible, each CSR, technician or employee of the Grantee shall notify customers of the estimated cost of the service, repair, or installation prior to delivery of the service or before any work is performed.

Section 8. CUSTOMER PRIVACY

- A. The Grantee shall not monitor cable television signals to determine the individual viewing patterns or practices of any Customer without prior written consent from that Customer, except as needed to maintain system integrity or for other lawful purposes.
- B. The Grantee shall not sell or otherwise make available Customer lists or other personally identifiable information without the prior written consent of the Customer, except as otherwise permitted by law. The Grantee is permitted to disclose such information if necessary to render, or conduct, a legitimate business activity related to a Cable Service provided by the Grantee to its Customers.

Section 9. SAFETY

The Grantee shall install and locate its facilities, cable system, and equipment in compliance with all federal, state and local safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever the Grantee receives notice that an unsafe condition exists with respect to its equipment, the Grantee shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

Section 10. SATISFACTION GUARANTEED

The Grantee currently offers a Customer satisfaction guarantee to every Customer who requests installation of Cable Service or who adds any additional programming service to the Customer's cable subscription.

Section 11. COMPLAINTS TO THE GRANTEE

- A. The Grantee shall establish written procedures for receiving, acting upon, and resolving Complaints without intervention by the LFA (except where necessary) and shall publicize such procedures through printed documents at the Grantee's sole expense.
- B. Said written procedures shall describe a simple process by which any Customer may submit a Complaint by telephone or in writing to the Grantee regarding a disputed matter, or an alleged violation of any provision of these Standards or any terms or conditions of the Customer's contract with the Grantee, or reasonable business practices.
- C. Within a reasonable period of time after receiving a Complaint, the Grantee shall notify the Customer of the results of its investigation and its proposed action or credit.
- D. Upon request, Grantee's Complaint procedures shall be provided to the LFA.

Section 12. VERIFICATION OF COMPLIANCE

The Grantee shall establish its compliance with all of the Standards required through annual reports that demonstrate said compliance, or as requested by the LFA.

Section 13. OVERALL QUALITY OF SERVICE

The LFA may evaluate the overall quality of Customer service provided by the Grantee to Customers:

- A. In conjunction with any performance review provided for in the Franchise; or
- B. At any other time, in its sole discretion, based on the number of Complaints received by the Grantee or the LFA, and the Grantee's response to those Complaints.

Section 14. PROCEDURES FOR REMEDYING VIOLATIONS

If the LFA has reason to believe that the Grantee has failed to comply with any of these Standards, or has failed to perform in a timely manner, or if similar Complaints repetitively arise, the LFA may require in writing that the Grantee remedy the alleged noncompliance as outlined in Section 12 of the Franchise. If the alleged noncompliance is denied or not remedied to the satisfaction of the LFA, the LFA may opt to follow the liquidated damages procedures, revocation procedures or seek other remedies set forth in the Franchise, or pursue any other remedies at law or in equity.

Section 15. SEVERABILITY

Should any section, subsection, paragraph, or provision of these Standards be 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, or provision of these Standards, all of which shall remain in full force and effect.

Section 16. **NON-WAIVER**

Failure of the LFA to enforce any provision(s) of these Standards shall not operate as a waiver of the provision(s) or of the Standards