

2006-468

CABLE TELEVISION FRANCHISE AGREEMENT

Between

CLACKAMAS COUNTY, OREGON

And

GOVERNMENT CAMP CABLE, INC.,

AN OREGON PARTNERSHIP

OCTOBER 2006

295 759

TABLE OF CONTENTS

1. PURPOSE AND INTENT	1
2. DEFINITIONS	1
3. GRANT OF FRANCHISE	7
3.1 GRANT.....	7
3.2 USE OF PUBLIC STREETS AND WAYS	8
3.3 DURATION AND EFFECTIVE DATE OF FRANCHISE	8
3.4 RANCHISE AREA.....	9
3.5 FRANCHISE NOT EXCLUSIVE	9
3.6 FRANCHISE NON-TRANSFERABLE	10
3.7 CHANGE IN CONTROL	11
3.8 FRANCHISE ACCEPTANCE.....	12
4. CONSTRUCTION AND SERVICE REQUIREMENTS	12
4.1 GENERAL	12
4.2 RIGHT OF INSPECTION OF CONSTRUCTION.....	13
4.3 AVAILABILITY OF RESIDENTIAL SERVICE.....	13
4.4 ERECTION OF POLES	14
4.5 TRIMMING OF TREES OR OTHER VEGETATION.....	14
4.6 REPAIR & RESTORATION OF STREETS, PUBLIC WAYS AND GROUNDS	14
4.7 CONSTRUCTION CODES.....	15
4.8 RESERVATIONS OF STREET RIGHTS	15
4.9 STREET VACATION AND ABANDONMENT	16
4.10 MOVEMENT OF FACILITIES	16
4.11 EASEMENTS.....	17
4.12 UNDERGROUNDING	17
4.13 AS BUILTS.....	18
4.14 EMERGENCY.....	18
5. SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS	18
5.1 EQUAL AND UNIFORM SERVICE.....	18
5.2 SYSTEM CONFIGURATION.....	18
5.3 CHANNEL CAPACITY	18
5.4 SATELLITE EARTH STATIONS	18
5.5 INTERCONNECTION	19
5.6 EMERGENCY ALERT CAPABILITY.....	20
5.7 STANDBY POWER.....	20
5.8 PARENTAL CONTROL LOCK.....	21
5.9 TECHNICAL STANDARDS.	21
5.10 PERFORMANCE TESTING.	21
5.11 SAFETY	22
6. SERVICES AND PROGRAMMING.....	22
6.1 PROGRAMMING CATEGORIES.....	22
6.2 CHANGES IN VIDEO PROGRAMMING SERVICES.....	23
6.3 INTERACTIVE RESIDENTIAL SERVICES.....	23
6.4 LEASED CHANNEL SERVICE.....	23
6.5 OBSCENITY	23
6.6 PUBLIC, EDUCATIONAL AND GOVERNMENT USE OF SYSTEM	24

6.7 CABLE SERVICE TO PUBLIC FACILITIES	24
7. FRANCHISE REGULATION AND CUSTOMER SERVICE STANDARDS.....	24
7.1 INTENT	24
7.2 AREAS OF REGULATION AND ADMINISTRATION.....	25
7.3 RATE REGULATION.....	25
7.4 OPEN BOOKS AND RECORDS	26
7.5 COMMUNICATIONS WITH REGULATORY AGENCIES	27
7.6 REPORTS	27
7.7 PUBLIC DISCLOSURE	29
7.8 REMEDIES FOR FRANCHISE VIOLATIONS.....	29
7.9 REMEDIES NOT EXCLUSIVE.....	32
7.10 CONSUMER PROTECTION STANDARDS.....	32
7.10.1 Customer service and telephone responsiveness	32
7.10.2 Service and Repair Calls	33
7.10.3 Disconnection	34
7.10.4 Credits upon outage.....	35
7.10.5 Downgrade Charges	35
7.10.6 Billing information required.....	36
7.10.7 Information to subscribers.....	36
7.10.8 Complaint resolution	38
7.10.9 Failure to Resolve Complaints.....	38
8. GENERAL FINANCIAL AND INSURANCE PROVISIONS.....	38
8.1 COMPENSATION.....	38
8.2 FAITHFUL PERFORMANCE BOND.....	40
8.3 DAMAGES AND DEFENSE	41
8.4 LIABILITY INSURANCE AND INDEMNIFICATION	41
8.5 INCIDENTAL PAYMENT.....	42
9. RIGHTS RESERVED TO GRANTOR.....	42
9.1 RIGHT TO PURCHASE THE SYSTEM.....	42
9.2 RIGHT OF INSPECTION OF RECORDS	45
9.3 RIGHT TO PERFORM FRANCHISE FEE AUDIT.....	46
9.4 INTERVENTION	46
9.5 RIGHT TO REQUIRE REMOVAL OF PROPERTY	46
9.6 INSPECTION OF FACILITIES.....	47
10. RIGHTS OF INDIVIDUALS PROTECTED	47
10.1 DISCRIMINATORY PRACTICES PROHIBITED.....	47
10.2 UNAUTHORIZED MONITORING OR CABLE TAPPING PROHIBITED	48
10.3 PRIVACY AND OTHER RIGHTS.....	48
10.4 PERMISSION OF PROPERTY OWNER REQUIRED.....	48
10.5 SALE OF SUBSCRIBER LISTS AND PERSONALIZED DATA PROHIBITED.....	49
10.6 LANDLORD - TENANT	49
11. TERMINATION AND EXPIRATION	50
11.1 REVOCATION	50
11.2 RECEIVERSHIP.....	51
11.3 EXPIRATION.....	51
11.4 CONTINUITY OF SERVICE MANDATORY.....	51
12. MISCELLANEOUS PROVISIONS	52
12.1 COMPLIANCE WITH LAWS.....	52
12.2 SEVERABILITY AND PREEMPTION.....	52
12.3 CAPTIONS.....	53
12.4 NO RECOURSE AGAINST THE GRANTOR.....	53

12.5 NONENFORCEMENT BY GRANTOR	53
12.6 FORCE MAJEURE.....	53
12.7 ENTIRE AGREEMENT.....	54
12.8 CONSENT.....	54
12.9 TIME LIMIT FOR GRANTEE COMMUNICATIONS.....	54
12.10 CONSISTENCY OF FRANCHISE WITH CABLE ACT.....	54
12.11 COMPARABILITY OF OTHER CABLE FRANCHISES.....	54
12.12 FRANCHISE REVIEW.....	55
12.13 NOTICE	56
12.14 TIME IS OF THE ESSENCE	56
EXHIBIT A: MAP OF FRANCHISE SERVICE AREA.....	58
EXHIBIT B: ACCEPTANCE	59

1. PURPOSE AND INTENT

- 1.1 Clackamas County, Oregon (hereafter Grantor), as authorized to and by this Franchise Agreement, does grant to Government Camp Cable, Inc., an Oregon Partnership (hereafter Grantee) a non-exclusive ten (10) year franchise, revocable as provided herein, to construct, operate and maintain a cable communications system in the franchise area designated in Exhibit A, comprised of a portion of the area within the unincorporated territory of the Grantor.
- 1.2 The purpose of this franchise agreement is to create a binding, enforceable contract between Grantor and Grantee.

2. DEFINITIONS

For the purposes of this franchise agreement and all attachments included hereto, the following words, terms, phrases, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words used in this franchise which are not defined hereunder but defined in the Cable Communications Policy Act of 1984, as amended by the Cable Communications Policy Act of 1992, (Cable Act) shall have the meaning specified in the Cable Act definition.

- a. "Access Channel" or "Community Access" or "Public, Educational or Government Access (PEG) Channel" means the availability for use by various agencies, institutions, organizations, groups and individuals in the community, including the County and its designees, of the Cable System to acquire, create, and distribute non-commercial Programming not under the Grantee's control.
- b. "Addressability" means the capability of the cable system to provide programming to specific subscribers on a per program, program package, and premium channel basis without the need for a major system upgrade to activate the capability. An upgrade that requires only the installation of a piece or pieces of equipment between the point at which a subscriber's drop line connects to the system and the point at which the drop connects to the subscriber's television receiver shall not be considered a major system upgrade.

- c. "Affiliate" when used in relation to any person, who owns or is controlled by, or is under common ownership or control with, such person.
- d. "Availability of Service" means the ability of a subscriber to obtain a service within 60 days by requesting the service and paying applicable installation and/or usage charges.
- e. "Basic Cable Service" means that tier of cable service which is required as a condition of access to all other video services and which includes but is not limited to a) the retransmission of local broadcast station signals, and b) public, educational and government access channels.
- f. "Broadcast Signal" means a television or radio signal that is transmitted over-the-air to a wide geographic audience and is received by the cable communications system off-the-air, whether by microwave link, by satellite receiver, or by other means.
- g. "Cable Act" means collectively the federal Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunication Act of 1996, as amended.
- h. "Cablecast Signal" means a non-broadcast signal that originates within the facilities of the cable communications system.
- i. "Cable Communications System" or "Cable System" or "System" shall have the meaning specified in the definition of "Cable System" in the Cable Act. In every case of its use in this franchise, unless otherwise specified, the term shall refer to the cable system constructed and operated by the Grantee in Clackamas County under this franchise.
- j. "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 (as television channel is defined by the FCC by regulation). "Standard Video Channel" means a 6 MHz portion of the frequency spectrum, capable of carrying one video channel prior to any signal compression.
- k. "Commercial Subscriber" means a subscriber receiving cable services in a business or other commercial enterprise, where the services are to be used primarily in conjunction with the

enterprise and the rates for services are individually negotiated with the subscriber.

- l. "Converter" means a device for changing the frequency of a television signal. A set-top converter changes the frequency of the mid-band, superband, or hyperband signals to a suitable channel, or other format, which the television receiver is able to tune.
- m. "FCC" means the Federal Communications Commission.
- n. "Franchise" or "Franchise Agreement" or "Agreement" means an initial authorization, or renewal thereof (including renewal of an authorization which has been granted subject to Section 626 of the Cable Act), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system. Unless otherwise specified, "Franchise" shall designate this agreement, including all referenced material, adopted in the appropriate manner by the Grantor.
- o. "Franchise Area" means all portions of the unincorporated area of Clackamas County covered under this agreement which are designated in Exhibit A.
- p. "Government Camp" shall mean Government Camp Cable, Inc. its agents and assignees.
- q. "Grantee" or "Franchisee" means Government Camp Cable, Inc., an Oregon Partnership and the lawful successors, transferees, or assignees thereof.
- r. "Grantor" means Clackamas County, a political subdivision of the State of Oregon.
- s. "Gross Receipts" means gross revenues less any bad debts.
- t. "Gross Revenues" means all amounts earned by the Grantee, or any entity that constitutes a "cable operator" under the Cable Act definition, in whatever form and from all sources, derived from the operation of the Cable System within the Clackamas County Franchise Area. "Gross Revenues" shall include, without limitation, amounts for all Cable Services, premium services, advertising, commissions on sales of goods or services by third parties utilizing the Cable System (e.g. home shopping networks), installations, leasing, renting or selling of system capacity, or other services using the Cable System, and all other revenues derived from the operation of

Grantee's Cable System regardless of whether initially recorded to another entity and however characterized.

Gross revenues shall also include any amounts received or earned by any Affiliate of the Grantee in whatever form and from all sources, derived from the operation of the Cable System within the Franchise Area, including amounts for Cable services, premium services, advertising, commissions on sales of goods or services by third parties utilizing the Cable System (e.g. home shopping networks), installations, leasing, renting, or selling of system capacity and all other revenues derived from the operation of the Cable System.

In the event that Federal or state law permits the Grantee to provide non-video services to Subscribers (such as, but not limited to, telephone communications) through the facilities of the Cable System, and the Grantor has the legal/regulatory authority to collect a franchise fee on such services, then the franchise fee on revenues derived by the Grantee from such services shall be at the same rate as paid to the Grantor by other providers of the same services using the public rights-of-way.

"Gross Revenues," however, shall not be double counted. Revenues of both Grantee and an Affiliate that represent a transfer of funds between the Grantee and the Affiliate, and that would otherwise constitute Gross Revenues of both the Grantee and the Affiliate, shall be counted only once for purposes of determining Gross Revenues.

- u. "Institutional Service" means video, audio, data and other services provided to institutional subscribers on an individual application, private channel basis. These services may include, but are not limited to, two-way video, audio or digital signals among institutions, or between institutions and residential subscribers.
- v. "Institutional Network" means that part of a cable communications network designed principally for the provision of non-entertainment, interactive services to businesses, schools, public agencies or other non-profit agencies for use in connection with the ongoing operations of such institutions.
- w. "Institutional Subscriber" means a place of business, public agency, school or non-profit corporation receiving institutional services on the institutional subscriber network.
- x. "Interactive Services" means services provided to subscribers where the subscriber either (a) both receives information consisting of either television or other signals and transmits signals generated by the subscriber or equipment under the subscriber's control for the purpose of selecting what

information shall be transmitted to the subscriber or for any other purpose; or (b) transmits signals to any other location for any purpose.

- y. "Leased Channel" means any channel or portion of a channel available for programming by persons or entities other than Grantee for a fee or charge.
- aa. "Local Origination Channel" means any channel or portion of a channel where the Grantee is the only designated programmer, or has delegated programming to a third party, and which is used to provide television programs to subscribers.
- ab. "Monitoring" means observing a one way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever.
- ac. "Non-Broadcast Signal" means a signal that is transmitted by the cable communications system and that is not involved in an over-the-air broadcast transmission path.
- ad. "Open Channel" means any channel that can be received by all subscribers having cable-ready television sets, without the necessity of special descrambling or decoding equipment.
- ae. "Pay Channel" or "Premium Channel" means a channel on which television signals are delivered to subscribers for a special fee or charge over and above the regular charges for standard subscriber service, on a per program, per channel, or other subscription basis.
- af. "Person" means any corporation, partnership, proprietorship, individual, organization, or other entity authorized to do business in the State of Oregon, or any natural person.
- ag. "Programmer" means any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital or other storage methods or media, to subscribers, by means of the cable communications system.
- ah. "Programming" means the process of causing television programs or other patterns of signals in video, voice or data

formats to be transmitted on the Cable System, and includes all programs or patterns of signal transmitted or capable of being transmitted, on the Cable System.

- ai. "Record" means written or graphic materials, however produced or reproduced, or any other tangible permanent record, including, without limitation, all letters, correspondence, memoranda, minutes, notes, summaries or accounts of telephone conversations, opinions or reports of consultants or experts, invoices, billings, statements of accounts, studies, appraisals, analyses, contracts, agreements, charts, graphs, magnetic and laser disk files, and photographs, to the extent related to the enforcement or administration of this Franchise.
- aj. "Resident" means any natural person residing within the franchise area.
- ak. "Residential Service" means services delivered on the residential subscriber network.
- al. "Residential Subscriber" means a resident who receives services on the residential subscriber network.
- am. "Residential Network" means a cable communications network designed principally for the delivery of entertainment, informational, community access or interactive services to individual dwelling units.
- an. "School" means any public educational institution, including primary and secondary schools, community colleges, colleges, universities and extension centers, and all similarly situated private and parochial educational institutions which have received the appropriate accreditation from the State of Oregon and, where required, from other authorized accrediting agencies.
- ao. "Section" means any section, subsection or provision of this franchise agreement.
- ap. "Streets and Public Ways" means the surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the franchise area, and any easements, rights of way or other similar means of access to the extent Grantor has the right to allow Grantee to use them.

- aq. "Subscriber" means any person who elects to subscribe to, for any purpose, a service provided by the Grantee by means of, or in connection with, the cable communications system whether or not a fee is paid for such service.
- ar. "Tapping" means observing a two-way communications signal exchange where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means, for any purpose whatsoever.
- as. "Year" means a full twelve-month calendar year, unless designated otherwise, such as a "fiscal year".

3. GRANT OF FRANCHISE

3.1 Grant

Grantor hereby grants to the Grantee a non-exclusive, revocable franchise for a ten (10) year period from and after the effective date hereof, revocable as provided herein to construct, operate and maintain a cable system within the franchise area. This franchise constitutes the authority, right, privilege and obligation to provide cable services over the cable system as required by the provisions of this franchise agreement.

This franchise is subject to the laws of the United States and the State of Oregon, and to the general codes of the Grantor affecting matters of general county concern and not merely existing contractual rights of Grantee, whether now existing or hereinafter enacted. In particular this Franchise supersedes any of Grantor's Ordinances in any matter in which the Franchise and the Ordinance are in conflict. The Grantor shall make a good faith effort to notify the Grantee of any County proceedings which would substantially affect the Grantee's operations, and shall upon request supply the Grantee with copies of any County laws or regulations affecting Grantee's operations.

Grantee promises and guarantees as a condition of exercising the privileges granted by this Agreement, that any Affiliate or joint venture or partner of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the terms and conditions of this Agreement.

3.2 Use of Public Streets and Ways

For the purpose of constructing, operating and maintaining a cable communications system in the franchise area, the Grantee may erect, install, audit, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public streets and ways within the franchise area such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary, convenient and appurtenant to the operation of the cable communications system. Prior to construction or alteration, however, the Grantee shall in each case file plans as required with the appropriate agencies of Grantor and in accordance with any agreements with utility providers and companies, pay applicable fees, and receive approval as necessary before proceeding. Nothing in this section shall relieve the Grantor of the obligations of Section 4.5 regarding the trimming of trees and other vegetation.

Grantee, through this Agreement, is granted extensive and valuable rights to operate its Cable System for profit using Grantor's public rights-of-way and public utility easements within the Franchise Area in compliance with all applicable Grantor construction codes and procedures. As trustee for the public, Grantor is entitled to fair compensation to be paid for these valuable rights throughout the term of this Agreement.

3.3 Duration and Effective Date of Franchise

Except as otherwise provided herein for revocation, or early termination in accordance with Section 4.1, 11.1 and 13.13, the term of this franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be ten (10) years from the effective date of this agreement, at which time the franchise shall expire and be of no force and effect. The effective date of the franchise shall be October 19, 2006 unless the Grantee fails to file the Franchise acceptance in accordance with Section 3.8 herein, in which event this Franchise shall be null and void.

During the six-month period beginning five (5) years after the effective date of this Franchise, the Grantor and Grantee shall undertake a review of Grantee's system and performance to date, in order to determine whether the Franchise should continue in effect for the full ten (10) year term or should terminate early at the end of five (5) years from the effective date. The Grantor may terminate the Franchise early if the

Grantee has been guilty of a pattern of material violations of the Franchise; refuses by the end of the six-month period to make provision for the effective resolution of any evident patterns of customer service problems unanticipated in provisions of the Franchise; or, if requested by ordinance of the Grantor's County Commission, declines to agree within 180 days thereafter to complete, by the end of the fifth (5th) year of the Franchise, an upgrade or rebuild of the system such that the system as upgraded or rebuilt will be reflective of:

- a. The non-experimental state of the art of cable communications systems, in technical capacity and proven performance; and
- b. General parity of overall cable service with the most advanced non-experimental cable service provided in the Portland metropolitan area.

Any proposal by the Grantor to terminate the Franchise early shall be subject to the same procedural requirements as for a revocation under Section 11.1 hereof. If the Grantor does not terminate the Franchise early as provided herein, the Franchise shall continue for its full ten (10) year term.

3.4 Franchise Area

The franchise area shall be that area designated on the attached map, Exhibit A. Any future extensions of franchise area must be approved by the Board of Commissioners, as an amendment to this franchise. Any expansion area beyond that shown in Exhibit A, as granted must include terms for initiation of construction within twelve (12) months and coverage of area with complete service availability by eighteen (18) months after initial construction.

3.5 Franchise Not Exclusive

The franchise granted herein is not exclusive. This franchise shall not be construed as any limitation upon the right of the Grantor, through its proper officers, to grant to other persons or corporations, rights, privileges or authority the same as, similar to or different from the rights, privileges or authority herein set forth, in the same or other streets and public ways or public places by franchise, permit or otherwise subject to the provisions of Section 13.11 herein.

3.6 Franchise Non-Transferable

This franchise shall not be sold, leased, assigned or otherwise transferred, nor shall any of the rights or privileges herein granted or authorized be leased, assigned, mortgaged, sold or transferred, either in whole or in part, nor shall title hereto, either legal or equitable, or any right, interest or property herein, pass to or vest in any person, except the Grantee, either by act of the Grantee or by operation of law, without the consent of the Grantor, expressed in writing. The granting of such consent in one instance shall not render unnecessary any subsequent consent in another instance.

If the Grantee wishes to transfer this franchise, the Grantee and Grantor shall proceed pursuant to Section 617 of the Cable Act and related rulemakings of the FCC. In any event, Grantee shall give Grantor written notice of the proposed transfer, and shall request consent of the transfer by the Grantor. For the purpose of determining whether it will consent to such transfer, Grantor may inquire into the qualifications of the prospective transferee to perform the obligations of the Grantee under this franchise agreement. The Grantee shall assist Grantor in any such inquiry, and shall provide all information requested in writing by the Grantor that is reasonably necessary to determine the legal, financial and technical qualifications of the proposed transferee in order to determine whether it will consent to the proposed transfer.

In cases where the Grantor finds it inappropriate to give unconditional consent to the proposed transfer, the Grantor may offer its consent upon such terms and conditions as it deems appropriate, related to the qualifications of the prospective transferee to perform the obligations of the Grantee under this franchise. Consent to the transfer shall not be unreasonably withheld. Any transfer of ownership affected without the written consent of the Grantor shall render this franchise subject to revocation. The Grantor shall have one hundred and twenty (120) days to act upon any request for approval of a transfer that contains or is accompanied by such information as is required in accordance with FCC regulations and by the Grantor. If the Grantor fails to render a final decision on the request within said one hundred and twenty (120) days, the request shall be deemed granted unless the Grantee and the Grantor agree to an extension of time.

The Grantee, upon any transfer as heretofore described, shall within thirty (30) days thereafter file with the Grantor a copy of the deed, agreement, mortgage, lease, or other written instrument

evidencing such sale, lease, mortgage, assignment or transfer, certified and sworn to as correct by the Grantee.

Every such transfer as heretofore described, whether voluntary or involuntary, shall be deemed void and of no effect unless Grantee shall within thirty (30) days after the same shall have been made, file such certified copy as is required.

The requirements of this section shall not be deemed to prohibit the use of the Grantee's property as collateral for security in financing the construction or acquisition of all or part of a cable communications system of the Grantee or any affiliate of the Grantee. However, the cable communications system franchised hereunder, including portions thereof used as collateral, shall at all times continue to be subject to the provisions of this franchise.

The requirements of this section shall not be deemed to prohibit sale of tangible assets of the cable system in the ordinary conduct of the Grantee's business without the consent of the Grantor. The requirements of this section shall not be deemed to prohibit, without the consent of the Grantor, a transfer to a transferee whose primary business is cable system operation and having a majority of its beneficial ownership held by the Grantee, a parent of the Grantee, or an affiliate a majority of whose beneficial ownership is held by a parent of the Grantee.

3.7 Change in Control

The Grantee shall promptly notify the Grantor of any proposed change in, transfer of, or acquisition by any other party of control of the Grantee. If beneficial ownership of twenty five (25%) percent of the stock of the Grantee, or of the majority of the stock of any parent company of the Grantee immediate or otherwise, or of any entity now owning or later acquiring such a beneficial interest is acquired by a single entity or by several entities under common control, if such entity or agent of common control is other than an organization with a majority of its beneficial ownership held by the Grantee or a parent of the Grantee, then a change in control will be deemed to have taken place unless the Grantor, upon request of the Grantee, finds otherwise. Such change in control shall make this franchise subject to revocation unless and until the Grantor shall have given written consent thereto.

If the Grantee wishes to operate the franchise under a change of control, the Grantee shall give the Grantor written notice of the

proposed change, and shall request approval of the change by the Grantor. The Grantor shall have one hundred and twenty (120) days to act upon the request, following the receipt of the request and of all information required in accordance with FCC regulations, as well as all information required in writing by the Grantor prior to or subsequent to the request for approval. If the Grantor fails to render a final decision on the request within said one hundred and twenty (120) days, the request shall be deemed granted unless the Grantee and the Grantor agree to an extension of time.

For the purpose of determining whether it will consent to such change, transfer, or acquisition of control, Grantor may inquire into the qualifications of the prospective controlling party to perform the obligations of the Grantee under this franchise agreement. The Grantee shall assist Grantor in any such inquiry. Consent to the change of control shall not be unreasonably withheld.

3.8 Franchise Acceptance

The Grantee, within sixty (60) days after the tender by the Grantor to Grantee of the Franchise Agreement adopted by the Grantor, shall file in the office of the Grantor's cable franchise manager a written acceptance executed by Grantee, in the form attached hereto as Exhibit B. In the event Grantee fails to file the acceptance as required herein, then this Franchise shall be null and void.

4. CONSTRUCTION AND SERVICE REQUIREMENTS

4.1 General

The Grantee shall maintain on its cable system a minimum practical capacity of twenty-three (23) activated channels, defined under the Cable Act of 1992 as those channels engineered at the headend of the cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided. In all its construction and service provision activities, Grantee shall meet or exceed the construction, extension and service requirements set forth in this franchise agreement. Prior to beginning any construction, Grantee shall provide Grantor with a construction schedule for work in the Streets. All construction shall be performed in compliance with this Agreement and all applicable

Grantor Codes. When obtaining a permit, Grantee shall inquire in writing about other construction currently in progress, planned or proposed, in order to investigate thoroughly all opportunities for joint trenching or boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, grantees, permittees, and franchisees so as to reduce as far as possible the number of Street cuts.

4.2 Right of Inspection of Construction

Grantor shall have the right to inspect all construction or installation work performed within the franchise area and to make such tests as it shall find necessary to ensure compliance with construction or installation standards of this franchise agreement and other pertinent provisions of law.

4.3 Availability of Residential Service

Grantor will provide service to all customers located in the service area indicated in Exhibit A, (Map of Service Area), having a density of at least twenty (20) potential subscribers per mile.

For those areas not having the necessary density of twenty (20) potential subscribers per mile, Grantee agrees to serve these areas, if the potential subscribers agree to contribute to the cost of construction on the following terms and conditions:

- a. a written petition to Grantee constituting signatures from a minimum of ten potential subscribers per mile. Appropriate adjustments will be made to the number of subscribers required based on the footage of extension.
- b. Grantee will calculate its then current cost per mile of extension. This will be divided by twenty (20) homes per mile to get the required per home investment Grantee must make.
- c. The potential subscribers signing the petition will then be multiplied by Grantee's investment per home and this total amount will be subtracted from the current per mile cost.
- d. The remaining unrecoverable investment by Grantee must then be shared pro rata by the potential subscribers signing the petition and be paid to Grantee at the time the extension is made.

Example: If Grantee's current cost of construction is \$7,000.00

per mile, then required investment for twenty (20) homes per mile is \$140.00 per home. If Grantee receives a petition from twenty potential subscribers for one mile of plant, then Grantee is required to invest \$350.00 per home to reach those twenty homes. The unrecoverable investment, \$210.00 per home, would be paid by the potential subscribers.

No charge shall be made by the Grantee to subscribers for: the extension of the cable system under this subsection; nor the provision of a cable drop to the premises of any subscriber requesting service, so long as the drop does not exceed 125 feet in length.

4.4 Erection of Poles

If additional poles in an existing aerial utility system route are required, Grantee shall negotiate with the utility company or provider for the installation of the needed poles. Grantee shall not erect, for any reason, any pole on or along any street or public way in an existing aerial utility system unless approved by the Grantor. The Grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions, and shall comply with all applicable ordinances, resolutions, rules and regulations of the Grantor.

4.5 Trimming of Trees or other Vegetation

In the conduct of its business, it may be necessary for Grantee to trim trees or other vegetation in order to provide space for its facilities. Tree or vegetation trimming shall be done only in accordance with the codes and other rules and regulations of Grantor and if the tree or vegetation is located on private property, with the permission of the owner of the property on which the tree or vegetation stands. Nothing contained in this franchise agreement shall be deemed to empower or authorize Grantee to cut, trim or otherwise disturb any trees or other vegetation, whether ornamental or otherwise.

4.6 Repair & Restoration of Streets, Public Ways and Grounds

Whenever the Grantee shall disturb the surface or otherwise damage any street, alley, public highway, other public way or ground for any purpose mentioned herein, it shall repair and restore the same to the condition in which it was prior to the

opening or other damage thereof pursuant to Chapter 7.03 of the County Code and per any Utility Placement permit issued by the County Engineering Department. When any opening is made by the Grantee in any hard surface pavement, in any street, alley, public highway or other way, the Grantee shall promptly refill the opening and restore the pavement to its original condition. The Grantor shall provide written notification of any such deficiencies to Grantee. The Grantee shall have thirty (30) days to correct the deficiency. However, in the event that the deficiency presents a potential danger, the repairs must be made immediately. In the event of failure, neglect or refusal of the Grantee, to repair, restore, or reconstruct such street damage following notification, the Grantor may do such work or cause it to be done, and the cost thereof to the Grantor shall be paid by the Grantee. All excavations made by the Grantee in the streets, alleys, public highways or other ways shall be properly safeguarded for the prevention of accidents. The work hereby required shall be done in strict compliance with the rules, regulations and ordinances of Grantor as now or hereafter in effect.

4.7 Construction Codes

The Grantee shall strictly adhere to all applicable building, zoning or other laws and codes currently or hereafter in force in Grantor's jurisdiction, including but not limited to, the National Electrical Code (NEC) and the National Electrical Safety Code (NESC). The Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference, as determined by the Grantor, with the use of said public or private property by any person. In the event of such interference, Grantor may require the removal of Grantee's lines, cables and appurtenances from the property in question following thirty (30) days notification to the Grantee.

4.8 Reservations of Street Rights

Nothing in this franchise agreement shall be construed to prevent any public work of the Grantor, including without limitation constructing sewers, grading, paving, repairing and/or altering any street, alley, or public highway, or laying down, repairing or removing water mains or maintaining, repairing, constructing or establishing any other public property. If any property of the Grantee shall interfere with the construction or repair of any street or public improvement, whether it be construction, repair or removal of a sewer or water main, the improvement of a street or

any other public improvement, then on reasonable notice from the Grantor all such property including poles, wires, conduits or other appliances and facilities shall be removed, replaced or relocated in a timely manner as shall be directed by the Grantor, so that the same shall not interfere with the said public work of the Grantor, and such removal, replacement or relocation shall be at the expense of the Grantee. In the event of failure, neglect or refusal of the Grantee, to repair, restore, or reconstruct such street, the Grantor may do such work or cause it to be done, and the cost thereof to the Grantor shall be paid by the Grantee.

4.9 Street Vacation and Abandonment

In the event any street, alley, public highway or portion thereof used by the Grantee shall be vacated by the Grantor, or the use thereof discontinued by the Grantee, during the term of this franchise, the Grantee shall forthwith remove its facilities therefrom unless specifically permitted in writing to continue the same by the new controlling jurisdiction or property owner, as appropriate. At the time of removal thereof the Grantee shall restore, repair or reconstruct the street area where such removal has occurred, and place the street area where such removal has occurred in such condition as may be reasonably required by Grantor. In the event of failure, neglect or refusal of the Grantee, to repair, restore, or reconstruct such street damage, following thirty (30) days notification, the Grantor may do such work or cause it to be done, and the cost thereof to the Grantor shall be paid by the Grantee.

4.10 Movement of Facilities

In the event it is necessary to temporarily move or remove any of the Grantee's wires, cables, poles or other facilities placed pursuant to this franchise, in order to lawfully move a large object, vehicle, building or other structure over the streets, alleys or highways of the Grantor, Grantee, upon thirty (30) days notice; shall move such of its facilities at the expense, paid in advance, of the person requesting the temporary removal as may be required to facilitate such movements; provided that, if the Grantor is the party requesting the removal, for movement of buildings or structures of the Grantor, then the removal shall be done at the expense of the Grantee.

4.11 Easements

When Grantee secures easements in its own name, as in the case of construction in multiple dwelling units, it shall use a standard easement form that has been provided to the Grantor upon request or, if not a standard form, shall provide a copy of the easement document to the Grantor, upon request.

4.12 Undergrounding

- a. Cable must be installed underground where:
 - i. all existing utilities are placed underground,
 - ii. statute, ordinance, policy or other regulation of Grantor requires utilities to be placed underground,
 - iii. overhead utility lines are moved underground (Grantee shall bear the cost of such movement of its facilities unless specific exemption is given by Grantor in any individual case or unless preemptive state or federal law or regulation provides otherwise),
 - iv. Grantee is unable to get pole clearances,
 - v. underground easements are obtained from developers of new residential areas, or
 - vi. utilities are overhead but residents prefer underground (service to be provided at cost to resident).
- b. Grantee shall use conduit or its functional equivalent including direct buried cable if it is rated by the manufacturer and National Electric Safety Code (NESC) for that use, on one hundred (100%) percent of under-grounding, except for drops from pedestals to Subscribers' homes and for cable on other private property where the owner requests that conduit not be used. Cable and conduit shall be utilized which meets the highest industry standards and shall meet or exceed all requirements of the National Electrical Code (NEC) for electronic performance and resistance to interference or damage from environmental factors. Grantee shall use, in conjunction with other utility companies or providers, common trenches for underground construction wherever available.

4.13 As Builts

Grantee shall maintain "as built" drawings of the system, and make them available to the Grantor for inspection upon request. "As built" drawings shall be updated as changes occur in the system. The Grantee shall provide to the Grantor, on request, a copy of as-builts or CAD maps showing the location of the Grantee's facilities in the streets and public ways.

4.14 Emergency

In the event of an emergency, or when the cable equipment creates or is contributing to an imminent danger to health, safety or property, the Grantor may remove or relocate Grantee's cable equipment without prior notice.

5. SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS

5.1 Equal and Uniform Service

Grantee shall provide access to equal and uniform cable television service throughout the franchise area.

5.2 System Configuration

The communications system shall consist, at a minimum, of a residential network with bi-directional communications capability and addressability in its initial configuration. The number of amplifiers and placement of amplifiers will be limited to insure the highest quality signal while providing service to the maximum number of subscribers in the stated service area.

5.3 Channel Capacity

Grantee shall install and maintain a cable television system which will be capable of carrying downstream from the headend to the subscribers home a maximum of twenty three (23) channels of television. Upstream or return capacity will be four (4) video channels or their data message equivalents.

5.4 Satellite Earth Stations

Grantee shall provide a sufficient number of earth stations to receive signals from enough operational communications satellites that carry cable television services accessible to the Grantee

throughout the life of the franchise to enable Grantee to carry out its obligations under this Franchise.

5.5 Interconnection

- a. If economically and technically feasible, Grantee shall construct and maintain interconnections with contiguous cable systems in the future, be it wireline or wireless transport technologies. The interconnection shall be capable of receiving and delivering, among other things, selected Local Origination Programming produced by Grantor and other major, contiguous cable systems in Clackamas County; selected Access programming carried on those cable systems; and the exchange of selected Institutional Network video and data communications applications by local and state public and nonprofit organization, including forward and reverse application between and among the Grantee and contiguous cable systems as shall in the future have significant institutional network capacity or services determined by the Grantor through an ascertainment of community needs and interests to warrant interconnection.
- b. Grantee shall ensure that all interconnections on its own property are securely housed and maintained, and shall establish and continue in effect a routing system satisfactory to the Grantor for carriage of signals for Institutional Network and PEG access signals. All interconnections shall be accomplished in a manner that permits the transmission of signals meeting the technical standards of this Franchise on all interconnected channels.
- c. Grantee's interconnect obligation is conditioned upon the consent of the cable operators in the affected neighboring jurisdictions. Grantee shall not charge a fee for the transmission of programming from adjacent systems if Grantee is not required to pay a fee to obtain such programming. With respect to installing the capacity required under this Section, the Grantor understands that interconnection requires cooperation from other cable system operators as to engineering, design, and technical operation issues. In addition, Grantee's interconnection obligations, with respect to equipment and construction, shall be limited to providing equipment needed, and performing construction work required, within Grantee's Franchise Area in order to enable the required interconnections to occur. In order to actually establish the interconnection, it may be necessary for the

operators of cable systems interconnecting with the Grantee's system to provide equipment needed, and perform construction work required, within their respective Franchise Areas; and the provision of such equipment and performance of such construction work shall be the obligation of Grantee only within its own Franchise Area. Therefore, Grantor shall make every reasonable effort to assist Grantee in achieving the cooperation of interconnecting cable system operators necessary to establish the interconnections, and Grantee's interconnection obligations hereunder shall be subject to such cooperation being obtained.

5.6 Emergency Alert Capability

Grantee shall provide the system capability for the Grantor to transmit an emergency alert signal from locations designated by the Grantor to all subscribers. Grantee shall also provide an emergency audio override capability to permit the Grantor to interrupt programming and cablecast, from locations designated by the Grantor, an audio message on all channels simultaneously in the event of disaster or public emergency. Emergency alert capability as required in this section and FCC requirements shall be operational throughout the term of the franchise. The Grantor shall indemnify, defend, and hold harmless the Grantee and its officers, agents and employees from any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and attorney fees or expenses, arising from any injury to person or property and all other damages arising out of or by reason of the sole act or conduct of the Grantor or its officers, agents, or employees in the exercise of the Grantor's emergency alert capability under this Section.

5.7 Standby Power

Grantee shall provide backup power generating capacity at the cable communications system control center to provide continuous alternate power in the event of a commercial power outage. In the distribution system, Grantee shall maintain standby power system supplies capable of providing backup power to all nodes and active devices for at least two (2) hours in the event of commercial power outage. Grantee shall have in place and shall file with the Grantor upon request, throughout the Franchise term, a plan, and all resources necessary for implementation of the plan, for dealing with excessive outages. In the event excessive power outages occur in the distribution networks, additional standby power supplies may be required on the distribution networks to maintain system performance.

5.8 Parental Control Lock

Grantee shall provide subscribers (by sale or lease or otherwise), upon request, with a manual or electronic parental control locking device or digital code that permits inhibiting the viewing of any channel or specific programs including designated PEG programming.

5.9 Technical Standards.

The Grantee shall install all aerial and underground cables and wires in a manner consistent with County requirements and in compliance with all applicable laws, ordinances, and safety requirements including but not limited to the Federal Communications Commission, Federal Aviation Administration, National Electric Code, National Electric Safety Code, and National Cable Television Association Standards of Good Engineering Practices. The Cable System shall meet or exceed all applicable technical and performance standards of the Federal Communications Commission or its successor agency, and any and all other applicable technical and performance standards.

5.10 Performance Testing.

Grantee shall perform all system tests required by the FCC, and all other tests reasonably necessary to determine compliance with technical standards required by this franchise. These tests shall include, at a minimum:

- a. FCC Compliance tests.
- b. Tests in response to subscriber complaints to the Grantor.
- c. Tests requested by the Grantor to demonstrate franchise compliance.

Written records of all system test results performed by or for the Grantee shall be maintained, and shall be available for Grantor inspection upon request.

As the system's delivery methods evolve and testing of these delivery methods change, Grantee shall update its testing procedures after consulting with the Grantor and, in good faith, agreement is reached on the validity of the new testing procedures. In addition, the Grantor may require additional testing based on industry standards or FCC requirements. The resulting tests may include such specifications as latency, error rates and packet loss

as well as other pertinent tests.

5.11 Safety

- a. The Grantee shall, at all times, employ the standard of care attendant to the risks involved and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or to employees of the Grantor.
- b. The Grantee shall install and maintain its wires, cable, fixtures, and other equipment in accordance with the requirements of the National Electric Safety Code and the National Electrical Code (NEC), and in such manner that they shall not interfere with the installations of any public utility.
- c. All lines, equipment and connections in, over, under, and upon either the streets and public ways of Grantor or private property within boundaries of Grantor, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.

6. SERVICES AND PROGRAMMING

6.1 Programming Categories

The Grantee shall provide broad categories of video programming in at least the number and of the type offered at the time the franchise is granted until the system upgrade required by this franchise is completed. Upon completion of the system upgrade required in this franchise, the Grantee shall provide video programming services in at least the following broad categories:

1. News & Info. (Local, Public, Distant Broadcast)
2. Sports
3. General Entertainment
4. Arts, Culture, Performing Arts
5. Children / Family
6. Science
7. Travel Information
8. Weather Information
9. Governmental and Educational Programming
10. Movies
11. Religious Programming

12. Foreign language / Ethnic Programming

The identification of these broad categories of programming in no way infers regulatory authority by the Grantor over specific programming services or networks which may be carried on the Cable Systems.

6.2 Changes in Video Programming Services

Subject to the provisions of the Cable Act, no category of services as referred to in Section 6.1 may be deleted, or so limited as effectively to be deleted by the Grantee without Grantor approval, which approval shall not be unreasonably withheld. In the event any applicable law or regulation materially alters the terms and conditions under which Grantee carries programming within the broad programming categories described in Section 6.1, then the Grantee shall be obligated to carry such programming only upon reasonable terms and conditions.

Grantee shall provide written notice to the County and to subscribers for any proposed deletions, additions, or rearrangements of individual programming service at least thirty (30) days in advance. The County reserves the right to regulate to the fullest extent permitted by law to ensure maintenance of the mix, level and quality of service.

6.3 Interactive Residential Services

The Grantee shall make interactive services available to residential subscribers, when the technology and demand has been established in the service area, however, subject to a determination of community needs and interests by the Grantor, provisions to make the availability of interactive services possible may be made a part of any rebuild or upgrade requirements resulting from the franchise review.

6.4 Leased Channel Service

The Grantee shall offer leased channel service to the extent required by 47 U.S.C. Section 532 (Section 612 of the Cable Act), or regulations adopted thereunder.

6.5 Obscenity

Grantee shall not transmit over the cable system programming which is obscene or otherwise unprotected by the Constitution of

the United States, provided however, Grantee shall in no way be responsible for programming over which has no editorial control, including public, educational and governmental access programming.

6.6 Public, Educational and Government Use of System

Grantee shall make available one (1) government channel if demand by community need is warranted, and/or make available time slots for public announcements. Grantee shall make available one (1) educational channel and one (1) public access channel if warranted by community need and technically feasible. Grantee shall install and maintain all access interconnections of PEG access channels in accord with the requirements of Section 5.5.

6.7 Cable Service to Public Facilities

The Grantee, upon request, shall provide without charge, a Standard Installation and one (1) outlet of Basic Cable, expanded Basic Service, and Internet access services to those administrative buildings owned and occupied by the County, fire station(s), police station(s), and K-12 public school(s) that are within the Franchise and passed by its Cable System; provided however, those buildings or portions of buildings housing or occupied by prison/jail populations shall be excluded. The cable service shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The County shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the County or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation.

7. FRANCHISE REGULATION AND CUSTOMER SERVICE STANDARDS

7.1 Intent

It is the intent of the Grantor to administer and enforce the provisions of this franchise. Grantor may delegate all or a part of its administrative and regulatory authority under this franchise to an entity designated by the Grantor. It is the intent of the County

to administer and regulate activities under the Franchise up to the full extent permitted by applicable law.

7.2 Areas of Regulation and Administration

The Grantor (or its designee) has authority for regulation in the following areas:

- a. Administering and enforcing the provisions of this franchise agreement, including the adoption of administrative rules and regulations to carry out this responsibility.
- b. Coordination of the operation of public, government and educational access channels.
- c. Interfacing the Grantee's technical, programming and operational assistance and support to public agency users, such as County departments, schools and health care institutions.
- d. Formulating and recommending long-range cable communications policy for the franchise area.
- e. Disbursing and utilizing franchise revenues paid to the Grantor.
- f. Regulating rates, to the extent permitted by law.
- g. Customer service, to the extent permitted by law.
- h. Planning and facilitating development of public uses of the cable system on the residential and institutional networks, both within the County and through interconnection with adjacent systems.

7.3 Rate regulation

- a. Rate Regulation Right Reserved. Grantor reserves the right to regulate Grantee's rates and charges to the full extent authorized by applicable federal, state and local law, as these may change during the period of the franchise; and to establish rate regulation policies and guidelines for carrying out its authority.
- b. Notice of Change in Rates and Charges. Throughout the term of this Franchise, Grantee shall give all subscribers

within the unincorporated area at least thirty (30) days notice, as required by FCC. Nothing in this subsection shall be construed to prohibit the reduction or waiving of rates or charges in conjunction with promotional campaigns for the purpose of arbitrating subscribers or users.

- c. Rate Discrimination Prohibited. Grantee shall apply non-discriminatory rates and charges to all subscribers purchasing similar services, regardless of race, color, creed, sex, marital or economic status, age, national origin, sexual preference, or neighborhood of residence, except as otherwise provided herein; provided that nothing in this franchise shall prevent the Grantee from establishing discounted rates and charges for low-income or elderly subscribers, or from temporarily reducing or waiving rates and charges in connection with promotional campaigns.
- d. The provisions of this Section 7.3 shall be subject to the provisions of 47 U.S.C. Section 543 (Section 623 of the Cable Communications Policy Act of 1984), as amended from time to time. It is not intended that this Section expand or diminish the rights of the Grantor in relation to regulation of rates and charges under those provisions of the Act, and any provision of this Section or of any other provision of this franchise that purports to expand or diminish such rights shall be deemed superseded by those provisions of the Act.

7.4 Open Books and Records

The Grantee shall maintain a business office within the County for managing the cable system, and, subject to the provisions of Section 10 of this Franchise and, to such privileges as may be established under Oregon law, shall manage all of its operations in accordance with a policy of accessible open books and records to the Grantor. The Grantor shall have the right as necessary or desirable for effectively administering and enforcing the Franchise, to inspect at any time during normal business hours upon reasonable notice, all records of the Grantee and also of any parent company, Affiliate or any Cable Operator, which relate to the operation of the Franchise. Access to the aforementioned records shall not be denied by the Grantee to representatives of the Grantor on the basis that said records contain "proprietary information," nor on the basis that they contain trade secrets unless the Grantor cannot protect the trade secrets from disclosure under Oregon law. To the extent allowed under Oregon law, the Grantor shall protect proprietary information including trade secrets of the Grantee from disclosure.

Upon ten (10) days written notice from the Grantor, Grantee shall provide the Grantor access to computer files specifically requested by name, approximate date or content, and related to compliance with obligations contained in the Franchise. Such access shall be carried out in a manner that does not violate requirements regarding personally identifiable subscriber information, as referenced in Section 631 of the Cable Act, and shall exclude access to computer files containing no information related to Grantee's Franchise obligations. Computer record access shall be provided in the following manner:

- a. Grantee's employee shall access requested computer file from file server or hard drive storage for Grantor to view.
- b. Once accessed, Grantee's employee shall move slowly through the file while the Grantor views it on the computer monitor.
- c. Grantee's employee shall facilitate the printing of requested file to paper.

7.5 Communications with Regulatory Agencies

A list and copies of all material written petitions, applications, communications, and reports submitted by the Grantee, and also by any affiliate or any cable operator of the system authorized by this Franchise, to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable communications operations authorized pursuant to this franchise agreement, shall be submitted to the Grantor upon request. In addition, copies of any communications to and from any regulatory agency pertaining to any alleged, apparent or acknowledged violation of an applicable rule or law of the agency related to or affecting operations within the franchise area, shall be immediately submitted to the Grantor, if the communications are to or from the Grantee, or upon written request from the Grantor if the communications are to or from an affiliate or cable operator of the cable system authorized by this franchise.

7.6 Reports

- a. Quarterly Reports. Within thirty (30) calendar days after the end of each fiscal quarter of the Grantee, Grantee shall, upon request of the Grantor, submit to the Grantor a report of all trouble call complaints received by or referred to Grantee within the report quarter. The reports shall contain, as a

minimum, the name, address, and telephone number of the complaining party, the specific nature of the complaint, remedial action taken if any, amount of time from customer notification to final repair or the current status of the complaint. Upon request by the Grantor, Grantee shall also provide outage reports, including cause, resolution and duration of outage, summary statistics on patterns of complaints or service problems, and other customer service information, provided that such information may be reasonably generated by the Grantee.

Within forty-five (45) days after the end of each of the Grantee's fiscal quarters, the Grantee shall submit a written report to the Grantor, verified by an officer of Grantee, which shall contain an accurate statement of all gross revenues earned and gross receipts collected by the Grantee or any cable operator, related to operation of the cable system franchised hereunder, in sufficient detail to enable the Grantor to verify the accuracy of franchise fee payments.

- b. Annual Report. No later than three-and-one-half (3 ½) months following the end of the Grantee's fiscal year each year, Grantee shall present a written report to the Grantor which shall include:
 - i. Audited financial reports for the Grantee, for the previous fiscal year, including gross revenues from all sources, gross subscriber revenues from each category of service, as well as an income statement, statement of cash flow, and a balance sheet; a financial report for the system of which the franchise is a part with reviewed gross revenues and receipts as well as statements of expenses, balance sheet and capital expenditures reviewed by an independent certified public accountant; and a financial report for the franchise area with audited gross revenues and receipts. In the event any audited financial report has not been published by the date due under this section, then the audited financial report shall be deemed presented on time if presented within thirty (30) days after publication.

All financial reports required under this section shall be presented to the Grantor accompanied by such notes and explanations as are required to fully understand the reports. Such notes and explanations shall include, but not be limited to, an explanation of any and all deductions made from Gross Revenues in order to arrive at Gross Receipts

for the calculation of franchise fees to be paid to the Grantor.

- ii. A summary of the previous year's activities including, but not limited to, subscriber totals in each category and new services.
- c. Monitoring and Compliance Reports. Upon request, the Grantee shall provide a written report of any FCC technical performance tests for the residential network required in FCC Rules and Regulations as now or hereinafter constituted. In addition, the Grantee shall upon request provide reports of the test and compliance procedures established by this franchise agreement, no later than thirty (30) days after the completion of each series of tests.
- d. Additional Reports. The Grantee shall prepare and furnish to the Grantor, at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions, or property, as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the Grantor in connection with this franchise.
- e. All reports and records required under this or any other Section shall be furnished to Grantor at the sole expense of Grantee.

7.7 Public Disclosure

Subject to the Oregon Public Records Law, whenever, pursuant to this franchise agreement, Grantee shall make available for inspection by the Grantor or submit to the Grantor reports containing information considered proprietary by the Grantee, the Grantor shall not disclose or release such reports or information to the public without Grantee's prior written consent provided Grantee has noted such information as proprietary in writing at the time of submission.

7.8 Remedies for Franchise Violations

- a. In addition to any other remedies as specified in this Franchise, the Grantor has the right to and may impose penalties not to exceed \$1,000, per day or per incident, not to exceed a total of \$50,000, in the event Grantee violates any other material provision of this Franchise Agreement, subject to Section 7.4(c), below.

- b. If Grantor believes that Grantee has failed to perform any obligation under this Agreement or has failed to perform in a timely manner, Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged violation.

The date of the violation will be the date of the event and not the date Grantee receives notice of the violation except in cases where Grantee did not know and could not reasonably have been expected to know that a violation occurred, in which case penalties shall accrue from the date Grantee knew or should have known of the violation. Without limiting the foregoing, Grantee is presumed to know whether it violated a customer service standard that is measured based upon aggregate performance.

Grantee shall have thirty (30) calendar days from the date of receipt of such notice to:

- i. Respond to Grantor, contesting Grantor's assertion that a violation has occurred, and request a hearing in accordance with subsection (e) below, or;
 - ii. Cure the violation, or;
 - iii. Notify Grantor that Grantee cannot cure the violation within the thirty (30) days, and notify the Grantor in writing of what steps the Grantee shall take to cure the violation including the Grantee's projected completion date for such cure. In such case, Grantor shall set a hearing date within thirty (30) days of receipt of such response in accordance with subsection (c) below.
- c. In the event that the Grantee notifies the Grantor that it cannot cure the violation within the thirty (30) day cure period, Grantor shall, within thirty (30) days of Grantor's receipt of such notice, set a hearing. At the hearing, Grantor shall review and determine whether the Grantee has taken reasonable steps to cure the violation and whether the Grantee's proposed plan and completion date for cure are reasonable. In the event such plan and completion date are found in Grantor's sole discretion to be reasonable, the same may be approved by the Grantor, who may waive all or part of the penalties for such extended cure period in accordance with the criteria set forth in subsection (f) of this section. Following the hearing, Grantor may also in its sole discretion, modify Grantee's proposed extended cure period.

- d. In the event that the Grantee fails to cure the violation within the thirty (30) day basic cure period, or within an extended cure period approved by the Grantor pursuant to subsection (c), the Grantor shall set a hearing to determine what penalties, if any, shall be applied.
- e. In the event that the Grantee contests the Grantor's assertion that a violation has occurred, and requests a hearing in accordance with subsection (b)(i) above, the Grantor shall set a hearing within thirty (30) days of the Grantor's receipt of the hearing request to determine whether the violation has occurred, and if a violation is found, what penalties shall be applied.
- f. In the case of any hearing pursuant to this section, Grantor shall notify Grantee of the hearing in writing and at the hearing, Grantee may be provided and opportunity to be heard and to present evidence in its defense. The Grantor may also hear any other Person interested in the subject, and may provide additional hearing procedures as Grantor deems appropriate.
- g. The penalties set forth in this section of this Agreement may be reduced at the discretion of the Grantor, taking into consideration the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:
 - i. Whether the violation was unintentional;
 - ii. The nature of any harm which resulted;
 - iii. Whether there is a history of overall compliance, and/or;
 - iv. Whether the violation was voluntarily disclosed, admitted or cured.
- h. If, after the hearing, Grantor determines that a violation exists, Grantor may utilize one or more of the following remedies:
 - i. Order Grantee to correct or remedy the violation within a reasonable time frame as Grantor shall determine;
 - ii. Establish the amount of penalties, taking into consideration the criteria provided for in subsection (g) of this Section as appropriate in Grantor's discretion;
 - iii. Revoke this Agreement, and/or

- iv. Pursue any other legal or equitable remedy available under this Agreement or any applicable law.
- i. The determination as to whether a violation of this Agreement has occurred shall be within the sole discretion of the Grantor, and shall be reviewable only consistent with the dispute resolution provisions of this Agreement.
- j. Notwithstanding other language to the contrary in this agreement:
 - i. In cases where either intermittent or repeated violations of any single franchise standard occur, Grantor may in its discretion give one initial thirty (30) day notice and opportunity to cure and no subsequent notices of each individual violation; and
 - ii. Grantor may in its sole discretion establish lesser or no cure periods for violations of Section 12 (Reports and Records) or Section 5 (System Upgrade).

7.9 Remedies Not Exclusive

The Grantor has the right to apply any one or any combination of the remedies provided for in this franchise, including without limitation all remedies provided for in this Section, and may without limitations pursue any rights, remedies or actions that it may have in law or equity regardless of whether they are specifically mentioned in this Franchise.

7.10 Consumer Protection Standards

The Grantee shall meet minimum Federal Consumer Protection Standards.

7.10.1 Customer service and telephone responsiveness

1. The Grantee shall maintain an office within the Government Camp area. The office must be adequately staffed and able to respond to subscribers and the public not less than forty (40) hours per week, with a minimum of seven (7) hours per day on weekdays and 5 hours on Saturdays.
2. As used herein, "adequately staffed" means toll-free telephone lines are open and customer service representatives are available to respond in at least the

following ways: to accept payments; to exchange or accept returned converters or other company equipment; to respond to inquiries; and to schedule and conduct service or repair calls.

3. Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational twenty four (24) hours a day, including weekends and holidays.
4. The Grantee shall maintain, on average as verifiable by statistical data:
 - a. Sufficient customer service staff and telephone line capacity to handle normal call volume with a minimum of delay to customers. Under normal operating conditions, the customer will receive a busy signal less than three (3%) percent of the time.
 - b. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90%) percent of the time under normal operating conditions, measured on a quarterly basis.

7.10.2 Service and Repair Calls

1. Under normal operating conditions, at least ninety five (95%) percent of the time measured on a quarterly basis, requests from subscribers for repair and maintenance service must be acknowledged by the Grantee within twenty four (24) hours or prior to the end of the next business day, whichever is earlier. Repair and maintenance for service interruptions or other repairs not requiring on-premises work must be completed within twenty four (24) hours under normal circumstances. All other repairs should be completed within seventy two (72) hours under normal circumstances.
2. Under normal operating conditions, at least ninety five (95%) percent of the time measured on a quarterly basis, as a normal operating procedure,

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

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

If a Grantee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

3. As a normal operating procedure, and with particular regard to the needs of working or mobility-limited customers, upon subscriber request the Grantee shall arrange for pickup and/or replacement of converters or other company equipment at the subscriber's address, or else a satisfactory equivalent (such as the provision of a postage-prepaid mailer).
4. Under normal operating conditions, at least ninety five (95%) percent of the time measured on a quarterly basis, where the service requested is installation of service, standard installations shall be performed by the Grantee within seven (7) business days after an order has been placed. "Standard" installations, for the purposes of this section, shall mean those that are located up to two hundred (200) feet from the existing distribution system.

7.10.3 Disconnection

1. The Grantee may disconnect a subscriber if:
 - a. at least thirty (30) days have elapsed without payment after the due date for payment of the bill of the affected subscriber; and
 - b. the Grantee has provided at least ten (10) days written notice to the affected subscriber prior to

disconnection, specifying the effective date after which cable services are subject to disconnection.

2. Regardless of subsection 1 hereof, the Grantee may disconnect a subscriber for cause at any time if the Grantee in good faith determines that the subscriber has tampered with or abused company equipment, or is or may be engaged unlawfully in theft of cable services, or is causing a system violation of FCC rules or regulations.
3. The Grantee shall promptly disconnect any subscriber who so requests from the Grantee's cable system. No period of notice prior to voluntary termination of service may be required of subscribers by the Grantee. No charge may be imposed by the Grantee for any cable services delivered after the date of the disconnect request. Upon the later of the date of actual disconnection or the return of all company equipment to Grantee, the Grantee shall under normal operating conditions, at least ninety five (95%) percent of the time measured on a quarterly basis, within thirty (30) days return to such subscriber the amount of the deposit, if any, collected by Grantee from such subscriber, less any disputed amounts owed to Grantee for cable services or charges prior to the date of disconnection.

7.10.4 Credits upon outage

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

7.10.5 Downgrade Charges

Grantee may impose Downgrade Charges only if:

- 1 the Subscriber has been notified, at the time of initiating Cable Services, of Grantee's Downgrade Charges; and

- 2 the Downgrade Charge does not exceed the Grantee's costs of performing the downgrade as determined under FCC rate regulation rules, subject to applicable law.

7.10.6 Billing information required

The Grantee bill to subscribers shall itemize each category of service, equipment, or other applicable fees, and state clearly the charge thereof. The Grantee shall make its best effort to inform subscribers as clearly as possible when payments are due and when late fees and disconnection may occur.

7.10.7 Information to subscribers

1. Upon installing initial service to or reconnecting each customer, and upon request thereafter, the Grantee shall advise the customer, in writing, of:
 - a. the equipment and services currently available (including parental lock-out devices) operating procedures for Grantor supplied terminal equipment and the rates and charges which apply;
 - b. the amount and criteria for any deposit required by Grantee, if applicable, and the manner in which the deposit will be refunded;
 - c. the Grantee's policies and procedures by which complaints or inquiries of any nature will be addressed;
 - d. the toll-free telephone number and address of the Grantee's office to which complaints and inquiries may be reported;
 - e. the company's practices and procedures for protecting against invasions of subscriber privacy; and
 - f. service termination policy;
 - g. billing procedures. Billing procedures shall be clearly explained in the manual and in addition, the company's phone number for information and

requesting the manual shall be placed on the part of the bill retained by customers;

- h. the notice and referral information, as set forth in subsection 2 hereof;
 - i. liability specifications;
 - j. converter/subscriber terminal policy; and
 - k. breach of agreement policy.
2. Notice to Subscribers.
- a. The Grantee shall inform the Grantor and subscribers within thirty (30) days, prior to any changes in programming or increases in rates, costs, or charges to subscribers, or any channel repositioning within the control of Grantee.
 - b. All Grantee promotional materials, announcements, and advertising of residential cable services to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all Grantee-prepared promotional materials must clearly and accurately disclose price terms and any restrictions for use. Likewise, in the case of telephone orders, the Grantee shall take appropriate steps to ensure that Grantee customer service representatives clearly and accurately disclose price terms and any restrictions for use to potential customers in advance of taking the order.

3. Written Complaint Acknowledgment.

Within ten (10) days following receipt of a written complaint as defined in subsection (h)(ii), received at the Grantee's principal business office by first class mail, from a subscriber, the Grantee shall provide an acknowledgment to the subscriber of receipt of the complaint and of any action the Grantee has taken or intends to take in response to the complaint. This requirement does not apply to complaints submitted for processing by a regulatory agency other than the

County, such as the FCC.

7.10.8 Complaint resolution

1. The Grantor may take all necessary steps to ensure that all subscribers and members of the general public have recourse to a satisfactory hearing of any complaints, where there is evidence that the Grantee has not settled the complaint to the satisfaction of the person initiating the complaint.
2. For purposes of this section, a "complaint" is a grievance related to the service of the cable communications system within the franchise area that is reasonably remediable by the Grantee, but does not include grievances regarding the content of programming or information services other than grievances regarding broad categories of programming, and does not include customer contacts resulting in routine service calls that resolve the customer's problem satisfactorily to the customer.

7.10.9 Failure to Resolve Complaints

If Grantee fails to resolve a complaint within thirty (30) days following the date on which a complaint was made to Grantee and the County, then Grantee shall be deemed in violation of the Franchise, and the County may assert any of the remedies set out in Section 11.1 and other applicable subsections.

8. GENERAL FINANCIAL AND INSURANCE PROVISIONS

8.1 Compensation

- a. Franchise Fee. As compensation for the franchise to be granted, and in consideration of permission to use the streets and public ways of the Grantor for the construction, operation, and maintenance of a cable communications system within the franchise area and to defray the costs of franchise regulation, the Grantee shall pay to Grantor an amount equal to five (5%) percent of the gross receipts generated in any manner through the operation of the cable

system under this franchise. In the event any law or valid rule or regulation applicable to this franchise limits franchise fees below the five (5%) percent of gross receipts required herein, the Grantee agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible amount, then Grantee shall pay the higher amount up to the maximum allowable by law, not to exceed five (5%) percent.

During any period in which the Grantor is regulating the Grantee's rates, the Grantee's obligation to pay franchise fees under this section, with respect to the rates regulated by the Grantor, shall begin sixty (60) days after approval has been provided by the Grantor for the increase in subscriber rates directly related to the pass-through of these franchise fees as external costs, to the extent such increase and pass-through are permitted under federal law.

Any bad debts or other accrued amounts deducted from Gross Revenues in the calculation of Gross Receipts shall be included in Gross Receipts at such time as they are actually collected.

In any instance where any provision of this Section conflicts with any provision of the County's Cable Ordinance, this Section supersedes the Ordinance.

b. Payment of Franchise Fees.

1. Payments due under this provision shall be computed and paid quarterly, for the preceding quarter, as of March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after the dates listed in the previous sentence. A quarterly report shall be made as hereinafter provided which shall contain the relevant facts necessary for the Grantor to verify the amounts of franchise fee payments.
2. No acceptance of any payment shall be construed as accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim Grantor may have for further or additional sums payable under the provisions of this franchise. All amounts paid shall be

subject to audit and recomputation by Grantor.

8.2 Faithful Performance Bond

- a. Upon the effective date of this Franchise, the Grantee shall furnish proof of the posting of a faithful performance bond running to the County with good and sufficient surety approved by the County, in the penal sum of Ten Thousand Dollars (\$10,000.00), or the deposit of \$10,000 in a restricted account satisfactory to the County, conditioned that the Grantee shall well and truly observe, fulfill and perform each term and condition of this Franchise. Such bond shall be maintained by the Grantee throughout the term of this Franchise.
- b. Grantee shall pay all premiums charged for any bond required under Section 8.2(a) and unless the County Commission specifically directs otherwise, shall keep the same in full force and effect at all times through the later of either:
 - i. The remaining term of this Franchise; or
 - ii. If required by the County, the removal of all of Grantee's system installed in the County's Streets and Public Ways.
- c. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without thirty (30) days written notice first being given to the County. The bond shall be subject to the approval of the County Attorney as to its adequacy under the requirements of Section 8.2. During the term of the bond, Grantee shall file with the County a duplicate copy of the bond along with written evidence of payment of the required premiums unless the bond otherwise provides that the bond shall not expire or be terminated without thirty (30) days prior written notice to the County.
- d. In a form approved by the County, the Grantee may provide an irrevocable letter of credit, guaranty in lieu of bond, or other form of financial assurance in lieu of a faithful performance bond. The alternative form of financial assurance shall give the County substantially the same rights and guarantees provided by a faithful performance bond.

8.3 Damages and Defense

- a. The Grantee shall defend, indemnify and hold harmless Clackamas County, and its officers, agents, and employees, from and against all claims, damages and penalties, including but not limited to attorney fees, arising as a result of any actions of the Grantee under this Franchise. These claims, damages and penalties shall include, but shall not be limited to: damages arising out of copyright infringement; defamation or anti-trust actions; and all other damages arising out of the Grantee's actions under the franchise or the construction, operation, maintenance or reconstruction of the cable communications system authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this franchise.
- b. If the Grantee fails to defend as required in Section 8.3 (a), above, then the Grantee agrees to and shall pay all expenses incurred by Clackamas County, and its officers, agents, and employees, in defending itself with regard to all claims, damages and penalties mentioned in section (a) above. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by any employees of the Grantor.

8.4 Liability Insurance and Indemnification

- a. The Grantee shall maintain, throughout the term of the franchise, liability insurance covering any and all claims for damages or injury arising from operations under this franchise, insuring the Grantee in the minimum amounts of:

\$300,000. for personal injury or death to any one person;
\$300,000. for personal injury or death resulting from any one accident;
\$300,000. for property damage resulting from any one accident; and
\$300,000. for all other types of liability.

Such insurance shall name as additional insureds Clackamas County, and its officers, agents, and employees, and shall further provide that the policy shall not be modified or canceled during the life of this franchise without giving thirty (30) days written notice to the Grantor.

- b. Grantee shall file with the Grantor certificates of insurance

showing up-to-date coverage's, additional insured coverage's, and evidence of payment of premiums as set forth above. The grantor may review the certificates for compliance of the insurance with section (a). The required coverage shall not be canceled without approval of the Grantor, and failure to maintain required insurance may be considered a breach of this franchise. All insurance shall provide 30 days prior written notice to the Grantor in the event of reduction or cancellation. The minimum amounts of insurance set out in subsection (a) shall be increased from time to time to the extent necessary to provide coverage at least as great as the limits on the Grantor's liability under the Oregon Tort Claims Act.

- c. The Grantee is an insured employer for purposes of the Oregon Workers Compensation Law (ORS Chapter 656) and is solely liable for any workers compensation coverage as to work performed by Grantee under this agreement. Grantee agrees that Grantee and other persons retained by Grantee to perform work under this agreement shall be insured according to ORS 656.407 prior to commencement of work under this agreement, and that Grantee and such persons shall remain so insured during the term of this agreement. The Grantee shall also comply with the Unemployment Compensation Act of the State of Oregon. The Grantee shall provide the Grantor, prior to the effective date of this agreement, with evidence showing protection for its workers under the Workers' Compensation Act and registration with the State Unemployment Compensation Commission.

8.5 Incidental Payment

The Grantee shall pay to the Grantor a sum equal to the entire amount of all of the Grantor's costs incurred in carrying out the franchise renewal process by which this franchise is granted. Full payment shall be made within thirty (30) days after the effective date of the franchise and an account to the Grantee by the Grantor of the costs. These funds shall not be regarded as franchise fees, nor payments in lieu of franchise fees.

9. RIGHTS RESERVED TO GRANTOR

9.1 Right to Purchase the System.

- a. In the event Grantor has declared a forfeiture for cause or otherwise revoked for cause this franchise agreement as

provided in Section 11 or 11.2 herein, or in the event of expiration of the initial term of this franchise agreement without the franchise being renewed or extended as provided in Section 11.3(1), the Grantee shall continue its operations for a period of two hundred seventy (270) days under the terms and conditions of this franchise agreement and as required by Section 11.4 herein, following the date of the forfeiture or revocation or expiration of the initial term, if such continuation of operations is ordered by the Grantor pending the purchase of the whole or part of the system by Grantor or its designee. Within ninety (90) days following the date of forfeiture or revocation or expiration of the initial term, the Grantor may notify the Grantee that it or its designee desires to acquire by purchase all or a portion of the system used by the Grantee in its operation, exclusive of parts of the system essential to Grantee's operation of parts of the system, or of other systems, not acquired, for its fair value. Such notice shall be by resolution or other appropriate writing of the Grantor and shall state a date upon which Grantee shall cease its operations and receive payment as described below.

The fair value of the system for purpose of this subsection (a) shall be determined by mutual agreement between Grantor and the Grantee. If such mutual agreement cannot be reached within sixty (60) days following notification by the Grantor of its desire to purchase the system, then Grantor and Grantee shall submit to a mandatory mediation procedure, as provided for in Section (b), below.

For purposes of revocation or forfeiture under this subsection (a), the fair value of all or part of the system shall be an equitable price for the system or part of the system being acquired, reduced by the amount of any lien, encumbrance, or obligation of the Grantee which Grantor may assume.

For any other purpose under this section, the fair value of all or part of this system shall be its fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself, reduced by the amount of any lien, encumbrance, or obligation of the Grantee which Grantor may assume.

During any period of continued operation under this section, except as provided in section of this franchise, the Grantee shall not sell, assign, transfer, or lease to any other persons, firm or corporation, any portion of the system used by it in its

operations without the prior written consent of the Grantor.

In the event of the Grantor's acquisition of all or portions of Grantee's cable system, as provided herein, Grantee shall use all best efforts to obtain any needed consent to assignment, to the extent any existing and future rental, lease, and lease-purchase arrangements for Grantee's cable system or any facilities to be acquired require any consent to assignment by third (3) parties; and Grantee shall not unreasonably withhold any consent to assignment of any rental, lease, and lease-purchase arrangements for grantee's cable system or any facilities to be acquired.

- b. If mandatory mediation is initiated pursuant to Section 9.1 (a), both the Grantor and the Grantee shall participate in good faith in the mediation, in a manner determined by the mediator chosen for the process. The mediator shall be chosen from a list of five (5) qualified persons obtained from the American Arbitration Association. The choice of a mediator shall if possible be made by mutual agreement by the Grantor and Grantee; however, if such agreement is not possible, then the mediator shall be chosen by having the Grantor and Grantee alternately eliminate one member of the list of qualified mediators until only one name is left, with the party to be first to eliminate a name determined by a coin toss. The cost of mediation under this Section shall be shared equally by the Grantor and the Grantee.

If agreement regarding the valuation of the system cannot be reached through the mediation process described in this Section, then either the Grantor or the Grantee may file such proceeding as is appropriate in an Oregon court of competent jurisdiction to exercise any rights it may have.

Any final determination of system valuation for the purposes of a proposed purchase of the system by the Grantor, whether proceeding pursuant to subsection 9.1(a) or by any other lawful process, shall be subject to: (1) the Grantor's right within sixty (60) days of final determination of valuation to decide by appropriate resolution or other writing not to acquire all or any part of the system subject to the valuation proceeding; and (2) the Grantor's right to decide to acquire through use of proceeds from the sale of bonds, but subject to and conditioned upon any necessary voter approval of the bond funding and, if applicable, the successful sale of the bonds.

- c. In the event Grantor purchases, acquires, takes over, or holds all or parts of the system pursuant to subsection (a) or through any other lawful process, Grantor shall have the right without limitation to assign, sell, lease, or otherwise transfer its interest in all or parts of the system to any other persons, including any other grantee of a cable communications franchise, on whatever terms Grantor deems appropriate.
- d. The provisions of this section shall be subject to the provisions 47 U.S.C. 627 (Section 547 of the Cable Act), as amended from time to time. It is not intended that this section diminish the rights of either the Grantor or the Grantee under the Act, and any provision of this section that purports to diminish such rights shall be deemed superseded by the Act.

9.2 Right of Inspection of Records

In order to assist the Grantor in keeping adequate records of the activities of the Grantee under this franchise, the Grantee shall provide the following information in such form as may be required by the Grantor for its records:

- a. With respect to the cable system and its operation authorized under this franchise, and to the extent necessary for the enforcement of this franchise, information pertaining to the operations of the Grantee, any parent company, and any affiliate or cable operator, including but not limited to: the true and entire cost of construction, upgrade and replacement of plant and equipment for the cable system authorized under this franchise, and of the maintenance and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in; the number and par value of shares; the amount and character of indebtedness, if any; interest on debt; wear and tear or depreciation; and all amounts and sources of income;
- b. The amount collected by the Grantee or any parent or affiliate of the Grantee from users of services of the Grantee's cable communications system under this franchise and the character and extent of the service rendered therefore to them.

The information, along with any further data which may be required by the Grantor to adequately understand the information, shall be furnished by the Grantee to the Grantor upon request, and at the Grantee's own cost and expense.

9.3 Right to Perform Franchise Fee Audit

In addition to all rights granted under Section 9.2, the Grantor shall have the right to perform, or cause to have performed, a formal audit of the Grantee's books and records and, as necessary, the books and records of any parent or affiliate company, for the purpose of determining the gross receipts of the Grantee generated in any manner through the operation of the cable system under this franchise and the accuracy of amounts paid as franchise fees to the Grantor by the Grantee, provided that any audit must be commenced not later than three (3) years after the date on which franchise fees for any period being audited were due. The cost of any such audit shall be borne by the Grantor, except that if through the audit it is established that the Grantee has made underpayment of two (2%) or more in franchise fees than required by this franchise, then the Grantee shall, within thirty (30) days of being requested to do so by the Grantor, reimburse the Grantor for the full cost of the audit.

9.4 Intervention

The Grantee shall not hinder the Grantor's lawful intervention in any suit or proceeding to which the Grantee is party which may have an effect upon the construction, upgrade, maintenance or operation of the system.

9.5 Right to Require Removal of Property

1. At the expiration of the term for which the franchise is granted providing no renewal is granted, or upon its forfeiture or revocation, as provided for herein, the Grantor shall have the right to require the Grantee to remove, at Grantee's own expense, all or any part of the cable communications system from all streets and public ways within the franchise area. If the Grantee fails to do so, the Grantor may perform the work and collect the cost thereof from the Grantee. The actual cost thereof, including direct and indirect administrative costs, shall be a lien upon all plant and property of the Grantee effective upon placement in the lien books of the Grantor. Notwithstanding the other provisions of this section, the Grantee, by written notice to the Grantor, may elect to abandon underground cable in place, in which event the Grantee shall have no further obligation hereunder as to the abandoned cable; except that the Grantor may nevertheless, by written notice, require the

Grantee to remove cable as deemed necessary by the Grantor to provide space for other authorized uses or to accomplish or enable the accomplishment of other public purposes.

9.6 Inspection of Facilities.

Grantor may inspect upon request any of the Grantee's facilities and equipment, not readily visible in the public right-of way, to confirm compliance with this Agreement at any time upon at least twenty-four (24) hours notice, or, in case of an emergency, upon demand without prior notice.

10. RIGHTS OF INDIVIDUALS PROTECTED

10.1 Discriminatory Practices Prohibited

- a. The Grantee shall not deny service, deny access, or otherwise unlawfully discriminate against subscribers, programmers, or persons on the basis or race, color, religion, national origin, sex, age, disability, income, or, except as otherwise provided herein, the area in which such person lives. The Grantee shall comply at all times with all applicable federal, state, or local laws, rules and regulations relating to nondiscrimination.
- b. The Grantee shall use best efforts to assure maximum practical availability of Grantee services and facilities to all subscribers, regardless of disability, including the provision of a remote control device to those subscribers who are mobility limited, or where a member of the subscriber's household is mobility limited.
- c. For hearing impaired customers, the Grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, the Grantee must have TDD/TTY (or equivalent) equipment at the company office, and a publicly listed telephone number for such equipment, that will allow hearing impaired customers to contact the company.
- d. Upon request by a subscriber or potential subscriber, the Grantee shall make a reasonable effort as determined by Grantor and as required by the Federal Government to provide information required under Section 7.7.7, or otherwise provided in the normal course of business, in both English and

the primary language of the requestor.

- e. Nothing in this Section shall be construed to prohibit: 1) the temporary reduction or waiving of rates and charges in conjunction with promotional campaigns; or 2) Grantee from offering reasonable discounts to senior citizens or discounts to economically disadvantaged citizens.

10.2 Unauthorized Monitoring or Cable Tapping Prohibited

The Grantee shall not, nor shall Grantee allow any other person, agency, or entity to tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever, without the subscriber's written consent or a valid court order or a valid request from a law enforcement agency permitting the tapping.

10.3 Privacy and Other Rights

The Grantee and the Grantor shall maintain constant vigilance with regard to possible abuses of the right of privacy and any other civil right of any subscriber, programmer, or person resulting from any device or signal associated with the cable communications system. The Grantee shall not place in the building, structure or any facility of any subscriber any equipment capable of two-way communications without the written consent of the subscriber, revocable at the discretion of the subscriber, and shall not utilize the two-way communications capability of the system for unauthorized or illegal subscriber surveillance of any kind. For purposes of this subsection, tenants who occupy premises shall be deemed to be subscribers, regardless of who actually pays for the service. Written consent, as required herein, shall not be required of any subscriber by Grantee as a condition of receiving any other cable service.

10.4 Permission of Property Owner Required

No cable, line, wire, amplifier, converter, or other piece of equipment owned by the Grantee shall be installed by the Grantee without first securing the written permission of the owner or tenant of any property involved except where there is an existing utility easement or other easement reserved by plat or other conveyance. If such permission or easement is later lawfully revoked, whether by the original or a subsequent owner or tenant or Grantor, the Grantee shall remove forthwith on request of the owner or tenant any of its equipment and promptly restore the property to its

original condition. The Grantee shall perform all installations and removals in a workmanlike manner and shall be responsible for any damage to residences or other property caused by the installation.

10.5 Sale of Subscriber Lists and Personalized Data Prohibited

The Grantee shall be subject to 47 U.S.C Section 631 (Section 551 of the Cable Act), as amended from time to time, regarding limitations on the cable company's collection and use of personally identifiable information, and other issues involving the protection of subscriber privacy.

The Grantee shall inform each subscriber, at intervals of no more than one (1) year that certain information is supplied to the Grantor as needed to ensure compliance with the franchise.

10.6 Landlord - Tenant

Grantee shall provide to individual units of a multiple housing facility, such as a duplex, apartment or condominium unit, all services offered to other dwelling units within the franchise area, providing the owner of the facility consents in writing, if requested by Grantee, as follows:

- a. To Grantee's providing the services to units of the facility;
- b. To reasonable conditions and times for installation, maintenance and inspection of the system on facility premises;
- c. To reasonable conditions promulgated by Grantee to protect Grantee's equipment and to encourage widespread use of the system; and
- d. To not demand payment from Grantee for permitting Grantee to provide service to the facility and to not discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not.
- e. However, Grantee shall have no obligation to provide service if the cost of installation per unit exceeds the Grantee's published per foot rate for line extension construction multiplied by one hundred twenty-five (125) feet. To determine unit costs, the total project cost is divided by the number of units. The total project cost shall include only the costs of cable installed on the property including line extension and pre/post wiring of the units.

11. TERMINATION AND EXPIRATION

11.1 Revocation

In addition to any rights set out elsewhere in this document, the Grantor reserves the right to declare a forfeiture or otherwise revoke this franchise, and all rights and privileges pertaining thereto, in the event that:

- a. the Grantee is in violation of any material provision of the franchise agreement after application by the Grantor of a remedy lesser than franchise revocation pursuant to this franchise agreement, and fails to correct the violation after written notice of the violation and proposed forfeiture and a reasonable opportunity thereafter to correct the violation;
- b. the Grantee or the Guarantor becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt;
- c. the Grantee is found to have engaged in fraud or deceit upon the Grantor, persons or subscribers;
- d. the Grantee fails to obtain and maintain any permit required by any federal or state regulatory body, relating to the construction, maintenance and operation of the system; provided, however, that the Grantee shall be allowed a reasonable time to cure failure to obtain any permit; or
- e. the Grantee fails to maintain the full amount of its insurance or to post a performance bond as required under the terms of this franchise.

Upon the occurrence of one of the events set out above, following ten (10) days written notice to Grantee of the occurrence and the proposed forfeiture and an opportunity for Grantee to be heard, Grantor may by ordinance declare a forfeiture. In a hearing of the Grantee, the Grantee shall be afforded due process rights as if the hearing were a contested case hearing subject to ORS Chapter 183, including the right to subpoena and cross-examine witnesses, to subpoena documents, and to require that all testimony be on the record. Findings from the hearing shall be written, and shall stipulate the reasons for the Grantor's decision. In the event that the Grantee believes that the Grantor improperly has declared a forfeiture, the Grantee may file such proceeding as is appropriate in a court of competent jurisdiction to determine whether the Grantor properly has declared a forfeiture. If a forfeiture is



lawfully declared, all rights of the Grantee shall immediately be divested without a further act upon the part of the Grantor.

11.2 Receivership

The Grantor shall have the right, subject to federal law, to declare a forfeiture or otherwise revoke this franchise one hundred and twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless;

- a. within one hundred and twenty (120) days after his or her election or appointment, such receiver or trustee shall have been approved by Grantor and shall fully have complied with all the provisions of the franchise and remedied all defaults thereunder; and,
- b. such receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by Grantor, as well as the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of the franchise, and agrees to accept responsibility for and to correct all past defects known and unknown if discovered in performance of franchise obligations.

11.3 Expiration

Upon expiration of the franchise, Grantor shall have the obligation to abide by the renewal provisions of the Cable Communications Policy Act of 1984, the 1992 Cable Act, and the Telecommunications Act of 1996, as amended from time to time. It is not intended that this section diminish the rights of either the Grantor or the Grantee under the Act, and any provisions of this section that purports to diminish such rights shall be deemed superseded by the Act.

11.4 Continuity of Service Mandatory

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify, or sell the system, or Grantor revokes

lawfully declared, all rights of the Grantee shall immediately be divested without a further act upon the part of the Grantor.

11.2 Receivership

The Grantor shall have the right, subject to federal law, to declare a forfeiture or otherwise revoke this franchise one hundred and twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless;

- a. within one hundred and twenty (120) days after his or her election or appointment, such receiver or trustee shall have been approved by Grantor and shall fully have complied with all the provisions of the franchise and remedied all defaults thereunder; and,
- b. such receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by Grantor, as well as the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of the franchise, and agrees to accept responsibility for and to correct all past defects known and unknown if discovered in performance of franchise obligations.

11.3 Expiration

Upon expiration of the franchise, Grantor shall have the obligation to abide by the renewal provisions of the Cable Communications Policy Act of 1984, the 1992 Cable Act, and the Telecommunications Act of 1996, as amended from time to time. It is not intended that this section diminish the rights of either the Grantor or the Grantee under the Act, and any provisions of this section that purports to diminish such rights shall be deemed superseded by the Act.

11.4 Continuity of Service Mandatory

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify, or sell the system, or Grantor revokes

or fails to renew the franchise, the Grantee shall make its best effort to ensure that all subscribers receive continuous uninterrupted service, regardless of the circumstances, during the lifetime of the franchise.

In the event of purchase, lease-purchase, condemnation, acquisition, taking over and holding of plant and equipment, sale, lease or other transfer to any other person, including any other grantee of a cable communications franchise, the Grantee shall continue its operations for a period of two hundred seventy (270) days under the terms and conditions of this franchise agreement following the date of the transfer, if such continuation of operations is ordered by the Grantor with a view to maintaining continuity of service to all subscribers.

12. MISCELLANEOUS PROVISIONS

12.1 Compliance with Laws

The Grantee shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all general ordinances, resolutions, rules and regulations of the Grantor heretofore or hereafter adopted or established during the entire term of this franchise, provided that any such ordinances, resolutions, rules and regulations of the Grantor hereafter adopted or established shall not conflict or interfere with the existing rights of the Grantee hereunder.

12.2 Severability and Preemption.

If any section, subsection, clause, phrase, term, provision, condition, covenant or portion of this Franchise is for any reason held invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal legislation, rules, regulations or decision, the remainder of this Franchise shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, provision, condition, covenant and portion of this Franchise shall be valid and enforceable to the fullest extent permitted by law.

If any material provision of this Franchise is for any reason held invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal law, rules, regulations or decision so that the intent of these provisions is frustrated, the parties agree to

Oregon, or their departments, agencies, political subdivisions, or officials; acts of any civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; restraint of government and people; civil disturbances; explosions; partial or entire failure of utilities; and similar occurrences outside the control of the Grantee. The Grantee agrees, however to give its best efforts to remedy as soon as possible, under the circumstances, the cause or causes preventing Grantee from carrying out its responsibilities and duties under this franchise agreement.

12.7 Entire Agreement

This franchise agreement contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically set forth herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

12.8 Consent

Wherever the consent or approval of either the Grantee or the Grantor is specifically required in this agreement, such consent or approval shall not be unreasonably withheld.

12.9 Time Limit for Grantee Communications

All communications with the County by the Grantee referred to in this Franchise shall be made through the Office of the County Cable Franchise Manager, unless otherwise specified in this Franchise. Grantee shall provide any written communication required by this Franchise within sixty (60) days of being requested to do so by the Grantor, in each case in which no other specific minimum time limit for a communication is identified in the Franchise.

12.10 Consistency of Franchise with Cable Act

The parties intend and believe that all of the provisions hereof are consistent with and permitted by the Cable Communications Policy Act of 1984, and the Cable Act of 1992, and the Telecommunications Act of 1996.

12.11 Comparability of Other Cable Franchises

- a. If the Grantor issues a franchise to a cable operator to enter upon the streets and public rights of way for the purpose of

immediately negotiate replacement provisions to fulfill the purpose and intent of the superseded provisions consistent with applicable law.

In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Franchise, then the provision shall be read to be preempted to the extent and for the time required by law. In the event such federal or state law, rule or regulation 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 County, and any amendments to this franchise negotiated pursuant to this section as a result of such provision being preempted shall no longer be of any force or effect.

12.3 Captions

The captions to sections throughout this franchise agreement are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this franchise agreement.

12.4 No recourse Against the Grantor

The Grantee shall have no recourse whatsoever against the Grantor or its officials, boards, commissions, or employees for any loss, costs, expense, or damage arising out of any provision or requirement contained herein, or in the event this franchise agreement or any part thereof is determined to be invalid.

12.5 Nonenforcement by Grantor

The Grantee shall not be relieved of its obligations to comply with any of the provisions of this franchise agreement by reason of any failure of the Grantor to enforce prompt compliance.

12.6 Force Majeure

If by reason of force majeure the Grantee is unable in whole or in part to carry out its obligations hereunder, the Grantee shall not be deemed in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of the government of the United States of America, or of the State of

operating a Cable System to provide Cable Service to any part of the franchise area, the Grantor shall ensure that, considering all the circumstances, including any limitations on its regulatory authority, the material provisions of such other franchise are, taken together, reasonably comparable to the material provisions of this Franchise.

- b. In the event the County's decision to issue, or not to issue, a franchise that may be subject to the preceding paragraph is challenged, Grantee shall indemnify the Grantor, its officials, commissions, commissioners, agents and employees and hold them harmless against any claims, suits, causes of action, proceedings and judgments, whether for damages or equitable relief, and shall pay the Grantor's costs incurred in defending against the same.
- c. The Grantee agrees that its sole remedy under this provision is to seek injunctive relief to prevent the issuance of a franchise which would violate the first paragraph.
- d. No provision of this section shall be enforceable unless all are enforceable.

If, after the effective date of this Franchise, the Grantor enters into or authorizes a franchise permit, license or other agreement of any kind with any Person other than Grantee to enter the streets for the construction and operation of a Cable System providing Cable Services to Residential Subscribers within any part of grantee's Franchise Area in which Grantee is actually providing Cable Services, the material provisions of such agreement taken together shall be reasonably comparable to those contained in this Franchise, insofar as this does not conflict with applicable law. However, nothing in Section 13.11 shall limit or prevent the Grantor from issuing any franchise, permit license or other agreement of any kind for all of Grantee's Franchise Area or any portion thereof that provides for greater requirements or for a higher level of Cable Services to Subscribers, than that required of Grantee under this Franchise.

12.12 Franchise Review

During the six (6) month period beginning five (5) years after the effective date of this franchise, the Grantor and Grantee shall undertake a review of Grantee's system and performance to date, in order to determine whether Grantee must upgrade the system as described in

Section 4.1 of the franchise. Criteria for upgrade will be based on general parity of overall cable service with other contiguous cable operators providing cable service in the area, community need, market and economic viability. System review and plan for upgrade, if needed, must be submitted to the Grantor by the beginning of the sixth (6th) year from the date of the contract.

12.13 Notice

Any notice provided for under this Franchise shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such address as the receiving party specifies in writing:

If to the County: Cable Communications Manager
Clackamas County
2051 Kaen Rd
Oregon City, OR 97045

If to the Grantee: Government Camp Cable, Inc.
P. O. Box 10
Government Camp, OR 97028

12.14 Time is of the Essence

Whenever this Agreement sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a material violation of this Agreement and sufficient grounds for Grantor to invoke any relevant provision of this Agreement. However, in the event that Grantee is prevented or delayed in the performance of any of its obligations under this Agreement by reason of force majeure, Grantee's performance shall be excused during the affected time periods and Grantee thereafter shall, under the circumstances, promptly perform the affected obligations under this Agreement or procure a substitute for performance which is satisfactory to Grantor. Grantee shall not be excused by mere economic hardship or by misfeasance or malfeasance of its directors, officers, employees or agents.

IN WITNESS WHEREOF, the COUNTY has caused these presents to be executed by its Board of County Commissioners and GOVERNMENT CAMP CABLE, INC., has caused these presents to be signed by its Owner.

BOARD OF COUNTY
COMMISSIONERS

Bill Kennemer
Bill Kennemer, Chair

Mary Roethke
Recording Secretary

10-19-06
Date

2006-468

GOVERNMENT CAMP
CABLE, INC.

Charlie Sperr
Charlie Sperr, CEO/President

10-12-06
Date

EXHIBIT A: MAP OF FRANCHISE SERVICE AREA

EXHIBIT B: ACCEPTANCE

The undersigned, Government Camp Cable, Inc., does hereby accept the Franchise granted and does hereby agree that it will comply with and abide by all of the provisions, terms and conditions of the Franchise, subject to applicable federal, state and local law.

GOVERNMENT CAMP CABLE, INC.

BY Charles J. Spear

TITLE Partner

DATE 10-12-06