

**CABLE TELEVISION
 FRANCHISE AGREEMENT**
 between
CLACKAMAS COUNTY, OREGON
 and
CANBY TELEPHONE ASSOCIATION

January, 2006

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1. PURPOSE AND INTENT.

- 1.1 Clackamas County, Oregon (hereafter Grantor) is authorized to and by this Franchise Agreement does grant to Canby Telephone Association (hereafter Grantee) a non-exclusive 10-year Franchise, revocable as provided herein, to offer cable services over the Grantee's Cable System in the County, in the service area depicted on the attached map, marked as Exhibit A.
- 1.2 The purpose of this Franchise Agreement is to create a binding, enforceable contract between Grantor and Grantee.
- 1.3 An additional purpose of the Franchise Agreement is to explicitly recognize and acknowledge that Grantor has previously granted to Willamette Broadband, LLC of Canby a franchise to provide Cable Services in the same service area. The parties recognize that federal law and the incumbent's franchise agreement require that this Franchise should be reasonably comparable to the previously granted franchise in all material respects.

2. DEFINITIONS.

For the purposes of this Franchise Agreement, 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 are defined in the Cable Communications Policy Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996 (Cable Act) shall have the meaning specified in the Cable Act definition.

- a. "Access" or "Community Access" or "Public, Educational and Government (PEG) Access" 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 editorial control.
- b. "Access Channel" or "Public, Educational or Government Access (PEG) Channel" means any channel or portion of a channel utilized for non-commercial programming, where any member of the general public or any organization may be a programmer, without charge by the Grantee, on a non-discriminatory basis.

"Educational Access Channel" means any channel or portion of a channel available for educational programming by individuals or institutions.

"Government Access Channel" means any channel or portion of a channel available for programming by government agencies.

"Public Access Channel" means any channel or portion of a channel where any member of the general public may be a programmer on a non-discriminatory basis.

Nothing in this Franchise shall prevent the Grantor or its designee from carrying out fundraising activities to supplement access capital or operating funds, and such fundraising activity shall not in itself constitute a commercial use of access channels, facilities and equipment.

- c. "Addressability" means the capability of the cable communications 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.
- d. "Affiliate" when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.
- e. "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.
- f. "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. Basic Cable Service includes video service over Grantee's Cable System.
- g. "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.
- h. "Cable Act" means collectively the federal Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, as amended.

- i. "Cable Operator" means any Person or group of Persons, including Grantee, who provide Cable Service over a Cable System and directly or through one or more Affiliates own a significant interest in such Cable System or who otherwise control or are responsible for, through any arrangement, the management and operation of such a Cable System.
- j. "Cable Service" means a) the one-way transmission to subscribers of video programming or other programming service; and b) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service covered by the Cable Act.
- k. "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 the County under this Franchise.
- l. "Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering video signal whether in an analog or digital or digital format. This definition does not restrict the use of any channel to the transmission of analog video signals.
- m. "County" means Clackamas County, an Oregon statutory County, and all of the territory within its boundaries.
- n. "County Commission" means the governing body of the Grantor.
- o. "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.
- p. "Converter" means an electronic 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 which the television receiver is able to tune.
- q. "FCC" means the Federal Communications Commission.
- r. "Franchise" or "Franchise Agreement" means the authorization granted by this document, 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.

- s. "Franchise Area" means all territory within Clackamas County, depicted on the attached Exhibit A.
- t. "Grantee" or "Franchisee" means Canby Telephone Association, an Oregon Cooperative Corporation, and the lawful successors, transferees, or assignees thereof.
- u. "Grantor" means Clackamas County, a statutory County in the State of Oregon.
- v. "Gross Receipts" means gross revenues less any bad debts related to the operation of the System authorized by this Franchise.
- w. "Gross Revenues" means all amounts received 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 Grantee's Cable System to provide Cable Services within the Franchise Area. "Gross Revenues" shall be limited to all amounts derived from Grantee's provision of video services over the Cable System. All existing services provided by Grantee over the Cable System shall be excluded from the definition of Gross Revenues, as well as any future non-cable services provided over the Cable System to the extent such services are not cable services. Gross Revenues shall include 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, and all other revenues derived from the operation of Grantee's Cable System to provide cable services, regardless of whether initially recorded to another entity and however characterized. Gross Revenues shall not include revenue derived from the Grantee's operation as a telecommunications provider or any other non-cable service related activities.

"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 Grantee's Cable System to provide cable services 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 Grantee's Cable System. Gross Revenues shall not include revenues derived from Grantee's operation as a telecommunications provider or any other information services activities, nor

transport through the Cable System to another service provider subject to separate franchising authority.

Any sales, excise or other taxes or fees levied directly upon subscribers by a local, state or federal government and collected by the Grantee for direct pass-through to such government shall not be included in "Gross Revenues".

Subject to the limits and restrictions of federal and state law copyright fees paid by the Grantee shall be excluded from Gross Revenues.

"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."

Revenues derived from an institutional network shall not be considered "Gross Revenues" for purposes of this Franchise, but shall be the subject of future and separate negotiations in the event an institutional network is built and/or operated by Grantee, subject to state and federal law.

The definition of "Gross Revenues" includes those revenues collected as franchise fees and paid to a local government.

- x. "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.
- y. "Institutional Network" means that part of a cable communications network designed principally for the provision of non-entertainment, interactive services to schools, public agencies or other non-profit agencies for use in connection with the ongoing operations of such institutions.
- z. "Institutional Subscriber" means a place of business, public agency, school or non-profit corporation receiving institutional services on the institutional subscriber network.
- aa. "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. Any provision of interactive services by adding capabilities to the Cable System shall not have the effect of permitting Grantor to purchase Grantee's Cable System as otherwise permitted under Section 547 of the Cable Act (47 USC § 627).

- bb. "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.
- cc. "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.
- dd. "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.
- ee. "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.
- ff. "Open Channel" means any channel that can be received by all subscribers having cable-ready television sets, without the necessity of special descrambling equipment.
- gg. "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.
- hh. "Person" means any corporation, partnership, proprietorship, individual, organization, or other entity doing business in the State of Oregon, or any natural person.
- ii. "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.
- jj. "Programming" means the process of causing television programs or other patterns of signals in video, voice or data formats to be transmitted on the Cable System, and includes all programs or patterns of signals transmitted or capable of being transmitted, on the Cable System.

- kk. "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, magnetic and laser disk files, opinions or reports of consultants or experts, invoices, billings, statements of accounts, studies, appraisals, analyses, contracts, agreements, charts, graphs, and photographs to the extent related to the enforcement or administration of this Franchise.
- ll. "Resident" means any natural person residing within the Franchise Area.
- mm. "Residential Service" means services delivered on the residential subscriber network.
- nn. "Residential Subscriber" means a subscriber who receives services on the residential subscriber network.
- oo. "Residential Network" means a cable communications network designed principally for the delivery of entertainment, community access, or interactive services to individual dwelling units.
- pp. "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, and which serve a minimum of twenty (20) students.
- qq. "Section" means any section, subsection, or provision of this Franchise Agreement.
- rr. "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.
- ss. "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.
- tt. "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.

- uu. "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 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 ordinances 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 Streets and Public 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/Franchise Review.

Except as otherwise provided herein for revocation, the term of this Franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be 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 December 29, 2005, unless the Grantee fails to file the Franchise acceptance in accordance with Section 3.7 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 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.

3.5 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, 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. 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. The Grantor may condition 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 effected 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 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.

3.6 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 or of Grantee's interest in the Cable System. There shall be no change of control of the Cable System without prior approval of the Grantor. 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.

3.7 Franchise Acceptance.

- a. 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 C. 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 one hundred (100) 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 Ordinances and Codes. When obtaining a permit, Grantee shall inquire in writing about other construction currently in progress, planned or proposed, in order to investigate thoroughly all opportunities for joint trenching or boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, grantees, permittees, and franchisees so as to reduce as far as possible the number of Street cuts. While Grantee will have the rights and obligations under Section 4 of this Franchise, it is not anticipated that any construction will be required under this Franchise for the Grantee to meet its obligations to provide services under this Franchise.

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 Provision of Residential Service.

- a. In General. It is the County's general policy that all potential Residential Subscribers in the Grantee's Franchise Area should have equivalent Service Availability from Grantee's Cable System under non-discriminatory rates and reasonable terms and conditions. Grantee shall not arbitrarily refuse to provide Cable Services to any Person within its Franchise Area. Except as otherwise provided in this section, Grantee shall provide Cable Service within 60 days of a request by any Person within its Franchise Area. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by the Grantee, receipt of a written request by the Grantee or receipt by the Grantee of a verified oral request.

Except as otherwise provided in Section 10.1(e), Grantee shall provide such service:

- i. At a non-discriminatory installation charge for a standard installation, consisting of a 125 foot drop connecting to an outside wall for Residential Subscribers and a 125 foot drop for Commercial Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by the Grantee and provided in writing to the County;
 - ii. At non-discriminatory monthly rates for Residential Subscribers; and
 - iii. Notwithstanding Section 4.3(a), Grantee may establish different and nondiscriminatory rates and charges and classes of services for Commercial Subscribers, as well as different, nondiscriminatory monthly rates for classes of Commercial Subscribers. For the purposes of Section 4.3.a, "Commercial Subscribers" means any Subscribers other than Residential Subscribers.
- b. Transferred Franchising Jurisdiction. In the event that cable franchising jurisdiction is transferred to the County from another jurisdiction, then the

terms of this Franchise shall apply within the area, so long as the application of this Franchise in that area is acknowledged in the governmental actions which implement the transfer of franchising authority.

- c. New Subdivisions. In new subdivisions, service will be made available no more than 60 days from first occupancy or from the date of completion of final construction grading, whichever comes first.

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 ordinances 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 and Restoration of Streets and Public Ways.

Whenever the Grantee shall disturb the surface or otherwise damage any street, alley, public highway, or other public way 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. 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 may refill and/or repave in case of neglect of the Grantee. The cost thereof, including the cost of inspection, supervision and administration 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. 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.

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, 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 temporarily to 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 reasonable notice, shall move at the expense, paid in advance, of the person requesting the temporary removal such of its facilities 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 or other public purposes of the Grantor, then the removal shall be done at the expense of the Grantee. Should Grantee fail to remove or relocate any such facilities by the date established by Grantor, Grantor may effect such removal or relocation, and the expense thereof shall be paid by Grantee.

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 clearance,
 - 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 on 100% of undergrounding, 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 industry standards 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 strand map drawings or the functional equivalent of the Cable System, and make them available to the Grantor for inspection upon request. Said drawings or their functional equivalent shall be updated as changes occur in the Cable System. The Grantee shall provide the Grantor, on request, a copy of as-builts or CAD maps showing the location and nature of Grantee's facilities in the streets and public ways.

4.14 Emergency.

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

5. SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS.

5.1 System Configuration.

a. Initial Configuration.

The cable system shall consist, at a minimum, of a residential network with addressability in its initial configuration.

b. System Design.

- i. The Cable System will be equivalent and comparable to, or superior to the most advanced non-experimental state of the art cable systems provided by similarly situated cable service providers in the Portland metropolitan area.

ii. The Cable System shall be two-way capable and able to support two-way interactive services such as Video On Demand (VOD) and high speed internet access via the Cable System.

c. As designed, upgraded and maintained, the facilities and equipment on the Cable System must be able to deliver high quality signals that meet, or exceed FCC technical quality standards regardless of the particular manner in which the signal is transmitted.

5.2 Channel Capacity.

The residential cable system shall be installed with a minimum channel capacity of one hundred (100) Channels outbound.

5.3 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.

5.4 Interconnection.

- a. Grantee shall continue without limitation all Interconnections in effect on the effective date of this Franchise, including the interconnections listed in Exhibit D.
- b. Initially, Grantee shall Interconnect the Cable System with all other major, contiguous cable systems in Clackamas County, specifically including but not limited to Oregon City, unincorporated Clackamas County and Clackamas Community College. The system shall provide the capability to transmit Upstream Channels and Downstream Channels, in each direction, together with data, telemetry, audio, and other non-video signals. 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 organizations, including forward and reverse applications 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.

- c. 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.

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 obligation, 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 interconnections, 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.

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.

- d. 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.

5.5 Emergency Alert Capability.

- a. In accordance with the provisions of FCC Regulations Par 11, subpart D, Section 11.51(h)(1), and as such provisions may from time to time be amended, the Grantee shall install, if it has not already done so, and maintain an Emergency Alert System (EAS) for use in transmitting Emergency Act Notification (EAN) and Emergency Act Terminations (EAT) in local and state-wide situations as may be designated to be an emergency by the local primary, state primary, and/or the state Emergency Operations Center, as

those authorities are identified and defined within FCC Reg Section 11.51 and other applicable state and local laws.

- b. The Grantor shall permit only appropriately trained and authorized persons to operate the EAS equipment and shall indemnify and hold harmless the Grantee, its employees, officers and assigns from any claims arising from use of the cable system or the EAS equipment by the Grantor, its employees, authorized representatives, or designees, including, but not limited to, reasonable attorneys' fees. Additionally, the Grantor shall to the extent permitted by law indemnify, save and hold harmless the Grantee against damage, loss or inappropriate use of the equipment and shall agree to use due care and to take reasonable precautions against such damage, loss or inappropriate use of the EAS equipment or other cable system equipment which may be used during a declared emergency.

5.6 Standby Power.

Grantee shall provide standby power generating capacity at the Cable System control center. Grantee shall maintain standby power system supplies, rated at least at four (4) hours duration at each node or remote location. In addition, Grantee shall have in place and have filed with the Grantor throughout the Franchise term a plan, and all resources necessary for implementation of the plan, for dealing with outages of more than two hours.

Standby power to those portions of the Cable System serving County-owned facilities will be provided within one hour of notice from the County to Grantee of the need for such standby power.

5.7 Parental Control Lock.

Grantee shall provide subscribers (by sale or lease or otherwise), upon request, with a manual or electronic parental control locking device that permits inhibiting the viewing of any Channel. Any charge for such device shall be consistent with applicable rate regulations.

5.8 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.

5.9 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.

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.

6. SERVICES AND PROGRAMMING

6.1 Programming Categories.

The Grantee shall provide video programming services in at least the following broad categories:

- a. News & Information
- b. Sports
- c. General Entertainment
- d. Arts, Culture, Performing Arts
- e. Children / Family
- f. Science
- g. Travel Information
- h. Weather Information

- i. Governmental and Educational Programming
- j. Movies
- k. Religious Programming
- l. Foreign language / Ethnic Programming

The Grantor acknowledges that 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 System.

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.

6.3 Interactive Residential Services.

The Grantee shall make Interactive Services available to residential subscribers not later than on or about the date on which any other cable system in the Portland metropolitan area provides interactive services on a non-experimental basis.

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 Community Access and Local Programming.

a. Designated PEG Access Providers.

- i. The County may designate Public, Educational and Government "PEG" Access Providers, including itself for Government Access purposes, to control and manage the use of any or all Access Facilities provided by the Grantee under this Franchise, including, without limitation, the operation of Interconnected Access Channels. To the extent of such designation by the County, as between the Designated

Access Provider and the Grantee, the Designated Access Provider shall have sole and exclusive responsibility for operating and managing such Access Facilities. The Grantor or its designee may formulate rules for the operation of the Public Access Channel, consistent with this Franchise; such rules shall not be designed to control the content of public access programming.

- ii. Grantee shall cooperate with Designated PEG Access providers in the use of the Cable System and Access Facilities for the provision of PEG Access. Grantee shall enter into such operating agreements with designated PEG Access providers as may be necessary to facilitate and coordinate the provision of PEG Access, provided that all such operating agreements shall not be inconsistent with the terms of this Franchise.
- iii. Except as provided in this Franchise, the County shall allocate Access Resources to Designated Access Providers only. Grantee shall cooperate with the County in such allocations, in such manner as the County shall direct.
- iv. For the purpose of Section 6.5:
 - 1. "Access Facilities" means the Channel capacity (and portions thereof), services, facilities, equipment, and/or technical components used or useable by PEG Access; and
 - 2. "Access Resources" means all operating support and other financial means by which PEG Access is exercised, including, but not limited to, Access Capital Cost support under Section 6.5.
- v. The requirements of this Section 6.5 shall be subject to the Franchise Review provided for in Section 13.12.

b. Channel Capacity.

- i. Downstream Channels. Grantee shall provide 3 Downstream Standard Video Channels for distribution of PEG Access programming to all Residential Subscribers.
- ii. Closed Channels. Grantee shall provide operating Closed Channels sufficient to enable character-generated, prerecorded and live cablecasts from the Hardwired Programming Origination Points as