CABLE TELEVISION SYSTEM FRANCHISE AGREEMENT

Cable Services Franchise Agreement ("agreement") dated ___________________, between the City of Ashland ("City") and Falcon Cable Systems Company II, L.P. ("Grantee").

Recitals:

A. Grantee is one of the City’s cable television franchisees by virtue of an assignment of the original 20-year cable franchise issued to McCaw Communications in May 1983.

i. The McCaw franchise was transferred to Cooke CableVision in February 1987.
ii. The franchise was then retransferred to TCI in 1990.
iii. The franchise was retransferred again to Falcon Cable in July 1998.
iv. The City consented to a transfer of control of Falcon Cable to Charter Communications Holding Company, LLC in October 1999.

B. City is authorized to grant one or more nonexclusive franchises to construct, operate, and maintain a cable television system within the city limits; and

C. Grantee is willing to accept this agreement and to abide by the terms and conditions;

City and Grantee agree:

1. Definitions. For the purposes of this agreement, the following terms, phrases, words and their derivations shall have the meaning set forth below. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1. **Access** means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including City and its designees, of the Cable System to acquire, create, receive, and distribute video, Cable Service, and signals as permitted under applicable law, including, but not limited to:

1.1.1. **Public Access** which means Access where organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users;

1.1.2. **Educational Access** which means Access where schools and educational institutions are the primary users of programming and service

1.1.3. **Governmental Access** which means Access where governmental institutions are the primary users of programming and service; and

1.1.4. **PEG Access** which means Public Access, Educational Access, and Governmental Access, collectively.

1.2. **Access Channel** means any Channel, or portion of any Channel, designated for non-commercial Access purposes or otherwise made available to facilitate or transmit Access programming or service.

1.3. **Basic Service** means any service tier which includes the retransmission of local television broadcast signals and PEG Access Channels.

1.4. **Cable Acts** means the Cable Communications Policy Act of 1984 and the

1.5. **Cable Operator** means any Person or group of Persons, including Grantee, who provide Cable Service over a Cable System and directly owns a significant interest in such Cable System, or who otherwise control or are responsible for, through any arrangement, the management and operation of such a Cable System.

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

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

1.8. **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 format. This definition does not restrict the use of any channel to the transmission of analog video signals.

1.9. **Downstream** means the transmission from the Headend to remote points on the Cable System.

1.10. **FCC** means the Federal Communications Commission.

1.11. **Franchise Area** means the area within the city limits of Ashland as they now exist or as they may be amended in the future.

1.12. **Gross Revenues** means all revenues of Grantee, or any operator of the Cable System, in any way derived from the operation of the Cable System to provide Cable Services in the Agreement Area. Gross Revenues include, by way of illustration and not limitation, monthly fees charged Subscribers for any Basic, optional, premium, per-channel, or per-program service; installation, disconnection, reconnection, and change-in-service fees; leased channel fees; late fees and administrative fees; revenues received from programmers for carriage of programming on the Cable System; from rentals or sales of converters or other equipment; advertising sales revenues; revenues from program guides; and revenues from home shopping channels. The term “Gross Revenues” encompasses any and all revenue of any kind, form or nature including franchise fees passed through by Grantee to Subscribers, except that the term does not include sales taxes imposed by law on Subscribers that the Grantee is obligated to collect. With the exception of recovered bad debt, “Gross Revenues” shall not include bad debt.
1.13. **Headend** means a facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switches, modulators, processors and all other related equipment and facilities.

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

1.15. **Leased Access** means the use of Channel capacity designated for commercial use by Persons unaffiliated with Grantee as defined in Section 612 of the Cable Act.

1.16. **Origination Point** means a location where Public, Educational, or Governmental use programming is delivered to the Grantee for Upstream transmission.

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

1.18. **Public Rights of Way** include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public utility easements, and all other public ways, including the subsurface under and air space over these areas, excluding parks and parkways, but only to the extent of City's right, title, interest, or authority to grant a franchise to occupy and use such streets and easements for a Cable System and only to the extent that sufficient capacity exists for a Cable System. "Public rights of way" shall also include any easement granted to or owned by City or County and acquired, established, dedicated, dedicated, or devoted for public utility purposes.

1.19. **Quarterly**, or quarter, means the standard calendar periods of January 1 – March 31, April 1 – June 30, July 1 – September 30, and October 1 – December 31, unless otherwise specified in this agreement.

1.20. **RVTV** means Rogue Valley Community Television as administered by the Extended Campus Program of Southern Oregon University.

1.21. **School** means any accredited educational institution, public or private, including, but not limited to, primary and secondary schools, and colleges and universities.

1.22. **Street** means each of the following which have been dedicated to the public, or which may be dedicated to the public in the future, and maintained under public authority or by others and located within the Franchise Area: Streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way and other public ways.

1.23. **Subscriber** means any Person who elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of, or in connection with, the Cable System, and whose premises are physically wired and lawfully activated to receive Cable Service from Grantee’s Cable System.

1.23.1. **Commercial Subscriber** means any Subscriber other than a Residential Subscriber.
1.23.2. **Residential Subscriber** means any Person who contracts individually for Cable Service to a residence, whether that residence is a single family unit or located in a multiple dwelling unit.

1.24. **Telecommunications, Telecommunications Facilities and Telecommunications Services** have the same meaning as set forth in Ashland Municipal Code Title 16.

1.25. **Upstream** means the carrying of a transmission to the Headend from remote points on the Cable System.

2. **Grant of Franchise.**

2.1 **Grant.**

2.1.1. City grants to Grantee in the public interest a nonexclusive and revocable authorization to make lawful use of the Streets and Public Rights of Way within the Franchise Area to construct, operate, maintain, reconstruct, and repair a Cable System for the purpose of providing Cable Services.

2.1.2. This agreement is intended to convey limited rights and interests only as to those Streets and Public Rights of Way, in which the City has an actual interest. It is not a warranty of title or interest in any right-of-way, it does not provide the Grantee any interest in any particular location within the right-of-way, and it does not confer rights other than as expressly provided in this agreement. This agreement does not deprive the City of any powers, rights, or privileges it now has, or may acquire in the future, to use, perform work on, or regulate the use and control of the City's Streets covered by this agreement, including without limitation, the right to perform work on its roadways, rights-of-way, or appurtenant drainage facilities, including constructing, altering, paving, widening, grading, or excavating.

2.1.3. This agreement is subject to the general lawful police power of City affecting matters of local government concern and not merely existing contractual rights of Grantee. Nothing in this agreement shall be deemed to waive the requirements of the other codes and ordinances of general applicability enacted, or which may be enacted in the future, by City.

2.1.4. This agreement authorizes Grantee to engage in providing Cable Service, as that term is defined in 47 U.S.C. Sec. 522(6) as amended. This agreement shall not be interpreted to prevent the City from imposing lawful additional conditions, including additional compensation conditions for use of the rights-of-way should Grantee provide service other than Cable Service. Nothing in this agreement shall be interpreted to prevent Grantee from challenging the lawfulness or enforceability of any provisions of applicable law.

2.1.5. Grantee promises and guarantees as a condition of exercising the privileges granted by this agreement, that any joint venture or partner of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the terms and conditions of this agreement.
2.2. Use of Public Streets And Ways. Subject to City's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public Streets, including rights-of-way and public utility easements within the Franchise Area, such wires, cables, conductors, ducts, conduits, vaults, amplifiers, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of a Cable System for the provision of Cable Service within the Franchise Area. Grantee shall comply with all applicable construction codes, laws, ordinances, regulations and procedures now in effect or enacted in the future, and must obtain any and all necessary permits from the appropriate agencies of City prior to commencing any construction activities. Grantee, through this agreement, is granted extensive and valuable rights to operate its Cable System for profit using City's public rights-of-way and public utility easements within the Franchise Area in compliance with all applicable City construction codes and procedures. As trustee for the public, City is entitled to fair compensation to be paid for these valuable rights throughout the term of this agreement.

2.3. Duration. The term of this agreement and all rights, privileges, obligations, and restrictions pertaining to this agreement shall be from the effective date of this agreement through June 1, 2008, unless extended or terminated sooner as provided below.

2.4. Effective Date. The effective date of this agreement shall be May 20, 2003, unless Grantee fails to file an unconditional written acceptance of this agreement and post any required bond or deposit by June 20, 2003. In either event, this agreement shall be null and void, and any and all rights of Grantee to own or operate a Cable System within the Franchise Area under this agreement shall be of no force or effect.

2.5. Franchise Nonexclusive. This agreement shall be nonexclusive, and is subject to all prior rights, interests, agreements, permits, easements or licenses granted by City to any Person to use any street, right-of-way, easements not otherwise restricted, or property for any purpose whatsoever, including the right of City to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee. City may, at any time, grant authorization to use the public rights-of-way for any purpose not incompatible with Grantee's authority under this agreement, and for such additional Franchises for Cable Systems as City deems appropriate, upon substantially equivalent terms and conditions to those contained in this agreement as City deems appropriate.

2.6. Grant of Other Franchises.

2.6.1. In the event the City enters into a franchise or other agreement of any kind with any other Person or entity other than the Grantee to enter into the City's public ways for the purpose of constructing or operating a Cable System, or providing Cable Service to any part of the Service Area in which the Grantee is actually providing Cable Service under the terms and conditions of this agreement, or is required to extend Cable Service under the provisions of section 11.2, the material provisions of such other franchise or agreement shall be reasonably comparable to those contained in this agreement, in order that one operator not be granted an unfair competitive advantage over another.

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

2.7. Police Powers. Grantee's rights under this agreement are subject to the lawful police powers of City to adopt and enforce ordinances necessary to the safety, health, and welfare of the general public and Grantee agrees to comply with all applicable laws and ordinances enacted, or enacted in the future, by City or any other legally-constituted governmental unit having lawful jurisdiction over the subject matter of the enactment.

2.8. Relations to Other Provisions of Law. This agreement and all rights and privileges granted under it are subject to, and the Grantee must exercise all rights in accordance with, applicable law as amended over the Franchise term. This agreement is a contract, subject to the City's exercise of its police and other regulatory powers and such applicable law. This agreement does not confer rights or immunities upon the Grantee other than as expressly provided in the agreement. In cases of conflict between this agreement and any ordinance of general application enacted pursuant to the City's police power, the ordinance shall govern. Nothing in this agreement, however, shall be interpreted to prevent Grantee from challenging the lawfulness or enforceability of any provision of applicable law. The Franchise issued and the Franchise fee paid are not in lieu of any other required permit, authorization, fee, charge, or tax, unless expressly stated in this agreement.

2.8.1. Without limiting the foregoing, by way of example and not limitation, this agreement shall not include or be a substitute for:

2.8.1.1. Any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City.

2.8.1.2. Any permit, agreement or authorization required in connection with operations on or in public streets or property, including by way of example and not limitation, street cut permits; or

2.8.1.3. Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this Agreement including, without limitation, permits and agreements for placing devices on or in poles, conduits, other structures, or railroad easements, whether owned by the City or a private entity.

2.8.2. This agreement does not authorize Grantee to provide Telecommunications Services, or to construct, operate or maintain Telecommunications Facilities. This Agreement is not a bar to imposition of any conditions on Grantee with respect to Telecommunications, whether similar, different or the same as conditions specified herein. This Agreement does not relieve Grantee of its obligations to obtain an authorization to provide Telecommunications Services, or to construct, operate or maintain Telecommunications Facilities, or relieve Grantee of its obligation to comply with any such authorizations.

2.9. Effect of Acceptance. By accepting the agreement the Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the agreement; (2) agrees that it will not oppose the City's intervening or other participation in any proceeding affecting the Cable System; (3) accepts and agrees to comply with each and every provision of this agreement; and (4) agrees that the agreement was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.
3. FRANCHISE FEE AND FINANCIAL CONTROLS.

3.1. Franchise Fees. As compensation for the benefits and privileges granted under this agreement, and in consideration of permission to use City’s Streets, Grantee shall pay as a Franchise fee to City, throughout the duration of this agreement, an amount equal to five percent of Grantee’s Gross Revenues including the franchise fee itself, derived from the operation of the Cable System to provide Cable Service in the Franchise Area. Accrual of such Franchise fees shall commence as of the effective date of this agreement. The Franchise fees are in addition to all other fees, assessments, taxes, or payments of general applicability that the Grantee may be required to pay under any federal, state, or local law to the extent not inconsistent with applicable law. This agreement and the Franchise fees are not in lieu of any other generally applicable required permit, authorization, fee, charge, or tax.

In the event any law or valid rule or regulation applicable to this franchise limits franchise fees below the five percent of gross revenues, 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 the Grantee shall pay the higher amount up to the maximum allowable by law, not to exceed five percent during all affected time periods.

3.2. Payments. Grantee’s Franchise fee payments to City shall be computed quarterly. Each quarterly payment shall be due and made available to City no later than 30 days after the last day of the preceding quarter.

3.3. Acceptance of Payment and Recomputation. No acceptance of any payment shall be construed as an accord by City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim City may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4. Quarterly Franchise Fee Reports. Each payment shall be accompanied by a written report to City containing an accurate statement in summarized form, as well as in detail, and in a form approved by City, of Grantee’s Gross Revenues and the computation of the payment amount.

3.5. Annual Franchise Fee Reports. Grantee shall, no later than 180 days after the end of each calendar year, furnish to City a statement (Audited Gross Receipts Report) stating the total amount of Gross Revenues and all payments, deductions, and computations for the period covered by the payments.

3.6. Audits/reviews. On an annual basis, no more frequently than every 12 months, upon 30 days prior written notice, City shall have the right to conduct an independent audit or review of Grantee’s records reasonably related to the administration or enforcement of this agreement, in accordance with generally accepted accounting principles. For purposes of this section, records reasonably related to the administration and enforcement of this agreement include those financial records pertaining to the number and location of cable customers within City’s Urban Growth Boundary. The City may hire an independent certified public accountant to audit or review the Grantee’s financial records, in which case the Grantee shall provide all necessary records to the certified public accountant. All such records shall be made available in the local offices of the Grantee. If the audit or review shows that Franchise fees have been underpaid by 3% or more, Grantee shall reimburse to City the total cost of the audit or review.
Records for audit/review purposes shall include without limitation:

3.6.1. Source documents, which demonstrate the original or beginning amount, and the final amount shown on any report related to or included in the determination of franchise fees, revenues or expenses.

3.6.2. Source documents that completely explain any and all calculations related to any allocation of any amounts involving franchise fees, revenues, or expenses.

3.6.3. Any and all accounting schedules, statements, and any other form of representation, which relate to, account for, or support or correlate to any accounts involving franchise fees, revenues or expenses.

3.7. Interest on Late Payments. In the event that a franchise fee payment or other sum is not received by the City on or before the due date, or is underpaid, the Grantee shall pay in addition to the payment, or sum due, interest from the due date at a rate equal to the legal interest rate on judgments in the State of Oregon.

3.8. Alternative Remedies. If any section, subsection, paragraph, term, or provision of this Franchise agreement or any ordinance, law, or document incorporated by reference is held by a court of competent jurisdiction to be invalid, unconstitutional, or unenforceable, such holding shall be confined in its operation to the section, subsection, paragraph, term, or provision directly involved in the controversy in which such holding shall have been rendered, and shall not in any way affect the validity of any other section, subsection, paragraph, term, or provision. Under such a circumstance the Grantee shall, upon the City’s request, meet and confer with the City to consider amendments to the Franchise agreement. The purpose of the amendments shall be to place the parties, as nearly as possible, in the position that they were in prior to such determination, consistent with applicable law. In the event the parties are unable to agree to a modification of this agreement within 60 days either party may (1) seek appropriate legal remedies to amend the agreement, or (2) shorten the agreement to 36 months, at which point either party may invoke the renewal procedures under 47 U.S.C. Subsection 546. Each party agrees to participate in up to 16 hours of negotiation during the 60 day period.

3.9. Additional Commitments Not Franchise Fees. No term or condition in this agreement shall in any way modify or affect Grantee’s obligation to pay Franchise fees to City. Although the total sum of Franchise fee payments and additional commitments set forth elsewhere in this agreement may total more than 5% of Grantee’s Gross Revenues in any 12-month period, Grantee agrees that the additional commitments are not Franchise fees as defined under any federal law, to the extent not inconsistent with applicable federal law, nor are they to be offset or credited against any Franchise fee payments due to City.

3.10. Costs of Publication. Grantee shall pay the reasonable cost of newspaper notices and publication pertaining to this agreement, and any amendments, including changes in control or transfers of ownership, as such notice or publication is reasonably required by City or applicable law.

3.11. Tax Liability. Payment of the Franchise fees under this agreement shall not exempt Grantee from the payment of any generally applicable license, permit fee or other
generally applicable fee, tax or charge on the business, occupation, property or income of Grantee that may be imposed by City.

3.12. Payment on Termination. If this agreement terminates for any reason, the Grantee shall file with the City within 90 calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The City reserves the right to satisfy any remaining financial obligations of the Grantee to the City by utilizing the funds available in a Letter of Credit or other security provided by the Grantee.

4. ADMINISTRATION AND REGULATION

4.1. Authority. City is vested with the power and right to regulate the exercise of the privileges permitted by this agreement in the public interest, or to delegate that power and right to the extent permitted under state and local law, to any agent, in its sole discretion.

4.2. Rates and Charges. All of Grantee’s rates and charges related to or regarding Cable Service shall be subject to regulation by City to the full extent authorized by applicable federal, state and local laws.

4.3. Rate Discrimination. All of Grantee’s rates and charges shall be published and shall be nondiscriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with governing law, with similar rates and charges for all Subscribers receiving similar Cable Service, without regard to race, color, familial, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability, or geographic location in the Franchise Area. Grantee shall provide equivalent Cable Service to all Residential Subscribers at similar rates and to Commercial Subscribers as authorized by applicable laws. Nothing in this section shall be construed to prohibit:

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

4.3.2. The offering of reasonable discounts to senior citizens or economically disadvantaged citizens;

4.3.3. Grantee from establishing different and nondiscriminatory rates and charges for commercial customers, as well as different nondiscriminatory monthly rates for commercial customers as allowable by federal law and regulations; or

4.3.4. Grantee from establishing different and nondiscriminatory rates and charges for Residential Subscribers as allowable by federal law and regulations.

4.4. Filing of Rates and Charges. Throughout the term of this agreement, Grantee shall maintain on file with City a complete schedule of applicable rates and charges for Cable Service provided under this agreement. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns, and rates for multiple dwelling units.

Grantee shall provide upon request from City a complete schedule of current rates and charges for any and all Leased Access provided by Grantee. The schedule shall include a description of the price, terms and conditions established by Grantee for Leased Access.
4.5. **Time Limits Strictly Construed.** 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 City 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 a force majeure occurrence, such as acts of God (for example, floods, tornadoes, earthquakes or unusually severe weather conditions), Grantee's performance shall be excused during the force majeure occurrence. After such occurrence Grantee shall promptly perform the affected obligations under this agreement or procure a substitute for performance which is satisfactory to City. Grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers, employees, or duly authorized agents.

5. **INDEMNIFICATION.** Grantee shall, at its sole cost and expense, indemnify, hold harmless, and defend the City and its officers, boards, commissions, duly authorized agents, and employees against any and all claims, including, but not limited to, third party claims, suits, causes of action, proceedings, and judgments for damages or equitable relief, to the extent such liability arises out of or through the acts or omissions of the Grantee arising out of the construction, operation or repair of its Cable System regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this agreement, provided, however, the Grantee will not be obligated to indemnify City should City intervene in any proceeding regarding the grant of this agreement pursuant to section 7. Without limiting in any way the Grantee's obligation to indemnify the City and its officers, boards, commissions, duly authorized agents, and employees, as set forth above, this indemnity provision also includes damages and liabilities such as:

5.1. To persons or property, to the extent such liability arises out of or through the acts or omissions of the Grantee, its contractors, subcontractors, and their officers, employees, or duly authorized agents, or to which the Grantee's negligence or fault shall in any way contribute;

5.2. Arising out of any claim for invasion of the right of privacy; for defamation of any Person, firm or corporation; for the violation or infringement of any copyright, trademark, trade name, service mark, or patent; for a failure by the Grantee to secure consents from the owners or authorized distributors of programs to be delivered by the Cable System; or for violation of any other right of any Person, to the extent such liability arises out of or through the acts or omissions of the Grantee, provided, however, that Grantee will not be required to indemnify City for any claims arising out of use of PEG Access Channels by City or RVTV;

5.3. Arising out of Grantee's failure to comply with the provisions of any federal, state or local statute, ordinance, rule or regulation applicable to the Grantee with respect to any aspect of its business to which this agreement applies, to the extent such liability arises out of or through the acts or omissions of the Grantee; and

5.4. Arising from any third party suit, action or litigation, whether brought by a competitor to Grantee or by any other Person or entity, to the extent such liability arises out of or through the acts or omissions of the Grantee, whether such Person or entity does or does not have standing to bring such suit, action or litigation if such action (1) challenges the authority of the City to issue this agreement to Grantee; or (2) alleges that, in issuing this agreement to Grantee, the City has acted in a disparate or discriminatory manner.
5.5. The City shall give the Grantee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity obligation in this Section. In the event any such claim arises, the City or any other indemnified party shall tender the defense to the Grantee and the Grantee shall have the obligation and duty to defend, settle or compromise any claims arising from the claim, and the City shall cooperate fully. Grantee shall accept or decline the tender within 30 days. Grantee shall reimburse reasonable attorney fees and costs incurred by the City during the 30 day period in which the Grantee accepts or declines tender. In the event that the Grantee declines defense of the claim in violation of section 11, the City may defend such claim and seek recovery from Grantee its expenses for reasonable attorney fees and disbursements, including expert witness fees, incurred by City for defense and in seeking such recovery.

6. CUSTOMER SERVICE. Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice to subscribers affected and occur during periods of minimum use.

7. REPORTS AND RECORDS.

7.1. Open Records.

7.1.1. Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to City. City shall have access to, and the right to inspect, any books and records of Grantee. Grantee shall not deny City access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, affiliated entity or a third party. City may, in writing, request copies of any such records or books and Grantee shall provide such copies within ten business days of the transmittal of such request. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten business days, that City inspect them at one of Grantee's local area offices. If any books or records of Grantee are not kept in a local office, Grantee will provide or otherwise make such documents available for inspection and review at the local office within ten business days.

7.1.2. Grantee shall at all times maintain and allow City, with reasonable notice, access and the right to review a full and complete set of plans, records and "as built" maps showing the exact location of all Cable System equipment installed or in use in the Franchise Area, exclusive of electronics, Subscriber drops and equipment provided in Subscribers' homes. These maps shall include computer maps and shall be maintained in a standard format and medium specified by the city, in sufficient detail to agreed upon by the City and the Grantee. City's review of the plans, records, and as-built maps, shall occur at the Grantee's local office, or, if the Grantee has no office within the city, then at a location within the city specified by the City.

7.1.3. The ability for City to obtain records and information from Grantee is critical to the administration of this agreement. Grantee's failure to comply with the requirements of this section may result in fines as prescribed in section .

7.2. Confidentiality. Subject to the limits of the Oregon Public Records Law, City agrees to treat as confidential any books and records that constitute proprietary or confidential
information under federal or state law, to the extent Grantee makes City aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under state or federal law. If City believes it must release any such confidential books and records in the course of enforcing this agreement, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If City receives a demand from any Person for disclosure of any information designated by Grantee as confidential, City shall, so far as consistent with applicable law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, City agrees that, to the extent permitted by state and federal law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person.

7.3. Copies of Federal and State Documents. Grantee shall submit to City a list, or copies of actual documents, of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporations or affiliates to any federal, state or local courts; regulatory agencies or other government bodies if such documents specifically relate to the operations of Grantee's Cable System within the Franchise Area. Grantee shall submit such list or documents to City no later than 30 days after their filing, mailing or publication. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, state, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or by a federal or state agency. To the extent allowed by law, any such confidential material determined to be exempt from public disclosure shall be retained in confidence by City and its duly authorized agents and shall not be made available for public inspection.

7.4. Inspection of Facilities. City may inspect upon request any of Grantee's facilities and equipment to confirm performance under this agreement at any time upon at least 24 hours notice, or, in case of an emergency, upon demand without prior notice.

7.5. False Statements. Any intentional false or misleading statement or representation in any report required by this agreement may be deemed a material violation of this agreement and may subject Grantee to all remedies, legal or equitable, which are available to City under this agreement or otherwise.

7.6. Report Expense. All reports and records required under this or any other Section shall be furnished, without cost, to City.

8. PUBLIC, EDUCATIONAL AND GOVERNMENTAL (PEG) ACCESS.

8.1. General Definitions. With respect to purposes of this section, the following definitions will apply with respect to PEG use of the Cable System.

8.1.1. “Access Channel” means any Channel, or portion of any Channel, designated for non-commercial Access purposes or otherwise made available to facilitate or transmit Access programming or service. Each Access Channel shall be six MHz and must be capable of transmitting a standard analog video signal. The capacity can be used to transmit non-commercial signals in any format, and can be used to transmit: audio only, video, or other information (including, by way of example and not limitation, secondary audio, text, digital information, high-definition signals, and compressed signals.) A non-standard NTSC use shall be subject to the Grantee’s prompt prior review and approval to ensure that the use will not cause unreasonable
technical interference with other Channels. Such uses must be in furtherance of PEG uses. Additionally, there shall not be commercial use or lease of such PEG capacity without the express written permission of the Grantee.

8.1.2. “Digital Access Channel”, as used in this Section, means a Channel carrying PEG continuous full-motion video programming in a digital format. Digital Access Channels shall have the same compression ratio and transmission quality as is used to carry any of the commercial Channels that deliver programming to the City in a similar format for delivery to each Subscriber.

8.1.3. “Origination Point” means a location, where PEG programming is delivered to the Grantee for Upstream transmission.

8.2. Management And Control of Access Channels.

8.2.1. City may authorize RVTV to control and manage the use of any and all Access Facilities provided by Grantee under this agreement, including, without limitation, the operation of Access Channels. To the extent of such designation by City, as between RVTV and Grantee, RVTV shall have sole and exclusive responsibility for operating and managing such Access Facilities. The City or its designee may formulate rules for the operation of the PEG Access Channels, consistent with this agreement; such rules shall not be designed to control the content of Public Access programming. Nothing in this section shall prohibit the City from authorizing itself or others to manage or co-manage PEG Access Channels and facilities.

8.2.2. Grantee shall cooperate with the City and RVTV in the use of the Cable System and Access facilities for the provision of PEG Access. Grantee shall enter into such operating agreements with RVTV as may be necessary to facilitate and coordinate the provision of PEG Access, provided that such operating agreements shall not be inconsistent with the terms of this agreement and shall be subject to approval by the City.

8.2.3. Except as provided in this agreement, the City shall allocate Access resources only to RVTV. The Grantee shall cooperate with the City in such allocations, in such manner as the City shall direct.

8.2.4. Subject to written authorization from the City, the Grantee shall have the right to use temporarily any Channel, or portion of any Channel, which is allocated under this section for PEG uses pursuant to section 611(d) of the Cable Act.

8.3. Channel Capacity And Use.

8.3.1. Upon the effective date of this agreement, all Access Channels provided for in this agreement are administered by the City or designee.

8.3.2. Upon the effective date of this agreement, the Grantee shall provide six Access Channels for distribution of PEG Access programming on the residential Cable System.

8.3.3. The Grantee shall provide connection of all PEG Access Channels required by this agreement to and from the Grantee’s Headend and RVTV’s Headends as of the effective date of this agreement. Grantee agrees to provide reconnection for
RVTV's Headend if it is relocated within 12 months of the effective date of this agreement, at no charge to City or to RVTV.

8.3.4. If video programming is delivered in a digital format or the City requests that PEG Channels be digitized, then, in lieu of the Access Channels provided for in section 8.3.2, there shall be a maximum of 18 PEG continuous, full-motion video programming Digital Channels (“Digital Access Channels”). The City shall determine the number of Digital Access Channels to be activated, not to exceed 18. Finally, if all PEG video programming is delivered in digital format, the bandwidth available for PEG use shall not exceed twice the amount of bandwidth that is necessary to transmit the 18 PEG Digital Access Channels, except that the amount of capacity available beyond the amount required to transmit the eighteen 18 Digital Access Channels shall not be less than 12 MHz in any case.

8.4. Relocation of Access Channels. Grantee shall provide City with a minimum of 60 days' notice, and use its best efforts to provide 120 days notice, prior to the time PEG Access Channel designations are changed. Grantee shall consult with City prior to making a final determination regarding any changes in PEG Access Channel designations/assignments. Any new Channel designations for the PEG Access Channels provided pursuant to this agreement shall be in full compliance with FCC signal quality and proof of performance standards.

8.5. Origination Points.

8.5.1. Additional permanent Origination Points required by the City or RVTV shall be provided by Grantee within 90 days following receipt of written notice from City at the expense of City or RVTV.

8.5.2. By mutual agreement by City and Grantee, upon six weeks written notice in advance of the scheduled cablecast, and provided that an active drop is available at the desired location, Grantee shall provide additional Origination Points on a short term basis for the live cablecast of Access Programming. The incremental, out-of-pocket costs to Grantee shall be paid for by City or RVTV. Grantee shall not be required to facilitate more than two such Origination Points in any 24 hour period.

8.5.3. There shall be no charge to the City, nor to any other person for the use of the upstream capacity from the program origination locations described in this section, so long as the transmissions are designed for rerouting and distribution on any PEG Channels.

8.6. Access Interconnections.

8.6.1. The Grantee shall maintain for the duration of this agreement any and all existing Interconnections of Access Channels with contiguous cable systems.

8.6.2. Grantee shall be capable of interconnection of PEG Access Channels in the Cable System and Cable Systems in Franchise Areas that are geographically adjacent to City, provided that City has secured the written permission for such Interconnection from the regulatory authority for the adjacent Franchise Area. The cost of such Interconnections shall be Grantee’s so long as Grantee or Grantee’s affiliate owns the adjacent Cable System. If the adjacent Cable System is not owned by Grantee, the cost for interconnection shall be equally shared by the two Cable Systems.
8.6.3. All Interconnections shall have the capability of transmitting and receiving PEG programming. All Interconnections shall be accomplished in a manner that permits the transmission of signals meeting the technical standards of this agreement on all interconnected Channels, consistent with section 8.10. Installation of all interconnect capacity shall be completed at the Grantee’s expense, except as otherwise provided in this agreement.

8.6.4. The City, or RVTV, shall have the right to control and schedule the operation of all interconnected Access Channels and capacity. In addition, the City, or RVTV, shall have the right to use, at its sole discretion and at no cost, any Access Channels and capacity provided under this agreement for non-commercial purposes, in furtherance of PEG use. However, the requirement to interconnect PEG programming with adjacent Cable Systems of willing franchise authorities shall not result in an increase in the number of PEG Channels beyond the number of Access Channels provided for in section 8.3.

8.6.5. The Grantee shall take all necessary steps to ensure that technically adequate signal quality in compliance with FCC requirements are initially and continuously provided for all Access Interconnections and Origination Points.

8.7. Capital Support For Access Costs. Grantee shall provide $0.75 per month, per Residential Subscriber for capital support for PEG Access.

The contribution shall be payable by the Grantee to the City after notice has been given to Grantee’s subscribers and contribution has been included on subscribers bills. The Grantee shall make its best efforts to submit the content of notice to subscribers regarding such changes to the City for review and comment at least 10 days prior to its printing.

Grantee shall make such payments quarterly, following the effective date of this agreement, for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than 45 days after the end of each quarter. Payments under this section shall be subject to the provisions in section 8.8.1.


8.8.1. The Grantee agrees that support for Access shall in no way modify or otherwise affect the Grantee’s obligations to pay franchise fees to the City. The Grantee agrees that although the sum of Franchise fees and the payments set forth in this section may total more than 5% of the Grantee’s Gross Revenues in any 12 month period, the additional commitments shall not be offset or otherwise credited in any way against any franchise fee payments under this agreement.

8.8.2. The City recognizes Franchise fees and certain additional commitments are external costs as defined under the FCC rate regulations in force at the time of adoption of this agreement and the Grantee has the right and ability to include franchise fees and certain other commitments on the bills of cable customers.

8.9. Access Channels on Lowest Available Tier. All Access Channels provided to Subscribers under this agreement shall be included by the Grantee, without limitation, as a part of the lowest available tier offered by the Grantee on its Cable System.
8.10. Change in Technology. In the event the Grantee makes any change in the Cable System and related equipment and Facilities or in the Grantee's signal delivery technology, which directly or indirectly substantially affects the signal quality or transmission of Access services or programming, the Grantee shall, at its own expense, take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, and full training of the City's or Access personnel to ensure that the capabilities of Access services are not diminished or adversely affected by such change.

8.11. Technical Quality. The Grantee shall maintain all Upstream and Downstream Access services, Channels and Interconnections at the same level of technical quality and reliability required by this agreement and all other applicable laws, rules and regulations for Residential Subscriber Channels. The Grantee shall provide routine maintenance and shall repair and replace all transmission equipment, including modulators, associated cable and equipment in use upon the effective date of this agreement, necessary to carry a quality signal to and from the City's or RVT's facilities.////

8.12. Promotional Services. The Grantee shall allow the City to include two bill stuffers per year. The City or RVT shall be responsible for the cost of printing its bill stuffers, the costs of inserting the information into Grantee's bills, and for any incremental postage costs. Bill stuffers must conform to Grantee's mailing requirements. Grantee shall be provided an opportunity to review and approve all PEG bill stuffers.

8.13. Channel Identification. If requested by the City or RVT, at City or RVT costs, the Grantee will identify the PEG Channels and FM signal and identify the programming carried on the PEG Channels and FM signal in its printed and electronic programming guides, in the same manner in which it identifies the Channels and programming on Channels and audio services under its control. It is the responsibility of RVT to provide appropriate entities with program schedules in a timely manner, and, if RVT fails to do so for a particular Channel, the Grantee may simply identify the general type of programming carried on the Channel. Grantee will bill the City or RVT for the costs of these listings.////
9. GENERAL STREET USE AND CONSTRUCTION.


9.1.1. Subject to applicable laws, regulations and ordinances of City and the provisions of this agreement, Grantee may perform all construction necessary for the operation of its Cable System. All construction and maintenance of any and all facilities within Streets incident to Grantee's Cable System shall, regardless of who performs the construction, be and remain Grantee's responsibility. Grantee shall apply for, and obtain, all permits necessary for construction or installation of any facilities, and for excavating and laying any facilities within the Streets. Grantee shall pay, prior to issuance, all applicable fees of the requisite construction permits.

9.1.2. Prior to beginning any construction, Grantee shall provide City's Department of Public Works with a construction schedule for work in the Streets. All construction shall be performed in compliance with this agreement and all applicable City Ordinances and Codes, especially AMC Chapter 16.12 and section 16.12.090. 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.

9.1.3. City shall have the right to inspect all construction or installation work performed within the franchise area as it shall find necessary to ensure compliance with the terms of this agreement and other pertinent provisions of law.

9.2. Location of Facilities. Within 48 hours after notification of any proposed Street excavation, Grantee shall, at Grantee's expense:

9.2.1. Mark on the surface all of its underground facilities within the area of the proposed excavation;

9.2.2. Notify the excavator of any unlocated underground facilities in the area of the proposed excavation; or

9.2.3. Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation.

9.3. Relocation. City shall have the right to require Grantee to change the location of any part of Grantee's Cable System within the Streets when the public convenience requires such change, and the expense shall be paid by Grantee. Should Grantee fail to remove or relocate any such facilities by the date established by City, City may effect such removal or relocation, and the expense shall be paid by Grantee, including all costs and expenses incurred by City due to Grantee's delay. If City requires Grantee to relocate its facilities located within the Streets, City shall make a reasonable effort to provide Grantee with an alternate location within the Streets.

9.4. Restoration of Streets.
9.4.1. Whenever Grantee disturbs the surface of any Street for any purpose, Grantee shall promptly restore the Street to at least its prior condition. When any opening is made by Grantee in a hard surface pavement in any Street, Grantee shall refill within 24 hours the opening and restore the surface to a condition satisfactory to City.

9.4.2. If Grantee excavates the surface of any Street, Grantee shall be responsible for restoration in accordance with applicable regulations of the jurisdiction within the area affected by the excavation. City may, after providing notice to Grantee, refill or repave any opening made by Grantee in the Street, and the expense shall be paid by Grantee. City may, after providing notice to Grantee, remove or repair any work done by Grantee that, in the determination of City, is inadequate. The cost, including the costs of inspection and supervision, shall be paid by Grantee. All excavations made by Grantee in the Streets shall be properly safeguarded for the prevention of accidents. All of Grantee's work under this agreement, and this section in particular, shall be done in strict compliance with all rules, regulations and ordinances of City. Prior to making any Street or right-of-way cuts or openings, Grantee shall provide written notice to City.

9.5. Maintenance and Workmanship.

9.5.1. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of City, or with any other pipes, wires, conduits, pedestals, structures, equipment or other facilities that may have been laid in the Streets by, or under, City's authority.

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

9.6. Reservation of City Street Rights. Nothing in this agreement shall prevent City or utilities owned, maintained or operated by public entities other than City, from constructing sewers; grading, paving, repairing or altering any Street; repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System. However, if any of Grantee's Cable System interferes with the construction or repair of any Street or public improvement, including construction, repair or removal of a sewer or water main, Grantee's Cable System shall be removed or replaced in the manner City shall direct, and City shall in no event be liable for any damage to any portion of Grantee's Cable System. Any and all such removal or replacement shall be at the expense of Grantee. Should Grantee fail to remove, adjust or relocate its facilities by the date established by City's written notice to Grantee, City may effect such removal, adjustment or relocation, and the expense thereof shall be paid by Grantee, including all reasonable costs and expenses incurred by City due to Grantee's delay.

9.7. Use of Conduits by City. City may install or affix and maintain wires and equipment owned by City for governmental purposes in or upon any and all of Grantee's ducts, conduits or equipment in the Streets and other public places without charge to City, to the extent space is reasonably available, and pursuant to all applicable Ordinances and Codes. For the purposes of this subsection, "governmental purposes" includes, but is not limited to, the use of the structures and installations by City for fire, police, traffic, water, electricity, telephone, or signal systems,
but not for Cable System purposes in competition with Grantee. Grantee shall not deduct the value of such use of its facilities from its Franchise fees payable to City.\\

9.8. Street Vacation. If any Street or portion of any Street used by Grantee is vacated by City during the term of this agreement, unless City specifically reserves to Grantee the right to continue its installation in the vacated Street, Grantee shall, without delay or expense to City, remove its facilities from such Street, and restore, repair or reconstruct the Street where such removal has occurred, and place the Street in such condition as may be required by City. In the event of failure, neglect or refusal of Grantee, after 30 days' notice by City, to restore, repair or reconstruct such Street, City may do such work or cause it to be done, and the reasonable cost, as found and declared by City, shall be paid by Grantee within 30 days of receipt of an invoice and documentation, and failure to make such payment shall be considered a material violation of this agreement.

9.9. Discontinuing Use of Facilities. Whenever Grantee intends to discontinue using any facility within the Streets, Grantee shall submit for City's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that City allow it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, City may require Grantee to remove the facility from the Street or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. City may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a reasonable schedule set by City. Until such time as Grantee removes or modifies the facility as directed by City, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Street, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, City may choose to use such facilities for any purpose whatsoever including, but not limited to, public, governmental, or educational purposes.


9.10.1. Grantee shall comply with all applicable local, state and federal laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Streets.

9.10.2. Grantee shall maintain and inspect its Cable System located in the Streets. Upon reasonable notice to Grantee, City may inspect Grantee's facilities in the Streets to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this agreement, Grantee shall also remove all residue of hazardous substances.

9.11. Undergrounding of Cable.

9.11.1. Wiring.

A. Where all utility lines are installed underground at the time of Cable System construction, or when such lines are subsequently placed underground, all Cable System lines or wiring and equipment shall also be placed underground on a nondiscriminatory basis with other utility lines services at no additional
expense to the City or Subscribers, to the extent permitted by law and applicable
safety codes. Cable must be installed underground where: (1) all existing utilities
are placed underground, (2) statute, ordinance, policy, or other regulation
requires utilities to be placed underground, or (3) all overhead utility lines are
placed underground.

Related Cable System equipment such as pedestals must be placed in
accordance with applicable Code requirements and underground utility rules as
interpreted by each City's appropriate public works official. In areas where
electric or telephone utility wiring is aerial, the Grantee may install aerial cable,
except when a property owner or resident requests underground installation and
agrees to bear the reasonable additional cost in excess of aerial installation.

B. The Grantee shall utilize existing poles and conduit wherever possible.

C. This agreement does not grant, give or convey to the Grantee the right
or privilege to install its facilities in any manner on specific utility poles or
equipment of the City or any other Person without their permission. Copies of
agreements for use of poles, conduits or other utility facilities must be provided
upon request by the City upon demonstrated need and subject to protecting
Grantee's proprietary information from disclosure to third parties.

D. Whenever possible, to avoid additional wear and tear on City's Rights
of Way, Grantee shall when relocating or upgrading the current cable network
install additional conduit or provide additional space for a rebuilt system. Grantee
may charge for use of the conduit consistent with all applicable laws.

9.11.2. Repair and Restoration of Property.

A. Grantee shall protect public and private property from damage. If
damage occurs the Grantee shall promptly notify the property owner within 24
hours in writing.

B. If public or private property is disturbed or damaged, the Grantee shall
restore the property to its former condition, normal wear and tear excepted.
Public right-of-way or other City property shall be restored, in a manner and
within a timeframe approved by the City's Director of Public Works or other
appropriate designated official. If restoration of public right-of-way or other
property of the City is not satisfactorily performed within a reasonable time, the
Director of Public Works or other appropriate designated official may, after prior
notice to the Grantee, or without notice where the disturbance or damage may
create a risk to public health or safety, or cause delay or added expense to a
public project or activity, cause the repairs to be made at the Grantee's expense
and recover the cost of those repairs from the Grantee. Within 30 days of receipt
of an itemized list of those costs, including the costs of labor, materials and
equipment, the Grantee shall pay the City. If suit is brought upon Grantee's
failure to pay for repair or restoration, and if judgment in such a suit is entered in
favor of the City, then the Grantee shall pay all of the City's actual costs and
expenses resulting from the non-payment, including penalties, interest from the
date the bill was presented, disbursements, attorneys' fees and litigation-related
costs. Private property must be restored promptly, considering the nature of the
work that must be performed and in no event later than 72 hours.
C. Prior to entering onto private property to construct, operate or repair its Cable System, Grantee shall give the Person residing on or using the property adequate written notice (such as a door hanger which clearly identifies the anticipated construction) that it intends to work on the property, a description of the work it intends to perform and a name and phone number the Person can call to protest or seek modification of the work. Work shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners, residents and users.///

9.11.3. Movement of Cable System For and By City. The City may remove, replace, modify or disconnect Grantee's facilities and equipment located in the public right-of-way or on any other property of the City in the case of fire, disaster, or other emergency, or when a project or activity of the City's makes the removal, replacement, modification or disconnection necessary or less expensive for the City. Except during an emergency, the City shall attempt to provide reasonable notice to Grantee prior to taking such action and shall, when feasible, provide Grantee with the opportunity to perform such action. Following notice by the City, Grantee shall remove, replace, modify or disconnect any of its facilities or equipment within any public right-of-way, or on any other property of the City, except that the City shall provide at least 60 days' written notice of any major capital improvement project which would require the removal, replacement, modification or disconnection of Grantee's facilities or equipment. If the Grantee fails to complete this work within the time prescribed and to the City's satisfaction, the City may cause such work to be done and bill the cost of the work to the Grantee. Within 30 days of receipt of an itemized list of those costs, the Grantee shall pay the City.///

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

9.11.5. Movement for Other Permittees. At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The permit holder must pay the expense of such temporary changes, and Grantee may require a reasonable deposit of the estimated payment in advance.

9.11.6. Tree Trimming. Subject to acquiring prior written permission of the City, the Grantee shall have the authority to trim trees that overhang a public right-of-way of the City so as to prevent the branches of such trees from coming in contact with its Cable System, in accordance with applicable codes and regulations and current, accepted professional tree trimming practices.

9.12. Codes. Grantee shall strictly adhere to all building and zoning codes currently in effect or in effect in the future. Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to not cause unreasonable interference with the use of said public or private property by any Person. In the event of such interference, City may require the removal or relocation of Grantee's lines, cables, and other appurtenances, at Grantee's cost, from the property in question.

9.13.1. All work authorized and required shall be done in a safe, thorough and workerlike manner. The Grantee must comply with all safety requirements, rules, and practices and employ all necessary devices as required by applicable law during construction, operation and repair of its Cable System. By way of illustration and not limitation, the Grantee must comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

9.13.2. Grantee shall ensure that individual Cable System drops are properly bonded to the electrical power ground at the home, and are consistent, in all respects, with the requirements of the National Electric Code and the National Electrical Safety Code.

10. TEST AND COMPLIANCE PROCEDURES. Upon request, Grantee shall advise City of schedules and methods for testing the Cable System on a regular basis to determine compliance with the provisions of applicable FCC technical standards. Representatives of City may witness tests, and written test reports may be made available to City upon request.

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

11. SERVICE EXTENSION, CONSTRUCTION, AND INTERCONNECTION

11.1. Equivalent Service. It is Grantee’s general policy that all residential dwelling units in the Franchise Area have equivalent availability to Cable Service from Grantee’s Cable System under nondiscriminatory rates and reasonable terms and conditions. Grantee shall not arbitrarily refuse to provide Cable Service to any Person within its Franchise Area.

11.2. Service Availability.

11.2.1. Grantee shall provide Cable Service in new subdivisions upon the earlier of either of the following occurrences: (A) Within 60 days of the time when foundations have been installed in 50% percent of the dwelling units in any individual subdivision; or (B) Within 30 days following a request from a resident. For purposes of this section, a receipt shall be deemed to be made on the signing of a service agreement, receipt of funds by the Grantee, receipt of a written request by Grantee, or receipt by Grantee of a verified verbal request.

Grantee shall provide such service: (i) With no line extension charge except as specifically authorized elsewhere in this agreement; (ii) At a nondiscriminatory installation charge for a standard installation, consisting of a drop no longer than 125 feet, with additional charges for non-standard installations computed according to a nondiscriminatory methodology for such installations, adopted by Grantee and provided in writing to City; and at nondiscriminatory monthly rates for Residential Subscribers.

11.3. Required Extensions of Service. Whenever the Grantee shall receive a request for service from at least ten residences within 1320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Customers at no cost to the Customers for Cable System extension, other than the usual connection fees for all
Customers within 90 days, provided that such extension is technically feasible, and if it will not adversely affect the operation, of the Cable System, or as provided under section 2.6.

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

11.3.2. Failure to meet these standards shall subject grantee to enforcement actions on a per Subscriber basis in section 13.

11.3.3. Connection of Public Facilities. Grantee shall, at no cost to City, provide one outlet of Basic and expanded basic programming to City's public use buildings, as designated by City, and all libraries and Schools. In addition, Grantee agrees to provide, at no cost, one outlet of Basic and expanded basic programming to all such future public buildings if the drop line to such building does not exceed 125 cable feet or if City agrees to pay the incremental cost of such drop line in excess of 125 feet, including the cost of such excess labor and materials. Outlets of Basic and expanded basic programming provided in accordance with this subsection may be used to distribute Cable Service throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Cost for any additional outlets shall be the responsibility of City.

12. STANDBY POWER. Grantee shall provide standby power generating capacity at the Cable System Headend capable of providing at least 12 hours of emergency operation. Grantee shall maintain standby power system supplies, to the node, rated for at least two hours duration. In addition, throughout the term of this agreement, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than two hours. This outage plan and evidence of requisite implementation resources shall be presented to City no later than 90 days following the effective date of this agreement.

13. FRANCHISE VIOLATIONS; REVOCATION OF FRANCHISE.


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

13.1.2. The City must provide written notice of a violation. Upon receipt of notice, the Grantee will have a period of 30 days to cure the violation or 30 days to present to the City a reasonable remedial plan. The City shall, with Grantee’s consent, decide
whether to accept, reject, or modify the remedial plan presented by the Grantee. Fines shall be assessed only in the event that either a cure has not occurred within 30 days or the City rejects the remedial plan. The procedures provided in section 13 shall be utilized to impose any fines. The date of violation will be the date of the event and not the date Grantee receives notice of the violation provided, however, that if City has actual knowledge of the violation and fails to give the Grantee the notice, then the date of the violation shall be no earlier than ten business days before the City gives Grantee the notice of the violation.

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

13.1.2.1. Respond to City, contesting City's assertion that a violation has occurred, and requesting a hearing in accordance with subsection 13.1.5, or;

13.1.2.2. Cure the violation, or;

13.1.2.3. Notify City that Grantee cannot cure the violation within the thirty 30 days, and notify the City 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, City shall set a hearing date within 30 days of receipt of such response in accordance with section 13.1.3.

13.1.3. In the event that the Grantee notifies the City that it cannot cure the violation within the 30 day cure period, City shall, within thirty 30 days of City's receipt of such notice, set a hearing. At the hearing, City 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 determined by mutual consent to be reasonable, the same may be approved by the City, who may waive all or part of the fines for such extended cure period in accordance with the criteria set forth in section 13.1.7.

13.1.4. In the event that the Grantee fails to cure the violation within the 30 day basic cure period, or within an extended cure period approved by the City pursuant to section 13.1.3, the City shall set a hearing to determine what fines, if any, shall be applied.

13.1.5. In the event that the Grantee contests the City's assertion that a violation has occurred, and requests a hearing in accordance with section 13.1.2.1, the City shall set a hearing within 60 days of the City's receipt of the hearing request to determine whether the violation has occurred, and if a violation is found, what fines shall be applied.

13.1.6. In the case of any hearing pursuant to this section, City shall notify Grantee of the hearing in writing and at the hearing, Grantee shall be provided an opportunity to be heard, examine City's witnesses, and to present evidence in its defense. The City may also hear any other person interested in the subject, and may provide additional hearing procedures as City deems appropriate.

13.1.7. The fines set forth in section 13.2 may be reduced at the discretion of the City, taking into consideration the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:
(A) Whether the violation was unintentional;
(B) The nature of the harm which resulted;
(C) Whether there is a history of prior violations of the same or other requirements;
(D) Whether there is a history of overall compliance, or;
(E) Whether the violation was voluntarily disclosed, admitted or cured.

13.1.8. If, after the hearing, City determines that a violation exists, City may use one or more of the following remedies:

(A) Order Grantee to correct or remedy the violation within a reasonable time frame as City shall determine;
(B) Establish the amount of fine set forth in section 13.2, taking into consideration the criteria provided for in section 13.1.7 of this section as appropriate in City's discretion;
(C) Revoke this agreement, or;
(D) Pursue any other legal or equitable remedy available under this agreement or any applicable law.

13.2. Fines.

13.2.1. Failure to comply with provisions of the agreement may result in injury to City. It will be difficult to accurately estimate the extent of such injury. Therefore, the financial penalty provisions of this agreement are intended as a reasonable forecast of compensation to City for the harm caused by violation of this agreement, including but not limited to administrative expense, legal fees, publication of notices, and holding of a hearing or hearings as provided in this agreement.

13.2.2. Collection of Fines. The collection of fines by the City shall in no respect affect:

(A) Compensation owed to Subscribers; or
(B) The Grantee's obligation to comply with all of the provisions of this agreement or applicable law; or
(C) Other remedies available to the City.

13.3. Revocation. In addition to all other rights and powers retained by the City under this agreement or otherwise, the City reserves the right to forfeit and terminate this agreement and all rights and privileges of the Grantee, in whole or in part, in the event of a material violation of its terms and conditions. A material violation by the Grantee shall include, but shall not be limited to the following:
13.3.1. Violation of any material provision of this agreement or any other agreement between City and Grantee, or any material rule, order, regulation, standard or determination of the City or authorized agent made pursuant to this agreement or other agreement;

13.3.2. Attempt to evade any material provision of this agreement or to practice any fraud or deceit upon the City or its Subscribers or customers;

13.3.3. Failure to restore service after 48 consecutive hours of interrupted service system-wide, except when approval of such interruption is obtained from the City;

13.3.4. Material misrepresentation of fact in the application for or negotiation of this agreement, or;

13.3.5. If Grantee becomes insolvent, or the subject of a bankruptcy proceeding.

13.4. Relationship of Remedies.

13.4.1. Remedies are Non-exclusive. The remedies provided for in this agreement are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another remedy, or the exercise of any rights of the City at law or equity provided that the cumulative remedies may not be disproportionate to the magnitude and severity for the breach for which they are imposed. By way of example and not limitation, the collection of fines by City shall in no respect affect:

(A) Compensation owed to subscribers; or
(B) Grantee’s obligation to comply with the provisions of this agreement or applicable law.

13.4.2. No Election of Remedies. Without limitation, the recovery of amounts under the insurance, indemnity or penalty provisions of this agreement shall not be construed as any of the following: an election of remedies; a limit on the liability of Grantee under the agreement for fines or otherwise; or an excuse of faithful performance by Grantee.

13.5. Removal.

13.5.1. In the event of termination, expiration or revocation of this agreement, City may order the removal of the above-ground Cable System facilities and such underground facilities as required by City in order to achieve reasonable engineering or Street-use purposes, from the Franchise Area at Grantee's sole expense within a reasonable period of time as determined by City. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Streets, public places and private property in as good a condition as that prevailing prior to Grantee's removal of its equipment.

13.5.2. If Grantee fails to complete any required removal to the satisfaction of City, City may cause the work to be done and Grantee shall reimburse City for the reasonable costs incurred within 30 days after receipt of an itemized list of the costs.

13.6. Receivership and Foreclosure.
13.6.1. At the option of City, subject to applicable law, this agreement may be revoked 120 days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding unless:

(A) The receivership or trusteeship is vacated within 120 days of appointment, or;

(B) The receiver or trustee has, within 120 days after their election or appointment, fully complied with all the terms and provisions of this agreement, and have remedied all violations under the agreement. Additionally, the receiver or trustee shall have executed an agreement duly approved by the court having jurisdiction, by which the receiver or trustee assumes and agreea to be bound by each and every term and provision of this agreement.

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

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

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

13.7. **No Recourse Against City.** Grantee shall not have any monetary recourse against City or its officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this agreement or its enforcement, in accordance with the provisions of applicable federal, state and local law. The rights of the City under this agreement are in addition to, and shall not be read to limit, any rights or immunities the City may enjoy under federal, state or local law.

13.8. **Nonenforcement by City.** Grantee is not relieved of its obligation to comply with any of the provisions of this agreement by reason of any failure of City to enforce prompt compliance. City's forbearance or failure to enforce any provision of this agreement shall not serve as a basis to stop any subsequent enforcement. The failure of the City on one or more occasions to exercise a right or to require compliance or performance under this agreement or any applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing. Any waiver of a violation is not a waiver of any other violation, whether similar or different from that waived.

14. **ABANDONMENT**

14.1. **Effect of Abandonment.** If the Grantee abandons its System during the agreement term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the City, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the City or until the agreement is revoked and a new Franchise is selected by the City; or obtain an injunction requiring the Grantee to continue operations. If the City is required to operate or designate another entity to operate the Cable System, the Grantee
shall reimburse the City or its designee for all reasonable costs, expenses and damages incurred.

14.2. What Constitutes Abandonment. The City shall be entitled to exercise its options and obtain any required injunctive relief if:

14.2.1. The Grantee fails to provide Cable Service in accordance with this agreement to the Franchise Area for 96 consecutive hours, unless the City authorizes a longer interruption of service, except if such failure to provide service is due to a force majeure occurrence, as described in section 4.5; or

14.2.2. The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this agreement.

15. FRANCHISE RENEWAL AND TRANSFER.

15.1. Renewal.

15.1.1. Any proceedings undertaken by the City that relate to the renewal of Grantee's agreement shall be governed by and comply with the provisions of the Cable Act (47 USC §546), unless the procedures and substantive protections there set forth shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

15.1.2. In addition to the procedures set forth in the Cable Act, the City agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth in this agreement, City and Grantee agree, that at any time during the term of the then current agreement, while affording the public adequate notice and opportunity for comment, City and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current agreement and the City may grant a renewal. Grantee and City consider the terms set forth in this section to be consistent with the express provisions of the Cable Act.

15.2. Transfer of Ownership or Control.

15.2.1. The Cable System and this agreement shall not be sold, assigned, transferred, leased, or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger, consolidation, nor shall the title, either legal or equitable, or any right, interest, or property pass to or vest in any Person or entity, without the prior written consent of the City, which consent shall not be unreasonably withheld. Grantee shall reimburse the City for all direct and indirect fees, costs, and expenses reasonably incurred by the City in considering a request to transfer or assign the Cable System or this agreement.

15.2.2. The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used is this section is not limited to majority stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise on the acquisition or accumulation by any Person or group of Persons of 10% of the shares or the general partnership interest in
the Grantee, except that this sentence shall not apply in the case of a transfer to any Person or group already owning at least a 10% interest of the shares or the general partnership interest in the Grantee. Every change, transfer or acquisition of control of the Grantee shall make this agreement subject to cancellation unless and until the City shall have consented.

15.2.3. The parties to the sale or transfer shall make a written request to the City for its approval of a sale or transfer and furnish all information required by law and the City.

15.2.4. The City shall render a final written decision on the request within 120 days of the request, provided it has received all requested information. Subject to the foregoing, if the City fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.

15.2.5. Within 30 days of any transfer or sale, if approved or deemed granted by the City, Grantee shall file with the City a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee.

15.2.6. In reviewing a request for sale or transfer, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the City in so inquiring. The City may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, provided, however, any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective controlling party or transferee and to the resolution of outstanding and unresolved issues of noncompliance with the terms and conditions of this agreement by Grantee.

15.2.7. The consent or approval of the City to any transfer by the Grantee shall not constitute a waiver or release of any rights of the City, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this agreement.

15.2.8. Notwithstanding anything to the contrary in this section, the prior approval of the City shall not be required for any sale, assignment or transfer of the agreement or Cable System for cable television system usage to an entity controlling, controlled by or under the same common control as Grantee provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the City and must agree in writing to comply with all provisions of the agreement.

16. SEVERABILITY. If any section, subsection, paragraph, term or provision of this agreement is determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction, such determination shall have no effect on the validity of any other section, subsection, paragraph, term or provision of this agreement, all of which will remain in full force and effect for the term of the agreement.
17. MISCELLANEOUS PROVISIONS.

17.1. Preferential or Discriminatory Practices Prohibited. Grantee shall not discriminate in hiring, employment or promotion on the basis of race, color, creed, ethnic or national origin, religion, age, sex, sexual orientation, marital status, or physical or mental disability. Throughout the term of this agreement, Grantee shall fully comply with all equal employment or nondiscrimination provisions and requirements of federal, state and local law and, in particular, FCC rules and regulations.

17.2. Dispute Resolution. Should a dispute arise between the parties concerning any aspect of this agreement which is not resolved by mutual agreement of the parties, and unless either party believes in good faith that injunctive relief is warranted, the dispute will be submitted to mediated negotiation prior to any party commencing litigation. In such event, the City and Grantee agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the parties. In the absence of such mutual agreement, each party shall select a temporary mediator, and those mediators shall jointly select a permanent mediator.

If the parties are unable to successfully conclude the mediation within 45 days from the date of the selection of the mediator, either party may terminate further mediation by sending written notice to the other. After written notice has been received by the other party, either party may pursue whatever legal remedies exist. All costs associated with mediation shall be borne, equally and separately, by the parties.

17.3. Notices. Throughout the term of the agreement, Grantee shall maintain and file with City a designated legal or local address for the service of notices by mail. A copy of all notices from City to Grantee shall be sent, postage prepaid, to such address and such notices shall be effective upon the date of mailing. At the effective date of this agreement, such addresses shall be:

City Administrator
City of Ashland
20 East Main Street
Ashland, Oregon 07520

17.4. Binding Effect. This agreement shall be binding upon the parties, their successors and assigns.

17.5. Authority to Amend. This agreement may be amended at any time by written agreement between the parties.

17.6. Governing Law. This agreement shall be governed in all respects by the laws of the State of Oregon.
17.7. Captions. The captions and headings of this agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of any provisions of this agreement.

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

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

Agreed to this __________ day of ______________________, 2003,

Grantee
Falcon Cable Systems Company II, L.P. City of Ashland

By: ____________________________ By: ____________________________
Title: ____________________________ Mayor

Attest: ____________________________
Title: ____________________________ City Recorder
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<tr>
<th>Description</th>
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<th>Total</th>
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<td>Electrician to raise and repurpose old light fixtures</td>
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Total: $75,067.80
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<tr>
<th>City/State Cable Company</th>
<th>Year Renewed</th>
<th>Rebuild Highlights</th>
<th>Institutional Network</th>
<th>PEG Access Channels</th>
<th>Cable Company Funding for PEG Access Equipment and Facilities</th>
<th>Support for PEG Access Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Santa Maria &amp; Lompoc, CA</td>
<td>2002</td>
<td>860 MHz fiber/coax rebuild — to be completed within 24 months</td>
<td>Comcast to provide I-Net to link public buildings for voice, video &amp; data</td>
<td>Initial: 2 analog channels. After 24 months: 4 analog channels. Thereafter: up to 7 analog channels. After digital transition, up to 20 digital channels. Channel locations may not change more than once per 5 years, unless due to must-carry requirements.</td>
<td>Initial Grant: $828,000 Annual Grants: $355,000/year for 12-year franchise term (adjusted each year per local CPI).</td>
<td>Included in funding for equipment and facilities. Free program listings in print and electronic program guides. 10 free promotional spot insertions per week. Free annual billstuffer. $2,000/access channel if re-located.</td>
</tr>
<tr>
<td>Comcast</td>
<td></td>
<td>Internet capability. Interconnection with other Comcast systems in North Santa Barbara County and all other systems in Cities. Comcast to provide all hardware to transmit PEG Access and I-Net signals.</td>
<td></td>
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<tr>
<td>Oceanside, CA</td>
<td>2002</td>
<td>750+ MHz fiber/coax rebuild completed at time of renewal. Internet capability. Fiber links between PEG Access center, headend and 3 sites. Interconnection with other systems in City to exchange PEG Access programming. Interconnection with City of Vista system to exchange Educo Access programming.</td>
<td>City may use portion of the &quot;Telecom/Technology Grants&quot; to construct an I-Net.</td>
<td>Initial: 3 analog channels. Thereafter: up to 4 analog channels. After digital transition, up to 8 digital PEG Access channels.</td>
<td>&quot;Telecom/Technology Grants&quot; (for PEG Access and I-Net equipment and directly related services): Initial: $1.4 million After 12 months: $1.35 million After 24 months: $1.35 million Ongoing: 35¢ per sub per mo.</td>
<td>Partially included in funding for equipment and facilities. Free PEG Access listings in electronic program guide. Free annual billstuffer. Up to $10,000/access channel if re-located.</td>
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<td>Cox</td>
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Prepared by The Buske Group
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<th>City/State</th>
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<th>Rebuild Highlights</th>
<th>Institutional Network</th>
<th>PEG Access Channels</th>
<th>Cable Company Funding for PEG Access Equipment and Facilities</th>
<th>Support for PEG Access Services</th>
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<tr>
<td>Healdsburg, CA AT&amp;T (now Comcast) 3,500 subscribers</td>
<td>2002</td>
<td>760+ MHz fiber/coax rebuild. Internet capability. Interconnection with other systems in City. Interconnection of City’s I-Net with the City of Santa Rosa’s I-Net within one year.</td>
<td>City to fund, build, own and operate its I-Net.</td>
<td>Initial: 1 analog After one year: 3 analog Thereafter: up to 5 analog After digital transition, up to 20 digital PEG Access channels.</td>
<td>Initial: $150,000 After 12 months: $100,000 Ongoing: 65¢ per sub per mo.</td>
<td>Cable Company Included in funding for equipment/facilities. Free program listings in print and electronic program guides. Free annual billstuffer. $2,000/access channel if re-located. City Will allocate portion of franchise fees ($$$ to be determined). School District Built new media center for PEG Access use.</td>
</tr>
<tr>
<td>Brunswick &amp; Brunswick Hills Township, OH Adelphia 10,000 subscribers</td>
<td>2001</td>
<td>660 MHz fiber/coax rebuild. Yes</td>
<td></td>
<td>Initial: 3 analog After rebuild: 4 analog Thereafter: up to 5 analog After digital transition, up to 20 digital PEG Access channels. Channel locations may not be changed without City consent, unless required by federal law.</td>
<td>Year 1: $400,000 Year 4: $100,000 PEG Access facility renovated and provided rent-free for life of franchise.</td>
<td>Cable Company $800,000 litigation settlement fee paid to the City, which will use these funds to support PEG Access and the City’s cable administration. City 100% of franchise fees will be used to support PEG Access and the City’s cable administration.</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>City/State Cable Company No. of Subscribers</th>
<th>Year Renewed</th>
<th>Rebuild Highlights</th>
<th>Institutional Network</th>
<th>PEG Access Channels</th>
<th>Cable Company Funding for PEG Access Equipment and Facilities</th>
<th>Support for PEG Access Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gilroy/Hollister/ San Juan Bautista, CA Charter 15,000 subscribers</td>
<td>2000</td>
<td>Within 24 months: 750 MHz fiber/coax rebuild. Interconnection with adjacent systems.</td>
<td>Yes</td>
<td>Initial: 1 After rebuild: minimum of 4 Thereafter, up to 7 analog</td>
<td>Initial: $700,000 Ongoing: $209,762 or 3% of gross revenues per year, whichever is less.</td>
<td>Cable Company Included in funding for PEG Access equipment/facilities. Free program listings in print and electronic program guides; free annual billstuffer. Gilroy: 20% of franchise fees Hollister: $18,600/yr; + 50% of additional franchise fee revenues (compared to FF revenues received in 2000). Cities</td>
</tr>
<tr>
<td>Ventura, CA Adelphia, Avenue 27,000 subscribers</td>
<td>1999</td>
<td>750 MHz fiber/coax rebuild. By Jan. 1, 2002: Internet service available. Interconnection with adjacent systems within the City.</td>
<td>Yes</td>
<td>Initial: 1 After 2 Years: 3 analog Thereafter: up to 10 (maximum of 5 analog) Channel locations may not be changed without City consent, unless required by federal law.</td>
<td>Initial: $500,000 Year 2: $400,000 Year 3: $140,000 Ongoing: Adelphia: $1.04 per sub per mo. Avenue: $1.20 per sub per mo.</td>
<td>Cable Company Included in funding for PEG Access equipment/facilities. City Minimum of 20% of franchise fees.</td>
</tr>
</tbody>
</table>
## Outcomes of Recent Cable Franchise Renewals

<table>
<thead>
<tr>
<th>City/State Cable Company</th>
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</thead>
<tbody>
<tr>
<td>Monterey, CA</td>
</tr>
<tr>
<td>TCI (now Comcast)</td>
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<tr>
<td>11,500 subscribers</td>
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<tr>
<td>1998</td>
<td>Initial: digital upgrade (to add 38 video and 10 audio channels). Within 2 Years: (a) fiber/coax rebuild; (b) Internet service available. Interconnection with adjacent systems.</td>
<td>Yes</td>
<td>Initial: 1 After 1 Year: 2 After 2 Years: 4 Thereafter, up to: (a) 6 analog, or (b) 24 digital plus 12 MHz, or (c) 6 HDTV.</td>
<td>Initial: $800,000 Ongoing: 35¢ per sub per month.</td>
<td>Cable Company 70¢ per sub per month (City may increase this amount). 30 free promotional spot insertions per month; free video and print program listings; free annual billstuffer. $2,000/access channel if re-located.</td>
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<tr>
<td>Montgomery Co., MD Prime Cable (now Comcast)</td>
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<tr>
<td>200,000 subscribers</td>
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<tr>
<td>1998</td>
<td>750 MHz fiber/coax rebuild.</td>
<td>Yes</td>
<td>13 analog Up to 10% of digital spectrum.</td>
<td>Year 1: $2,000,000 Year 2: $1,200,000 Thereafter: $200,000 per year, adjusted for CPI.</td>
<td>Cable Company $1,500,000 per year, adjusted for CPI.</td>
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</tbody>
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## Outcomes of Recent Cable Franchise Renewals

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<tr>
<td>Tucson, AZ</td>
<td>1997</td>
<td>550 MHz fiber/coax rebuild. Internet capability.</td>
<td>Yes</td>
<td>Initial: 7 (until upgrade is completed). Thereafter: up to 9 analog or 20 digital, plus data capacity.</td>
<td>40¢ per sub per month.</td>
<td>Cable Company 2% of gross revenues for support of PEG Access and I-Net. 75 free promotional spot insertions per month; free video and print program listings. Up to $5,000/ACCESS channel if re-located.</td>
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<tr>
<td>TCI (now Cox)</td>
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<tr>
<td>100,000 subscribers</td>
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<tr>
<td>Mountain View, CA</td>
<td>1996</td>
<td>750 MHz fiber/coax rebuild.</td>
<td>Yes</td>
<td>4-6 analog Up to 12 analog and digital.</td>
<td>$2.6 million over 10 years (includes funds for I-Net equipment and PEG Access services).</td>
<td>Cable Company Included in funding for PEG Access equipment/facilities. City 70% of franchise fees.</td>
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<td>InterMedia (now Comcast)</td>
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<td>16,000 subscribers</td>
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<tr>
<td>Cincinnati, OH</td>
<td>1996</td>
<td>750 MHz fiber/coax rebuild.</td>
<td>Yes</td>
<td>9 channels (Included in support for Public Access services.)</td>
<td></td>
<td>Cable Company 96¢ per sub per month (for Public Access). City Annual allocation for Government Access made during City budget process.</td>
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<tr>
<td>Time-Warner</td>
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<tr>
<td>60,000 subscribers</td>
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<tr>
<td>Santa Rosa, CA</td>
<td>1995</td>
<td>550 MHz fiber/coax rebuild. Within 30 months: Internet service available. Interconnection with adjacent systems.</td>
<td>Yes</td>
<td>Initial: 2 After 2 Years: 4 Thereafter: up to 7.</td>
<td>Initial: $1,200,000 Replacement: $1,300,000</td>
<td>Cable Company $150,000/year City $350,000/year (37% of franchise fees).</td>
</tr>
<tr>
<td>Cable One (now Comcast)</td>
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<tr>
<td>50,000 subscribers</td>
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