

CABLE TELEVISION FRANCHISE AGREEMENT

This Cable Television System Franchise Agreement ("Agreement") is entered into this 4th day of Sept, 2012, by and between **SCAPPOOSE, OREGON** ("Grantor"), and **COMCAST OF OREGON II, INC.**

WHEREAS, the Grantor is authorized to grant one or more nonexclusive Franchises to construct, operate and maintain a cable television system within the municipal boundaries of the Grantor; and

WHEREAS, the Grantor has considered the financial condition, technical ability and legal qualifications of Grantee; and

WHEREAS, the Grantor, after such consideration, analysis and deliberation as are required by applicable law, has approved and found sufficient the financial, technical and legal qualifications of Grantee to provide cable television service within the Grantor's boundaries; and

WHEREAS, the Grantee is willing to accept this Agreement subject to terms and conditions, and to abide by those terms and conditions; and

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

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

SECTION 1 **Definition of Terms**

1.1 Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- A.** "Basic Cable" means any service tier that includes the retransmission of local television broadcast signals and other programming provided by the Grantee.
- B.** "Cable Act" means Title VI of the Communications Act of 1934, as amended.
- C.** "Cable Services" shall mean (1) the one-way transmission to Subscribers of (a) Video programming, or (b) other programming service, and (2) Subscriber Interaction, if any, which is required for the selection or use of such video Programming or other programming service.

- D.** "Cable System" shall have the meaning specified in the definition of "Cable System" in the Cable Act.
- E.** "FCC" means Federal Communications Commission, or successor governmental entity thereto.
- F.** "Franchising Authority" means the City of Scappoose or the lawful successor, transferee, or assignee thereof
- G.** "Grantee" means Comcast of Oregon II, Inc., or its lawful successor, transferee, or assignee.
- H.** "Gross Revenues" mean any revenue derived by the Grantee from the operation of the Cable System to provide Cable Services in the Service Area, following Generally Accepted Accounting Principles ("GAAP"), consistent with federal and state law, provided, however, that such phrase shall not include: (1) any tax, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency, including the FCC user fee; (2) unrecovered bad debt; (3) advertising agency commissions and launch fees to the extent consistent with GAAP, and (4) franchise fees and any Public, Education and Government (PEG) amounts received from Subscribers. Gross Revenues shall also not include revenue from any other sources or services unless and until such source or service is finally, specifically and expressly declared to be a cable service under federal law or regulation, by Congress or the Federal Communications Commission.
- I.** "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- J.** "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority or other utilities in the Service Area which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System.
- K.** "Service Area" means the legal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in Section 3.9.
- L.** "Standard Installation" is defined as 125 feet from the nearest tap to the Subscriber's terminal.

- M. "Subscriber" means a Person who lawfully receives Cable Service of the Cable System with the Grantee's express permission.

SECTION 2 **Grant of Franchise**

2.1 Grant. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Cable System.

Notwithstanding anything to the contrary, any easement for such use which has already been granted by the Franchising Authority to a telephone or other utility company shall to the fullest extent be interpreted so as to grant Grantee the same rights and privileges as have been granted to the telephone or other utility company (the "Other Grants"), to the extent the grant herein does not violate the terms and conditions of the Other Grants or unreasonably interfere with the uses allowed therein. In such easements, the words "telephone" or "telephone company," "public utility" and the like shall to the fullest extent be interpreted to include the Grantee.

2.2 Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither the Franchising Authority nor the Grantee may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, the Franchise shall control, provided however that the Grantee agrees that it is subject to the lawful exercise of the police power of the Franchising Authority.

2.3 Competitive Equity.

(A) The Grantee acknowledges and agrees that the Franchising Authority reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the Service Area; provided, the Franchising Authority agrees that, within ninety (90) days of the Grantees request, it shall amend this Franchise to include any material terms or conditions that it makes available to the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: franchise fees; insurance; system build-out requirements; security instruments; customer service standards; required reports and related record keeping; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entry, so long as the regulatory and financial burdens on each entity are materially equivalent. Video programming services delivered over wireless broadband networks are specifically exempted from the requirements of this section.

(B) Notwithstanding any provision to the contrary, at any time that a non-wireless facilities based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of Video Programming within the Service Area without a franchise or other similar lawful authorization granted by the Franchising Authority, then Grantee may seek modifications as per (A) above, or the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date six (6) months from the first day of the month following the date of Grantee's notice.

2.4 Term. The Franchise granted hereunder shall be for an initial term of fifteen (15) years commencing on the effective date of the Franchise as set forth in Section 8.6, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

2.5 Technological Development Review. Within sixty (60) days' notice of the fifth anniversary of the effective date of the Franchise, the Franchising Authority may, but is not required to, conduct a limited review of the Franchise. The purpose of the review shall be to ensure, with the benefit of full opportunity for public comment, that the Grantee continues to effectively serve the public in light of new cable law and regulation, and community needs and interests, with consideration of all financial, technological, and operational impacts that may affect the Grantee. Both the Franchising Authority and Grantee agree to make a full and good faith effort to participate in the review. If, after completion of the review, the Franchising Authority and Grantee agree that the public interest will be served by modifying certain franchise obligations and extending the term of the Franchise, the Franchising Authority, with the expressed agreement of the Grantee, shall modify the obligations and extend the term of the Franchise accordingly.

SECTION 3 **Standards of Service**

3.1 Conditions of Occupancy. The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways. Prior to the commencement of any construction, extension or relocation of Grantee's Cable System in the Public Ways, Grantee agrees to obtain the necessary and required approvals from the Franchising Authority, including a right-of-way permit and payment of applicable fees.

3.2 Restoration of Public Ways. When any excavation or construction activity is made by the Grantee within the Public Ways, the Grantee shall promptly restore the affected portion of the Public Way to a condition reasonably comparable to the condition existing immediately prior to the excavation or construction activity, and in compliance with legally adopted City and State standards, to the extent that they are applicable. The restoration shall be in compliance with lawful specifications, requirements and regulations of the Franchising Authority in effect at the time of such restoration. Grantee shall repair any defect or inadequacy in the restoration within sixty (60) days after receiving written notice from the Franchising Authority. In the event that

Grantee fails to satisfactorily restore the affected portion of the Public Way, the Franchising Authority may restore or cause to restore such Public Way, and the reasonable cost thereof shall be paid by the Grantee within forty-five (45) days after invoice date; provided, that the Franchising Authority provides Grantee reasonable notice to restore, and Grantee fails to restore such Public Way within the time period specified by the Franchising Authority. If the Franchising Authority determines that the defect or inadequacy of the restored area presents an imminent danger to public health or safety or the defect or inadequacy causes or threatens to cause substantial damage to adjacent pavement, utilities, structures, or other improvements, the Franchising Authority may require that the repairs be made or that acceptable temporary measures be taken within 24 working hours or three days following the time of the request.

3.3 Relocation at Request of the Franchising Authority. Upon its receipt of reasonable advance written notice, to be not less than thirty (30) business days, the Grantee, at its own expense, shall protect, support, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas (although not the direct responsibility of the City) or water pipes, or any other type of structures or improvements by the Franchising Authority which are not used to compete with the Grantee's services. The Grantee shall in all cases have the right of abandonment of its property.

3.4 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of Grantee, provided: (A) the expense of such paid by the Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this Section 3.4, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation, and no less than 120 days for a permanent relocation. In the case of the failure of Grantee to comply with the terms of this, Section 3.4, the superintendent of streets or other proper officer of the Franchising Authority, may take action to relocate in or remove from the Public Way any property of Grantee, at the expense of the Grantee; provided, however, Grantee shall not be penalized for any good faith dispute regarding payment due from any such third party.

3.5 Reservation of Franchising Authority - Public Ways. Nothing in this Franchise shall prevent the Franchising Authority from constructing sewers, grading, paving, repairing or altering any street, alley, or public highway, repairing or removing water mains, or maintaining, repairing, 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 constructing sewers, grading, paving, repairing or altering any street, alley, or public highway, repairing or removing water mains, or maintaining, repairing, constructing or establishing any other public work or improvement, or any other government owned facilities in the Public Ways,

Grantee's Cable System shall be removed or replaced in accordance with Section 3.3 hereof. Any and all such removal or replacement shall be at the expense of Grantee except for installation or repair of a communications system owned by the Franchising Authority or other public entity providing commercial services in competition with the Grantee or an affiliate of Grantee. If in response to a request by the Franchising Authority the Grantee removes or replaces any portion of its Cable System at its own expense in order to accommodate the installation or repair of a communications systems used by the Franchising Authority or other public entity to provide commercial services in competition with Grantee or its affiliates, then the Franchising Authority or other government entity shall reimburse Grantee for the reasonable expense of the removal or replacement.

3.6 Vegetation Management. Grantee may trim all trees and vegetation which overhang Public Ways, whether such trees or vegetation originate within or without the Public Ways, in such a manner and to such an extent as will prevent the branches or limbs or other parts of such trees or vegetation from touching or interfering with Grantee's property, so long as no trees and vegetation are trimmed or cut back further than may be reasonably necessary to prevent such interference and to allow the proper operation and maintenance of said Grantee property. Nothing contained in this Section 3.6 shall prevent Grantee, when necessary and with the approval of the owner of the private property on which they may be located, from cutting down and removing any trees and vegetation which overhang the Public Way.

3.7 Safety Requirements. Construction, operation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code. The Cable System shall not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

3.8 Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric or other services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground. Nothing contained in this Section 3.8 shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances. The Franchising Authority shall notify the Grantee with thirty (30) days following receipt of subdivision requests from developers for areas within the Service Area. The developers are responsible for providing adequate advance notification and access to Grantee and other potential users of an open trench. Notwithstanding the foregoing, Grantee shall not be required to utilize any open trench.

3.9 Required Extensions of the Cable System. Grantee agrees to provide Cable Service to all residents in the Service Area subject to the density requirements specified in this Section 3.9. Whenever the Grantee receives a request for Cable Service from a Subscriber in a contiguous unserved area where there are at least 12 residences within 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of Grantee's trunk or distribution cable which is to be extended, it shall extend its Cable System to such Subscriber at no cost to said Subscriber for the

Cable System extension, other than the published Standard/non-Standard Installation fees charged to all Subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

3.10 Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Section 3.9 above, the Grantee shall only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the capital costs of extending the Cable System. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from Grantee's trunk or distribution cable, and whose denominator equals twelve (12). Subscribers who request service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata* basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the residence.

3.11 Cable Service to Public Buildings. The Grantee, upon request, shall provide without charge, one Standard Installation and one outlet of Basic Cable and expanded Basic Service, or its equivalent, to each municipal building and K-12 public school located in the Franchise Area within 125 feet of the Grantee's distribution cable; provided, however, those buildings or portions of buildings housing or occupied by prison/jail populations shall be excluded. "Municipal Buildings" are those buildings owned or leased by the Grantor for government administrative and service delivery purposes. Cable Service to the Franchising Authority described herein is a voluntary initiative of Grantee and not a requirement under this Franchise. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from Grantee. The Cable Service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this Section 3.11. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation. If additional outlets of Basic Cable and expanded basic service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

3.12 Emergency Use. In accordance with, and at the time required by, the provisions of FCC Regulations Part 11, Subpart D, Section 11.51, as such provisions may from time to time be amended, EAS activation will be accomplished in compliance with such regulations and

consistent with FCC approved Oregon State EAS plan, and local area EAS plan applicable to Columbia County.

3.13 Reimbursement of Costs. If funds are available to any Person using the Public Way for the purpose of defraying the cost of any of the relocations under sections 3.3 and 3.4 hereof, the Franchising Authority shall reimburse Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If funds are controlled by another government entity, the Franchising Authority shall make application for such funds on behalf of Grantee.

3.14 System Standards. The Cable System shall meet or exceed all applicable technical and performance standards of the FCC.

The Grantee shall also comply with all applicable testing requirements of the FCC. Upon request, Grantee shall advise the Franchising Authority of schedules and methods for testing the Cable System within the Service Area to determine compliance with the provisions of applicable FCC technical standards. Representatives of the Franchising Authority may witness the tests. Written records of all system tests required to be performed by or for the Grantee shall be maintained at Grantee's business office, and shall be available for inspection by the Franchising Authority upon written request during Grantee's normal business hours. Grantee, upon written request of Franchising Authority, shall provide a summary or complete copies of such tests results prepared in accordance with FCC rule.

3.15 Customer Service Standards/Complaint Resolution. Grantee shall comply with the customer service standards set forth in Section 76.309 of the FCC's Rules and Regulations, as such may be amended from time to time.

Grantee may arrange for payment stations or drop boxes or its equivalent within the city limits of the Franchising Authority where Subscribers may drop or deliver their bill payment for cable service. Grantee may operate and maintain a cable store within the city limits of the Franchising Authority where Subscribers may drop or pick-up equipment, or drop or deliver their bill payment related to their cable service.

Should a Subscriber have an unresolved complaint regarding Cable Service with Grantee, the Subscriber shall be entitled to file a complaint with the Franchising Authority and thereafter to meet or discuss jointly with representatives of the Franchising Authority and Grantee within 30 days of filing the complaint with the Franchising Authority to address and resolve the Subscriber's complaint. For purposes of this paragraph, a "complaint" is a grievance related to the Cable Service provided by Grantee within the Service Area that is reasonably remediable by Grantee, but does not include grievances regarding the content of programming or information services other than broad categories of programming, and does not include customer contacts resulting in routine service calls that resolve the subscriber's problem satisfactorily to subscriber.

3.16 Public, Education, and Government Access. Grantee shall provide to the Grantor, for independent administration by the Grantor or its designee throughout the term of the Franchise, one (1) Public Access (PEG) channel to be cablecast throughout the Franchise area. The Public Access channel may be used for Government programming, general public programming, or

general educational programming. The Grantor shall control and manage the use of the one (1) PEG channel in cooperation with the City of St. Helens and the City of Columbia City so long as their Franchise Agreements are held by Grantee.

Digital Channels after Digital Transition. At such time Grantee no longer offers Basic Service in an analog format, Grantee shall continue to provide one (1) activated downstream channel for PEG Access use in a standard digital format in Grantee's basic service. Grantee shall carry all components of the standard definition access channel signals provided by the Grantor or its designated access provider including, but not limited to, closed captioning, stereo audio and other elements associated with the programming. The designated access provider shall be responsible for providing the access channel signal in a standard definition format to the demarcation point at the designated point of origination for the access channel. Grantee shall transport and distribute the access channel signal on its Cable System and shall not discriminate against the PEG access channel with respect to the functionality, signal quality, and features from those of the local broadcast digital format channels carried on the Cable System. With respect to signal quality, Grantee shall not be required to carry a PEG Access Channel in a higher quality format than that of the channel signal delivered to Grantee, but Grantee shall distribute the access channel signal without degradation. Upon reasonable written request by the Grantor or its designated access provider, Grantee shall verify signal delivery to subscribers with Grantor or its designated access provider, consistent with the requirements of this Section.

3.17 Support for Access Capital Costs. Grantee shall pay to the Grantor as capital support for Access facilities and equipment, an amount specified by the Grantor up to a maximum of \$1.00 per month per residential Subscriber. The 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 forty-five (45) days following the end of the quarter. If at any point during the term of this agreement, Grantor or its designee shall cease to operate a Public Access channel, Grantee's obligation for capital support under this Section 3.17 shall end.

If Grantor enters into a franchise agreement or amends an existing franchise agreement with another cable operator after the effective date of this Franchise to provide Cable Service in all or any portion of the Grantee's Franchise Area that includes PEG financial support calculated based on a per month, per residential subscriber basis that is less than \$1.00 per month, per residential subscriber, then Grantee shall be entitled to reduce the PEG contribution to match that of the other cable operator or operators.

The Grantor shall provide a report annually to the Grantee on the use of the funds provided to the Grantor under this Section 3.17. The annual report shall be submitted to Grantee with 120 days of the close of the Grantor's fiscal year, which fiscal year runs for 12 consecutive months from July 1 to and including June 30. Grantee may review records of the Grantor regarding the use of funds described in such report. The Grantor agrees that the report shall document that for each

dollar (\$1.00) spend on PEG capital for Access, an equivalent amount shall be spend, in aggregate, by Grantor and Designated Access Providers on operating support for PEG Access.

To the extent permitted by federal law, the Franchisee shall be allowed to recover the costs of the PEG Capital Support and any other costs arising from the provision of the PEG services from the residential Subscribers and to include such costs as a separately billed line item on each residential Subscriber's bill. Without limiting the foregoing, if allowed under state and federal laws, Franchisee may externalize, line-item, or otherwise pass through these costs to Subscribers.

3.18 Franchising Authority Non-Liability. In the event it shall be necessary to cut or remove any cables, wires or equipment of Grantee in order to get to fire ladders or other apparatus to a building during a city conflagration or emergency, the Franchising Authority shall not be liable for any damage done to such cables, wires or equipment; provided, however, that the Franchising Authority shall hold Grantee, its employees, officers and assigns harmless from any claims, injury (including accidental death) or damage that results from the cutting or removing of Grantee's wires, cables or equipment.

SECTION 4

Regulation by the Franchising Authority

4.1 Franchise Fee.

A. The Grantee shall pay to the Franchising Authority a franchise fee equal to five percent (5%) of annual Gross Revenues (as defined in Section 1.1 of this Franchise). In accordance with the Cable Act, the 12-month period applicable under the Franchise for the computation of the franchise fee shall be a calendar year. The 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 forty-five (45) days following the end of the quarter. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

B. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due.

4.2 Rates and Charges. The Franchising Authority may regulate rates for the provision of Basic Cable and equipment as expressly permitted by federal or state law.

4.3 Renewal of Franchise.

A. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act.

B. In addition to the procedures set forth in said Section 626(a), the Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current Franchise term. The Franchising Authority further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal under Section 626(b) of the Cable Act and complete renewal of the Franchise prior to expiration of its term.

C. Notwithstanding anything to the contrary set forth in this Section 4.3, the Grantee and the Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof.

D. The Grantee and Franchising Authority consider the terms set forth in this Section 4.3 to be consistent with the express provisions of Section 626 of the Cable Act.

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

The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall be given at least twelve (12) months to effectuate a transfer of its Cable System to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable System during the twelve (12) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

4.5 Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness, or a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising

Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Franchising Authority shall be deemed given, unless the requesting party and Franchising Authority agree to an extension of time.

SECTION 5 **Books, Records, and Maps**

5.1 Books and Records. The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee, may review such of its books and records at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the section of the Franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate of Grantee which is not providing Cable Service in the Service Area. In the event the Grantee asserts that certain information is proprietary or confidential in nature, the Grantee shall identify generally the information which it deems proprietary or confidential and the reasons for its confidentiality in writing.

The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential under applicable federal and state law, and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 63 1 of the Cable Act.

5.2 Maps. Grantee shall maintain as built drawings for the Cable System at Grantee's business office, and make them available to the Franchising Authority for inspection during normal business hours upon written request. As built drawings shall be updated as changes occur in the Cable System serving the Service Area. Upon written request of the Franchising Authority, Grantee shall provide the Franchising Authority copies of strand and trench maps showing the location of Grantee's lines within the Public Ways in the Service Area within sixty (60) days of request for the same. The City recognizes that the information contained in such maps is confidential and proprietary, and remains the property of the Grantee. The City shall safeguard such information from the public record unless affirmatively and expressly required to disclose and provide access by state or federal law.

SECTION 6
Insurance and Indemnification

6.1 Insurance Requirements. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of \$2,000,000 combined single limit for bodily injury and property damage. The Franchising Authority shall be designated as an additional insured. Such insurance shall be non-cancellable except upon thirty (30) days prior written notice to the Franchising Authority. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this Section 6.1.

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of Grantee's construction, operation, or maintenance of its Cable System, provided that the Franchising Authority shall give Grantee written notice of its obligation to indemnify the Franchising Authority within thirty (30) days of receipt of a claim or action pursuant to this Section 6.2. Notwithstanding the foregoing, Grantee shall not indemnify the Franchising Authority for any damages, liability, or claims resulting from the willful misconduct or negligence of the Franchising Authority.

6.3 Bonds and Other Surety. No bond or other surety shall be required of Grantee at the inception of the Franchise. In the event Grantee is required by the Franchising Authority to obtain a bond or other surety in the future, the Franchising Authority agrees to give Grantee at least 60 days advance written notice thereof stating the specific reasons for such requirement. Such reasons must demonstrate a change in Grantee's legal, financial or technical qualifications that would materially prohibit or impair Grantee's ability to comply with the terms and conditions of this Franchise.

SECTION 7
Enforcement and Termination of Franchise

7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

7.2 The Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in Section 7.1: (A) to respond to the Franchising Authority, contesting the assertion of noncompliance, or (B) to cure such default, or (C) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

7.3 Public Hearing. In the event that the Grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to 7.2 (C) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide Grantee the opportunity to be heard.

7.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in Section 7.3, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise in accordance with Section 7.5.

7.5 Revocation. Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in Section 7.1-7.4 above, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Franchising Authority, to compel the testimony of other persons as permitted by law. A complete verbatim record and transcript shall be made of the hearing. Following the hearing, the Franchising Authority shall determine whether or not the franchise shall be revoked. If the Franchising Authority determines that the Franchise shall be revoked, Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.

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

7.6 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System within the Service Area is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

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

SECTION 8 **Miscellaneous Provisions**

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

8.2 Entire Document. This Ordinance constitutes the entire Franchise between the Grantee and the Franchising Authority. Amendments to the Franchise shall be mutually agreed to in writing by the parties.

8.3 Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, or c) within five (5) business days after having been posted in the regular mail.

The notices or responses to the Franchising Authority shall be addressed as follows:

City of Scappoose
Attention: City Recorder
33568 E. Columbia Avenue
Scappoose, OR 97056

The notices or responses to the Grantee shall be addressed as follows:

Comcast of Oregon II, Inc.
Attention: Government Affairs
9605 SW Nimbus Avenue.
Beaverton, OR 97008

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this Section 8.3.

8.4 Descriptive Headings. The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.5 Severability. If any section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

8.6 Effective Date. The effective date of this Franchise is 9/4/12, pursuant to the provisions of applicable law. This Franchise shall expire on 9/4/27, unless extended by the mutual agreement of the parties, or rendered null and void pursuant to Section 8.7 hereof.

8.7 Acceptance. This Ordinance shall take effect thirty (30) days after its enactment by the City Council and approval by the Mayor, but shall become null and void unless within sixty (60) days after such enactment Grantee shall file with the Recorder Grantee's acceptance of the terms, conditions and obligations to be compiled with or performed by it hereunder.

Passed by Council and Approved by the Mayor this 4th day of September, 2012.


Mayor Scott Burge

ATTEST:


Susan M. Reeves, MMC, City Recorder

Accepted this ___ day of _____, 2012, subject to applicable federal, state and local law.

COMCAST OF OREGON II, INC.

Name/Title: _____

Date: _____