

CITY OF SILVERTON
ORDINANCE
21-06

AN ORDINANCE OF THE SILVERTON CITY COUNCIL APPROVING A NON-EXCLUSIVE CABLE FRANCHISE TO COMCAST OF OREGON I, INC. TO OPERATE A CABLE SYSTEM AND DECLARING AN EMERGENCY

WHEREAS, Comcast of Oregon I, Inc. desires to occupy public rights-of-way and provide cable service. Comcast has submitted a Franchise Application to the City of Silverton which has been reviewed and negotiated by the City Attorney and City Staff; and

WHEREAS, the City and Comcast have been engaging in negotiations and have reached an agreement on the terms of a new cable franchise; and


WHEREAS, the City Council finds it is in the public interest to grant a non-exclusive cable franchise on the terms and conditions contained in this Ordinance.

NOW, THEREFORE, THE CITY OF SILVERTON ORDAINS AS FOLLOWS:

Section 1: The City Council hereby grants a nonexclusive Franchise to Comcast of Oregon I, Inc. to operate and maintain a cable system for a period of 10 years as described and incorporated in Exhibit A.


Section 2: The general welfare of the public will be promoted if this ordinance takes effect immediately. Therefore, an emergency is declared and this ordinance shall take effect immediately upon its passage by the Council and approval by the Mayor.

Ordinance adopted by the City Council of the City of Silverton, this 13th day of September, 2021.



Mayor, City of Silverton
Kyle Palmer

ATTEST:



City Manager/Recorder, City of Silverton
Ronald F. Chandler

**CABLE TELEVISION FRANCHISE AGREEMENT
BETWEEN CITY OF SILVERTON, OREGON
AND COMCAST OF OREGON I, INC.**

This Franchise Agreement ("Franchise") is between City of Silverton, Oregon, hereinafter referred to as "the City" and Comcast of Oregon, I Inc., hereinafter referred to as "the Grantee." The City and the Grantee are referred to together as "the Parties."

The City hereby acknowledges that the Grantee has the financial, legal, and technical ability to provide services, facilities, and equipment necessary to meet the cable-related needs of the community and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a Cable System on the terms set forth herein.

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. Words used in this Franchise that are not defined hereunder but defined in the Cable Act (as defined below) shall have the meaning specified in the Cable Act definition.

- A. "**Basic Cable**" means any service tier that includes the retransmission of local television broadcast signals and any other programming provided by the Grantee.
- B. "**Cable Act**" means Title VI of the Communications Act of 1934, as amended.
- C. "**Cable Service**" means (a) the one way transmission to subscribers of video programming or other programming service; and (b) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- D. "**Cable System**" shall mean the Grantee's facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video and other programming, and which is provided to multiple Subscribers within the Service Area.
- E. "**Customer**" means a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Grantee's express permission.
- F. "**FCC**" means Federal Communications Commission, or successor governmental entity thereto.

- G. "Franchise" means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction and operation of the Cable System.
- H. "Franchising Authority" and "Grantor" means the City of Silverton or the lawful successor, transferee, or assignee thereof.
- I. "Grantee" means Comcast of Oregon II, Inc., or the lawful successor, transferee or assignee thereof.
- J. "Gross Revenue" any revenue derived by the Grantee from the operation of the Cable System to provide Cable Services in the Service Area consistent with federal and state law. Gross Revenue calculation shall include basic service monthly fees, pay television fees, installations, connection or reconnection fees, advertising revenues (allocated on a pro rata basis using total Cable Service subscribers reached by the advertising) and all other revenues derived from operation of the Cable System to provide Cable Services in the City as permitted by federal and state law. Late fees, convenience fees and other multiservice revenues shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the City.

Gross Revenues shall not include revenue from sources excluded by law; (ii) charges other than those described above that are aggregated or bundled with amounts billed to Cable Service Subscribers such as charges for Broadband or Telephone services; (iii) fees or taxes which are imposed directly on any Subscriber by any governmental unit or agency, and which are collected by the Grantee on behalf of a governmental unit or agency including the FCC User Fee; (iv) revenue which cannot be collected by the Grantee and are identified as bad debt, provided, that if revenue previously representing bad debt is collected, this revenue shall then at time of collection be included in Gross Revenues for the collection period; (v) investment income, programming launch fees, marketing co-op fees, and unaffiliate third party advertising sales agency fees which are reflected as a deduction from revenues; and (vii) Internet services to the extent that such service is not considered to be a Cable Service as defined by law. "Gross Revenues" shall not be double counted for purposes of calculating franchise fees.

Grantee reserves the right to change the allocation methodologies set forth in paragraph (B) above to meet standards mandated by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"), Grantee shall provide not less than 120 days written notice to Grantor after the effective date of such change per FASB guidelines, and any extensions. Grantor retains the right to review and to challenge Grantee's implementation of any changes under Grantor's audit rights outlined in this Agreement. Grantor acknowledges that Grantee shall calculate Gross Revenues in a manner consistent with GAAP where applicable; however, the Grantor reserves its right to challenge Grantee's calculation of Gross Revenues, including Grantee's interpretation of GAAP and Grantee's interpretation of FASB, EITF and SEC directives that may be inconsistent with applicable federal and state law. Grantee agrees to explain and document the source of any change it deems required by FASB, EITF and SEC concurrently with any Franchise-required document at the time of submittal, identifying each revised Section or line item.

- K. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- L. "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 in the Service Area but only to the extent of the Franchising Authority's right, title, interest and authority to grant a franchise to occupy and use such areas for the purpose of installing, operating, repairing, and maintaining the Cable System.
- M. "Service Area" means the legal boundaries of the Franchising Authority and shall include any additions thereto by annexation or other legal means.
- N. "Standard Installation" is defined as 125 feet from the nearest point on the Grantee's existing distribution system to the Subscriber's terminal.
- O. "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 to provide Cable Service in, along, among, upon, across, above, over, or under the 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.

2.2 Other Provisions of Law. This Franchise and all rights and privileges granted under it are subject to, and the Grantee must comply with, applicable law as amended over the Franchise term. 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 materially limiting the benefits or materially expanding the obligations of the Grantee that are expressly 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 Grantor reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to another VSP, in order to provide Cable Services within the Service Area; provided, the LFA agrees that, within ninety (90) days of the Grantee's 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; PEG Support Fees, PEG

requirements, Insurance; 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 entity so long as the regulatory and financial burdens on each entity are materially equivalent.

(B) VSP Defined

The term "Video Service Provider" or "VSP" shall mean any entity using the Public Way to provide multiple video programming services to subscribers, regardless of the transmission method, facilities, or technology used. A VSP shall include but is not limited to any entity that provides cable services or multichannel multipoint distribution services.

2.4 Term. The Franchise granted hereunder shall be for an initial term of ten (10) 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 Franchise Review. Within sixty (60) days after the third anniversary and sixth anniversary of the effective date of this 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 developments in cable technology together with related developments in cable law and regulation, and community needs and interests—including public, education and government access, and 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/or extending the term of the Franchise, the Franchising Authority, with the express written agreement of the Grantee, shall modify the obligations and extend the term of the Franchise accordingly.

2.6 Affiliates. Grantee agrees as a condition of exercising the privileges granted by this Franchise that any Affiliate of Grantee which assumes direct management or operational control of the Cable System to provide Cable Service in the Service Area, will also comply with this Franchise.

2.7 Franchise Nonexclusive. This Franchise shall be nonexclusive, and is subject to all prior rights, interests, agreements, permits, easements or licenses granted by Grantor to any Person to use any, Public Right of Way, and is also subject to Grantor's right to use the Public Rights of Way for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder.

2.8 Police Powers. Notwithstanding any other provision of this Franchise, Grantee's rights hereunder are subject to the lawful police powers of Grantor to adopt and enforce ordinances of general applicability to protect or advance public safety, health, or welfare of the general public and Grantee agrees to comply with all applicable laws, regulations and ordinances enacted by Grantor or any other legally-constituted governmental unit having lawful jurisdiction over the subject matter hereof.

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

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.

3.2 Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance. In the event Grantee fails to restore the Public Way to a condition reasonably comparable to the condition existing immediately prior to such disturbance, the Franchising Authority may restore or cause to restore such Public Way at the expense of Grantee; provided, that the Franchising Authority provides Grantee with reasonable notice to restore, and Grantee fails to restore such Public Way within the time period given by the Franchising Authority.

3.3 Relocation at Request of the Franchising Authority. Upon its receipt of reasonable advance written notice, to be not less than thirty (30) 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 or water pipes, or any other type of structures or improvements by the Franchising Authority. Grantee shall not be required to pay for the relocation of Cable System facilities, and may require advance payment for costs and expense, to the extent such removal or relocation is requested solely for aesthetic purposes. If public funds are available to any Person using such street or public right-of-way for the purpose of defraying the cost of any of the foregoing, then the Franchising Authority shall, upon written request of the Grantee, make application for such funds on behalf of the Grantee.

In the event of an emergency, the City shall notify the Grantee, who shall immediately respond to the emergency. Should the Grantee be unable to respond in a timely manner, the City shall take such action as is necessary to meet the emergency at the expense of Grantee, if such action by the City would otherwise have been at Grantee's expense.

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 thirty (30) days in the event of a temporary relocation, and no less than 120 days for a permanent relocation.

3.5 Construction and Location.

A. Subject to applicable laws, regulations and ordinances of the Franchising Authority and the provisions of this Franchise, Grantee may perform all construction necessary for the operation of its Cable System to provide Cable Services. All construction and maintenance of any and all facilities within the Public Way 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, installation or relocation of any facilities, and for excavating and laying any facilities within the Public Way. Grantee shall pay, prior to issuance, all applicable fees of the requisite construction permit.

B. Prior to beginning any construction, Grantee shall provide the Franchising Authority with a construction schedule for work in the Public Way. All construction shall be performed in compliance with this Franchise and all applicable lawful ordinances and codes of the Franchising Authority, including any requirements for temporary signage. 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, permittees and other franchisees so as to reduce as far as possible the number of cuts in the Public Way.

C. Except in cases of emergency or responses to unplanned system failures and outages where it is impractical to do so, prior to entering onto private property to construct, repair, or operate its Cable System, Grantee shall give the person residing on or using the property reasonable notice that it intends to work on the property, a description of the work it intends to perform and contact information where the resident can call or contact Grantee to request additional information.

3.6 Trimming of Trees and Shrubbery. The Grantee may trim trees upon and overhanging the Public Way so as to prevent the branches of such trees from coming into contact with the Cable System. Grantee shall dispose of all trimmed materials. No trimming shall be performed in the Public Way without previously informing the Franchising Authority. Except in emergencies, all trimming of trees on public property shall have the advance written approval of the Franchising Authority.

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 and Aerial 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 services are underground (other than high voltage electric lines), the Grantee likewise shall construct, operate, and maintain its Cable System underground in accordance with Section 3.4.600 of Silverton Development Code (Silverton Municipal Code Title 18) and Silverton Municipal Code Section 12.44.290 (Silverton Municipal Code Title 12). In any region of the Franchise Area where the transmission or distribution facilities of the respective public or any private utilities are both aerial and underground, the Grantee may, with the prior written approval of the Grantor (permission not to be unreasonably withheld), operate and maintain its transmission and distribution facilities, or any part thereof, aerially or underground. Requests for approval for such exceptions to the City's undergrounding requirements shall be reviewed in accordance with Silverton Development Code Section 3.4.600.A.3. The Franchising Authority shall not incur any cost or expense in the event Grantee is lawfully required by the Franchising Authority to place its distribution facilities underground as provided in this Section 3.8. Nothing contained in this Section 3.8 shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

3.9 Access to Open Trenches. The Franchising Authority agrees to include the Grantee in the noticing checklist during the platting process for any new subdivision. At a minimum, the Franchising Authority agrees, to the extent consistent with applicable law, to require that any developer (A) give the Grantee at least ten (10) days advance written notice of the availability of the open trench, and (B)

provide Grantee with reasonable access to the open trench. Notwithstanding the foregoing, Grantee shall not be required to utilize any open trench.

3.10 Extensions of the Cable System.

- (A) It is the Grantor's general policy that all residences in the Grantor's franchise area should have equivalent availability of service from Grantee's Cable System under non-discriminatory rates and reasonable terms and conditions. Grantee will not arbitrarily refuse to provide Cable Services to any Person within the Franchise Area subject to Section B below.
- (B) Except as otherwise provided in Section 3.10(F), Grantee will provide Cable Service to every residential dwelling unit within the Franchise Area where the average density is equal to or greater than twenty five (25) dwelling units per linear strand cable mile as measured from Grantee's nearest cable line:
 - I. At a non-discriminatory installation charge for a standard installation, consisting of a one hundred twenty-five (125) foot drop connecting from the nearest point on Grantee's Cable System to an outside wall for residential Subscribers with additional charges for non-standard installations computed on a time plus material basis to be calculated on that portion of the installation that exceeds the standard one hundred twenty-five (125) foot drop.
 - II. In all new subdivisions or other areas where undergrounding is required, cable plant and drops will be placed underground; in other areas, new or replacement cable plant and drops will be placed underground whenever feasible.

Grantee will provide Cable Service to potential Subscribers that do not meet the density requirement set forth in Section 3.10(B) under the following circumstances, through agreement between the Grantee and the person requesting service for payment of line extension construction costs:

- a. Grantee will provide service at its normal, published installation charge for the initial one hundred twenty-five (125) feet of extension.
 - b. The subscriber will pay all costs for the extension for the distance greater than one hundred twenty-five (125) feet.
- (C) Notwithstanding Section 3.10(A), Grantee may establish different and non-discriminatory rates and charges and classes of services for Commercial Subscribers, as well as different and non-discriminatory monthly rates for classes of Commercial Subscribers. For the purposes of this Section 3.10.C, "Commercial Subscribers" means any other Subscriber other than Residential Subscribers in single family or multifamily dwellings.
- (D) In new subdivisions, cable television service will be made available under the terms of 3.10.A through 3.10.C above either (i) contemporaneously with other utility services; or (ii) no more than sixty (60) days from first occupancy, whichever is first.
- (E) Notwithstanding any other provision in this Franchise, Grantee will not be required to extend its Cable Service to any area of the City that already receives Cable Service from a provider that is not commonly owned to any degree with Grantee.

3.11 Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, all requested extensions are subject to Section 3.10 herein and may include a requirement that the Subscriber(s) share the capital costs of extending the Cable system. In the event that Grantee decides to build out the Cable System to an area that is currently unserved, the Grantee may require that potential Subscribers pay their capital contribution in aid of construction prior to constructing the extension. Subscribers shall also be responsible for any non - Standard Installation charges to extend the Cable System from the tap to the residence.

3.12 Emergency Use. Grantee shall provide emergency alert capability in accordance with federal law. 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, Grantee shall activate the Emergency Alert System ("EAS") in compliance with such regulations and consistent with any FCC approved Oregon State EAS plan and local area EAS plan applicable to Linn County. Grantee shall provide the system capability for the Franchising Authority to override all Cable System programming in Franchising Authority's Service Area for emergency purposes and transmit an emergency message from locations designated by the Franchising Authority to all Subscribers in Franchising Authority's Service Area, consistent with the requirements of Part 11 of the regulations of the FCC.

3.13 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. Whenever it is necessary to shut off or interrupt service for the purpose of making repairs or maintaining the Cable System, Grantee shall do so at such times that will cause the least amount of inconvenience to Subscribers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to Subscribers. Notwithstanding anything to the contrary, Grantee's obligation to provide, replace, construct, maintain or operate the Cable System under this Franchise shall be excused for any period during which such service is prevented or interrupted by causes beyond the control of Grantee including acts of nature, fire, flood, unavoidable casualty, extra-ordinary delays in transportation, strikes or power interruption, or regulations. Cable Service shall thereafter be restored as soon as reasonably possible. 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 Grantor, or with any other pipes, wires, conduits, pedestals, structures, equipment or other facilities that may be laid in the Public Way by, or under, the Franchising Authority's authority.

3.14 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 may be amended from time to time.

3.15 Customer Bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (a) is not misleading and (b) does not omit material information. Notwithstanding anything to the contrary in section 3.15 above, the Grantee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(c) of the Cable Act.

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

3.17 Connection of Public Facilities.

- a. The parties agree that under the FCC Section 621 Order, complimentary accounts are not a condition of the renewed franchise. If the Grantor requests cable service be provided to a government owned building, Grantee will notify Grantor if the service drop length exceeds one hundred twenty five (125) feet from Grantee's nearest cable plant, and the costs of the additional construction needed, which costs shall be paid by Grantor prior to Grantee installing the drop. Grantee shall not be required to build additional cable distribution plant to reach any government owned building or public building location that is already serviced by another cable operator unless Grantor pays for such line extension cost in advance.
- b. If Grantee intends to charge for the services required by this section, it will give Grantor 120 days' notice of the commencement of charges. The charges shall be consistent with applicable law – at the time of this writing, defined as the "marginal cost." Schools and libraries are not included under this Section. Grantee will disclose in writing the amount due and shall arrange with Grantor for invoicing or deductions from the franchise fee. Charges may include those for services and equipment, if any, at each location. Charges may include all applicable fees and taxes and shall be subject to adjustment at a time consistent with Grantee's retail rate adjustments. Grantor may remove locations or change the level of cable service at a given Public or Government owned building with 30-days written notice to Grantee.

SECTION 4

Regulation by the Franchising Authority

4.1 Franchise Fee.

A. Payment:

1. The Grantee shall pay to the Franchising Authority, throughout the term of this Franchise, a franchise fee equal to five percent (5%) of annual Gross Revenues (as defined in Section 1.1 of this Franchise). The franchise fee payment shall be calculated quarterly and shall be due and payable within forty-five (45) days after the close of each calendar quarter. Each payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation. The percentage amount of the franchise fee may change, at the discretion of the Franchising Authority, if provided for by new federal law and upon ninety (90) days' notice to Grantee by Franchising Authority.

In the event any law or valid rule or regulation applicable to this Franchise limits franchise fees below or above the five percent (5%) of Gross Revenues required herein, the Grantee agrees to and will pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to limit a higher or lower permissible amount, then Grantee will pay the higher or lower amount up to the maximum allowable by law.

2. The Franchise Authority agrees that all amounts paid by the Grantee as Franchise Fees may be passed through to customers and identified as a separate line item on the bill in accordance with 47 U.S.C 542 added to the price of Cable Services and collected from the Grantee's customers as "external costs" as such term is used in 47 C.F.R. 76.922. In addition, all amounts paid as Franchise Fees may be separately stated on customers' bills as permitted in 47 C.F.R. 76.985.

3. In the event that Grantee is required to pay a franchise renewal and/or application fee pursuant to any Franchise Authority local ordinance, the franchise renewal and/or application fee shall be

Franchise Agreement Comcast & City of Silverton

offset against any franchise fees due and payable to City after execution of this Agreement.

B. Audit of Franchise Fee Payments:

1. Franchising Authority or its designee may conduct an audit or other inquiry in relation to payments made by Grantee no more than once every three (3) years during the Term of this Agreement. As a part of the audit process, Franchising Authority or Franchising Authority's designee may inspect Grantee's books and records relative to the Franchise at any time during regular business hours and after thirty (30) calendar days' prior written notice.

2. All books and records deemed by Franchising Authority or Franchising Authority's designee to be reasonably necessary for such audit or inquiry shall be made available by Grantee in a mutually agreeable format and location within the Service Area. Grantee agrees to give its full cooperation in any audit or inquiry and shall provide responses to inquiries within thirty (30) calendar days of a written request. Grantee may provide such responses after the expiration of the response period above if the Franchising Authority agrees in writing to provide additional time.

3. In the event that an audit discloses the Grantee's underpayment of non-disputed franchise fees in an amount greater than three percent (3%) as measured on a quarterly basis, then Grantee shall pay for the cost of the audit not to exceed \$10,000.00.

4. Grantee shall be provided with a reasonable opportunity to review the results of any audit and to dispute any audit results which indicate an underpayment to Franchising Authority.

C. Limitation on Franchise Fee Actions.

The period of limitation for recovery of any franchise fee payable hereunder shall be two (2) years from the date on which payment by the Grantee is due.

4.2 Renewal of Franchise. 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 546 and 626 of the Cable Act.

4.3 Grantor Acquisition of the Cable System. The parties shall be subject to the provisions of Section 627 of the Cable Act, as amended from time to time. It is not intended that this Franchise diminish the rights of either the Franchising Authority or the Grantee under Section 627 of the Act, and any provision of this Franchise that purports to diminish such rights shall be deemed superseded by the Act.

4.4 Transfer of Franchise. The Grantee's right, title, or interest in the Franchise or Cable System shall not be sold, transferred, assigned, or otherwise encumbered, in whole or in part, 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. In the event of a sale, transfer or assignment to an entity controlling, controlled by, or under common control with Grantee, Grantee shall provide notice to the Franchising Authority within ten (10) days of such sale, transfer or assignment. 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. To the extent required by

federal law, consent by the Franchising Authority shall be deemed given 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 and all information required by the Franchising Authority and applicable FCC rules, unless the Grantee and the Franchising Authority agree to an extension of time. For purposes of this section, transfer of control is considered the acquisition of fifty-one percent (51%) or greater ownership interest in Grantee.

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 at the Grantee's business office, during normal business hours and on a non-disruptive basis, such of its books and records as are 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 or to provide the Franchising Authority the ability to view certain books and records in electronic format. 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 unless the Franchising Authority can protect the proprietary or confidential information from disclosure under Oregon law, 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.

To the extent provided under Oregon law, the Franchising Authority agrees to treat any information disclosed by the Grantee as confidential 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, provided that such information is reasonably considered confidential, proprietary or trade secrets under applicable federal or state law and is clearly marked "Confidential" on each page or, in the case of verbal disclosures, Grantee informs the Franchising Authority that it is confidential information at the time of the disclosure. The Grantee shall not be required to provide Subscriber information in violation of Section 631 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. The parties agree that Grantee shall not be required to leave maps or schematics showing location of Grantee facilities behind with the Franchising Authority. "As built" drawings shall be updated as changes occur in the Cable System serving the Service Area. The Franchising Authority recognizes that the information contained in such maps may be confidential and proprietary, and, to the extent provided under the Oregon Public Records Law, the Franchising Authority shall safeguard such information from the public.

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, the following liability policies that protect the Grantee and the Grantor, as well as the Grantor's officers, agents, and employees:

- A. Comprehensive general liability insurance with limits not less than:
 - i. Two million (\$2,000,000) dollars for bodily injury or death to each person.
 - ii. One million (\$1,000,000) dollars for property damage resulting from any one accident; and
 - iii. One million (\$1,000,000) dollars for all other types of liability.

B. Motor vehicle liability insurance for owned, non-owned and hired vehicles with a limit of Two million (\$2,000,000) dollars for each person and Two million (\$2,000,000) dollars for each accident.

C. Workers' Compensation insurance within statutory limits and employer's liability with limits of not less than \$1,000,000.

D. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the state of Oregon. The insurance shall be without prejudice to coverage otherwise existing and shall name or cover, or the certificate of insurance shall name or cover, as additional insureds the Grantor and its officers, agents, and employees. The coverage must apply as to claims between insureds on the policy. The certificate of insurance shall provide that the insurance shall not be canceled or materially altered without 30 days' prior written notice first being given to the Grantor. If the insurance is cancelled or materially altered, the Grantee shall provide a replacement policy with the terms as outlined in this section. The Grantee shall maintain continuous uninterrupted coverage, in the terms and amounts required. The Grantee may self-insure, or keep in force a self-insured retention plus insurance, for any or all of the above coverage.

E. The Grantee shall maintain on file with the Grantor a certificate of insurance, or proof of self-insurance acceptable to the Grantor, certifying the coverage required above.

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, claims, damages, costs or expenses, including court and appeal costs and reasonable attorney fees or expenses, that arise out of Grantee's construction, operation, or maintenance of its Cable System or otherwise related to the Franchise, provided that the Franchising Authority shall give Grantee prompt written notice of its obligation to indemnify the Franchising Authority pursuant to this Section 6.2. Notwithstanding the foregoing, Grantee shall not indemnify the Franchising Authority for any damages, liability, or claims resulting directly from the willful misconduct or negligence of the Franchising Authority.

6.3 Bonds and Other Surety. The Franchising Authority reserves the right to require a bond or othersurety at any time by providing Grantee at least sixty (60) days advance written notice. The bond or othersurety shall not exceed five thousand dollars (\$5,000.00) unless the City demonstrates that Grantee has failed to comply with the terms and conditions of this Franchise or there has been 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, in which case the City may require a bond or other surety in any amount that it reasonably determines is necessary.

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 reasonably 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. The Franchising Authority and Grantee shall have the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, and to compel the testimony of other persons as permitted by law. A complete record minutes and audio tape shall be made of the hearing.

Following the hearing, the Franchising Authority shall determine whether or not the franchise
(franchise) Agreement Comcast & City of Silverton

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 as provided by applicable law. 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 Technical Violations. The Franchising Authority agrees that it is not its intention to subject the Grantee to penalties or revocation of the Franchise for so called "technical" breaches or violations of the Franchise, which shall include but not be limited to matters where a violation or breach of the Franchise Agreement by the Grantee was good faith error that resulted in no or minimal negative impact on the customers within the Service Area.

7.7 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.

SECTION 8

Community Programming

8.1 Channel Capacity & Use. Upon request by the Grantor, the Grantee shall make available one (1) high definition (HD) channel to be used for public, educational and governmental cablecast programming. Grantee will provide and maintain any lines and/or links necessary to enable the distribution of PEG access programming to its Subscribers on the PEG channels. The parties agree that Grantee will not be required to overbuild any other provider's network when it comes to this provision.

8.2 Additional Community Programming Access Support. Upon request by the Grantor, Grantee shall make a second local PEG access channel available to the Grantor in the event that the current PEG access channel is utilized during any eight (8) consecutive weeks for non-repeated or duplicated, locally procured and locally scheduled original programming content at least eighty percent (80%) of the time, five (5) days per week, Monday through Friday, for any consecutive five (5) hour block during the hours from 6:00 AM to 11:00 PM. Such second channel shall be broadcast in standard definition format.

8.3 PEG Access Support. During the term of this Agreement, Grantee agrees to collect and pay Grantor an amount equal to Twenty Five cents (\$0.25) per month, per Subscriber for all lawful purposes related to Public, Educational and Government Access Programming, which funds shall be used in accordance with applicable law. Nothing in this Section 8.3 shall be viewed as a waiver of Grantor's rights to use the funds provided to Grantor in this Section for any lawful purpose permitted under applicable federal law. The Grantor acknowledges that Grantee may pass through and include such payment on the bills of residential Subscribers. Grantee shall make such payments quarterly following the Effective Date of this Agreement. Each payment shall be due and payable no later than forty-five (45) days after the end of each calendar quarter. The contributions shall be used specifically for PEG access related capital

improvements and equipment or any other purpose permitted by the Cable Act. The Grantor acknowledges and agrees that to the extent these funds are used consistent with the Cable Act, such funds are not franchise fees for purposes of the Cable Act and may not be deducted from or offset the franchise fee payment obligations required of Grantee under this Franchise.

8.4 Relocation of Access Channels. Grantee shall make all reasonable efforts to coordinate the cablecasting of all Programming on the Cable System on the same Channel designations as such Programming is currently cablecast in the Franchise Area. If at any time during the duration of this Agreement, the parties agree to a reassignment of the location of an Access Channel on its Cable System, Grantee shall provide at least thirty (30) days advance written notice to the Grantor prior to the actual date of such Channel relocation. Grantee shall make best efforts in the event of Channel relocation, to place the Access Channels within reasonable proximity from the Channel location for network affiliate. Grantee shall also assign the HD PEG Access Channel a number near the other HD local broadcast stations if such Channel positions are not already taken, or if that is not possible, near HD news/public affairs Programming Channels if such Channel positions are not already taken, or if not possible, as reasonably close as available Channel numbering will allow. Grantee shall ensure that Subscribers are notified of such reassignment in accordance with the notice requirements under federal law.

SECTION 9

Miscellaneous Provisions

9.1 Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld. Grantee is not relieved of its obligation to comply with any of the provisions of this Franchise by reason of any failure of the Franchising Authority to enforce prompt compliance. The Franchising Authority's forbearance or failure to enforce any provision of this Franchise shall not serve as a basis to stop any subsequent enforcement. The failure of the Franchising Authority on one or more occasions to exercise a right or to require compliance or performance under this Franchise 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.

9.2 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority. Amendments to this Franchise shall be mutually agreed to in writing by the parties.

9.3 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 Manager
City of Silverton
306 S. Water Street
Silverton OR 97381

Notices or responses to the Grantee shall be addressed as follows:

Comcast of Oregon I, Inc.
Attention: Government Affairs
11308 SW 68th Pkwy
Tigard OR 97223

With a copy to:

Comcast of Oregon I, Inc.
Attention: West Division -Government Affairs
15815 25th Ave West
Lynnwood, WA 98087

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.

9.4 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.

9.5 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.

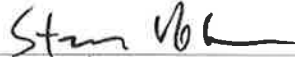
9.6 Effective Date. The effective date of this Franchise is September 13, 2021 pursuant to the provisions of applicable law. This Franchise shall expire on September 13, 2031 unless extended by the mutual agreement of the parties.

CITY OF SILVERTON, OREGON



By: Kyle Palmer
Title: Mayor

COMCAST OF OREGON I, INC.


By: Steven Holmes
Title: JP