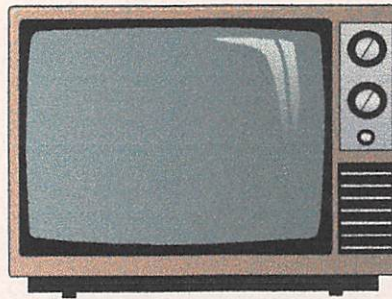


Agenda
City of Brookings
Common Council Meeting
City Hall Council Chambers
898 Elk Drive
Brookings, OR 97415
August 7, 2000
7:00pm



Falcon Cable TV, dba: Charter Communications
Non-Exclusive Franchise Agreement
with
The City of Brookings

agenda

CITY OF BROOKINGS
SPECIAL COUNCIL MEETING
Brookings City Hall Council Chambers
898 Elk Drive, Brookings, Oregon
August 7, 2000
7:00 p.m.

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- III. ORAL REQUESTS AND COMMUNICATIONS FROM THE AUDIENCE
 - A. *Unscheduled*
- VIII. STAFF REPORTS
 - A. *City Manager*
 - 1. *Postponement of August 14, 2000, Common Council Meeting to August 21, 2000*
 - 2. *Parks and Recreation Commission recommendation to authorize installation of adult volleyball courts*
 - 3. *Parks and Recreation Commission recommendations on skateboarding*
- VI. CONSENT CALENDAR
 - A. *Approval of Vouchers (\$163,249.33)*
- IV. ORDINANCES/RESOLUTIONS/FINAL ORDERS
 - A. *Ordinances*
 - 1. *No. 00-0-539, in the matter of an ordinance granting to Falcon Cable TV, dba: Charter Communications, a non-exclusive ten year franchise*
- V. REMARKS FROM MAYOR AND COUNCILORS
 - A. *Council*
 - B. *Mayor*
- VI. ADJOURNMENT

Memorandum

TO: Mayor, City Council
FROM: City Manager Tom Weldon *Tom*
DATE: July 31, 2000



Issue: August 14, 2000 Council meeting.

Mayor Hagbom will be out of town (Mayors Conference) that week (August 14th -18th).

He asks and I recommend you reschedule your meeting that date (August 14th) to August 21st.

Memorandum

TO: Mayor, City Council
FROM: (Ex) City Manager Tom Weldon
DATE: July 31, 2000

Tom



Issue: Construction of volleyball courts at Azalea Park

- Background:**
1. Julie Jordan, representing the Brookings Adult Volleyball Association made a presentation on this subject to your Parks and Recreation Commission at their meeting July 27, 2000. Her completed forms are attached, and she will be at your August 7th meeting.
 2. After several trips to the park with me, Craig Mickelson, Russ Fritz, Leo Lightle, and Dennis Barlow, a site for 2 courts has been agreed upon.
 3. The Parks and Recreation Commission passed a motion recommending you authorize her group to develop these courts.
 4. City staff has already done some work at this site, but the majority of work necessary to actually build and equip the courts will be done by the volunteers with donations.

Recommendation: Approve Parks and Recreation Commission recommendation to authorize these courts at this location.

Memo



To: Mayor, City Council
From: (Ex) Tom Weldon, City Manager *Tom*
Date: July 31, 2000
Subject: Skate Park and Skate Park Committee

At their meeting July 27th, 2000 your Parks and Recreation Commission took 2 actions related to a skate park.

1. After discussion and review of the attributes of 2 possible skate park locations, they voted to pursue a site in Bud Cross Park at the corner of Hassett and 3rd Streets.

2. Recommended you appoint a committee to actively pursue construction of a skate park. This committee would include the following positions-people:

Council Representative - Mayor Hagbom and Councilor Johns have indicated an interest
 Parks and Recreation Commission - Chair Craig Mickelson has been appointed
 City Manager - Leroy Blodgett
 Community Development Director - Leo Lightle
 Sessions Surf Shop Owner - Russ Johnson
 Brookings-Harbor Rotary Club - Sandy Hislop and Buzz Hansen
 2 or 3 skaters - unknown at this time.

Recommendation: 1. Appoint this committee with Mayor Hagbom as Council Representative.
 2. Direct this committee to pursue possibility of skate park at Bud Cross Park



City of Brookings

Phone (541) 469-2163

FAX (541) 469-3650

E-mail - www.brookingsor.org

898 Elk Drive ♦ Brookings, OR 97415

A PROPOSAL FOR THE CITY TO SUPPORT A NEW (TO THE CITY) PROJECT OR SERVICE OR USE OF CITY LAND THROUGH VOLUNTEERS AND/OR DONATIONS

The City of Brookings works with hundreds of volunteers. Every year people suggest new, volunteer projects or services or uses of City property and want the City to support them in one way or another. Please see attached Resolution No. 98-R-648 explaining Council-City Policy regarding proposed new volunteer projects or services.

Below is a form that must be completed and returned to the City Manager before any new volunteer projects or services will be supported by the City. This form and policy is not intended to stifle creativity or the City's support of worthwhile projects. It is intended to give the City Council and City Staff an accurate long term picture of proposed new projects/services before committing any type of City resources to their support.

The City Manager is available to discuss this policy and review the form and process.

Name of Group making proposal: Adult Volleyball Assoc Date: 7-17-00
 Contact person or individual making proposal: Julie Jordan
 Residence Address(Street/City/State/Zip): 650 Old county Rd. #11 Brkgs, Ore.
 Mailing Address: Same Phone: (541) 469-4340 ⁹⁷⁴¹⁵

1. What is the name of your new project or service? We want to construct 2 sand Volleyball courts for use by our group as well as the community
1. Please briefly explain your project or service: Our project is sand Volleyball Courts

(continued on back)

3. What will this new project or service cost? Very minimal, Basically the only cost will be for nets, balls poles, etc. & should be sponsor funded.
4. Exactly what do you want the City to do to support this new project or service? mainly just promotion
5. What resources do you (or your group) have committed to this project or service? I have 3 construction businesses who've volunteered equipment, manpower, etc. to construct. The Hwy. Dept is willing to issue a sand permit for the sand.
6. Name any other organizations that support this project or service. Wild River Pizza, Redwood Theater, KBSC TV 49, Java Java,

Julie Jordan

Signature & title, if applicable

Please Print Name: Julie Jordan

7-17-00

Date

FOR CITY PERSONNEL USE ONLY:		Completed App. received:
Forwarded to:		APPROVED: <u>[initials]</u>
Date Sent - _____	to <input type="checkbox"/> Community Dev.	<u>[initials]</u>
Date Sent - _____	to <input type="checkbox"/> Chief of Police	<u>[initials]</u>
Date Sent - _____	to <input type="checkbox"/> Fire Chief	<u>[initials]</u>
Date Sent - _____	to <input type="checkbox"/> Finance Director	<u>[initials]</u>
Date Sent - _____	to <input type="checkbox"/> City Manager	<u>[initials]</u>
<input type="checkbox"/> Planning Commission Action		
<input checked="" type="checkbox"/> Parks & Rec. Commission Action		<u>7-24-00 approve P</u>
<input type="checkbox"/> City Council Action		
pc's: <u>Mayor/Annal</u>		

City of Brookings Parks and Recreation Department

Request for Site Development

Fill out form completely and submit to the City of Brookings for Parks and Recreation Commission review and City Council approval. Parks and Recreation Commission meets every fourth Wednesday at 7:00 p.m. in city hall. Approval from both the Parks and Recreation Commission and the City Council is required prior to any site development project commencement.

1. Organization/individual(s) name: Adult Volleyball Association
 Address: 650 Old County Road Brkgs, Ore 97415
 Contact person and telephone: Julie Jordan 469-4340
2. Park selected for site development:
☐ Bud Cross ☒ Azalea ☐ Richard Street
☐ Stout ☐ Easy Manor ☐ Other _____
3. Identify specific area within selected park: Between Kidtown Stage and Gazebo and cement Storage bldg
4. Development Proposal: to construct 2 sand volleyball courts in the park between cement bldg and stage. Court size is 80' x 100', we are going to ^{need} remove ^{relocate} Azaleas, and make the ground level.
5. Use back of form for sketch of development design
6. Parking space required: existing parking appropriate
7. Development resources (i.e. funding, manpower, materials, etc.): all funding will be from sponsors, for materials like nets, balls, etc. All work performed will be done by volunteers, equipment donated by area construction companies.
8. Development supervisor: Julie Jordan
 Contact person and telephone: 469-4340
9. Approximate annual maintenance cost: very minimal
10. Liability insurance carrier: We will have people sign a waiver -
 Name: _____
 Address: _____
 Contact person and telephone: _____

For Official Use Only

Parks and Recreation Recommendation: Conceptual
 Final

☒ Approved
☒ Approved

☐ Disliked
☐ Disapproved

Date: 7/24/00
 Date: _____

Reasons: _____

City Council:

Conceptual
 Final

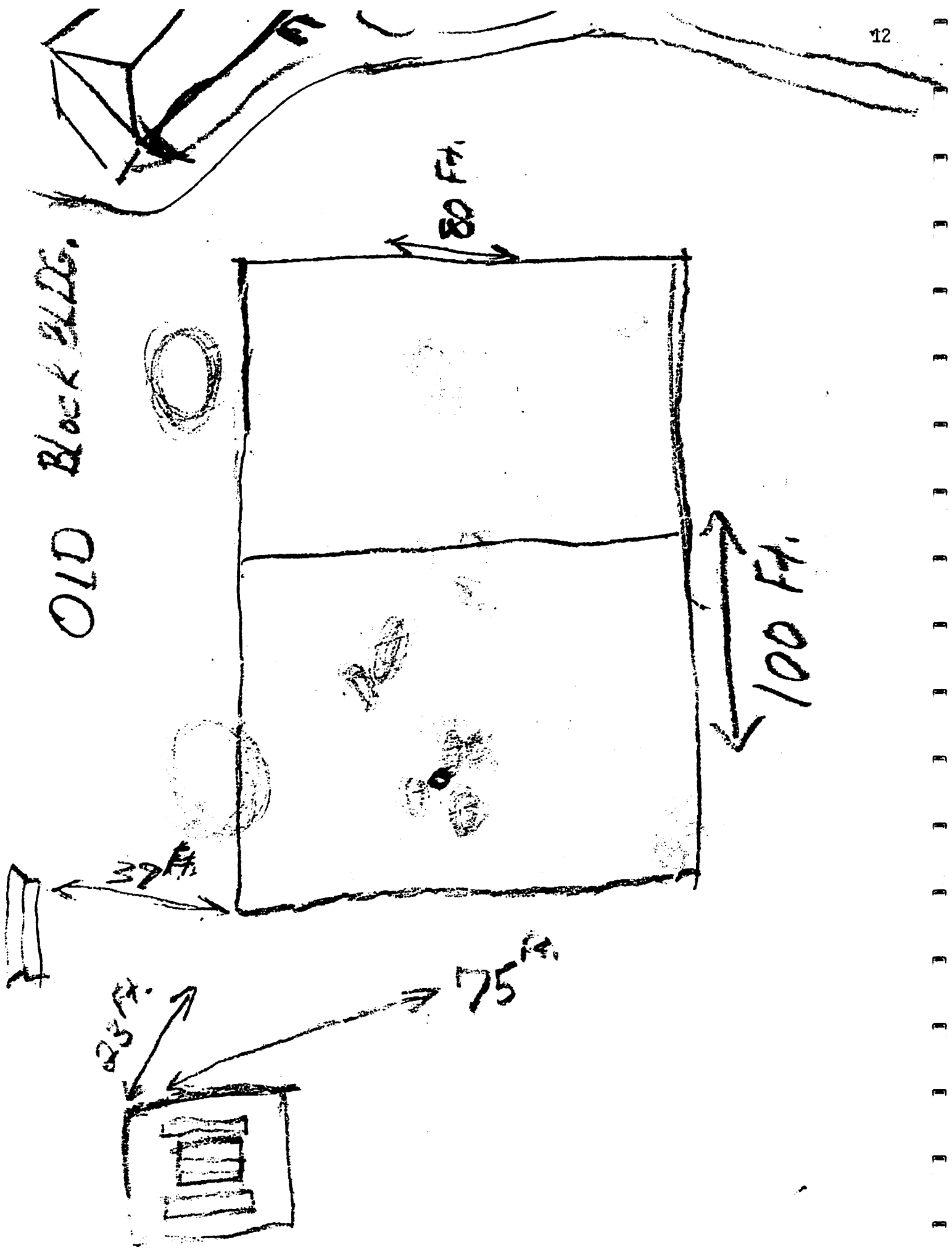
☐ Approved
☐ Approved

☐ Disapproved
☐ Disapproved

Date: _____
 Date: _____

Reasons: _____

OLD Block Bldg.



City of Brookings

Check Register - Summary Report

Page: 1

GL Posting Period(s): 13/00 - 07/00

Aug 01,2000 02:28pm

Check Issue Date(s): 07/01/2000 - 07/31/2000

Per	Date	Check No	Vendor No	Payee	Check GL Account Number	Amount
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07/00	07/07/2000	38601	817	Auto Additons, Inc	10-00-2005	5,894.57
07/00	07/07/2000	38602	833	Azalea Lanes	10-00-2005	720.00
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07/00	07/07/2000	38604	138	Becco, Inc	10-00-2005	41.85
07/00	07/07/2000	38605	844	BHHS Girls Soccer	10-00-2005	220.00
07/00	07/07/2000	38606	789	Black Hills Ammunition	10-00-2005	838.00
07/00	07/07/2000	38607	200	Bob Hagbom	10-00-2005	358.88
07/00	07/07/2000	38608	313	Brookings Vol Firefighters	10-00-2005	2,083.33
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07/00	07/07/2000	38610	178	Chetco Pharmacy & Gift	10-00-2005	26.96
07/00	07/07/2000	38611	305	Chief Supply	10-00-2005	99.50
07/00	07/07/2000	38612	840	Clare Price	10-00-2005	324.00
07/00	07/07/2000	38613	792	Columbia Gorge Center	10-00-2005	415.38
07/00	07/07/2000	38614	182	Coos-Curry Electric	10-00-2005	2,570.83
07/00	07/07/2000	38615	825	Curry County Reporter	10-00-2005	18.00
07/00	07/07/2000	38616	117	Dan's Photo & Cameras	10-00-2005	13.57
07/00	07/07/2000	38617	284	Day-Wireless Systems	10-00-2005	321.52
07/00	07/07/2000	38618	317	DCBS - Fiscal Services	10-00-2005	819.34
07/00	07/07/2000	38619	842	Del Norte Parks & Recreation	10-00-2005	45.00
07/00	07/07/2000	38620	826	Dept of Administrative Service	10-00-2005	200.00
07/00	07/07/2000	38621	196	DHR Child Support Unit	10-00-2005	203.08
07/00	07/07/2000	38622	250	DHR Child Support Unit	10-00-2005	278.31
07/00	07/07/2000	38623	843	Diana Bansemer	10-00-2005	375.00
07/00	07/07/2000	38624	498	Dictaphone Corp	10-00-2005	983.00
07/00	07/07/2000	38625	316	Donald & Roberta Chandler	10-00-2005	548.00
07/00	07/07/2000	38626	773	Environmental Resource Assoc	10-00-2005	214.20
07/00	07/07/2000	38627	747	Escape Hatch	10-00-2005	130.77
07/00	07/07/2000	38628	153	Ferrellgas	10-00-2005	3,261.70
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07/00	07/07/2000	38630	113	Fred Meyer	10-00-2005	118.80
07/00	07/07/2000	38631	823	Gary Maschmeyer	10-00-2005	2.51
07/00	07/07/2000	38632	818	Gwen J Morris	10-00-2005	200.00
07/00	07/07/2000	38633	836	Hawk's Rest Ranch	10-00-2005	90.00
07/00	07/07/2000	38634	830	Helpline of the South Coast	10-00-2005	480.00
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07/00	07/07/2000	38636	834	Jon Loren	10-00-2005	200.00
07/00	07/07/2000	38637		Information Only Check	10-00-2005	.00 V
07/00	07/07/2000	38638	162	Kerr Hardware	10-00-2005	801.66
07/00	07/07/2000	38639	829	Klamath Zone Mgmt Fisheries	10-00-2005	500.00
07/00	07/07/2000	38640	835	Luke Thornton	10-00-2005	450.00
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07/00	07/07/2000	38642	832	Michael S. Fox	10-00-2005	110.00
07/00	07/07/2000	38643	716	Michelle Kalina	10-00-2005	151.11
07/00	07/07/2000	38644	155	Mory's	10-00-2005	102.20
07/00	07/07/2000	38645	424	Munnel & Sherrill	10-00-2005	454.91
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07/00	07/07/2000	38652	205	PERS Retirement	10-00-2005	8,153.46
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07/00	07/07/2000	38655	322	Postmaster	10-00-2005	722.12
07/00	07/07/2000	38656	181	Ramcell of Oregon	10-00-2005	175.38

M = Manual Check, V = Void Check

City of Brookings

Check Register - Summary Report
 GL Posting Period(s): 13/00 - 07/00
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07/00	07/07/2000	38660	199	Richard Harper	10-00-2005	300.00
07/00	07/07/2000	38661	726	Set Point Process & Control	10-00-2005	95.47
07/00	07/07/2000	38662	324	Shirlee Sheffel	10-00-2005	76.00
07/00	07/07/2000	38663	740	Stoffel Seals	10-00-2005	374.00
07/00	07/07/2000	38664	213	Teamsters Local Union 223	10-00-2005	527.00
07/00	07/07/2000	38665	406	The Plant Lady	10-00-2005	480.00
07/00	07/07/2000	38666	158	Tom Weldon	10-00-2005	191.98
07/00	07/07/2000	38667	819	Trisha L Austin	10-00-2005	160.00
07/00	07/07/2000	38668	295	Tsunami Computer Service	10-00-2005	19.95
07/00	07/07/2000	38669	161	United Communications Inc	10-00-2005	465.39
07/00	07/07/2000	38670	824	Vietnam Veterans of America	10-00-2005	750.00
07/00	07/07/2000	38671	269	WW Grainger	10-00-2005	120.34
07/00	07/13/2000	38672	103	Amazing Computers	10-00-2005	2,976.75
07/00	07/13/2000	38673	800	American Red Cross	10-00-2005	160.00
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07/00	07/13/2000	38675	148	B-H Chamber of Commerce	10-00-2005	22.50
07/00	07/13/2000	38676	190	Bankcard Center	10-00-2005	593.14
07/00	07/13/2000	38677	846	BHHS Girls Volleyball	10-00-2005	280.00
07/00	07/13/2000	38678	110	Brookings Auto Parts	10-00-2005	184.30
07/00	07/13/2000	38679	276	Brookings Harbor Medical Ctr	10-00-2005	489.00
07/00	07/13/2000	38680	251	Brookings Sports Unlimited	10-00-2005	2,859.96
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07/00	07/13/2000	38682	820	CMI Business Systems	10-00-2005	88.00
07/00	07/13/2000	38683	183	Colvin Oil Company	10-00-2005	1,385.16
07/00	07/13/2000	38684	803	Commercial Landscape Supply	10-00-2005	112.73
07/00	07/13/2000	38685	182	Coos-Cury Electric	10-00-2005	9,274.00
07/00	07/13/2000	38686	151	Curry Coastal Pilot	10-00-2005	394.00
07/00	07/13/2000	38687	857	Curry Cutter	10-00-2005	15.00
07/00	07/13/2000	38688	166	Dan's Auto & Marine Electric	10-00-2005	200.72
07/00	07/13/2000	38689	129	David Evans & Associates, Inc	10-00-2005	363.00
07/00	07/13/2000	38690	284	Day-Wireless Systems	10-00-2005	150.00
07/00	07/13/2000	38691	806	Denise Fugere	10-00-2005	55.80
07/00	07/13/2000	38692	371	DEQ Business Office	10-00-2005	3,663.00
07/00	07/13/2000	38693	850	Dr E.K. & Wanda Sauerland	10-00-2005	175.21
07/00	07/13/2000	38694	837	Drift In Motel	10-00-2005	30.00
07/00	07/13/2000	38695	529	Flora Pacifica Inc	10-00-2005	26.00
07/00	07/13/2000	38696	343	FNW Queen Pump	10-00-2005	207.72
07/00	07/13/2000	38697	113	Fred Meyer	10-00-2005	103.68
07/00	07/13/2000	38698	858	Government Leasing Company	10-00-2005	3,234.64
07/00	07/13/2000	38699	296	GTE	10-00-2005	1,357.26
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07/00	07/13/2000	38701	131	HGE, Inc	10-00-2005	5,602.26
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07/00	07/13/2000	38703	202	League of Oregon Cities	10-00-2005	2,810.00
07/00	07/13/2000	38704	832	Michael S. Fox	10-00-2005	50.00
07/00	07/13/2000	38705	450	MuniCom	10-00-2005	1,163.75
07/00	07/13/2000	38706	855	OCDLA	10-00-2005	80.00
07/00	07/13/2000	38707	853	Office Depot	10-00-2005	119.98
07/00	07/13/2000	38708	375	OR Department of Revenue	10-00-2005	30.60
07/00	07/13/2000	38709	311	Paramount Supply Company	10-00-2005	283.43
07/00	07/13/2000	38710	133	Planners Training Team	10-00-2005	45.00
07/00	07/13/2000	38711	739	Recreonics, Inc	10-00-2005	79.42
07/00	07/13/2000	38712	278	Ron Plaster	10-00-2005	2,000.00
07/00	07/13/2000	38713	848	Roy Swanson	10-00-2005	400.00

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City of Brookings

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07/00	07/13/2000	38716	413	The Telephone Man	10-00-2005	773.95
07/00	07/13/2000	38717	179	Trew & Cyphers	10-00-2005	2,328.00
07/00	07/13/2000	38718	136	United Pipe & Supply Co Inc	10-00-2005	112.00
07/00	07/13/2000	38719	856	Warren Krick	10-00-2005	5.21
07/00	07/13/2000	38720	847	Wild River Pizza	10-00-2005	18.00
07/00	07/13/2000	38721	786	WM Smith & Associates	10-00-2005	98.70
07/00	07/13/2000	38722	253	Xerox Corporation	10-00-2005	373.54
07/00	07/21/2000	38723	724	Advanced Graphix Inc	10-00-2005	1,725.50
07/00	07/21/2000	38724	150	Any Time Coffee Service	10-00-2005	27.50
07/00	07/21/2000	38725	146	Bay West Supply, Inc	10-00-2005	724.07
07/00	07/21/2000	38726	845	Cameron McVay	10-00-2005	30.00
07/00	07/21/2000	38727	149	Carpenter Auto Center	10-00-2005	741.71
07/00	07/21/2000	38728	840	Clare Price	10-00-2005	6.00
07/00	07/21/2000	38729	822	Coast Auto Center	10-00-2005	366.69
07/00	07/21/2000	38730	865	Comfort Inn Boardwalk	10-00-2005	269.20
07/00	07/21/2000	38731	803	Commercial Landscape Supply	10-00-2005	95.40
07/00	07/21/2000	38732	182	Coos-Curry Electric	10-00-2005	1,017.61
07/00	07/21/2000	38733	868	Da-Tone Construction	10-00-2005	12.47
07/00	07/21/2000	38734	284	Day-Wireless Systems	10-00-2005	1,577.61
07/00	07/21/2000	38735	196	DHR Child Support Unit	10-00-2005	203.08
07/00	07/21/2000	38736	250	DHR Child Support Unit	10-00-2005	278.31
07/00	07/21/2000	38737	872	Donald & Leslie Irwin	10-00-2005	31.87
07/00	07/21/2000	38738	873	George & Meredith Steele	10-00-2005	12.88
07/00	07/21/2000	38739	862	Gerald Kessler	10-00-2005	164.00
07/00	07/21/2000	38740	198	Grants Pass Water Lab	10-00-2005	133.00
07/00	07/21/2000	38741	818	Gwen J Morris	10-00-2005	200.00
07/00	07/21/2000	38742	154	Hagen's Dry Cleaners	10-00-2005	50.25
07/00	07/21/2000	38743	836	Hawk's Rest Ranch	10-00-2005	15.00
07/00	07/21/2000	38744	131	VOID	10-00-2005	.00
07/00	07/21/2000	38745	307	Industrial Steel & Supply Inc	10-00-2005	325.60
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07/00	07/21/2000	38747	871	John C Dean	10-00-2005	37.42
07/00	07/21/2000	38748	233	John Harbolt	10-00-2005	33.07
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07/00	07/21/2000	38750	834	Jon Loren	10-00-2005	40.00
07/00	07/21/2000	38751	121	Lane County, Finance	10-00-2005	920.00
07/00	07/21/2000	38752	867	Local Gov't Personnel Inst	10-00-2005	690.00
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07/00	07/21/2000	38755	876	OR Assoc of Municipal Recorder	10-00-2005	35.00
07/00	07/21/2000	38756	864	OR State Police	10-00-2005	105.00
07/00	07/21/2000	38757	860	Oregon Fire Chiefs Assn	10-00-2005	65.00
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07/00	07/21/2000	38765	656	Ron Morris	10-00-2005	30.36
07/00	07/21/2000	38766	169	Roto Rooter of Curry County	10-00-2005	6.75
07/00	07/21/2000	38767	380	Stadelman Electric	10-00-2005	93.70
07/00	07/21/2000	38768	134	Stuntzner Engineering	10-00-2005	482.00
07/00	07/21/2000	38769	875	Swiyah Ranson	10-00-2005	32.94
07/00	07/21/2000	38770	869	Thomas & Susan Ellits	10-00-2005	46.89

M = Manual Check, V = Void Check


City of Brookings

Check Register - Summary Report
 GL Posting Period(s): 13/00 - 07/00
 Check Issue Date(s): 07/01/2000 - 07/31/2000

Page: 4
 Aug 01,2000 02:28pm

Per	Date	Check No	Vendor No	Payee	Check GL Account Number	Amount
07/00	07/21/2000	38771	819	Trisha L Austin	10-00-2005	160.00
07/00	07/21/2000	38772	785	U.S. Identification Manual	10-00-2005	72.50
07/00	07/21/2000	38773	170	Umpqua Research Co	10-00-2005	115.00
07/00	07/21/2000	38774	136	United Pipe & Supply Co Inc	10-00-2005	354.73
07/00	07/21/2000	38775	861	Village Express Mail Center	10-00-2005	46.42
07/00	07/21/2000	38776	856	Warren Krick	10-00-2005	27.88
07/00	07/27/2000	38777	800	American Red Cross	10-00-2005	100.00
07/00	07/27/2000	38778	416	Brookings Lock & Safe Co	10-00-2005	50.00
07/00	07/27/2000	38779	528	Caselle, Inc	10-00-2005	1,320.00
07/00	07/27/2000	38780	183	Colvin Oil Company	10-00-2005	1,247.41
07/00	07/27/2000	38781	182	Coos-Curry Electric	10-00-2005	3,015.16
07/00	07/27/2000	38782	881	Daniel E Westbrook	10-00-2005	44.75
07/00	07/27/2000	38783	119	Gail's Inc	10-00-2005	369.98
07/00	07/27/2000	38784	131	HGE, Inc	10-00-2005	2,663.25
07/00	07/27/2000	38785	880	John & Norma Gifford	10-00-2005	113.50
07/00	07/27/2000	38786	328	Les Schwab Tire Company	10-00-2005	22.45
07/00	07/27/2000	38787	877	Med-Tech Resource, Inc	10-00-2005	95.94
07/00	07/27/2000	38788	308	Neely Bearing	10-00-2005	134.71
07/00	07/27/2000	38789	334	North Coast Electric	10-00-2005	131.93
07/00	07/27/2000	38790	572	OMFOA	10-00-2005	75.00
07/00	07/27/2000	38791	279	One Call Concepts, Inc	10-00-2005	22.50
07/00	07/27/2000	38792	206	Pitney Bowes, Inc	10-00-2005	65.00
07/00	07/27/2000	38793	278	Ron Plaster	10-00-2005	2,772.16
07/00	07/27/2000	38794	879	Rotary International	10-00-2005	75.00
07/00	07/27/2000	38795	138	United Pipe & Supply Co Inc	10-00-2005	270.00
07/00	07/27/2000	38796	268	US Filter Company	10-00-2005	18.84
07/00	07/27/2000	38797	253	Xerox Corporation	10-00-2005	155.25
Totals:						<u>163,249.33</u>

Memorandum

TO: Mayor, City Council
FROM: City Manager Tom Weldon 
DATE: August 3, 2000



Issue: Falcon Cable Franchise Renewal

Background:

1. I have received one phone call and one letter (attached) on this subject.
2. The phone call was from a woman, no name given, who was very unhappy with the cable TV company. She said her service never has been satisfactory, but picture is better now. She said the pictures on the ABC Channel and on Channel 13 are always a problem.

received
1-27-10

To whom it may concern:

This message is to let you know just how we feel about "Charter Communications" taking over the Cable T.V. system.

Our first impression was the worst. We turned on the T.V. one evening after we were notified that "Charter T.V. was now in Charge."

There it was, I don't know the Channel or Time. I was so stunned to see what I did.

There it was a big bully of a man raping a young woman.

Now that is just what our children need. There is enough Crime and Rape news without showing it on T.V. Since that time we have found that all

of the Good and Decent programs are gone, leaving a lot of trash and terrible programs.

We the undersigned want you to reject giving Charter the right to handle the Cable TV distribution in this city, county, state.

We don't need any more trash fed to our children and for sure the older retired adults have no desire for it.

Let those that are sick of mind, get their kicks somewhere else.

We say NO NO NO.
to "Charter Communications".

Albert & Myrtle Selig
308 Memory Lane -

P.S. The old company was not only Better Programs, but Cheaper besides.

Regarding "A" Charter Cable

Please forward to the proper people

Walter & Margaret Selig

12. 163

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

**In the Matter of an Ordinance Granting)
to Falcon Cable TV, dba Charter)
Communications, a Non-Exclusive)
Ten Year Franchise)**

Ordinance No. 00-0-539

Sections:

Section 1.	Title
Section 2.	Authority
Section 3.	Repealer
Section 4.	Adoption
Section 5.	Emergency Clause

The City of Brookings ordains as follows:

Section 1. Title.

This Ordinance shall be known as Ordinance No. 00-0-539, an Ordinance of the Cable Television Franchise Agreement between the City of Brookings, Oregon and Falcon Cable.

Section 2. Authority.

This Ordinance is authorized pursuant to ORS 221.410.

Section 3. Repealer.

Ordinance No. 83-0-380 and Ordinance No. 87-0-420 are hereby repealed in their entirety.

Section 4. Adoption.

Exhibit "A" attached hereto and incorporated by reference, is adopted as an Ordinance of the City of Brookings, Oregon.

Section 5. Emergency Clause.

It is hereby determined that this ordinance is necessary for the immediate preservation of the peace, health and safety of the residents of the City of Brookings, Oregon, and an emergency having been unanimously declared to exist, this ordinance shall become effective August 7, 2000, unless the Grantee fails to file the Franchise Acceptance in accordance with Section 3.7 of the Franchise Agreement, in which event this Ordinance shall be null and void.

First reading: August 7, 2000

Second reading: August 7, 2000

Passage: August 7, 2000

Effective Date: August 7, 2000

Signed by me in authentication of its passage this ____ day of August, 2000.

Bob Hagbom
Mayor

ATTEST:

Gail Hedding
Finance Director/Recorder

Exhibit A to Ordinance
No. 00-0-539

**CABLE TELEVISION
FRANCHISE AGREEMENT**
between
CITY OF BROOKINGS, OREGON
and
FALCON CABLE TV
Draft July 6, 2000

July 7/26/00

City of Brookings Cable Franchise Draft

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City of Brookings Cable Franchise Draft**1. PURPOSE AND INTENT****1.1 Intent**

The City of Brookings, Oregon (hereafter Grantor) is authorized to and by this Franchise agreement does grant to Falcon Cable TV, d.b.a. Charter Communications, (hereafter Grantee) a non-exclusive 10-year Franchise, revocable as provided herein, to construct, operate and maintain a cable communications system in the City, to provide Cable Service and such other services as it must provide in order to satisfy its obligation to provide an Institutional Network. This Franchise does not authorize the provision of any service other than the services specified above; or in any way relieve the Grantee of any obligation to obtain any authorizations, licenses or Franchises to use the rights of way to provide other services, or to comply with any requirements with respect to the use of the rights of way for the provision of such services.

1.2 Purpose

The purpose of this Franchise agreement is to create a binding, enforceable contract between Grantor and Grantee.

City of Brookings Cable Franchise Draft

2. DEFINITIONS

For the purposes of this Franchise agreement, the following words, terms, phrases, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words used in this Franchise which are not defined hereunder but defined in the Cable Communications Policy Act of 1984, as amended by the Cable Communications Policy Act of 1992 and the Telecommunications Act of 1996, (Cable Act), shall have the meaning specified in the Cable Act definition.

2.1 "Access" or "Community Access" or "Public, Educational and Government (PEG) Access"

means the availability for use by various agencies, institutions, organizations, groups and individuals in the community, including the Grantor and its designees, of the Cable System to acquire, create, and distribute non-commercial Programming not under the Grantee's editorial control.

2.2 "Access Channel" or "Public, Educational or Government Access (PEG) Channel"

means any channel or portion of a channel utilized for non-commercial programming, where any member of the general public or any organization may be a programmer, without charge by the Grantee, on a non-discriminatory basis.

2.2.A "Educational Access Channel"

means any channel or portion of a channel available for educational programming by individuals or institutions.

2.2.B "Government Access Channel"

means any channel or portion of a channel available for programming by government agencies.

2.2.C "Public Access Channel"

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

2.3 "Addressability"

means the capability of the cable system by which the cable operator can add, drop or delete subscriber programming from a remote location, without the need for a site visit.

City of Brookings Cable Franchise Draft

2.4 "Basic Cable Service"

means that tier of cable service which is required as a condition of access to all other video services and which includes but is not limited to a) the retransmission of local broadcast station signals, and b) public, educational and government access channels.

2.5 "Broadcast Signal"

means a television or radio signal that is transmitted over-the-air to a wide geographic audience and is received by the cable communications system off-the-air, whether by microwave link, by satellite receiver, or by other means.

2.6 "Cable Act"

means collectively the federal Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, as amended.

2.7 "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.

2.8 "Cablecast Signal"

means a non-broadcast signal that originates within the facilities of the cable communications system.

2.9 "Cable Communications System" or "Cable System" or "System"

shall have the meaning specified in the definition of "Cable System" in the Cable Act. In every case of its use in this Franchise, unless otherwise specified or made clear by the context, the term shall refer to the cable system constructed and operated by the Grantee in the City of Brookings under this Franchise.

2.10 "Channel"

means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

City of Brookings Cable Franchise Draft**2.11 "City"**

means the City of Brookings, Oregon, a municipal corporation, and all of the territory within its corporate boundaries, as such may change from time to time.

2.12 "Converter"

means a device for changing the frequency of a television signal. A set-top converter changes the frequency of signals to a suitable channel which the television receiver is able to tune.

2.13 "County"

means Curry County, Oregon, a political subdivision of the State of Oregon, and, as may be required by the context, all of the unincorporated territory within its corporate boundaries, as such may change from time to time.

2.14 "FCC"

means the Federal Communications Commission.

2.15 "Franchise" or "Franchise Agreement"

means the authorization granted by this document, or renewal thereof (including renewal of an authorization which has been granted subject to Section 626 of the Cable Act), issued by a franchising authority, whether such authorization is designated as a Franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system. Unless otherwise specified or made clear by the context, "Franchise" shall designate this agreement, including all referenced material, adopted in the appropriate manner by the Grantor.

2.16 "Franchise Area"

means all portions of the City of Brookings.

2.17 "Grantee" or "Franchisee"

means Falcon Telecable, a California Limited Partnership, and the lawful successors, transferees, or assignees thereof.

2.18 "Grantor"

means the City of Brookings, a political subdivision of the State of Oregon.

City of Brookings Cable Franchise Draft**2.19 "Gross Receipts"**

means Gross Revenues less any bad debts related to the operation of the System authorized by this Franchise.

2.20 "Gross Revenues"

means all amounts earned by Grantee, any Affiliate of Grantee, or any entity that constitutes a "cable operator" under the Cable Act definition, in whatever form and from all sources, derived from the operation of Grantee's Cable System to provide Cable Service within the Franchise area. "Gross Revenues" shall include, without limitation, amounts for: all Cable Services, e.g., basic service, expanded basic service, premium and pay-per-view services, online services such as Internet access containing programming content, e.g., @Home or RoadRunner (unless determined by Congress, the FCC, a court of competent jurisdiction or other appropriate authority not to be a Cable Service); advertising, commissions on sales of goods or services by third parties utilizing the Cable System to provide Cable Service in the Franchise Area (e.g., home shopping networks), installations, leasing, renting or selling of system equipment or leasing of capacity to provide Cable Service within the Franchise Area, and all other revenues derived from the operation of Grantee's Cable System to provide Cable Service within the Franchise Area, regardless of whether initially recorded to another entity and however characterized.

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

Franchise fees and copyright fees shall be included in gross revenues.

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

2.21 "Institutional Service"

means video, audio, data and other services provided to institutional subscribers on an individual application, private channel basis. These services may include, but are not limited to, two-way video, audio or digital signals among institutions, or between institutions and residential subscribers.

City of Brookings Cable Franchise Draft**2.22 "Institutional Network"**

means that part of a cable communications network designed principally for the provision of non-entertainment, non-profit and non-commercial programming, which may include the following such uses: interactive services to businesses, schools, public agencies or other non-profit agencies for use in connection with the ongoing operations of such institutions, provided such use does not exceed the limitations agreed to in Section 6.5.F of this document.

2.23 "Institutional Subscriber"

means a place of business, public agency, school or non-profit corporation receiving institutional services on the institutional subscriber network.

2.24 "Interactive Services"

means services provided to subscribers where the subscriber either (a) both receives information consisting of either television or other signals and transmits signals generated by the subscriber or equipment under the subscriber's control for the purpose of selecting what information shall be transmitted to the subscriber or for any other purpose; or (b) transmits signals to any other location for any purpose.

2.25 "Interconnection"

means the linking of the Cable System or I-Net with another cable system, communications system or I-Net, including technical, engineering, physical, financial, and other necessary components to accomplish, complete, and adequately maintain such linking, in a manner that permits the transmission and receiving of electronic or optical signals between the Cable System and other cable systems or communications systems; or the necessary components to accomplish, complete and adequately maintain pathways that permit the transmission and receiving of electronic or optical signals between locations connected to portions of the Cable System outside the Franchise Area and those portions of the Cable System inside the Franchise Area.

2.26 "Leased Channel"

means any channel or portion of a channel available for programming by persons or entities other than Grantee for a fee or charge.

2.27 "Local Origination Channel"

means any channel or portion of a channel where the Grantee is the only designated programmer, or has delegated programming to a third party, and which is used to provide television programs to subscribers.

City of Brookings Cable Franchise Draft**2.28 "Monitoring"**

means observing a one way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

2.29 "Non-Broadcast Signal"

means a signal that is transmitted by the cable communications system and that is not involved in an over-the-air broadcast transmission path.

2.30 "Open Channel"

means any channel that can be received by all subscribers having cable-ready television sets, without the necessity of special descrambling equipment.

2.31 "Pay Channel" or "Premium Channel"

means a channel on which television signals are delivered to subscribers for a special fee or charge over and above the regular charges for standard subscriber service, on a per program, per channel, or other subscription basis.

2.32 "Person"

means an individual, proprietorship, partnership, association, joint stock company, trust, corporation, or governmental entity.

2.33 "Programmer"

means any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital or other storage methods or media, to subscribers, by means of the cable communications system.

2.34 "Programming"

means the process of causing television programs or other patterns of signals in video, voice or data formats to be transmitted on the Cable System, and includes all programs or patterns of signals transmitted or capable of being transmitted, on the Cable System.

City of Brookings Cable Franchise Draft**2.35 "Record"**

means written or graphic materials, however produced or reproduced, or any other tangible permanent record, including, without limitation, all letters, correspondence, memoranda, minutes, notes, summaries or accounts of telephone conversations, magnetic and laser disk files, opinions or reports of consultants or experts, invoices, billings, statements of accounts, studies, appraisals, analyses, contracts, agreements, charts, graphs, and photographs.

2.36 "Resident"

means any individual person residing within the Franchise area.

2.37 "Residential Service"

means services delivered on the residential subscriber network.

2.38 "Residential Subscriber"

means a subscriber who receives services on the Residential Network.

2.39 "Residential Network"

means a cable communications network designed principally for the delivery of entertainment, community access or interactive services to individual dwelling units.

2.40 "School"

means any public educational institution, including primary and secondary schools, community colleges, colleges, universities and extension centers, and all similarly situated private and parochial educational institutions which have received the appropriate accreditation from the State of Oregon and, where required, from other authorized accrediting agencies.

2.41 "Section"

means any section, subsection or provision of this Franchise agreement, unless otherwise made clear by the context.

2.42 "Streets and Public Ways"

means the surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the Franchise area, and any easements, rights of way or other similar means of access to the extent Grantor has the right to allow Grantee to use them.

City of Brookings Cable Franchise Draft**2.43 "Subscriber"**

means any person who elects to subscribe to, for any purpose, a service provided by the Grantee by means of, or in connection with, the cable communications system whether or not a fee is paid for such service.

2.44 "Tapping"

means observing a two-way communications signal exchange where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means, for any purpose whatsoever.

2.45 "Year"

means a full twelve-month calendar year, unless designated otherwise, such as a "fiscal year".

City of Brookings Cable Franchise Draft

3. GRANT OF FRANCHISE

3.1 Grant

Grantor hereby grants to the Grantee a non-exclusive, revocable Franchise for a 10-year period from and after the effective date hereof, revocable as provided herein, to construct, operate and maintain a cable communications system, including an Institutional Network, within the Franchise area. This Franchise authorizes Grantee to engage in providing Cable Service, as that term is defined in 47 U.S.C. Sec. 522(6) as amended, and to provide I-Net Capability for voice, video, and data as described in Section 6.5. This Franchise shall not be interpreted to prevent the Grantor from imposing lawful additional conditions, including additional compensation conditions for use of the Rights-Of-Way should Grantee provide service other than Cable Service. Nothing herein shall be interpreted to prevent Grantee from challenging the lawfulness or enforceability of any provisions of applicable law.

This Franchise is subject to the laws of the United States and the State of Oregon, and to the general ordinances of the Grantor affecting matters of general Grantor concern and not merely existing contractual rights of Grantee, whether now existing or hereinafter enacted. The Grantor shall upon request supply the Grantee with copies of any Grantor laws or regulations affecting Grantee's operations.

3.2 Use of Streets and Public Ways

For the purpose of constructing, operating and maintaining a cable communications system in the Franchise area, the Grantee may erect, install, audit, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public streets and ways within the Franchise area such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary, convenient and appurtenant to the operation of the cable communications system. Prior to construction or alteration, however, the Grantee shall in each case file plans as required with the appropriate agencies of Grantor and in accordance with any agreements with utility providers and companies, pay applicable fees, and receive approval as necessary before proceeding. Nothing in this Section shall relieve the Grantee of the obligations of Section 4.6 regarding the trimming of trees and other vegetation.

3.3 Duration and Effective Date of Franchise

Except as otherwise provided herein for revocation, the term of this Franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be 10 years from the effective date of this agreement, at which time the Franchise shall expire and be of no force and effect. The effective date of the Franchise shall be August 8, 2000, unless the Grantee fails to file the Franchise acceptance in accordance with Section 3.7 herein, in which event this Franchise shall be null and void.

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3.4 Franchise Not Exclusive

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

3.5 Franchise Non-Transferable

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

If the Grantee wishes to transfer this Franchise, the Grantee and Grantor shall proceed pursuant to Section 617 of the Cable Act and related rulemakings of the FCC. Grantee shall give Grantor written notice of the proposed transfer, and shall request consent of the transfer by the Grantor. For the purpose of determining whether it will consent to such transfer, Grantor may inquire into the qualifications of the prospective transferee to perform the obligations of the Grantee under this Franchise agreement. The Grantee shall assist Grantor in any such inquiry, and shall provide all information requested in writing by the Grantor that is reasonably necessary to determine the legal, financial and technical qualifications of the proposed transferee in order to determine whether it will consent to the proposed transfer. The Grantor may condition its consent upon such terms and conditions as it deems appropriate, related to the qualifications of the prospective transferee to perform the obligations of the Grantee under this Franchise. Consent to the transfer shall not be unreasonably withheld. Any transfer of ownership effected without the written consent of the Grantor shall render this Franchise subject to revocation. The Grantor shall have 120 days to act upon any request for approval of a transfer that contains or is accompanied by such information as is required in accordance with FCC regulations and by the Grantor. If the Grantor fails to render a final decision on the request within said 120 days, the request shall be deemed granted unless the Grantee and the Grantor agree to an extension of time.

The Grantee, upon any transfer as heretofore described, shall within sixty (60) days thereafter file with the Grantor a copy of the deed, agreement, mortgage, lease, or other written instrument evidencing such sale, lease, mortgage, assignment or transfer, certified and sworn to as correct by the Grantee.

Every such transfer as heretofore described, whether voluntary or involuntary, shall be deemed void and of no effect unless Grantee shall within sixty (60) days after the same shall have been made, file such certified copy as is required.

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

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

3.6 Change in Control

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

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

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

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3.7 Franchise Acceptance

3.7.A Filing

The Grantee, on or before passage of this Franchise agreement by the City Council, shall execute and file in the office of the City Manager a written acceptance executed by Grantee, in the form attached hereto as Exhibit B.

3.7.B Failure to File

In the event Grantee fails to file the acceptance as required herein, then this Franchise shall be null and void.

4. CONSTRUCTION AND SERVICE REQUIREMENTS

4.1 General

In all its construction and service provision activities, Grantee shall meet or exceed the construction, extension and service requirements set forth in this Franchise agreement.

4.2 System Upgrade and Construction Schedule

4.2.A System Upgrade Required

Grantee shall rebuild or modify its cable system to upgrade the system to a minimum practical capacity of 78 downstream video channels throughout the Franchise area. The system shall have a minimum activated capacity of 750 MHz, and be of hybrid fiber coaxial design with fiber running to neighborhood nodes, with no more than 1,200 homes-passed served by each node upon initial completion of the upgrade and the commencement of service. All cable and equipment used in the modification of the system shall be new, and generally regarded in the cable industry as being of highest quality. The system, as upgraded, shall have the capacity to provide pay-per-view and other services requiring addressability. The System shall throughout the Franchise term include bi-directional capability, permitting activation of the System for the delivery of such interactive services as Internet access or Video on Demand without altering the general spacing of amplifiers in the System, or otherwise performing major System upgrade work.

4.2.B Construction Plan and Schedule

A detailed construction plan and schedule, which shall be in accordance with the requirements of this Franchise, shall be submitted to the Grantor no later than 60 days prior to the commencement of construction of the system upgrade described in (A) above (upgrade). The plan and schedule shall specify the type of cable and equipment to be used in each area of the construction, the location of all existing cable and equipment to be replaced, and the sequence and time frames for all significant portions of the construction.

Grantee shall commence construction of the System upgrade above within six (6) months after the effective date of this Franchise, and shall complete upgrade construction and all activation procedures within fourteen (14) months of the effective date of this Franchise. Following such construction and activation, and throughout the term of the Franchise, in addition to all other requirements of this Franchise: at least 78 video channels must be able to be delivered on the system without additional construction activity or the addition of any further electronic equipment to the system except for headend equipment; the system shall have the capacity to provide pay-per-view and other services requiring addressability; all system capacity for PEG Access and the Institutional Network, and interconnection with other systems, to the extent required in this Franchise, shall be in place, activated, and operational.

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For purposes of this Franchise agreement, "commencement of construction," as finally determined by the Grantor if necessary, shall mean the beginning of installation of any part of the system upgrade, including, but not limited to, the construction of any facility, building or structure, or the stringing of any strand wire or the laying of any conduit, or the installation of any active or passive electronic equipment to facilitate the required system upgrade.

At the request of the Grantor, Grantee shall meet with the Grantor at any time during the construction period to report on construction progress and the fulfillment of the construction schedule. The Grantor acknowledges that there may be acts of nature or other events such as delays in the permitting process which are fully outside the control of Grantee and may prevent the timely start or completion of construction. If such events occur, Grantee may explain them to the Grantor, and request a reasonable extension of the construction schedule, and the Grantor shall not unreasonably refuse such extension.

4.3 Right of Inspection of Construction

Grantor shall have the right to inspect all construction or installation work performed within the Franchise area and to make such tests as it shall find necessary to ensure compliance with the terms of this Franchise agreement and other pertinent provisions of law. Grantee shall reasonably cooperate to facilitate such inspection and testing, and shall be subject to any fees or charges applicable under ordinances or other laws or regulations affecting similarly situated users of the Grantor's rights of way.

4.4 Provision of Residential Service

4.4.A In General

It is the Grantor's general policy that all residences in the Grantee's Franchise Area should have equivalent availability of Cable Service from Grantee's Cable System under non-discriminatory rates and reasonable terms and conditions. Grantee shall not arbitrarily refuse to provide Cable Services to any Person within its Franchise Area.

Following a period of sixty (60) days after the date on which any part of the Franchise Area has reached a minimum density of thirty (30) dwelling units per linear strand mile, as measured from the nearest coaxial cable line, and thereafter throughout the term of the Franchise, Grantee shall extend and make cable television service available at the standard connection charge to any resident within the Franchise area who requests connection, if the connection to the resident would require no more than a standard one hundred and fifty (150) foot aerial drop or a seventy-five (75) foot buried drop line or extension from the nearest coaxial feeder cable. With respect to requests for connection requiring an aerial or buried drop line in excess of the maximum standard distance, Grantee shall extend and make available cable television service to such residents at a connection charge not to exceed its actual costs for the distance

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exceeding the standard one hundred and fifty (150) feet of aerial or seventy-five (75) feet of underground cable respectively.

4.4.B Low-density Areas

In Low-density Areas (those having fewer than thirty (30) residential units per proposed cable bearing strand mile) Grantee shall offer a cost-sharing arrangement with residents. A dwelling unit will be counted for this purpose if its lot fronts a street. At the request of a resident desiring service in such a low-density area, Grantee shall determine the cost of the plant extension required to provide service to the potential subscriber from the closest point on the cable system where it is technically feasible. The cost of construction shall be allocated based on the following terms:

- 1) If a request for extension of service into a residential area requires the construction of cable plant which does not pass at least thirty (30) potential subscribers per proposed cable bearing strand mile, Grantee and residents who agree to subscribe to cable service will each bear their proportionate share of construction costs. For example, if there are five (5) dwelling units per proposed cable bearing strand mile, Grantee's share will equal 5/30ths or one sixth (1/6) of the construction cost. The remaining cost will be shared equally by each subscriber.
- 2) Should additional residents actually subscribe to cable television service in areas where subscribers have already paid a proportionate share under the extension cost sharing formula, subscribers who have previously paid a proportionate share under the extension formula shall be reimbursed *pro rata* for their contribution or a proportional share thereof. In such case, the *pro rata* shares shall be recalculated and each new subscriber shall pay the new *pro rata* share, and all subscribers who previously paid a proportionate share shall receive *pro rata* refunds. In the event such subscribers (or prior subscribers) have been disconnected or have moved and owe the Grantee money which has not been recovered, Grantee shall have the right to first apply the refund to amounts owed the Grantee and give the balance, if any to the subscriber. At such time as there are thirty (30) potential subscribers per cable bearing strand mile, the subscribers shall receive their *pro rata* share of construction costs. In any event, three (3) years after the completion of a project, subscribers who have paid a share of line extension costs are no longer eligible for refunds, and the amounts paid in construction costs will be credited to the plant account of Grantee.
- 3) Where the density of residential dwelling and occupied commercial or industrial structures, adverse terrain, or other factors render extension of the system and offering of cable service impractical, technically infeasible or would create an economic hardship, the Grantor may,

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upon petition of the Grantee, either waive the extension of the system into such areas, or allow the extension and offer of service on special terms or conditions which are reasonable and fair to the Grantor, the Grantee and potential subscribers in such areas.

4.4.C Commercial Rates

Notwithstanding Section 4.4.A, Grantee may establish different and nondiscriminatory rates and charges and classes of services for Commercial Subscribers, as well as different, nondiscriminatory monthly rates for classes of Commercial Subscribers. For the purposes of Section 4.4.C, "Commercial Subscribers" means any Subscribers other than Residential Subscribers in single family or multifamily dwellings.

4.4.D Newly Annexed Areas

As areas are annexed to the City, Grantee shall provide Service Availability to all residences within the annexed area on the same terms as provided for in Section 4.4.A-C unless otherwise authorized by the City.

4.4.E New Subdivisions

In new subdivisions, service will be made available under the terms of 4.4.A to 4.4.C above no more than 60 days from first occupancy or from the date of completion of final construction grading, whichever comes first.

4.5 Erection of Poles

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

4.6 Trimming of Trees or Other Vegetation

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

City of Brookings Cable Franchise Draft**4.7 Repair and Restoration of Streets, Public Ways and Grounds**

Whenever the Grantee shall disturb the surface or otherwise damage any street, alley, public highway, other public way or ground for any purpose mentioned herein, it shall repair and restore the same to the condition in which it was prior to the opening or other damage thereof. And when any opening is made by the Grantee in any hard surface pavement, in any street, alley, public highway or other way, the Grantee shall promptly refill the opening and restore the pavement to its original condition. The Grantor may refill and/or pave in case of neglect of the Grantee. The cost thereof, including the cost of inspection, supervision and administration shall be paid by the Grantee. All excavations made by the Grantee in the streets, alleys, public highways or other ways shall be properly safeguarded for the prevention of accidents. The work hereby required shall be done in strict compliance with the rules, regulations and ordinances of Grantor as now or hereafter in effect. Unless otherwise provided for in a written contract with a private property owner, Grantee shall repair and restore any private property it disturbs in the same manner required by this Franchise with respect to public property.

4.8 Construction Codes

The Grantee shall strictly adhere to all applicable building, zoning or other laws and codes currently or hereafter in force in Grantor's jurisdiction. The Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference, as determined by the Grantor, with the use of said public or private property by any person. In the event of such interference, Grantor may require the removal of Grantee's lines, cables and appurtenances from the property in question.

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4.9 Reservations of Street Rights

Nothing in this Franchise agreement shall be construed to prevent any public work of the Grantor, including without limitation constructing sewers, grading, paving, repairing and/or altering any street, alley, or public highway, or laying down, repairing or removing sewer or water mains or maintaining, repairing, constructing or establishing any other public property. If any property of the Grantee shall interfere with the construction or repair of any street or public improvement, whether it be construction, repair or removal of a sewer or water main, the improvement of a street or any other public improvement, then on reasonable notice from the Grantor all such property including poles, wires, conduits or other appliances and facilities shall be protected, removed, replaced or relocated in a timely manner as shall be directed by the Grantor, so that the same shall not interfere with the said public work of the Grantor, and such removal, replacement or relocation shall be at the expense of the Grantee. In the event of failure, neglect or refusal of the Grantee, to repair, restore, or reconstruct such street, the Grantor may do such work or cause it to be done, and the cost thereof to the Grantor shall be paid by the Grantee. Except in the case of emergencies, reasonable notice shall mean three (3) months at a minimum, and the Grantor shall attempt, where feasible, to give notice prior to the end of Grantee's budget cycle prior to the required removal, replacement or relocation. The Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using the right of way, for the purpose of defraying the cost of removal, replacement or relocation, then such funds will be made available to the Grantee to the extent that the Grantee qualifies for the funds. For the purposes of this Section, "end of Grantee's budget cycle" shall mean December 31 of each year, unless the Grantee gives the Grantor notice of a new date, in which case the term shall refer thereafter to the new date.

4.10 Street Vacation and Abandonment

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

City of Brookings Cable Franchise Draft**4.11 Movement of Facilities**

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

4.12 Easements

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

4.13 Undergrounding**4.13.A Underground Requirement**

Cable must be installed underground where (1) all existing utilities are located underground, (2) all utilities are required to place their facilities underground by statute, or ordinance, policy or other regulation of Grantor, (3) overhead utility lines are replaced with underground (Grantee shall bear the cost of such movement of its facilities unless specific exemption is given by Grantor in any individual case), (4) Grantee is unable to get pole clearance, (5) underground easements are obtained from developers of new residential areas, or (6) utilities are overhead but residents prefer underground (service to be provided at cost to resident).

4.13.B Use of Conduit

Grantee shall use conduit or its functional equivalent on 100% of undergrounding, except for drops from pedestals to subscribers' homes and for cable on other private property where the owner requests that conduit not be used. Cable and conduit shall be utilized which meets the highest industry standards for electronic performance and resistance to interference or damage from environmental factors. Grantee shall use, in conjunction with other utility companies or providers, common trenches for underground construction wherever available.

City of Brookings Cable Franchise Draft**4.13.C Equal Treatment**

It is the Grantor's general intent in this Section 4.13 to make requirements of the Grantee with respect to undergrounding that are consistent with reasonably equal treatment of all utilities using the rights of way under similar circumstances.

4.14 As Built

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

4.15 Emergency

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

5. SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS

5.1 System Configuration

The communications system shall consist, at a minimum, of a Residential Network and, to the extent provided for under the terms of this Franchise, an Institutional Network. As upgraded in accordance with the requirements of this Franchise, the system shall have bi-directional communications capability and addressability, be capable of passing 750 MHz, be designed in a hybrid fiber coaxial configuration, and serve no more than 1,200 homes from any fiber optic node at the time of the initial completion of the upgrade and commencement of service.

5.2 Channel Capacity

The residential cable system shall be upgraded, in accordance with the requirements of this Franchise, to provide the capability of delivering a minimum of 78 video Channels outbound, and a minimum of 30 Mhz inbound.

5.3 Interconnection

5.3.A Interconnection for PEG and I-Net Purposes

Grantee shall construct its Cable System so that any PEG Access signals originating within any Franchise area served by the headend serving the Franchise Area may be sent to or received by all subscribers in any of those Franchise areas; and so that any I-Net transmissions originating within any Franchise area served by the headend serving the Franchise Area may be utilized by I-Net users in any such Franchise area. Provided, however, that, subject to Section 5.3.B below, all costs related to interconnecting the I-Net are paid for by grantor, pursuant to the requirements in Section 6.5 and Exhibit D of this document.

5.3.B Interconnection of Grantee Headends

If the Grantee interconnects any headends serving incorporated or unincorporated areas of Curry County, sufficient capacity, to be determined after consultation with the Grantee by the Grantor's reasonable estimate of PEG Access and I-Net needs over the life of the Franchise, will be provided on the interconnect at no charge to the Grantor for the bi-directional interconnection of PEG Access between Grantor headends. At the Grantor's request, up to four fibers shall be provided on any fiber interconnection of Grantee headends, within the Grantee's fiber sheath for I-Net transmissions between areas served by the Grantee within the County, provided that the Incremental Cost of the Interconnection between Grantor's own facilities for I-Net purposes shall be shared equally between the Grantor and the Grantee.

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5.3.C Interconnection with Other Systems

If a cable operator other than the Grantee constructs a cable system within one mile of an optical neighborhood node on the Grantee's Cable System, the Grantee will interconnect its System with the other system, within 6 months of a request by the Grantor, at no cost to the Grantor, for the purposes of transmitting PEG Access signals to the other system. Likewise, upon request by the Grantor, Grantee shall construct an interconnection of the I-Net with any other cable I-Net within one mile of an existing I-Net facility provided that the Incremental Cost of such Interconnection shall be borne by the Grantor.

With respect to installing the capacity required under this Section 5.3.C, the Grantor understands that interconnection requires cooperation from other cable system operators as to engineering, design, and technical operation issues. In addition, Grantee's interconnection obligation, with respect to equipment and construction, shall be limited to providing equipment needed, and performing construction work required, within Grantee's Franchise areas in order to enable the required interconnections to occur. In order to actually establish the interconnections, it may be necessary for the operators of cable systems interconnecting with the Grantee's system to provide equipment and perform construction work within their respective Franchise areas; and the provision of such equipment and performance of such construction work shall not be the obligation of Grantee under this Franchise. Therefore Grantor shall make every reasonable effort to assist Grantee in achieving the cooperation of interconnecting cable system regulators and operators necessary to establish the interconnections, and Grantee's interconnection obligations hereunder shall be subject to such cooperation being obtained.

All interconnections shall be accomplished in a manner that permits the transmission of signals meeting the technical standards of this Franchise on all interconnected channels.

5.4 Emergency Alert Capability

Grantee shall provide the system capability for the Grantor to override all System video and audio programming for emergency purposes, and transmit an emergency alert message from locations designated by the Grantor to all subscribers. This capability shall be consistent with the requirements of Part 11 of the regulations of the FCC. Emergency alert capability as required in this Section shall be operational throughout the term of the Franchise, beginning with completion of the System upgrade required by this Franchise.

City of Brookings Cable Franchise Draft**5.5 Standby Power**

Beginning with the completion of the System upgrade required by this Franchise, Grantee shall provide standby power generating capacity at the cable communications system control center and at all hubs and any fiber optic nodes. Grantee shall maintain standby power system supplies, rated at least at two (2) hours duration, throughout the trunk and distribution networks. In addition, Grantee shall have in place and have filed with the Grantor throughout the Franchise term a plan, and all resources necessary for implementation of the plan, for dealing with outages of more than two hours.

5.6 Parental Control Lock

Grantee shall provide subscribers (by sale or lease or otherwise), upon request, with a manual or electronic parental control locking device that permits inhibiting the viewing of any channel. Any charge for such device shall be consistent with applicable rate regulations. Subscribers shall be notified by Grantee of the availability of the locking device no less frequently than annually.

5.7 Technical Standards

The Federal Communications Commission (FCC) Rules and Regulations, Part 76, Subpart K (Technical Standards), as now or hereafter constituted, shall apply, and may be enforced by the Grantor to the extent permitted by applicable law and regulation. Whether FCC technical standards may be directly enforced by the Grantor or not, any failure to meet the FCC standards shall be taken as a violation of applicable law and regulation, and shall as such make the Grantee subject to penalty under this Franchise, up to and including Franchise revocation. The Grantor may establish and enforce higher or additional reasonable technical standards than those promulgated by the FCC, following consultation with the Grantee, to the extent that applicable law allows the Grantor to do so without the consent of the Grantee.

5.8 Performance Testing**5.8.A Schedules**

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

5.8.B Reporting

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

City of Brookings Cable Franchise Draft**5.8.C Inspection**

The Grantor shall have the right to inspect any and all work performed in the streets and rights-of-way. In addition, for initial and semi-annual FCC proof-of-performance tests, the Grantor shall be given the opportunity by Grantee to review test sites. Upon request, the tests shall be witnessed by representatives of the Grantor. Grantee shall notify the Grantor of the time and place of the next scheduled test and shall cooperate in facilitating the Grantor's witnessing at the time of the tests. The Grantor may, at its own expense and upon thirty (30) days written notice to Grantee, conduct independent tests of the System, for which Grantee shall give its fullest cooperation.

5.8.D FCC Compliance

It shall be the responsibility of the Grantee to document that the System and its operation are in compliance with FCC technical specifications and performance requirements. If the Grantor has received Subscriber complaints regarding the performance of the Cable System; and the Grantor determines that the most efficient or only reasonable way to determine a question of Franchise compliance involves specific electronic testing of the System in addition to tests required by the FCC, the Grantee shall, upon written notice by the Grantor, perform such testing, give the Grantor an opportunity to witness the testing, and provide the Grantor with documentation of the testing results.

5.8.E Remedy for Non-Compliance

In any case where system testing reveals non-compliance with FCC standards, the Grantee shall repair the System or make whatever modifications are necessary to bring the System performance into compliance with FCC standards.

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6. SERVICES AND PROGRAMMING

6.1 Programming Categories and Number of Services_

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

1. News & Information
2. Sports
3. General Entertainment
4. Arts, Culture, Performing Arts
5. Children / Family
6. Science
7. Travel Information
8. Weather Information
9. Governmental and Educational Programming
10. Movies
11. Religious Programming
12. Foreign language / Ethnic Programming

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

The Grantor shall offer no fewer programming services to Subscribers than were offered on the Cable System as of July 12, 1999.

6.2 Changes in Video Programming Services

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

6.3 Leased Channel Service

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

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6.4 Community Access and Local Programming

6.4.A Management and Control of Access Channels

The Grantor may authorize Designated Access Providers to control and manage the use of any or all Access Facilities provided by Grantee under this Franchise, including, without limitation, the operation of Access Channels. To the extent of such designation by the Grantor, as between the Designated Access Provider and Grantee, the Designated Access Provider shall have sole and exclusive responsibility for operating and managing such Access Facilities. The Grantor or its designee may formulate rules for the operation of the Public Access Channel, consistent with this Franchise. Nothing herein shall prohibit the Grantor from authorizing itself to be a Designated Access Provider.

6.4.B Channel Capacity and Use

- 1) After the effective date of this Franchise, any Channels used for PEG Access purposes shall be administered by the Grantor or its designee.
- 2) Downstream Channels
 - a) Upon the date the upgrade required by Section 4 is substantially completed, Grantee shall provide a minimum of 3 Access Channels for PEG use. Each Access Channel shall be a minimum of 6Mhz, subject to (B)(5) & (B)(3) below, and be capable of carrying a video signal. Although nothing in this Franchise restricts the use of PEG channels to video applications, any other use shall be subject to the technical limitations of the Grantee's system, as well as the limitations of this Franchise and the requirements and intent of the Cable Act, and all other applicable federal laws, rules & regulations.
 - b) After the initial 3 Access Channels have been made available for PEG use, and in accordance with the trigger criteria set forth in Section 6.4.A(3) below, the Grantor may require the Grantee to activate up to two additional Access Channels for a maximum of 5 Access Channels.
 - c) Grantee may use unused PEG Channels for its own purposes until such time as the Grantor, upon 60 days prior written notice, requests them for PEG use by the Grantor or a Designated Access Provider.
- 3) Triggers for Additional Access Channels

After the initial 3 Access Channels have been made available for PEG Access use, Grantee shall, if directed by the Grantor, provide additional activated Access Channels for PEG use to a maximum total of five Access Channels as described in this subsection. The Grantor shall give

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Grantee at least 90 days prior written notice of required additional Access Channels. Such written notice shall include information verifying that the trigger criteria has been met.

One additional Access Channel shall be made available to the Grantor each time that the existing Access Channels are in use for locally scheduled video programming (not to include character-generated programming, or repetitions of programs beyond three (3) repetitions) an average of 80% of the time, seven days per week for any consecutive five hour block during the hours from 10:00 a.m. to 10 p.m. for 10 consecutive weeks. Provided, however, that if the usage ratio of any additionally designated channel should at any time fall below 30% of the level of usage required above for the addition of a channel, then the use of that channel shall revert back to the Grantee. This mechanism for exchanging control of channels based on usage shall be continuous throughout the life of the Franchise.

4) Upstream Channels

- a) Beginning with the completion of the upgrade construction and throughout the term of this Franchise, Grantee shall provide and maintain communications return lines, as well as all necessary wires and electronic interface and transmission equipment, sufficient so that the Grantor or its designee can transmit full motion video signals as described in this Section from Access Master Control Sites, and other Origination Points listed in Exhibit A, onto the Cable System, to enable the distribution of programming on Access Channels. Such lines and equipment shall enable upstream transmission utilizing common analog cameras and associated cablecasting equipment. For all Origination Points (as identified in Exhibit A), Grantee shall provide the capacity to transmit at least one (1) full motion video signal on a cable channel (as defined by 47 USC 522) upstream; for any location designated in Exhibit A as a Master Control Site, Grantee shall provide the capacity for the upstream transmission of at least as many full motion video signals as are necessary for simultaneously transmitting programming for all access cable channels active from that location to the headend serving the area for distribution.

The requirements of this Section relating to connections to and from the Grantee's facilities shall apply wherever Grantee's facilities are located or relocated.

- 5) Grantee may be required to deliver the PEG Channels to Subscribers in an analog format unless and until all other Channels on the System are delivered in a digital format. At such time, Grantee shall provide 6 Access Channels in digital form. The Access Channels must be receivable by Subscribers without special expense, other than the

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expense required to receive Basic Service. Designated Access Providers have no obligation to provide a signal to Grantee in a digital format.

- 6) If Grantee modifies its Cable System in a manner that has the effect of requiring modifications to PEG facilities and equipment, in order to deliver PEG signals, Grantee will bear any cost that the Designated Access Providers must incur as a result. If, for example, Grantee requires high definition signals, Grantee will bear the costs Designated Access Providers incur to provide high definition signals.
- 7) The Grantee will provide all PEG Channels on the Basic Service tier throughout the life of the Franchise, or if there is no Basic Service tier, shall provide the PEG Channels at no additional charge to any Person who subscribes to any level of cable video programming service and otherwise in accordance with federal and state law. If channels are selected through a menu system, the PEG Channels shall be displayed in the same manner as other channels. Designated Access Providers shall be responsible for the costs associated with specific program listings for the PEG Channels on Cable System program guides and menus.

6.4.C Financial Support for PEG Access

- 1) *Throughout the Franchise term, beginning no later than 60 days following the effective date of this Franchise*, Grantee shall pay to the Grantor as support for PEG Access equipment, services and facilities \$.50 per subscriber per month, payable quarterly with Franchise Fees. In addition, Grantee shall pay to the Grantor the sum of \$15,000 within thirty (30) days following Grantee's acceptance of this Franchise, to be used for equipment and services related to PEG programming, e.g., local sports team coverage, educational events, City Council or County Board meetings. The Grantor may use a portion of PEG Access support for the costs of the Institutional Network.
- 2) Should Grantee continue to provide Cable Service after the scheduled expiration of the Franchise, pursuant to a Resolution passed by the Grantor allowing Grantee to continue to operate under the this Franchise, until and unless this Franchise is superseded by a renewed Franchise issued by the Grantor, Grantee shall continue to make monthly Access support payments for, and in support of PEG Access as specified herein above.
- 3) Any PEG Access support amounts owing pursuant to this Franchise which remain unpaid more than 25 days after the date the payment is due shall be delinquent and shall thereafter accrue interest at 12 percent per annum or 2 percent above the highest prime lending

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rate published by the *Wall Street Journal* during the period the payment is overdue, whichever is greater.

Grantee agrees that support for PEG Access agreed to in this Franchise is not Franchise Fees, nor shall it be used as payment in lieu of Franchise Fees. The Grantor acknowledges that, to the extent allowed by federal law, Grantee may pass through to subscribers, in their monthly billing statements, all costs related to satisfying franchise requirements that are required by the franchising authority to support public, educational, and governmental access channels.

6.4.D Technical Quality

- 1) Grantee shall maintain all Upstream and Downstream PEG Channels and Interconnections of PEG channels at the same level of technical quality and reliability as the commercial Channels carried by Grantee. There shall be no significant deterioration in signal due to Grantee's signal carriage from the point of origination Upstream to the point of reception Downstream.
- 2) Grantee shall not cause any programming to override PEG Access programming on any PEG Channel, except by oral or written permission from the Designated Access Provider.

6.4.E Change in Technology

- 1) In the event Grantee makes any change in the Cable System and related equipment and facilities or in Grantee's signal delivery technology, which directly or indirectly substantially affects the signal quality or transmission of Access services or programming, Grantee shall, at its own expense, take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, and full training of Designated Access Providers' Access personnel to ensure that the capabilities of Access services are not diminished or adversely affected by such change.
- 2) As required in Section 6.4.B(4) the Grantee is required to provide connections as described herein to its headend wherever the headend may be located or relocated. Without limiting the foregoing, in the event Grantee alters its Cable System (including by relocating its headend), Grantee will be responsible for replacing or restoring all connections at Grantee's cost so that all the functions and capacity remain available, operate reliably and satisfy all applicable technical standards without additional cost to the Grantor or Designated Access Providers.
- 3) Without limiting the foregoing, in the event Grantee alters its Cable System (including by relocating its headend), it will be responsible for replacing or extending all connections and Interconnections, including costs associated with the Institutional Network. Grantee will

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reimburse the Grantor for reasonable incremental costs incurred by the Grantor as a result of such alteration. If the facilities are replaced or extended, the replacement or extension must have at least equal capacity and capability.

6.5 Institutional Network**6.5.A Obligation to Construct**

In addition to the Residential Network capacity of the System established in the System upgrade required under this Franchise, the Grantee shall, upon the request of the Grantor, provide System plant, capacity, or services, or a combination thereof, to be used for an Institutional Network (I-Net), which, at the Grantor's discretion, may be used for non-commercial, non-profit applications, subject to Section 6.5.F below, by the Grantor and its agencies, other governments and their agencies, Schools, libraries, public corporations created by the Grantor, and other non-profit community based institutions to the extent that such non-profit institutions provide public services.

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6.5.B I-Net Design, Functionality and Management

If requested, the Grantee shall provide I-Net facilities, according to a design and functionality to be specified by the Grantor, provided such request does not unreasonably impact or affect Grantee's subscriber system. Subject to the requirements of this Franchise, the Grantee shall not restrict the Grantor's use of the I-Net with respect to its capability for full bi-directional, video, voice and low- and high-speed data communications (including, but not limited to, closed circuit video applications). At Incremental Cost as defined in Exhibit D, to be paid by the Grantor, the Grantor may require the Grantee to install: 1) up to two (2) pair of fiber for I-Net use to each I-Net site listed in Exhibit E; and 2) such electronics, labor and services as may be necessary to make the Grantor's I-Net functional. If Grantor elects to pursue the construction of an I-Net in accordance with the terms of this Franchise, Grantee agrees that the Grantor may utilize fibers within the Grantee's fiber sheath as part of Grantee's planned System upgrade, in order to maximize the cost savings to be realized through paying Incremental Costs only. The Grantor or its designee shall have the right to control and manage the use of the I-Net provided for herein. The Grantee shall, as requested by the Grantor, maintain the I-Net it provides up to the demarcation point as defined below, through a maintenance agreement between the parties, which agreement is included as Appendix F to this Franchise. Grantee will perform all such maintenance work, at the direction of the Grantor; promptly and in a manner consistent with ensuring that the network is highly reliable for all I-Net uses; and it will do so in a manner consistent with good engineering practice, using qualified personnel. The Grantor will be responsible for the Incremental Costs associated with maintenance of the I-Net that Grantee is required to perform. The demarcation point for purposes of this Section shall be the patch panel, termination block, or other termination device located at each I-Net site, at the point closest to the Grantee's facilities where the device transmits signals to and from the I-Net provided by Grantee.

6.5.C Cost and Method of Payment

The cost to the Grantor for the construction of the I-Net shall be no more than the Incremental Cost of I-Net construction, and there shall be no charge by the Grantee to the Grantor or other authorized user for the use of the I-Net, other than maintenance.

6.5.D Process for Integrating I-Net with System Upgrade and Future Construction.

The I-Net capacity to any location shall be provided within 18 months following a request by the Grantor that the Grantee construct or provide an I-Net connection to that location. The Grantee shall cooperate with the Grantor to ensure the most cost-effective construction of the I-Net.

- 1) In order to ensure that the Grantor may take full advantage of the cost savings to be realized from constructing the I-Net in conjunction with

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any Grantee upgrade construction, within 30 days of the effective date of this Franchise, Grantee shall notify the Grantor of any plant construction scheduled to occur within the next six months near any of the locations listed in Exhibit E.

- a) The Grantor shall notify Grantee within 30 days if the Grantor is requesting Grantee to construct an I-Net and Grantee shall enter into discussions with the Grantor to determine what I-Net installations, if any, the Grantor desires to have served as part of the construction. Once the locations are identified, the Grantee shall provide cost estimates to the Grantor within 30 days, and shall if the Grantor so directs, proceed with construction of the I-Net. The Grantor has 30 days from receipt of cost estimates to approve the costs and authorize construction of the I-Net. If the Grantee fails to give the Grantor such notice that it intends plant construction near the locations listed in Exhibit E, and the Grantor later elects to have Grantee provide I-Net connections to locations that could have been served in conjunction with Grantee construction carried out for its own purposes, then the Grantee shall provide the I-Net connections at a cost to the Grantor which does not exceed what would have been the Incremental Cost of providing the I-Net connections had it been done along with Grantee's construction for its own purposes. I-Net capacity shall be provided within 18 months following the Grantor's request that the Grantee construct or provide I-Net services. Grantor and Grantee agree that if payment for I-Net facilities is not made by the Grantor within two years from the Grantor's approval of costs and authorization for construction, then Grantee shall not be obligated for further I-Net construction for the Grantor, and all rights to the use of I-Net facilities constructed by the Grantee for the Grantor but not paid for shall revert to the Grantee.
- b) Subsequent to the completion of the System upgrade required under Section 4 of this Franchise, Grantee shall notify the Grantor of any plans for additional plant construction near the locations in Exhibit E, 90 days in advance. If the Grantor notifies the Grantee within 30 days that it desires to have an I-Net constructed by the Grantee, then the same requirements shall apply as are set forth in the previous paragraph following provision for notification by the Grantor to Grantee that it desires to have Grantee construct an I-Net. Costs of construction shall not exceed the estimate provided by Grantee.

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1.1.B Interconnection of Institutional Network to other Networks

The Grantee shall, at the direction of the Grantor, interconnect the I-Net to any cable I-Net with lines reasonably adjacent to the Cable System, operating in the Franchise Area or any contiguous jurisdiction, in such manner as to enable the sending and receiving of all I-Net information between the two systems. Grantee shall complete such Interconnection within six (6) months of a request by the Grantor; and the Grantor shall be responsible for all costs of the Interconnection. Should the Grantee interconnect the headend serving the Franchise Area with any other Grantee headend in Curry County, capacity for bi-directional I-Net transmissions shall be provided at no charge, in accordance with Section 5.3. The Grantee shall further connect the I-Net to any location designated as the Grantor's I-Net control center or any Master Control Site as may be designated by the Grantor, and the Grantor shall be permitted to interconnect the I-Net, directly or indirectly, with any other communications network for PEG or I-Net purposes. The Grantee shall provide sufficient floor space in its facilities to accommodate such equipment as may be necessary there to operate or monitor the I-Net; and shall permit the Grantor reasonable access to its facilities as may be necessary to install, replace, repair or maintain such equipment. However, Grantee shall not be required to operate, make available, or maintain such facilities, unless such facilities are a necessary part of Grantee's own cable system operation

1.1.C Limits on Use

Unless a limit upon use is specified in this Section 6.5, the I-Net may be used for any communications, in any form, for any (a) municipal purpose (proprietary or governmental); (b) educational purpose; (c) public purpose, or for use of the PEG Channels on the Subscriber Network. It is understood that the connections to county or other governmental institutions and transmissions to and among these institutions fall within the terms above. Fees may be charged by the Grantor for use of the I-Net or for the information transmitted via the I-Net. The I-Net may be linked to any other communications network used by the Grantor or to any I-Net user authorized by the Grantor, provided such user is either a public agency or such use is for non-commercial, non-profit purposes. The I-Net may also be linked to the Internet; however, an I-Net user, the Grantor (or an entity under the Grantor's control) may not use the I-Net provided by Grantee to act as the Internet Service Provider for the general public or any commercial establishments.

- 1) Appropriate uses of the I-Net include, by way of example and not limitation:
 - a) Transmitting GIS and other data to and from Grantor departments and to and from the public;
 - b) Linking libraries and providing terminals at library locations that allow members of the public to access library databases and other remote databases;

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- c) Transmitting live and stored instructional materials (whether in the form of data, video, or otherwise) to and from schools and to the public;
 - d) Providing kiosks where members of the public may access information;
 - e) Providing video conferencing among municipal and educational locations and to other locations for municipal and educational purposes such as economic development and distance learning;
 - f) Providing for remote permitting, remote arraignment, and voice traffic to and from the Grantor and the Schools.
- 2) The Grantor may designate a entity to control and manage the use of the I-Net provided by Grantee. The Grantor may not lease, to a third party, any portion of the network that Grantee installs or leases to the Grantor without the prior written permission of the Grantee; provided that the Grantee shall not unreasonably deny such permission, and shall limit denial to those cases where the lease may reasonably be construed as facilitating the provision of a service in competition with the Grantee. Moreover, where the purpose of any use is commercial and for profit, such use shall not be allowed without the written permission of Grantee.

1.1.B No Charge for I-Net Use

The parties agree that there shall be no charge for the I-Net provided by Grantee, other than the charges specified in this Section.

*City of Brookings Cable Franchise Draft***2. FRANCHISE REGULATION AND CUSTOMER SERVICE STANDARDS****2.1 Intent**

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

2.2 Areas of Regulation and Administration

The Grantor (or its designee) has authority for regulation in the following areas: 1) administering and enforcing the provisions of this Franchise agreement, including the adoption of administrative rules and regulations to carry out this responsibility; 2) coordination of the operation of public, government and educational access channels. 3) coordinating the Grantee's technical, programming and operational assistance and support to public agency users, such as Grantor departments, schools and health care institutions; 4) formulating and recommending long-range cable communications policy for the Franchise area; 5) disbursing and utilizing Franchise revenues paid to the Grantor; 6) regulating rates, to the extent permitted by law. 7) customer service, to the extent permitted by law; and 8) planning and facilitating development of public uses of the cable system on the residential and institutional networks, both within the Grantor and through interconnection with adjacent systems.

2.3 Rate Regulation**2.3.A Rate Regulation Right Reserved**

Grantor reserves the right to regulate Grantee's rates and charges to the full extent authorized by applicable federal, state and local law, as these may change during the period of the Franchise; and to establish rate regulation policies and guidelines for carrying out its authority.

2.3.B Rate Discrimination Prohibited

Grantee shall apply non-discriminatory rates and charges to all subscribers purchasing similar services, regardless of race, color, creed, sex, marital or economic status, age, national origin, sexual preference, or neighborhood of residence, except as otherwise provided herein; provided that nothing in this Franchise shall prevent the Grantee from establishing discounted rates and charges for low-income or elderly subscribers, or from temporarily reducing or waiving rates and charges in connection with promotional campaigns.

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2.3.C Provisions Subject to the Cable Act

The provisions of this Section 7.3 shall be subject to the provisions of 47 U.S.C. Section 543 (Section 623 of the Cable Communications Policy Act of 1984), as amended from time to time. It is not intended that this Section expand or diminish the rights of the Grantor in relation to regulation of rates and charges under those provisions of the Act, and any provision of this Section or of any other provision of this Franchise that purports to expand or diminish such rights shall be deemed superseded by those provisions of the Act.

2.4 Remedies for Franchise Violations

2.4.A Notification of Alleged Violation

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

2.4.B Opportunity to Cure

The Grantor must provide written notice of a violation. Except as otherwise provided in this subsection, upon receipt of notice, the Grantee will have a period of thirty (30) days to cure the violation or thirty (30) days to present to the Grantor a reasonable remedial plan. Grantor may, with written notice, require a shorter period of cure in instances where public safety is at issue. Likewise, Grantor may, with written notice require a shorter period of cure where there has been a pattern of repeated violations, provided that such period shall not be less than seven (7) days. The Grantor shall, decide whether to accept, reject, or require modifications to the remedial plan presented by the Grantee; Grantor shall not reject or require modifications to the plan, provided that the plan is reasonable and will cure the alleged violation. Fines shall be assessed only in the event that either a cure has not occurred within the cure period or the Grantor rejects the remedial plan. The procedures provided in Section 7.4 shall be utilized to impose any fines. The date of violation will be the date the Grantee receives notice and not the date of the event, unless there has been a deliberate effort by Grantee to hide the violation or to abuse the process for notice, cure and hearing, in which case the date of the violation shall be the date of the event .

During the cure period, the Grantee shall have the following options:

- 1) Respond to Grantor, contesting Grantor's assertion that a violation has occurred, and requesting a hearing in accordance with subsection 7.4.E below, or;
- 2) Cure the violation, or;

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- 3) Notify Grantor that Grantee cannot cure the violation within the cure period, and notify the Grantor in writing of what steps the Grantee shall take to cure the violation including the Grantee's projected completion date for such cure. In such case, Grantor shall set a hearing date within thirty (30) days of receipt of such response in accordance with sub7.4.C below.

2.4.C Hearing on Plan for Cure

In the event that the Grantee notifies the Grantor that it cannot cure the violation within the cure period, Grantor shall, within thirty (30) days of Grantor's receipt of such notice, set a hearing. At the hearing, Grantor shall review and determine whether the Grantee has taken reasonable steps to cure the violation and whether the Grantee's proposed plan and completion date for cure are reasonable. In the event such plan and completion date are determined by mutual consent to be reasonable, the same may be approved by the Grantor, who may waive all or part of any applicable fines for such extended cure period in accordance with the criteria set forth in Section 7.4.G.

2.4.D Hearing to Determine Fines

In the event that the Grantee fails to cure the violation within the cure period or within an extended cure period approved by the Grantor pursuant to subsection 7.4.C, the Grantor shall set a hearing to determine what fines if any shall be applied.

2.4.E Hearing on Contesting of Violation

In the event that the Grantee contests that a violation has occurred, and requests a hearing in accordance with sub7.4.C(1) above, the Grantor shall set a hearing within sixty (60) days of the Grantor's receipt of the hearing request to determine whether the violation has occurred, and if a violation is found, what fines shall be applied.

2.4.F Written Notice of Hearings

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

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2.4.G Reduction of Fines

The fines set forth in Section 7.5 of this Franchise may be reduced at the discretion of the Grantor, taking into consideration the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

- 1) Whether the violation was unintentional;
- 2) The nature of the harm which resulted;
- 3) Whether there is a history of prior violations of the same or other requirements;
- 4) Whether there is a history of overall compliance, and/or;
- 5) Whether the violation was voluntarily disclosed, admitted or cured.

2.4.H Remedies

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

- 1) Order Grantee to correct or remedy the violation within a reasonable time frame as Grantor shall determine;
- 2) Establish the amount of fine set forth in Section 7.5, taking into consideration the criteria provided for in subsection 7.4.G of this Section as appropriate in Grantor's discretion;
- 3) Revoke this Franchise, and/or;
- 4) Pursue any other legal or equitable remedy available under this Franchise or any applicable law.

2.5 Fines

2.5.A Basis of Financial Penalties

Failure to comply with provisions of the Franchise may result in injury to Grantor. It will be difficult to accurately estimate the extent of such injury. Therefore, the financial penalty provisions of this Franchise are intended as a reasonable forecast of compensation to Grantor for the harm caused by violation of this Franchise, including but not limited to administrative expense,

(1) For violating aggregate performance telephone answering standards for a quarterly measurement period:

- a) \$2,000 for the first such violation;
- b) \$4,000 for the second such violation, unless the violation has been cured;

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c) \$6,000 for any and all subsequent violations, unless the violation has been cured.

A cure is defined as meeting the subscriber telephone answering standards for two consecutive quarterly measurement periods.

- (2) for violations of Sections 4.2 and 6.5, regarding system upgrade and institutional network requirements: \$1,000 per day, with a cap of \$180,000 for any one ongoing violation;
- (3) for violations of Section 7.7 other than telephone answering violations, regarding customer service standards, \$250 per day with a cap of \$20,000 for any one ongoing violation.
- (4) For all other violations of this Franchise, except as otherwise provided herein, (for example, but not limited to, record submissions under this Franchise): \$250/day for each violation for each day the violation continues with a cap of \$20,000 for any one ongoing violation.

2.5.B Collection of Fines

The collection of fines by the Grantor shall in no respect affect:

- 1) Compensation owed to Subscribers; or
- 2) The Grantee's obligation to comply with all of the provisions of this Franchise or applicable law; or
- 3) Other remedies available to the Grantor.

2.6 Remedies Not Exclusive

The Grantor has the right to apply any one or any combination of the remedies provided for in this Franchise, including without limitation all remedies provided for in this Section 7, and may without limitation pursue any rights, remedies or actions that it may have in law or equity regardless of whether they are specifically mentioned in this Franchise.

2.7 Customer Service & Consumer Protection Standards

The following customer service and consumer protection standards shall apply. Nothing in this Section shall limit the rights of the Grantor to establish additional or different standards in accordance with federal law and regulations.

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2.7.A Customer Service and Telephone Responsiveness

- 1) The Grantee shall maintain an office within the City of Brookings or Harbor. The office must be adequately staffed and able to respond to subscribers and the public not less than 35 hours per week ; However, If it is so ordered by the City Council at its sole discretion following the Grantor's determination of need, the Grantee's office must be open additional hours, to be determined by Grantor, up to a total of 45 hours per week, including normal business hours and evenings or Saturdays.
- 2) As used herein, "adequately staffed" means customer service representatives are available to respond in at least the following ways: to accept payments; to exchange or accept returned converters or other company equipment; and to respond to inquiries.
- 3) Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays.
- 4) The Grantee shall maintain, on average as verifiable by statistical data:
 - a) Sufficient customer service staff and telephone line capacity to handle normal call volume with a minimum of delay to customers. Under normal operating conditions, the customer will receive a busy signal less than 3% of the time.
 - b) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds once the connection is made. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

2.7.B Service and Repair Calls

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

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activities, the Grantee shall offer either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

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

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

- 3) As a normal operating procedure, and with particular regard to the needs of working or mobility-limited customers, upon subscriber request the Grantee shall arrange for pickup and/or replacement of converters or other company equipment at the subscriber's address, or else a satisfactory equivalent (such as the provision of a postage-prepaid mailer).
- 4) Under normal operating conditions, at least 95% of the time measured on a quarterly basis, where the service requested is installation of service, standard installations shall be performed by the Grantee within seven (7) business days after an order has been placed. "Standard" installations, for the purposes of this Section, shall mean those that are located up to 150 feet from the existing distribution system.

2.7.C Disconnection

- 1) The Grantee may disconnect a subscriber if:
 - a) at least 30 days have elapsed without payment after the due date for payment of the bill of the affected subscriber; and
 - b) the Grantee has provided at least 10 days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.
- 2) Regardless of subsection 7.7.C(1) hereof, the Grantee may disconnect a subscriber for cause at any time if the Grantee in good faith determines that the subscriber has tampered with or abused company equipment, or is or may be engaged unlawfully in theft of cable services, or is causing a system violation of FCC rules or regulations.
- 3) The Grantee shall promptly disconnect any subscriber who so requests from the Grantee's cable system. No period of notice prior

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to voluntary termination of service may be required of subscribers by the Grantee. No charge may be imposed by the Grantee for any cable services delivered after the date of the disconnect request. Upon the later of the date of actual disconnection or the return of all company equipment to Grantee, the Grantee shall under normal operating conditions, at least 95% of the time measured on a quarterly basis, within thirty working days return to such subscriber the amount of the deposit, if any, collected by Grantee from such subscriber, less any undisputed amounts owed to Grantee for cable services or charges prior to the date of disconnection.

2.7.D Credits Upon Outage

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

2.7.E Downgrade Charges

Grantee may not impose Downgrade Charges on Subscribers.

2.7.F Billing Information Required

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

2.7.G Information to Subscribers

- 1) Upon installing initial service to or reconnecting each customer, and upon request by the customer thereafter, and upon request by the Grantor but no more often as a result of such request than annually, the Grantee shall advise the customer, in writing, of:
 - a) the equipment and services currently available (including parental lock-out devices) and the rates and charges which apply;
 - b) the amount and criteria for any deposit required by Grantee, if applicable, and the manner in which the deposit will be refunded;
 - c) the Grantee's policies and procedures by which complaints or inquiries of any nature will be addressed;

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- d) the toll-free telephone number and address of the Grantee's office to which complaints and inquiries may be reported;
- e) the company's practices and procedures for protecting against invasions of subscriber privacy; and
- f) the notice and referral information, as set forth in subsection 7.7.G(2) hereof.

2) Notice to Subscribers

- a) The Grantee shall inform the Grantor and subscribers within 30 days, prior to any changes in programming or increases in rates, costs, or charges to subscribers, or any channel repositioning within the control of Grantee.
- b) All Grantee promotional materials, announcements, and advertising of residential cable services to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all Grantee-prepared promotional materials must clearly and accurately disclose price terms and any restrictions for use. Likewise, in the case of telephone orders, the Grantee shall take appropriate steps to ensure that Grantee customer service representatives clearly and accurately disclose price terms and any restrictions for use to potential customers in advance of taking the order.
- c) The Grantee shall, upon request by the Grantor and no more often than annually, send at Grantee's own expense written notice approved by the Grantor to all subscribers that any complaints or inquiries not satisfactorily handled by the Grantee may be referred to the Grantor or its designee, giving the address and phone number of the appropriate Grantor office. Such notification may be included with a billing statement.

3) Written Complaint Acknowledgment

Within ten (10) days following receipt of a written complaint from a subscriber which is mailed to and received at the Grantee's primary business address, the Grantee shall provide an acknowledgment to the subscriber of receipt of the complaint and of any action the Grantee has taken or intends to take in response to the complaint. This requirement does not apply to complaints submitted for processing by a regulatory agency other than the Grantor, such as the FCC.

City of Brookings Cable Franchise Draft**2.7.H Complaint Resolution**

The Grantor may take all necessary steps to ensure that all subscribers and members of the general public have recourse to a satisfactory hearing of any complaints, where there is evidence that the Grantee has not settled the complaint to the satisfaction of the person initiating the complaint.

- 1) For purposes of this Section, a "complaint" is a grievance related to the service of the cable communications system within the Franchise area that is reasonably remediable by the Grantee, but does not include grievances regarding the content of programming or information services other than grievances regarding broad categories of programming, and does not include customer contacts resulting in routine service calls that resolve the customer's problem satisfactorily to the customer.

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2. GENERAL FINANCIAL AND INSURANCE PROVISIONS

2.1 Compensation

2.1.A Franchise Fee

- 1) As compensation for the Franchise to be granted, and in consideration of permission to use the streets and public ways of the Grantor for the construction, operation, and maintenance of a cable communications system within the Franchise area and to defray the costs of Franchise regulation, the Grantee shall pay to Grantor an amount equal to five percent (5%) of the gross receipts generated in any manner through the operation of the cable system under this Franchise. In the event any law or valid rule or regulation applicable to this Franchise limits Franchise fees below the five percent (5%) of Gross Receipts required herein, the Grantee agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible amount, then Grantee shall pay the higher amount up to the maximum allowable by law, not to exceed five percent (5%).
- 2) Any bad debts or other accrued amounts deducted from Gross Revenues in the calculation of Gross Receipts shall be included in Gross Receipts at such time as they are actually collected.
- 3) The Grantee shall, upon request by the Grantor, supply to the Grantor an up-to-date list of all entities receiving Gross Revenues as such revenues are defined in this Franchise.

2.1.B Payment of Franchise Fees

- 1) Payments due under this provision shall be computed and paid quarterly, for the preceding quarter, as of March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after the dates listed in the previous sentence. A quarterly report shall be made as hereinafter provided which shall contain the relevant facts necessary for the Grantor to verify the amounts of Franchise fee payments. Late franchise fee payments will be subject to late fees calculated on the basis of nine percent (9%) per annum of the amount past due.
- 2) No acceptance of any payment shall be construed as accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim Grantor may have for further or additional sums payable under the provisions of this Franchise. All amounts paid shall be subject to audit and recomputation by Grantor.

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2.1.C Franchise Fees on Bundled Services

When Cable Services are bundled with non-cable services and sold to subscribers at a discounted price, or simply as part of the total price for the bundled services, then the allocation of revenues for the purpose of calculating Gross Revenues and cable franchise fees shall be reasonably proportionate to the average relative price of the individual services as normally charged during the period for which the franchise fees are calculated. Nothing in this section shall be construed to (1) regulate Grantee's rates in a manner beyond that which is expressly authorized by federal law; or (2) compel Grantee to pay more than its statutorily authorized taxes and fees on combined cable and telecommunications services.

2.2 Faithful Performance Bond

2.2.A Posting

Upon the effective date of this Franchise, the Grantee shall furnish proof of the posting of a faithful performance bond running to the Grantor with good and sufficient surety approved by the Grantor, in the penal sum of One Hundred Thousand Dollars (\$100,000.00), conditioned that the Grantee shall well and truly observe, fulfill and perform each term and condition of this Franchise. Such bond shall be maintained by the Grantee throughout the term of this Franchise.

2.2.B Payment of Premiums

Grantee shall pay all premiums charged for any bond or other security required under Sections 8.2, 8.3, and 8.4, and unless the City Council specifically directs otherwise, shall keep the same in full force and effect at all times through the later of either:

- 1) The remaining term of this Franchise; or
- 2) If required by the Grantor, the removal of all of Grantee's system installed in the Grantor's Streets and Public Ways.

2.2.C Notice of Termination

The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without 30 days written notice first being given to the Grantor. The bond shall be subject to the approval of the City Attorney as to its adequacy under the requirements of Sections 8.2, 8.3, and 8.4. During the term of the bond, Grantee shall file with the Grantor a duplicate copy of the bond along with written evidence of payment of the required premiums unless the bond otherwise provides that the bond shall not expire or be terminated without 30 days prior written notice to the Grantor.

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2.3 Construction Bond

During all times when Grantee is performing any construction work in or under the Streets requiring a street opening permit, Grantee shall post a faithful performance bond or irrevocable letter of credit, as is required for street opening permits, running to the Grantor, with good and sufficient surety approved by the Grantor, in the sum of \$100,000. The bond or letter of credit shall be conditioned that the Grantee shall well and truly observe, fulfill and perform each term and condition under Section 4 and Section 6.5. Grantee shall pay all premiums or other costs associated with maintaining the bond or letter of credit, and shall keep the same in full force and effect at all times during the construction work. The bond or letter of credit shall provide that it may be terminated upon final approval of Grantee's construction work in or under the Streets by the Grantor. Upon such approval, the Grantor agrees to sign all documents necessary to release the bond in accordance with the terms of this Section. During the duration of the construction work, Grantee shall file with the Grantor a copy of the bond or letter of credit, along with written evidence of the required premiums. The bond or letter of credit shall be subject to the approval of the City Attorney as to its adequacy.

2.4 Security Fund

Grantee shall establish a cash security fund or provide the Grantor an irrevocable letter of credit in the amount of \$15,000, to secure the payment of fees owed, to secure any other performance promised in this Franchise, and to pay any taxes, fees or liens owed to the Grantor. The letter of credit shall be in a form and with an institution acceptable to the Grantor and in a form acceptable to the City Attorney. Should the Grantor draw upon the cash security fund or letter of credit, it shall promptly notify the Grantee, and the Grantee shall promptly restore the fund or the letter of credit to the full required amount. However, prior to any fund attachment, Grantee shall be provided with notice of the amount owed, the reason for the amount owed, and be given a reasonable opportunity to make the required payment, which shall be no less than 30-days. The minimum 30-day period shall be calculated from the date Grantee receives the notice of the required payment.

2.5 Damages and Defense

2.5.A Defense by Grantee

The Grantee shall defend, indemnify and hold harmless the City of Brookings, and its officers, agents, and employees, from and against all claims, damages and penalties, including but not limited to reasonable attorney fees, as a result of any actions of the Grantee under this Franchise. These claims, damages and penalties shall include, but shall not be limited to: damages arising out of copyright infringement; defamation or anti-trust actions; and all other damages arising out of the Grantee's actions under the Franchise or the construction, operation, maintenance or reconstruction of the cable communications system authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise.

City of Brookings Cable Franchise Draft**2.5.B Payment of Expenses**

If the Grantee fails to defend as required in Section 8.5.A, above, then the Grantee agrees to and shall pay all expenses incurred by the Grantor and its officers, agents, and employees, in defending itself with regard to all claims, damages and penalties mentioned in Section 8.5.A above. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by any employees of the Grantor.

2.6 Liability Insurance and Indemnification**2.6.A Insurance Coverage**

Grantee shall maintain automobile and Worker's Compensation insurance, as well as public liability and property damage insurance, that protects the Grantee and the Grantor, its officers, agents and employees, from any and all claims for damages or personal injury including death, demands, actions and suits brought against any of them arising from operations under this Franchise or in connection therewith, as follows:

2.6.B Minimums and Limits

The insurance shall provide coverage at all times for not less than \$1,000,000 for personal injury to each person, \$1,000,000 aggregate for each occurrence, and \$500,000 for each occurrence involving property damages, plus costs of defense; or a single limit policy of not less than \$1,000,000 covering all claims per occurrence, plus costs of defense. The limits of the insurance shall be subject to statutory changes as to the maximum limits of liability imposed on municipalities of the State of Oregon during the term of this Franchise. The insurance shall be equal to or better than commercial general liability insurance.

The evidence of coverage for Workers' Compensation shall show that it includes State of Oregon Statutory Limits, and Employer's Liability limits of at least \$1,000,000.

Any insurance carrier shall have an A.M. Best rating of A VII or better, and be admitted to do business in the State of Oregon.

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2.6.C Additional Insureds

The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the Grantor and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy.

2.6.D Cancellation and Replacement

The insurance shall provide that the insurance shall not be canceled or materially altered so as to be out of compliance with the requirements of this Section 8.6 without thirty (30) days written notice first being given to the Grantee and the Grantor. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this Section 8.6 within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in the amounts required, for the duration of this Franchise.

2.6.E Certificate of Insurance

Grantee shall maintain on file with the Grantor a certificate of insurance certifying the coverage required above, which certificate shall be subject to the approval of the City Attorney as to the adequacy of the certificate and of the insurance certified under the requirements of Section 8.6.

The certificate shall show that the general liability portion of the insurance includes:

- 1) Broad form property damage;
- 2) Products and completed operations;
- 3) Explosion, collapse, and underground exposures;
- 4) Contractual liability; and
- 5) Owners and contractors protective coverage.

2.6.F Failure to Maintain Adequate Insurance

Failure to maintain adequate insurance as required under Section 8.6 shall be cause for immediate termination of this Franchise by the Grantor.

City of Brookings Cable Franchise Draft**2.6.G Grantor Held Harmless**

The Grantee shall also indemnify, defend and hold harmless the Grantor and its officers, agents and employees for any and all claims for damages or personal injury which exceed the limits of insurance provided for in this Section.

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3. RIGHTS RESERVED TO GRANTOR

3.1 Grantor's Purchase of the System

3.1.A Continuation of Operations / Purchase at Fair Market Value

In the event Grantor has declared a forfeiture for cause or otherwise revoked for cause this Franchise agreement as provided in Sections 7.4 or 11 herein, or in the event of expiration of the initial term of this Franchise agreement without the Franchise being renewed or extended in accordance with Cable Act guidelines, the Grantee shall continue its operations for a period of 270 days under the terms and conditions of this Franchise agreement and as required by Section 11 herein, following the date of the forfeiture or revocation or expiration of the initial term, if such continuation of operations is ordered by the Grantor.

If the Grantor purchases the Cable System or any part of it under these circumstances, the fair value of the system for purpose of this subsection 9.1.A shall be determined by mutual agreement between Grantor and the Grantee.

For purposes of revocation or forfeiture under this subsection 9.1.A, the fair value of all or part of the system shall be an equitable price for the system or part of the system being acquired, reduced by the amount of any lien, encumbrance, or obligation of the Grantee which Grantor may assume.

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

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

3.1.B Transfer of System to Others

In the event Grantor purchases, acquires, takes over, or holds all or parts of the system pursuant to subsection 9.1.A or through any other lawful process, Grantor shall have the right without limitation to assign, sell, lease, or otherwise transfer its interest in all or parts of the system to any other persons, including any other Grantee of a cable communications Franchise, on whatever terms Grantor deems appropriate.

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3.1.C Cable Act Requirements

The provisions of this Section shall be subject to the provisions 47 U.S.C. §627 (Section 547 of the Cable Act), as amended from time to time. It is not intended that this Section diminish the rights of either the Grantor or the Grantee under the Act, and any provision of this Section that purports to diminish such rights shall be deemed superseded by the Act.

3.2 Condemnation

To the extent authorized by law, the Grantor may condemn all or any portion of Grantee's Cable System, including real property. Nothing in this Franchise is intended to expand or restrict the Grantor's lawful condemnation authority.

3.3 Right of Inspection of Records

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

The amount collected by the Grantee or any parent or affiliate of the Grantee from users of services of the Grantee's cable communications system under this Franchise and the character and extent of the service rendered therefor to them; and any other financial information required for rate regulation as the FCC permits, or for the exercise of any other lawful right under this Franchise, such as the right of condemnation pursuant to Section 9.2.

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

3.4 Right to Perform Franchise Fee Audit or Review

In addition to all rights granted under Section 9.3, the Grantor shall have the right to perform, or cause to have performed, a formal audit or a professional review of the Grantee's books and records and, for the specific purposes of a bona fide Franchise enforcement effort, the books and records of any parent or affiliate company, for the purpose of determining the gross receipts of the Grantee generated in any manner through the operation of the cable system under this Franchise and the accuracy of amounts paid as Franchise fees to the Grantor by the Grantee, provided that any audit or review must be commenced not later than five (5) years after the date on which Franchise fees for any period being audited or reviewed were due. The cost of any such audit or review shall be borne by the Grantor, except that if it is established that the Grantee has made underpayment of 2% or more in Franchise fees than required by this Franchise, then the Grantee shall, within 30 days of being requested to do so by the Grantor, reimburse the Grantor for the full cost of the audit or review.

City of Brookings Cable Franchise Draft**3.5 Right of Inspection of Construction**

The Grantor or its representatives shall have the right to inspect all construction or installation work performed pursuant to the provision of this Franchise agreement and to make such tests as it shall find necessary to ensure compliance with the terms of this Franchise and other pertinent provisions of law.

3.6 Intervention

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

3.7 Right to Require Removal of Property

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

*City of Brookings Cable Franchise Draft***4. RIGHTS OF INDIVIDUALS PROTECTED****4.1 Discriminatory Practices Prohibited****4.1.A Grantee Shall Not Unlawfully Discriminate**

The Grantee shall not deny service, deny access, or otherwise unlawfully discriminate against subscribers, programmers, or persons on the basis of race, color, religion, national origin, sex, age, disability, income, or, except as otherwise provided herein, the area in which such person lives. The Grantee shall strictly adhere to the equal employment opportunity requirements of the federal government, as expressed in Section 76.13(a) (8) and 76.311 of Chapter 1 of Title 47 of the Code of Federal Regulations, as now or hereafter constituted. The Grantee shall comply at all times with all applicable federal, state, or local laws, rules and regulations relating to non-discrimination.

4.1.B Services to Disabled

The Grantee shall use best efforts to assure maximum practical availability of Grantee services and facilities to all subscribers, regardless of disability, including the provision of a remote control device to those subscribers who are mobility limited, or where a member of the subscriber's household is mobility limited. For hearing impaired customers, the Grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, the Grantee must have TDD/TTY (or equivalent) equipment available to the public, and a publicly listed telephone number for such equipment, that will allow hearing impaired customers to contact the company.

4.1.C Provision of Information

Upon request by a subscriber or potential subscriber, the Grantee shall make a reasonable effort to provide information required under Section 7.7.F, 7.7.G, or otherwise provided in the normal course of business.

4.1.D Permitted Discounts

Nothing in this Section shall be construed to prohibit:

- 1) the temporary reduction or waiving of rates and charges in conjunction with promotional campaigns; or
- 2) offering reasonable discounts to senior citizens or discounts to economically disadvantaged citizens.

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4.2 Unauthorized Monitoring or Cable Tapping Prohibited

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

4.3 Privacy and Other Rights

The Grantee shall not utilize, nor intentionally permit to be utilized by others, the two-way communications capability of the system for unauthorized or illegal subscriber surveillance of any kind. For purposes of this subsection, tenants who occupy premises shall be deemed to be subscribers, regardless of who actually pays for the service. Written consent, as required herein, shall not be required of any subscriber by Grantee as a condition of receiving any other cable service.

4.4 Permission of Property Owner Required

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

4.5 Sale of Subscriber Lists and Personalized Data Prohibited

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

City of Brookings Cable Franchise Draft**4.6 Landlord - Tenant**

Grantee shall provide to individual units of a multiple housing facility, such as a duplex, apartment or condominium unit, all services offered to other dwelling units within the Franchise area, providing the owner of the facility consents in writing, if requested by Grantee, as follows: To Grantee's providing of the services to units of the facility; to reasonable conditions and times for installation, maintenance and inspection of the system on facility premises; to reasonable conditions promulgated by Grantee to protect Grantee's equipment and to encourage widespread use of the system; and to not demand payment from Grantee for permitting Grantee to provide service to the facility and to not discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not.

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5. TERMINATION AND EXPIRATION

5.1 Revocation

5.1.A General

In addition to any rights set out elsewhere in this document, the Grantor reserves the right to declare a forfeiture or otherwise revoke this Franchise, and all rights and privileges pertaining thereto, under certain circumstances.

5.1.B Conditions of Revocation

The circumstances under which the Grantor may declare forfeiture or revoke the Franchise are the following:

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

Upon the occurrence of one of the events set out above, following 30 days written notice to Grantee of the occurrence and the proposed forfeiture and an opportunity for Grantee to be heard, Grantor may by ordinance declare a forfeiture. In a hearing of the Grantee, the Grantee shall be afforded due process rights as if the hearing were a contested case hearing subject to ORS Chapter 183, including the right to subpoena and cross-examine witnesses, to subpoena documents, and to require that all testimony be on the record. Findings from the hearing shall be written, and shall stipulate the reasons for the Grantor's decision. In the event that the Grantee believes that the Grantor improperly has declared a forfeiture, the Grantee may file such proceeding as is appropriate in a court of competent jurisdiction to determine whether the Grantor properly has declared a forfeiture. If a forfeiture is lawfully declared, all rights of the Grantee shall immediately be divested without a further act upon the part of the Grantor.

City of Brookings Cable Franchise Draft**5.2 Receivership**

In addition to its other rights and remedies as set forth in this Franchise, the Grantor shall have the right, subject to federal law, to declare a forfeiture of this Franchise one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the Grantee's business, whether in receivership, reorganization, bankruptcy or other similar action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless: a) within one hundred and twenty (120) days after such appointment, the receiver or trustee shall have fully complied with all provisions of this Franchise and remedied any and all violations or defaults, as approved by a City Council resolution; and b) within said one hundred and twenty (120) days, such receiver or trustee shall have executed an agreement with the Grantor, duly approved by the Grantor and the court having competent jurisdiction, in which such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

5.3 Expiration

Upon expiration of the Franchise, in the event there is no forfeiture or revocation of the Franchise, and the Grantee desires to renew the Franchise, both the Grantee and the Grantor shall abide by the Franchise renewal provisions of the Cable Act, as amended from time to time.

5.4 Continuity of Service Mandatory

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify, or sell the system, or Grantor revokes or fails to renew the Franchise, the Grantee shall make its best effort to ensure that all subscribers receive continuous uninterrupted service, regardless of the circumstances, during the lifetime of the Franchise.

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

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6. OPERATION AND MAINTENANCE

6.1 Open Books and Records

The Grantee shall maintain a business office within a radius of 60 miles of Gold Beach , for managing the cable system, and, subject to the provisions of Section 10 of this Franchise and, to such privileges as may be established under Oregon law, shall manage all of its operations in accordance with a policy of making all books and records related to the provision of cable service open and accessible to the Grantor. The Grantor shall have the right, for the purpose of determining the correctness of Franchise fees paid to the Grantor, or as necessary for determining specific performance with respect to the other material provisions of the Franchise, to inspect at any time during normal business hours upon reasonable notice, all records, books, electronic or optical files, maps, plans, service complaint logs, performance test results, records required to be kept by the Grantee and also of any parent company, affiliate or any cable operator, which directly relate to the operation of the cable system in the Franchise Area, including but not limited to a year-end financial report for the Grantee and 10-K Report for the parent company, whichever is current, and all telephone logs and customer service logs maintained by the Grantee. If the records the Grantor wishes to inspect under the terms of this Section are not available in the business office within the radius of 60 miles, then the Grantee shall pay reasonable travel expenses to permit the Grantor to inspect the records. Access to the aforementioned records shall not be denied by the Grantee to representatives of the Grantor on the basis that said records contain "proprietary information," nor on the basis that they contain trade secrets unless the Grantor cannot protect the trade secrets from disclosure under Oregon law. To the extent allowed under Oregon law, the Grantor shall protect proprietary information including trade secrets of the Grantee from disclosure.

The Grantor agrees to request access to only those books and records, in exercising its rights under this Section, which it deems reasonably necessary as part of a bona fide regulatory or enforcement effort related to the material provision of this Franchise for the enforcement and administration of this Franchise.

Grantee agrees to meet with a representative of the Grantor upon request to review its methodology of record-keeping, financial reporting, computing franchise fee obligations, and other procedures the understanding of which the Grantor deems necessary for understanding the meaning of reports and records.

Should the Grantor become a provider of Cable Services in competition with the Grantee, the Grantor shall under no circumstances be entitled to information under this Section for the purposes of gaining a competitive advantage vis-à-vis the Grantee.

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6.2 Communications with Regulatory Agencies

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

6.3 Reports

6.3.A Quarterly Reports

Within 30 calendar days after the end of each fiscal quarter of the Grantee, Grantee shall, upon request of the Grantor, submit to the Grantor a report of all trouble call complaints received by or referred to Grantee within the report quarter. The reports shall contain, as a minimum, the name, address, and telephone number of the complaining party, the specific nature of the complaint, remedial action taken if any, and the current status of the complaint. Upon request by the Grantor, Grantee shall also provide outage reports, summary statistics on patterns of complaints or service problems, and other customer service information, provided that such information may be reasonably generated by the Grantee.

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

6.3.B Annual Report

No later than June 1 following the end of the Grantee's fiscal year each year, Grantee shall present a written report to the Grantor which shall include:

- 1) The audited financial report, as submitted to the Securities and Exchange Commission, for any parent company of the Grantee; and a financial report for the Franchise area with gross revenues and

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receipts certified by an officer of the Grantee. In the event any audited financial report has not been published by the date due under this Section, then the audited financial report shall be deemed presented on time if presented within 30 days after publication.

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

- 2) A summary of the previous year's activities including, but not limited to, subscriber totals in each category and new services.

6.3.C Monitoring and Compliance Reports

No later than April 15 of each year, if requested by the Grantor, the Grantee shall provide a written report of any FCC technical performance tests for the residential network required in FCC Rules and Regulations as now or hereinafter constituted. In addition, if requested by the Grantor, the Grantee shall provide reports of the test and compliance procedures established by this Franchise agreement, no later than 30 days after the completion of each series of tests.

6.3.D Additional Reports

The Grantee shall prepare and furnish to the Grantor, at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions, or property, as may be reasonably necessary and appropriate to the determination of the correctness of Franchise Fees paid by the Grantee, or the specific performance with respect to any other material provision of this Franchise.

6.4 Safety

6.4.A Safety Standards

The Grantee shall, at all times, employ the standard of care attendant to the risks involved and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or to employees of the Grantor.

6.4.B Adherence to National Electric Safety Code

The Grantee shall install and maintain its wires, cable, fixtures, and other equipment in accordance with the requirements of the National Electric Safety Code, and in such manner that they shall not interfere with the installations of any public utility.

City of Brookings Cable Franchise Draft**6.4.C Proper Maintenance of Equipment**

All lines, equipment and connections in, over, under, and upon either the streets and public ways of Grantor or private property within boundaries of Grantor, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.

City of Brookings Cable Franchise Draft**7. MISCELLANEOUS PROVISIONS****7.1 Compliance with Laws**

The Grantee shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all general ordinances, resolutions, rules and regulations of the Grantor heretofore or hereafter adopted or established during the entire term of this Franchise, provided that any such ordinances, resolutions, rules and regulations of the Grantor hereafter adopted or established shall not conflict or interfere with the existing rights of the Grantee hereunder. The Grantor shall make a good faith effort to provide copies to the Grantee of all general ordinances, resolutions, rules, regulations, and codes, and any amendments thereto, to which the Grantee is subject under this Franchise. ORS 279.312, 279.314, 279.316, and 279.320, having to do with certain conditions of labor, payment for medical care, workers' compensation insurance, liens, and other matters, are included in this Franchise by reference.

7.2 Severability

Subject to the provisions of Section 13.7 below, if any Section, subsection, sentence, clause, phrase or word of the Franchise agreement is held to be invalid or unconstitutional by any court of competent jurisdiction or pre-empted by federal or state regulations or law, such Section, subsection, sentence, clause, phrase or word shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions hereof.

7.3 Captions

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

7.4 No Recourse Against the Grantor

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

7.5 Nonenforcement by Grantor

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

City of Brookings Cable Franchise Draft**7.6 Force Majeure**

If by reason of force majeure the Grantee is unable in whole or in part to carry out its obligations hereunder, the Grantee shall not be deemed in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of the government of the United States of America, or of the State of Oregon, or their departments, agencies, political subdivisions, or officials; acts of any civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; restraint of government and people; civil disturbances; explosions; partial or entire failure of utilities; and similar occurrences outside the control of the Grantee. The Grantee agrees, however to give its best efforts to remedy as soon as possible, under the circumstances, the cause or causes preventing Grantee from carrying out its responsibilities and duties under this Franchise agreement.

7.7 Entire Agreement

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

7.8 Consent

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

7.9 Notices and Time Limit for Grantee Communications

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

7.10 Consistency of Franchise with Cable Act

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

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7.11 Franchise Review

Either the Grantor or the Grantee may request the other party to participate in good faith negotiations, no more often than tri-annually beginning three years after the effective date of this Franchise, for a period not to exceed 6 months, to consider adoption of amendments to the Franchise. There shall be no obligation for either party to enter negotiations.

If the parties enter negotiations, the subjects of consideration, or areas in which the Franchise may be subject to amendment, shall be limited to the following: a) Technology, b) parity with neighboring systems; c) PEG Access and Institutional Network support by the Grantee; d) customer service issues; and e) Franchise term.

Following negotiations, amendments to the Franchise may be presented to the City Council for adoption. Nothing in this Section requires either the Grantor or the Grantee to agree to any amendment to the Franchise, and any amendment to the Franchise must be formally accepted by both parties.

7.12 Grantee Responsibility for Costs of Franchise Compliance

Except as otherwise specifically stated in this Franchise, it shall be the responsibility of the Grantee to bear the cost of compliance with all of the terms of the Franchise.

7.13 Notice

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

If to the City: Office of the City Manager
 898 Elk Drive
 Brookings, OR 97415

If to the Grantee: Charter Communications
 201 NE Park Plaza Drive, Suite 296
 Vancouver, WA 98684
 Attn: Director of Regulatory Affairs

With a courtesy copy to:

Charter Communications
 1440 Parkway Drive
 Crescent City, CA 95531-1908
 Attn: General Manager

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7.14 Grantor Rights Upon Termination

If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Grantor lawfully acquires ownership of the Cable System, any such acquisition shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

The Grantee and the Grantor agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall continue to operate the system for a period of 270 days, or until the Grantor determines in writing that the system has been transferred to a qualified transferee, whichever is earlier. During this period, the Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party.

7.15 Continuity of Service

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify, or sell the system, or Grantor revokes or fails to renew the Franchise Agreement, the Grantee shall make its best effort to ensure that all subscribers receive continuous uninterrupted service, regardless of the circumstances, during the lifetime of the Franchise.

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

7.16 No Waiver

No provision of this Franchise will be deemed waived unless such waiver is in writing and signed by the party waiving its rights. However, if Grantee gives written notice of a failure or inability to cure or comply with a provision of this Franchise, and the Grantor fails to object within a reasonable time after receipt of such notice, said provision will be deemed waived.

City of Brookings Cable Franchise Draft**EXHIBIT A: PERMANENT ORIGATION POINTS****CITY OF BROOKINGS SITES****1. Origination Points Requiring 6 MHz Return Feed**

City Hall - 898 Elk Drive, Brookings, OR 97415

School District [One of the following sites, to be determined by the City]

- Administrative Office - 564 Fern Ave, Brookings, OR 97415
- Brookings-Harbor High - 625 Pioneer Road, Brookings, OR 97415
- Azalea Middle School - 505 Pacific, Brookings, OR 97415
- Kalmiopsis Elementary School - 650 Easy Street, Brookings, OR 97415

Other Sites

- Southwestern Oregon Community College--Curry County Campus - 420 Alder, Brookings, OR 97415
- Chetco Community Public Library--405 Alder, Brookings, OR 97415
- Any other buildings operated by local government or a non-profit agency in the Brookings Harbor community designated by the Brookings City Manager, to be installed by the Grantee at the Grantor's expense.

2. Master Control Site for control and return feed of possible multiple PEG Access Channels: to be located at one of the sites listed above.

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City Manager
City of Brookings
898 Elk Drive
Brookings, OR 97415

This is to advise the City of Brookings, Oregon (the "City") that Falcon Cable TV, (the "Grantee") hereby accepts the terms and provisions of Ordinance No. _____, passed by the City Council on _____, 2000 (the Franchise) granting a Franchise for ten (10) years to Falcon Cable TV. The Grantee agrees to abide by each and every term of the Franchise.

Falcon CABLE TV.

BY _____
TITLE _____
DATE _____

The undersigned guarantees the faithful performance of each and every term of this Franchise by the Grantee.

Charter Communications L.L.C.

BY _____
TITLE _____
DATE _____

City of Brookings Cable Franchise Draft**EXHIBIT C: EXISTING INTERCONNECTIONS****City of Brookings Interconnections**

All franchise areas connected via the Grantee's headend serving the City of Brookings as of the effective date of this Franchise.

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EXHIBIT D: PRICE FOR WORK—INCREMENTAL COST

3. Specification of Costs

For the construction of the I-Net Distribution System, Grantee agrees that the term "Direct Costs" include only those costs specified in Section 2, and no Indirect Costs.

4. Direct Costs are:

- 4.1. Costs of necessary materials, equipment and hardware to construct the I-Net Distribution System;
- 4.2. Payments made by Grantee to subcontractors in accordance with the requirements of the subcontracts;
- 4.3. Wages and salaries of Grantee's employees performing work on the relevant portion of the I-Net, including those employees involved in designing and mapping the I-Net (to the extent such designing and mapping is a Direct Cost that is over and above any Direct Cost that Grantee would incur in designing and mapping its Cable System,) and including management and supervision costs incurred by persons working within the City (over and above any Direct Cost that Grantee would incur in managing and supervising its own Cable System), and also including their welfare, unemployment compensation, social security and other benefits, for such part of their time as is employed on this work;
- 4.4. Payroll taxes and insurance and contributions applicable to wages and salaries of Grantee's employees performing work on the relevant portion of the I-Net, and sales, excise, business and occupation, and other taxes paid by Grantee on materials, equipment, supplies and services chargeable to the relevant portion of the I-Net;
- 4.5. Any labor force travel expenses directly chargeable to the work on the relevant portion of the I-Net;
- 4.6. Costs of necessary Franchises and permit fees, including Right-of-Construction Permit fees and inspection fees, if any, related to the relevant portion of the I-Net;
- 4.7. Actual rental costs for the use of any necessary temporary facilities, or special machinery, equipment and hand tools used in the work on the relevant portion of the I-Net;
- 4.8. That portion directly attributable to this Agreement of premiums for insurance and bonds related to the design, construction, lease of optical fibers and maintenance of the I-Net;
- 4.9. Losses, expenses, and cost of reconstructing any work destroyed or damaged, not compensated by insurance or otherwise, sustained by Grantee in connection with the work, provided they have resulted from causes other than the fault or negligence of Grantee;
- 4.10. Costs of removal of debris on the relevant portion of the I-Net;

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- 4.11. Costs incurred on the relevant portion of the I-Net in taking action to prevent threatened damage, injury, loss in case of an emergency affecting the safety of persons and property; and
- 4.12. Other costs incurred on the relevant portion of the I-Net in the performance of the work if and to the extent approved in advance in writing by Grantor.

5. "Indirect Cost" shall include:

Salaries and other compensation of Grantee's employees stationed at Grantee's principal office or offices other than the work site, except as provided in Section 2.3;

- 1.1. Overhead and general expenses, except as may be expressly included in Section 2.3;
- 1.2. Grantee's capital expenses, including interest on Grantee's capital, employed for the work;
- 1.3. Costs due to the fault or negligence of Grantee, subcontractors, anyone directly or indirectly employed by any of them, or for those whose acts any of them may be liable, including, but not limited to, costs for the correction of damage, defective or nonconforming work, disposal and replacement of materials and equipment incorrectly ordered or supplied, in making good damage to property not forming a part of the work.

2. "Incremental Cost" shall mean:

That portion of the Direct Cost wholly attributable to the Grantor's requirements; i.e., only that portion of the Direct Cost which would not have been incurred but for the obligation to construct, operate or maintain facilities required by the Grantor in accordance with this Franchise.

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**EXHIBIT E: I-NET SITES FOR 2-WAY VIDEO, VOICE, DATA
CITY OF BROOKINGS LIST**

1. City of Brookings
 - City Hall - 898 Elk Drive, Brookings, OR 97415
 - Public Works/Wastewater Treatment Plant, 901 Wharf Street, Brookings, OR 97415
 - Swimming Pool - 3rd and Ransom, Brookings, OR 97415
 - Water Treatment Plan - 901 Wharf Street, Brookings, OR 97415

3. Brookings Harbor School District 17C
 - Administrative Office - 564 Fern Ave, Brookings, OR 97415
 - Brookings-Harbor High - 625 Pioneer Road, Brookings, OR 97415
 - Azalea Middle School - 505 Pacific, Brookings, OR 97415
 - Kalmiopsis Elementary School - 650 Easy Street, Brookings, OR 97415
 - Upper Chetco Elementary School - 99603 North Bank Chetco River Road, Brookings, OR 97415
 - Transportation Center - 750 Fern Avenue, Brookings, OR 97415
3. Southwestern Oregon Community College--Curry County Campus - 420 Alder, Brookings, OR 97415
4. Port of Brookings Harbor--16374 Lower Harbor Road, Brookings, OR 97415
5. Brookings-Harbor Chamber of Commerce--16330 Lower Harbor Road, Brookings, OR 97415
6. Brookings and Harbor Post Offices
 - Brookings - 711 Spruce, Brookings, OR 97415
 - Harbor - 97900 Shopping Center Ave, Harbor, OR 97415
3. Chetco Community Public Library--405 Alder, Brookings, OR 97415
4. Any other buildings operated by local government or a non-profit agency in the Brookings Harbor community designated by the Brookings City Manager.

City of Brookings Cable Franchise Draft**EXHIBIT F: I-NET MAINTENANCE AGREEMENT**

Grantee's maintenance of the I-Net shall be consistent with the requirements set forth in Section 6.5B of the Franchise Agreement.

Grantee shall maintain and service the I-Net in accordance with the following:

1. Grantee shall maintain the I-Net to operate at or above FCC and Franchise Agreement standards at all time.
2. Grantee and the Grantor shall make best efforts to meet at least quarterly, to discuss and resolve Institutional Network operational issues, including network availability and maintenance problems.
3. Maintenance periods shall be at designated times, agreeable to both the Grantor and Grantee, that the Institutional Network can be taken off-line to do routine maintenance.
4. The downtime associated with routine maintenance periods shall be no more than (4) hours per maintenance period, except where emergency circumstances dictate otherwise. Grantee will make reasonable effort to schedule routine maintenance periods at the same time to avoid confusion. Each maintenance period will be on a specific segment or segments as will be designated by Grantor, in conjunction with Grantee's maintenance requirements.
5. From time to time, non-emergency routine maintenance on certain segments may require a period of time greater than the four hours provided. Under such circumstances, Grantee shall give five (5) business days advance notice, and Grantor shall attempt to schedule that additional needed time with affected users.
6. Unless notified by Grantee to the contrary, the Grantor may expect that scheduled maintenance will be performed on schedule.
7. The Grantee may charge the Grantor a fee for maintenance of the I-Net (a Maintenance Fee). The Maintenance Fee shall be based upon the Grantee's Incremental Cost as defined in Exhibit D.