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## CARNATION CITY COUNCIL AGENDA Regular Meeting

*Mayor Jim Ribail, Deputy Mayor Adair Hawkins, Brodie Nelson, Ryan Burrell, Jessica Merizan*

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**DATE:** April 2<sup>nd</sup>, 2024

**TIME:** 6:00 P.M.

**JOIN ONLINE VIA ZOOM:** <http://bit.ly/3BbmBBu>

**Meeting ID:** 983 3856 5355  
**Passcode:** 970731  
**Dial by location:** (253) 215 - 8782

For inquiries and/or assistance regarding how to use the City's online meeting format please email [clerk@carnationwa.gov](mailto:clerk@carnationwa.gov), or call (425) 333-4192.

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- 1) **CALL TO ORDER:** Mayor Jim Ribail
- 2) **PLEDGE OF ALLEGIANCE:** Deputy Mayor Adair Hawkins
- 3) **ROLL CALL:** City Clerk Lora Wilmes
- 4) **APPROVAL OF AGENDA:** Council of the Whole
- 5) **PUBLIC COMMENT & REQUESTS (At 6:05 PM):** *Public comment on meeting items or other issues of note or concern. Comments may be submitted in advance by writing or e-mailing [clerk@carnationwa.gov](mailto:clerk@carnationwa.gov), or made in person, or by telephone or computer connection at the time of the meeting. Individual comments shall be limited to three minutes. Group comments shall be limited to five minutes.*
- 6) **CONSENT AGENDA:**
  - a) Approval of Minutes
    - i) Special Session: March 19, 2024
    - ii) Regular Session: March 19, 2024
  - b) Approval of Claims
    - i) March 7, 2024 – March 18, 2024  
(1) \$221,228.02
  - c) Approval of Payroll
    - i) N/A

- d) Agenda Bills
  - i) AB24-36: A Motion to amend the City's contract with Mott MacDonald for Landfill monitoring services in the amount not to exceed \$24,000.00 including tax.
  - ii) AB24- 39: A Motion to authorize the City Manager to enter into contract with Northwest Playground for River's Edge Park Play Equipment for the amount not to exceed \$163,650.02 including tax.

**7) PROCLAMATIONS:**

- a) Autism Awareness Month
- b) Sexual Assault Awareness Month

**8) PUBLIC HEARING DATE SETTING:**

- a) NONE

**9) PUBLIC HEARINGS:**

- a) NONE

**10) COUNCIL REPORTS AND REQUESTS:**

**11) STAFF REPORTS:**

- a) City Manager's Office Report - Deputy City Manager Rhonda Ender

**12) EXECUTIVE SESSION**

- a) NONE

**13) PRESENTATIONS:**

- a) Brendan McCluskey, King County Emergency Management Director

**14) AGENDA BILLS:**

- a) AB24-37: A Motion to authorize the City Manager to enter into contract with AHBL for consultant engineering services for development projects for the amount not to exceed \$100,000.00 including tax.
- b) AB24-38: An Ordinance Granting Comcast Cable Communications Management, LLC, The Right, Privilege, Authority, And Franchise To Construct, Operate, Maintain, Reconstruct, Repair, And Upgrade The Cable System Upon, Over, Under, Along, Across And Through The Franchise Area For The Purpose Of Providing Cable Services, Subject To The Terms And Conditions Set Forth In This Ordinance And Applicable Law.

**15) DISCUSSION ITEMS:**

- a) Pros Plan- Councilmember Merizan

**16) CAPITAL PURCHASES:**

a) NONE

**17) INFORMATION, CLARIFICATION, GENERAL DIRECTION ITEMS:**

**18) PUBLIC RECORDS REQUESTS:**

**19) PLANNING AND PARKS BOARD MINUTES (1<sup>st</sup> TUESDAY MEETING):**

a) N/A

**20) FUTURE COMMITTEE MEETINGS:**

- a) April 17, 2024 Finance and Operations
  - i) 5pm-7pm
- b) April 26, 2024 Housing and Land Use Committee
  - i) 4pm-6pm

**21) FUTURE COUNCIL MEETINGS:**

- a) April 16, 2024 – Regular Meeting
  - i) 6:00 PM - 9:30 PM
- b) April 16, 2024 – Special Meeting
  - i) 5:00 PM – 5:45 PM
- c) May 7, 2024 - Regular Meeting
  - i) 6:00 PM - 9:30 PM

**22) ADJOURNMENT:** Mayor Jim Ribail



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## CARNATION CITY COUNCIL AGENDA Special Meeting Minutes

*Mayor Jim Ribail, Deputy Mayor Adair Hawkins, Brodie Nelson, Ryan Burrell, Jessica Merizan*

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**DATE:** March 19, 2024

**TIME:** 5:00 P.M.

**LOCATION:** City Hall (4621 Tolt Avenue)

1. **CALL TO ORDER:** Mayor Jim Ribail  
at 5:02PM
  
2. **ROLL CALL:** City Clerk Lora Wilmes  
PRESENT: COUNCILMEMBER MERIZAN, MAYOR RIBAIL, DEPUTY MAYOR  
HAWKINS, COUNCILMEMBER NELSON. ABSENT: COUNCILMEMBER  
BURRELL
  
3. **PRESENTATION:**
  - a. ADU (Accessory Dwelling Unit) Discussion – Deputy City Manager  
Rhonda Ender
  - b. Mirco-Business Incubator – Deputy City Manager
  - c. Friends of Carnation, Non-Profit Creation – City Manager – Ana Cortez
  
4. **ADJOURNMENT:** Mayor Jim Ribail  
at 5:52 PM

**Approved at the regular meeting of the Carnation City Council on April 2nd,  
2024.**

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**MAYOR JIM RIBAIL**

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**CITY CLERK LORA WILMES**



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## CARNATION CITY COUNCIL AGENDA Regular Meeting Minutes

*Mayor Jim Ribail, Deputy Mayor Adair Hawkins, Brodie Nelson, Ryan Burrell, Jessica Merizan*

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**DATE:** March 19<sup>th</sup>, 2024

**TIME:** 6:00 P.M.

**JOIN ONLINE VIA ZOOM:** <https://bit.ly/3xIFY9B>

**Meeting ID:** 976 1525 3648  
**Passcode:** 894903  
**Dial by Location:** (253) 215 - 8782

For inquiries and/or assistance regarding how to use the City's online meeting format please email [clerk@carnationwa.gov](mailto:clerk@carnationwa.gov), or call (425) 333-4192.

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- 1) **CALL TO ORDER:** Mayor Jim Ribail  
at 6:02pm
- 2) **PLEDGE OF ALLEGIANCE:** Mayor Jim Ribail
- 3) **ROLL CALL:** City Clerk Lora Wilmes  
PRESENT: COUNCILMEMBER MERIZAN, MAYOR RIBAIL, DEPUTY MAYOR HAWKINS, COUNCILMEMBER NELSON. ABSENT: COUNCILMEMBER BURRELL

Moment of silence for David Triraphanh, a community member that passed away on March 6<sup>th</sup>, 2024.

- 4) **APPROVAL OF AGENDA:** Council of the Whole  
MOTION TO AMEND THE AGENDA BY ADDING AGENDA BILL 24-35 TO NUMBER 14(B) BY COUNCILMEMBER MERIZAN. SECOND BY DEPUTY MAYOR HAWKINS.  
MOTION BY DEPUTY MAYOR HAWKINS SECOND BY MERIZAN  
MOTION TO AMEND THE AGENDA BY COUNCIL MEMBER MERIZAN BY MOVING AGENDA BILL 24-30 OUT OF CONSENT TO 14(c). SECOND BY DEPUTY MAYOR HAWKINS.  
MOTION TO AMEND THE AGENDA BY ADDING COMMITTEES AND LIAISONS

TO ITEM NUMBER 17. SECOND BY DEPUTY MAYOR HAWKINS.  
MOTION TO AMEND THE AGENDA BY COUNCILMEMBER MERIZAN BY  
ADDING PHOTO SHOOT FOR COUNCIL AND CITY TO ITEM NUMBER 17.  
SECOND BY DEPUTY MAYOR HAWKINS.  
MOTION BY MAYOR TO AMEND THE AGENDA BY ADDING COFFEE WITH  
COUNCIL TO ITEM NUMBER 17. SECOND BY DEPUTY MAYOR HAWKINS.  
MOTION PASSED (4-0)  
MOTION TO APPROVE THE AGENDA AS AMENDED BY DEPUTY MAYOR  
HAWKINS SECOND BY NELSON.  
MOTION PASSED (4-0)

- 5) PUBLIC COMMENT & REQUESTS (At 6:10 PM):** *Public comment on meeting items or other issues of note or concern. Comments may be submitted in advance by writing or e-mailing [clerk@carnationwa.gov](mailto:clerk@carnationwa.gov), or made in person, or by telephone or computer connection at the time of the meeting. Individual comments shall be limited to three minutes. Group comments shall be limited to five minutes.*

PUBLIC COMMENT OPENED AT 6:10 PM.  
PUBLIC COMMENT WAS GIVEN BY JENN D. REGARDING A TREE  
ORDINANCE.  
PUBLIC COMMENT CLOSED AT 6:16PM.

**6) CONSENT AGENDA:**

- a) Approval of Minutes
  - i) Regular Session: March 5, 2024
  - ii) Special Meeting: March 5<sup>th</sup>, 2024
- b) Approval of Payroll
  - i) February 1 – February 29, 2024  
(1) \$66,870.83
- c) Agenda Bills:
  - i) AB24-30: A Motion to authorize the City Manager to enter into Contract #24-63610-203 with the Department of Commerce for a Climate Planning Grant in the amount of \$50,000.  
MOVED OUT OF CONSENT.
  - ii) AB24- 31: A Motion to authorize the City Manager to enter into a consultant agreement for \$33,324.00 with JP Landscape for landscape services at all City owned properties and bioswales from April-November, 2024.
  - iii) AB24-32: A Motion to approve claims for \$239,104.28 for the dates February 21, 2024 – March 6, 2024.
  - iv) AB24-33: A Resolution of the City Council of the City of Carnation, Washington accepting the bid and authorizing City manager to enter into contract for construction of the Brumbaugh Water Main Project CIP 24-03.

MOTION TO APPROVE THE CONSENT AGENDA BY COUNCILMEMBER  
MERIZAN. SECOND BY NELSON MOTION PASSED (4-0)

**7) PROCLAMATIONS:**

- a) NONE

**8) PUBLIC HEARING DATE SETTING:**

- a) AB24-29: Six Year Transportation Improvement Plan  
MOTION BY COUNCILMEMBER NELSON AND SECOND BY MERIZAN.  
MOTION PASSED (4-0)

**9) PUBLIC HEARINGS:**

- a) Residential Building Moratorium Ordinance 24-985  
PUBLIC HEARING OPENED AT 6:16 PM.  
JONATHAN L. GAVE COMMENT OPPOSED AGAINST ORDINANCE 24-985  
PUBLIC HEARING CLOSED AT 6:20 PM

**10) COUNCIL REPORTS AND REQUESTS:**

**11) STAFF REPORTS:**

- a) City Manager's Office Report - City Manager Ana Cortez

**12) EXECUTIVE SESSION**

- a) NONE

**13) PRESENTATIONS:**

- a) Carnation Summer Fun! - Deputy City Manager, Rhonda Ender
- b) Park Use and Public Right Of Way Fees – City Manager, Ana Cortez

**14) AGENDA BILLS:**

- a) AB24-34: An Ordinance Of The City Of Carnation, Washington, Relating To The City's Construction And Fire Codes; Repealing Current Chapter 16.01 Entitled "Construction And Building Codes" In Its Entirety And Adopting New Chapter 16.01 Of The Carnation Municipal Code Related To The Adoption Of The International And Uniform Building Standards; And Respective Appendices. Providing For Severability And Effective Date.  
MOTION BY COUNCILMEMBER NELSON. SECOND BY DEPUTY MAYOR HAWKINS  
MOTION PASSED (4-0)
- b) AB24-30: A Motion to authorize the City Manager to enter into Contract #24-63610-203 with the Department of Commerce for a Climate Planning Grant in the amount of \$50,000.  
MOTION BY COUNCILMEMBER NELSON. SECOND BY MERIZAN  
MOTION PASSED (4-0)

**15) DISCUSSION ITEMS:**

- a) PROS Plan – [Parks, Recreation, and Open Space Plan - Carnation, WA \(carnationwa.gov\)](https://www.carnationwa.gov)  
THIS ITEM WAS PUSHED TO THE NEXT MEETING

**16) CAPITAL PURCHASES:**

- a) NONE

**17) INFORMATION, CLARIFICATION, GENERAL DIRECTION ITEMS:**

- a) Committee and Liaison  
DEPUTY MAYOR HAWKINS AND COUNCILMEMBER BURRELL ARE SWITCHING COMMITTEES. APPOINTMENT WILL BE UPDATED IN THE HANDBOOK.
- b) Photoshoot for the City Council  
COUNCILMEMBER MERIZAN IS ORGANIZING A FORMAL PHOTOSHOOT FOR COUNCIL WITH STAFF.
- c) Coffee with Council  
MAYOR IS REQUESTING AN EXTRA COFFEE WITH COUNCIL AT THE STARBUCKS IN TOWN.

**18) PUBLIC RECORDS REQUESTS:**

- a) Harris #8: HR Request

**19) PLANNING AND PARKS BOARD MINUTES (1<sup>st</sup> TUESDAY MEETING):**

- a) February 27<sup>th</sup>, 2024

**20) FUTURE COMMITTEE MEETINGS:**

- a) Housing and Land Use
  - i) April 26<sup>th</sup>, 2024 1:00 PM -3:00 PM

**21) FUTURE COUNCIL MEETINGS:**

- a) April 2, 2024 – Regular Meeting
  - i) 6:00 PM - 9:30 PM
- b) April 2, 2024 – Special Meeting
  - i) 5:00 PM – 6:00 PM
- c) April 16, 2024 - Regular Meeting
  - i) 6:00 PM - 9:30 PM
- d) April 16, 2024 – Special Meeting
  - i) 5:00 PM – 6:00 PM

**22) ADJOURNMENT:** Mayor Jim Ribail  
at 9:01 PM

**Approved at the regular meeting of the Carnation City Council on April 2nd, 2024.**



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**MAYOR JIM RIBAIL**

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**CITY CLERK LORA WILMES**

March 17, 2024

Dear Jim, Brodie, Ryan, Adair and Jessica:

Most of you know that recently Victoria Klyce and I worked with Jim to draft a Tree Ordinance for the city, at Jim's request. We brought in the expertise of Julia Kast from the DNR, who coordinates the Evergreen Cities program, as well as several people from the Arbor Day Foundation, all of whom are tree ordinance experts. The process took several months, and many meetings. Jim then sent it along so that the "city and legal" could review it before it got passed to the Planning and Parks Board for them to delve into and make critical decisions prior to public review.

To our surprise, when the ordinance appeared in the Planning and Parks Board's agenda packet for their February meeting, it wasn't the ordinance that we had worked on all this time. *It wasn't even a revision of our ordinance.* Instead, city staff wrote an entirely different ordinance which does not *AT ALL* reflect the work that we created with the Mayor. It has a radically different scope, intent, and tone. No one communicated to us about this development. Rhonda Enders' explanation at the Planning and Parks Board meeting that they needed to whittle it down to what "staff could manage" simply doesn't hold true. If that were the case, language could have been shifted here or there, not an entirely new document written.

Worse, and most concerning to us, the city's ordinance offers little tree protection above what we currently have, no provisions for replacement, and is noncommittal about both care and maintenance of trees. It's contradictory in places and lacks clear standards. We gave the city a comprehensive, thoughtful, educational document that expanded protection for our city trees; a document, that while it contains side comments and notes, we felt were necessary to guide the Planning and Parks Board in making key decisions, especially since our city lacks the guidance and expertise of a City Planner.

Most alarmingly, whomever wrote this document clearly does not care about our city, and they certainly don't care about tree protection or expansion of our urban canopy. Here's just a few examples of what Victoria and I found when comparing the documents: (both are attached)

*The city's ordinance significantly lacks tree protection, barely above what we have now.* While the ordinance we submitted expands and centers the protection and maintenance of trees, and growth of the urban canopy, the city's ordinance significantly dials it back with noncommittal ambivalent content. *We're unsure whether it differs much at all from having NO ordinance (our current situation).* Jim, Victoria, and myself all agreed we wanted the city to contract with and consult with ISA Certified Arborists in all situations with city trees, especially for maintenance, with removal only if necessary. Throughout our document, this was reinforced. The city's ordinance says consulting with ISA Arborists is an "as needed" proposition, and in other places lacks clear commitment to using ISA Certified arborists. It goes a step further and erodes protection by giving authority over trees under power lines over to "applicable utility industry standards" which essentially guarantees poor tree care standards as they do not take the health of the tree into consideration. We had a Heritage Tree Preservation section, theirs does not. The city's ordinance (Section 4.(f)), when it comes to Significant trees, *places equal emphasis on their removal at the city's whim.* Strangely, for a tree ordinance, it also has absolutely NO provision for replacing trees. (??)

*Our ordinance was comprehensive and included community values.* Our *Article 1. Title and Purpose* was a page and a half, and provided context, purpose, explanation, and education on the benefits of trees. It recognized that larger trees provide more benefits and stated that our mature trees need to be better preserved, protected, and maintained and explained the why as to the importance. *These are community values.* The city's version: a single paragraph, which oddly includes a statement about removal of private trees.

*Key Definitions Don't Appear in the City's Ordinance:* A good ordinance has definitions unfamiliar to lay persons. While I certainly agree that the definitions section in our ordinance needed to be whittled down, I assumed the Planning and Parks Board would make the decisions on what definitions needed to stay, so we provided them with choices. The city's ordinance offers six definitions. We included definitions such as Significant Tree, Heritage Tree, Canopy, and Critical Root Zone, which we considered crucial. The city ordinance lacks these definitions, which we feel are necessary for clarity. The city's ordinance doesn't even define "Arborist" in an ordinance written to ostensibly protect trees. (We define arborist as an ISA Certified Arborist, like many of the tree ordinances in cities around us).

The tone of the city's new tree ordinance differs significantly in tone from our tree ordinance. Our ordinance had a neutral, user-friendly tone that reflected the values of our citizens and was forward-thinking. Perhaps most disturbing about the city's tree ordinance is the strangely punitive and authoritarian tone throughout. The city ordinance also includes several pointed references (*See 4.d Interference, and Section 5 B.*) that appear directed at community members who care about trees. Our draft ordinance was opposite in tone and intent, and doesn't assume the public needs to be strongarmed into "obeying" directives from city staff, who actually work for the public.

The city's tree ordinance leaves out community involvement. We included a section on "Education and Community Engagement," with suggestions about ways the city might work with local citizens and groups to educate the public about trees, tree care, and the benefits of a robust urban canopy. It further suggested (as many other cities do), that we have an outward facing webpage on the benefits of public/private tree canopy, etc. None of the language in our education section held the city to promises, though we feel we should have those things at a minimum (and shouldn't the Planning and Parks Board have the option of deciding?). The city's ordinance contains one sentence on education, in a section where it doesn't thematically fit; it says the city shall work with the Arbor Day Foundation to make resources available to the community, and leaves out working with our own, local, community groups. I find this odd as well.

The DNR suggested in notes in our ordinance that the Planning and Parks Board take up enhancing tree protection beyond public trees and consider adding protections for private trees, while the city's ordinance instead makes provisions for punishing and fining private citizens. This is far from the spirit or intent of our ordinance, and does not reflect the needs and wants of our community. One of the questions the Planning and Parks Board needs to consider is expanding the ordinance to further add some protections for trees on private property. The city's ordinance, in addition to watering down city tree protection to barely above what we currently have—actually fines private citizens if they don't do what the city wants along rights of way, etc. and do it in a timely manner.

Summary: The city's ordinance lacks depth, context, thoughtfulness, critical thinking, and at its most basic level, reads as if the city does not really want to do any work to protect trees. It has an off-putting tone, and does not give power and authority to the experts who know how to take care of trees (ISA Certified Arborists). Its ambivalent tone does NOT reflect our community values. It is poorly written and doesn't convey the forward-thinking goals our City Council has been working so diligently to enact.

We didn't do this for recognition, but because we care deeply about our urban forest, and the health and safety of our community. The point of this letter is not to say our ordinance was perfect—it wasn't. But at the Planning and Parks Board meeting, city staff did not recognize the hours we spent \*without pay\* crafting what we felt was a robust, contextual document for the Planning and Parks Board to consider, revise, and kick around for discussion. Our work was cherry-picked—mostly to insert the ANSI Standards we had in ours--then discarded. I do not buy the city's explanation that they needed to have a "manageable" tree ordinance. That is a smokescreen. If that were the case, all they had to do was alter some language here and there as it pertains to who oversees city trees, or in what instances permits are required.

Since the ordinance in front of the Planning and Parks Board does little to enhance tree protection for our city, we, and others in the community, feel strongly that the City's ordinance should NOT go to public review, and that we should wait to apply for the Tree City USA program. The whole point of applying for the program was to access resources that would then help us enhance and build upon *real* tree protection provided by a robust, comprehensive ordinance. You can have both: a robust ordinance that doesn't put undue demands on city staff, while significantly expanding tree protection. If demands on city staff time are a key concern by staff, then a valid question to put to the Council is: what do you want staff to be doing? Also, why don't we have a full time urban planner on staff (as we used to have), to provide expertise not reflected in the current staffing model?

While I understand that the Mayor wants to get the Tree City application done quickly, it makes more sense to wait until we can build an ordinance that *actually has teeth*. The city's ordinance does not. Even if the city's ordinance passes requirements for the Tree City USA program (I'm not sure just checking the website would be a trustworthy way of knowing this—we did provide the city with a contact person at the Arbor Day Foundation, and the DNR, in

our draft), you must ask: why bother passing an ordinance that does not live up to, nor reflect, the barest minimum of green goals or standards and that makes the city look bad?

We respectfully request that you, the City Council, share this letter with each member of the Planning and Parks Board so they are aware of the critical differences between the two documents (I am unable to since they have no email addresses).

Victoria Klyce and I wanted to help make Carnation a leader in local green efforts by working on this project with Jim. We brought in expertise the city currently does not have. As stated earlier, we were not looking for recognition. We were looking to be treated with respect, though. For the record, I am embarrassed and chagrined by the document under the Planning and Parks Board's review and neither of us want our names associated with it. It's not a document that makes the city look good, either; in fact, it does the opposite.

If you want to build trust with the community, the way to do it is not by taking advantage of community volunteers, especially ones that have worked for several years in service to the community. Any confidence I had in public process has been completely eroded by this experience.

Victoria and I deserve to be treated better than this, and our community deserves a better tree ordinance. Consider this my public comment on the city's tree ordinance.

Sincerely,

Jenn Dean, MFA  
Jenn Dean Consulting, LLC  
425-791-5250  
jenndeanconsulting@outlook.com



**CARNATION CITY COUNCIL  
A G E N D A B I L L**

<b>TITLE:</b> A Motion to extend a contract with Benjamin Asphalt for money and time.	<b>Agenda Bill No.:</b>	<b>AB24-35</b>
	<b>Type of Action:</b>	<b>MOTION</b>
	<b>Origin:</b> <i>(Council/Manager)</i>	City Manager
	<b>Agenda Bill Author:</b>	City Manager
<b>EXHIBITS:</b>	<b>Date Submitted:</b>	03-19-24
	<b>For Agenda of:</b>	03-19-24
	<b>Expenditure Required:</b>	\$680,155.03
	<b>Amount Budgeted:</b>	\$680,155.03
	<b>Appropriation Required:</b>	None

**SUMMARY STATEMENT AND DISCUSSION:**

The original contract with this vendor expired on December 31, 2023. A new contract for 2024 is currently being procured through a competitive process. A new contract will be in place by July 1, 2024.

The current request for extended time and additional funding is needed to comply with contract management policies. The City Manager requests an extension to June 30, 2024, and a new amount not to exceed \$918,322.75. The extension amount includes funding to cover expenses to date that exceed the original contract allocation and the funding for future work up to June 30, 2024.

Staff requests an additional \$61,832.00 for a 10% contingency.

**RECOMMENDED ACTION:** I move to extend the City’s contract with Benjamin Asphalt to June 30, 2024, for a total contract amount of \$918,322.75, and for a 10% Contingency in the amount of \$61,832.00

**LEGISLATIVE HISTORY:**

<b>ACTION TAKEN</b>					
<b>MOTION AS PROPOSED</b>			<b>MOTION AS AMENDED</b>		
Motion made by:			Motion made by:		
Second by:			Second by:		
	YES Vote	NO Vote		YES Vote	NO Vote
Hawkins			Hawkins		
Ribail			Ribail		
Nelson			Nelson		
Burrell			Burrell		
Merizan			Merizan		
Passed/Failed			Passed/Failed		
Ordinance/Resolution No.:			Ordinance/Resolution No.:		

# How an Idea becomes a Policy Recommendation

Idea



Can be a:

- **Resident**
- **Council-member**
- **Staff member**
- **Anyone!**

Policy Direction  
to Staff



**Council** -  
Elected by the  
Citizens

Staff Review



**City Staff** Weighs all  
factors:

- Budget
- Capacity
- Staffing
- Future implications
- Implementation

Legal Review



**Lawyer** must  
review idea to  
make sure it is  
legally sound

Planning Board



The **Board's** job  
is to provide  
input to Staff and  
Council

Staff Review



**City Staff**  
conducts a  
final review

Acceptance /  
Rejection of Staff  
Recommendation



**Council** votes to  
accept or reject the  
proposal from **Staff**



**CITY OF CARNATION  
PUBLIC HEARING  
SIGN-UP SHEET TO COMMENT**

1018

Public Hearing heard before the Carnation City Council

Subject of Public Hearing: Residential Building Moratorium Ordinance 24-985

Date:  
March 19<sup>th</sup>, 2024

NAME	*ADDRESS	EMAIL	PHONE
Dorothy Louos	335 116th Ave SE Bellevue WA	Dorothy@waks.com	206 804 1604

\*Names and addresses will be made available to the public.

# CHECK REGISTER

City of Carnation

Time: 11:03:00 Date: 03/19/2024

03/07/2024 To: 03/18/2024

Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
651	03/07/2024	Claims	1	38690	PUGET SOUND ENERGY	1,487.71	E Eugene St & Tolt Ave # St Lights
666	03/10/2024	Claims	1	38691	KING COUNTY TREASURY	1,307.45	2024 Property Tax 272507-9005-09; 2024 Property Tax 152507-9012-04; 2024 Property Tax 138930-0230-05; 2024 Property Tax 142507-9020-05; 2024 Property Tax 152507-9042-08; 2024 Property Tax 152507-9045-
667	03/11/2024	Claims	1	38692	CENTURYLINK	138.71	Monthly Service Charges
668	03/11/2024	Claims	1	38693	KPG PSOMAS	65,217.33	COST RECOVERY - Tolt Ave and Morrison st. Pedestrian Improvements
669	03/11/2024	Claims	1	38694	SAFEBUILT, LLC	390.00	Building Inspection 02-26-24
670	03/11/2024	Claims	1	38695	UNITED SITE SERVICES	521.66	Services at Fred Hockert Park; Services at 4301 Larson Avenue (Sewer)
671	03/11/2024	Claims	1	38696	UTILITIES UNDERGROUND LOCATION CENTER	64.68	Excavation Notices for February (49)
672	03/11/2024	Claims	1	38697	THOMPSON, GUILDNER & ASSOCIATES INC P.S.	3,403.60	General Legal COUNsel for February
673	03/11/2024	Claims	1	38698	KING COUNTY FINANCE	68,060.85	Wastewater Treatment Division - March 2024
674	03/11/2024	Claims	1	38699	BENJAMIN ASPHALT, INC	15,364.75	Removed and replaced asphalt around catch basin; Removed and replaced dilapidated asphalt at the sewer connection pit; Removed and replaced asphalt around water main repair; Removed and replaced aspha
675	03/11/2024	Claims	1	38700	JENNIFER HARGROVE	1,230.00	Emergency Planning Services for February
676	03/11/2024	Claims	1	38701	JOSE VAZQUEZ	3,800.00	Outdoor Care services for Main Street, Cemetery, and CCC
677	03/11/2024	Claims	1	38702	STITCH IT LLC	44.56	Council Shirts for Councilmember Nelson and Councilmember Merizan
678	03/11/2024	Claims	1	38703	BOOKKEEPING SOLUTIONS INC	9,255.00	Bookkeeping Services for January; Bookkeeping Services for February
679	03/11/2024	Claims	1	38704	OFFICE OF MINORITY & WOMEN'S BUSINESS	330.18	Political Subdivision Fee 07/01/23 - 06/30/25
680	03/11/2024	Claims	1	38705	HONE LANDSCAPE COMPANY	6,427.47	Revegetation work and plants instalaltion at 33100 NE 45th St.
681	03/11/2024	Claims	1	38706	PAUL P. DOUGHERTY, TAX MANAGER	247.69	Recology King County - Refund for Overpayment
695	03/12/2024	Claims	1	38707	AWC EMPLOYEE BENEFIT TRUST	13,202.49	Employer Monthly Billing Report: March 2024
696	03/12/2024	Claims	1	38708	SAFEBUILT, LLC	1,911.00	Building Inspections in February - Pulte, Tolt Legal, and Phelps
697	03/12/2024	Claims	1	38709	KING COUNTY FINANCE	375.00	KCIT INET February 2024
705	03/13/2024	Claims	1	38710	BANK OF AMERICA-WILMINGTON	10,158.57	February 01-February 29, 2024
708	03/13/2024	Claims	1	38713	R&A CLEANING		Wrong address
707	03/13/2024	Claims	1	38714	PUGET SOUND ENERGY	2,161.25	Ciy of Carnation 30000001242-Mar-24
713	03/13/2024	Claims	1	38715	R&A CLEANING	2,592.00	8x regular cleaning-Invoice 21
715	03/13/2024	Claims	1	38716	R&A CLEANING	2,916.00	December 28, 2023 bill, Invoice 19



# CHECK REGISTER

City of Carnation

Time: 11:03:00 Date: 03/19/2024

03/07/2024 To: 03/18/2024

Page: 2

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
740	03/17/2024	Claims	1	38717	CITY OF CARNATION	335.34	February 2024 Water - Account No. 1241 (4003 Tolt Avenue)
741	03/17/2024	Claims	1	38718	TEAMSTERS LOCAL UNION 763	242.00	March 2024 Union Dues
742	03/17/2024	Claims	1	38719	KING COUNTY TREASURY	41.53	2024 Property Tax 865830-2030-02
743	03/17/2024	Claims	1	38720	BENJAMIN ASPHALT, INC	5,000.20	Vactor Rental
744	03/17/2024	Claims	1	38721	STITCH IT LLC	22.28	Council T-shirt - Councilmember Merizan
758	03/18/2024	Claims	1	38722	PUGET SOUND ENERGY	4,978.72	220033588009-4003 Tolt; 200014375857, March 2024 - 4621 Tolt; 200009375045, Mar 24 - 4301 315th Ave NE; 200007438688, March 24, 31999 E Bird; 200017060134, Mar 24, 4620 Tolt; 200007451764, Mar 24, 240
						38,799.77	
						1,112.27	
						65,217.33	
						31,248.33	
						10,102.37	
						6,687.10	
						68,060.85	
						221,228.02	Claims: 221,228.02

CERTIFICATION: I, the undersigned do hereby certify under penalty of perjury, that the materials have been furnished, the services rendered or the labor performed as described and that the claim is a due and unpaid obligation against the City of Carnation and that I am authorized to authenticate and certify to said claim.

(Ana Cortez) City Manager \_\_\_\_\_ Date: \_\_\_\_\_

(Jim Ribail) City Mayor \_\_\_\_\_ Date: \_\_\_\_\_



**CARNATION CITY COUNCIL  
A G E N D A B I L L**

<b>TITLE:</b> A Motion to amend the City’s contract with Mott MacDonald for Landfill monitoring services in the amount of \$24,000.	<b>Agenda Bill No.:</b>	<b>AB24-36</b>
	<b>Type of Action:</b>	<b>MOTION</b>
<b>EXHIBITS:</b>  • Contract Amendment	<b>Origin:</b> <i>(Council/Manager)</i>	City Manager
	<b>Agenda Bill Author:</b>	City Manager
	<b>Date Submitted:</b>	04/02/24
	<b>For Agenda of:</b>	04/02/24
	<b>Expenditure Required:</b>	\$24,000
	<b>Amount Budgeted:</b>	\$24,000
	<b>Appropriation Required:</b>	None

**SUMMARY STATEMENT AND DISCUSSION:**

In 2023 Mott MacDonald assisted the City of Carnation (City) in receiving a landfill sampling variance from Public Health Seattle King County (PHSKC), which was approved on December 1, 2023. Significant long-term cost savings for the City are projected based on the approved sampling variance, with annual monitoring costs expected to be approximately ¼ of prior annual monitoring costs. As a condition of granting the sampling variance, PHSKC requested several tasks that were not part of Mott MacDonald’s existing Carnation Landfill Support scope of work dated April 20, 2023. Several of these are included as Mott MacDonald’s proposed Amendment 1 tasks items listed below:

1. Update of the landfill Sampling and Analysis Plan to reflect the approved sampling variance.
2. Removal of steel drums from the landfill property.
3. Developing a work plan to address drainage issues near the southwest corner of the landfill.
4. 2024 groundwater and landfill gas sampling, reporting, and project management. Associated laboratory analytical costs are not included in Amendment 1 cost estimate
5. Compensation for out-of-scope labor expenditures incurred during the variance negotiation process.

**RECOMMENDED ACTION:** I move to amend the City’s contract with Mott MacDonald for Landfill monitoring services in the amount of \$24,000.

**LEGISLATIVE HISTORY:**

**ACTION TAKEN**

MOTION AS PROPOSED			MOTION AS AMENDED		
Motion made by:			Motion made by:		
Second by:			Second by:		
	YES Vote	NO Vote		YES Vote	NO Vote
Hawkins			Hawkins		
Ribail			Ribail		
Nelson			Nelson		
Burrell			Burrell		
Merizan			Merizan		
Passed/Failed			Passed/Failed		
Ordinance/Resolution No.:			Ordinance/Resolution No.:		

**FIRST AMENDMENT TO SUBCONTRACT AGREEMENT  
FOR CARNATION LANDFILL SUPPORT SERVICES**

This is an amendment (“Amendment”) to the General Terms and Conditions Agreement dated as of the 20<sup>th</sup> day of April, 2023 (“Agreement”), made effective as of the 15<sup>th</sup> day of December, 2023 (“the Effective Date”), by and between the City of Carnation, having a principal address at 4621 Tolt Ave., PO Box 1238, Carnation, WA 98014 (“CLIENT”) and Mott MacDonald, LLC (“CONSULTANT”), having offices at 1601 5<sup>th</sup> Avenue, Suite 800, Seattle, WA 98101. CLIENT and CONSULTANT are collectively referred to herein as the “Parties” and individually as a “Party.”

WHEREAS, the Parties entered into the Agreement; and

WHEREAS, the Parties desire to amend the Agreement to memorialize certain scope, fee and/or schedule changes and/or modifications to certain services to be provided by CONSULTANT under the Agreement.

NOW, THEREFORE, in consideration of the representations set forth above, the Parties agree as follows:

(1) All capitalized terms hereunder shall have the same meaning as those set forth in the Subcontract unless specifically defined hereunder.

(2) CONSULTANT’s scope of work is modified as follows:

**Additional tasks as detailed in Exhibit A.**

(3) CONSULTANT’s fee for the change(s) to its Services shall be as follows:

Original Agreement fee: \$25,165  
This Amendment increase/decrease: \$24,000  
Revised Agreement fee: \$49,165

(4) CONSULTANT’s schedule for performing its Services shall be as follows:

Original expected completion date:	February 28, 2024
This Amendment time increase/decrease:	<u>One year</u>
Revised expected completion date:	February 28, 2025

(5) The changes to the Services to be performed hereunder, and fees for such Services, shall be in accordance with all of the terms and conditions of the Agreement, except as specifically modified in this Amendment.

- (6) The Agreement shall remain in full force and effect except as specifically modified by this Amendment.
- (7) By executing this Amendment, the Parties agree to modify the Agreement scope of work, price and term date as stated above. Upon execution, this Amendment becomes part of the Agreement.
- (8) Each party signing below represents and warrants that the individual signing on its behalf has full authority to bind the party to the terms of this Amendment.

**IN WITNESS WHEREOF**, the Parties to this First Amendment have executed same as of the Effective Date.

**CITY OF CARNATION**

BY: \_\_\_\_\_  
Name:  
Title:

**MOTT MACDONALD, LLC**

BY: \_\_\_\_\_  
Name:  
Title:

## Exhibit A – Scope of Work and Billing Rates

In 2023 Mott MacDonald assisted the City of Carnation (City) in receiving a landfill sampling variance from Public Health Seattle King-County (PHSKC), which was approved on December 1, 2023. Significant long-term cost savings for the City are projected based on the approved sampling variance, with annual monitoring costs expected to be approximately ¼ of prior annual monitoring costs. As a condition of granting the sampling variance, PHSKC requested several tasks that were not part of Mott MacDonald’s existing Carnation Landfill Support scope of work dated April 20, 2023. Several of these are included as Mott MacDonald’s proposed Amendment 1 tasks items listed below:

1. Update of the landfill Sampling and Analysis Plan to reflect the approved sampling variance.
2. Removal of steel drums from the landfill property.
3. Developing a work plan to address drainage issues near the southwest corner of the landfill.
4. 2024 groundwater and landfill gas sampling, reporting, and project management. Associated laboratory analytical costs are not included in the Amendment 1 cost estimate and we assume will be directly paid by the City.
5. Compensation for out-of-scope labor expenditures incurred during the variance negotiation process.

Several landfill-related tasks requested by PHSKC in the variance approval letter are not included in Amendment 1. These include placing an environmental covenant on the landfill property, developing a landfill settlement monitoring network, and engineering and construction costs associated with the correction of the drainage issues near the southwest corner of the landfill. We assume the City will pursue these tasks independently of Mott MacDonald and hire outside contractors as necessary to complete these tasks.

Total Amendment 1 costs are estimated to be \$24,000. The following Mott MacDonald staff are expected to participate in the project at their associated billing rates, which are consistent with the rate increases specified in the April 2023 agreement:

<b>Staff Member</b>	<b>Title</b>	<b>Project Role</b>	<b>2024 Hourly Rate</b>
Stephen Swope	Principal Hydrogeologist	Project Principal, technical oversight,	\$285
Glenn Mutti-Driscoll	Project Manager	Project Manager, lead hydrogeologist	\$189
Thais Palma de Brito	Staff Geologist	Field and/or reporting support	\$137
Jenna Page	Administration	Administrative Assistance	\$121

Other Mott MacDonald staff (at billing rates between \$130/hr and \$235/hr) may be utilized for *minor* support and assistance as needed.



# CARNATION CITY COUNCIL AGENDA BILL

<p><b>TITLE:</b> A Motion to authorize the City Manager to enter into contract with Northwest Playground for River’s Edge Park Play Equipment for the amount not to exceed \$163,650.02 including tax.</p> <p><b>EXHIBITS:</b></p> <ul style="list-style-type: none"> <li>• RIVER’S EDGE PARK DESIGN AND QUOTE</li> </ul>	<b>Agenda Bill No.:</b>	AB24-39
	<b>Type of Action:</b>	MOTION
	<b>Origin: (Council/Manager)</b>	City Manager
	<b>Agenda Bill Author:</b>	City Manager
	<b>Date Submitted:</b>	04/02/24
	<b>For Agenda of:</b>	04/02/24
	<b>Expenditure Required:</b>	\$163,650.02
	<b>Amount Budgeted:</b>	\$163,650.02
	<b>Appropriation Required:</b>	0

**SUMMARY STATEMENT AND DISCUSSION:**

The proposal includes play surface and play equipment at River’s Edge Park. The Planning and Parks Board was integrally involved in the design of the play area and recommends the Council accept this proposal. This is Phase I development of this park. Future phases will include a walking path around the park/play area, landscaping and a covered pavilion with picnic tables. The 2022 PROS plan was used as a guide in developing this park.

**RECOMMENDED ACTION:** I move to authorize the City Manager to enter into contract with Northwest Playground for River’s Edge Park Play Equipment for the amount not to exceed \$163,650.02 including tax.

**LEGISLATIVE HISTORY:**

ACTION TAKEN					
MOTION AS PROPOSED			MOTION AS AMENDED		
Motion made by:			Motion made by:		
Second by:			Second by:		
	YES Vote	NO Vote		YES Vote	NO Vote
Hawkins			Hawkins		
Ribail			Ribail		
Nelson			Nelson		
Burrell			Burrell		
Merizan			Merizan		
Passed/Failed			Passed/Failed		
Ordinance/Resolution No.:			Ordinance/Resolution No.:		

# River's Edge Park

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*Playground – Option B Revision 3*



*Submitted By:*

**Northwest Playground Equipment**

*Dustin Deer*

*345 NW Dogwood Street*

*Issaquah, WA 98027*

*Date Submitted:*

**March 25<sup>th</sup> 2024**











RIVER'S EDGE PARK

OPTION B - REV 3

HD 157 23BR3 Color Option : A



COLOR KEY	POST & COMPONENTS	ROTO	SHEET PLASTIC	SHADE	DECK			
	 BEIGE	 ORANGE	 TEAL	 LIME	 LIME	 LIME-SAND	 LIME	 GRAY





RIVER'S EDGE PARK

OPTION B - REV 3

HD 157 23BR3 Color Option : A



COLOR KEY	POST & COMPONENTS	ROTO	SHEET PLASTIC	SHADE	DECK
	BEIGE	ORANGE	TEAL	LIME	LIME
			LIME-SAND	LIME	GRAY



RIVER'S EDGE PARK

OPTION B - REV 3

HD\_157\_23BR3 Color Option : A



COLOR KEY	POST & COMPONENTS	ROTO	SHEET PLASTIC	SHADE	DECK
	BEIGE	ORANGE	TEAL	LIME	GRAY
			LIME	LIME-SAND	LIME



RIVER'S EDGE PARK

OPTION B - REV 3

HD 157 23BR3 Color Option : A



COLOR KEY	POST & COMPONENTS	ROTO	SHEET PLASTIC	SHADE	DECK
	BEIGE	ORANGE	TEAL	LIME	GRAY
			LIME	LIME-SAND	



RIVER'S EDGE PARK

OPTION B - REV 3

HD 157 23BR3 Color Option : A



COLOR KEY

POST & COMPONENTS



BEIGE ORANGE

ROTO



TEAL LIME

SHEET PLASTIC



LIME LIME-SAND

SHADE



LIME

DECK



GRAY



RIVER'S EDGE PARK

OPTION B - REV 3

HD 157 23BR3 Color Option : A



COLOR KEY	POST & COMPONENTS	ROTO		SHEET PLASTIC		SHADE	DECK
	BEIGE ORANGE	TEAL LIME	LIME LIME-SAND	LIME	GRAY		

EQUIPMENT SIZE:

USE ZONE:

AREA: **SEE PLAN** PERIMETER:

FALL HEIGHT: **8 Ft.**

USER CAPACITY: **64** AGE GROUP:

ADA SCHEDULE	Total Elevated Play Activities: 10		
	Total Ground-Level Play Activities: 5		
	Accessible Elevated Activities	Accessible Ground-Level Activities	Accessible Ground-Level Play Types
Required	5	3	3
Provided	10	5	4

- ASTM F1487-21
- CPSC #325



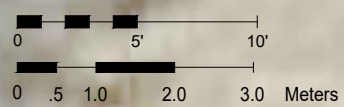
PROJECT NO: **IHD\_157\_23BR3** SCALE: **1/8" = 1'-0"**

DRAWN BY: **ZTM** Paper Size

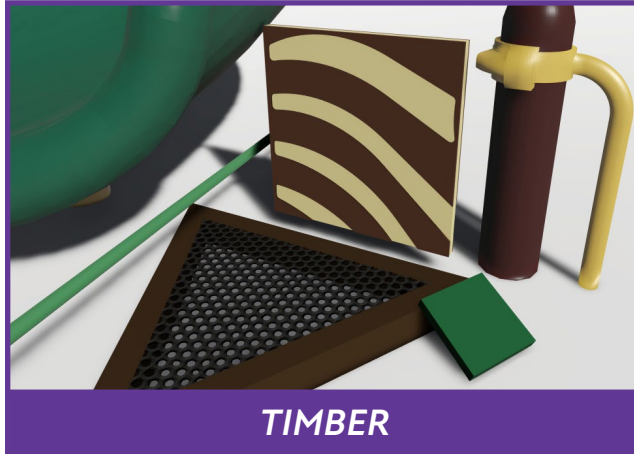
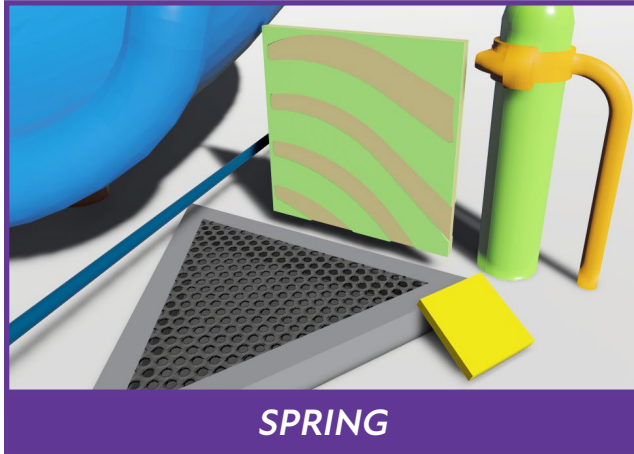
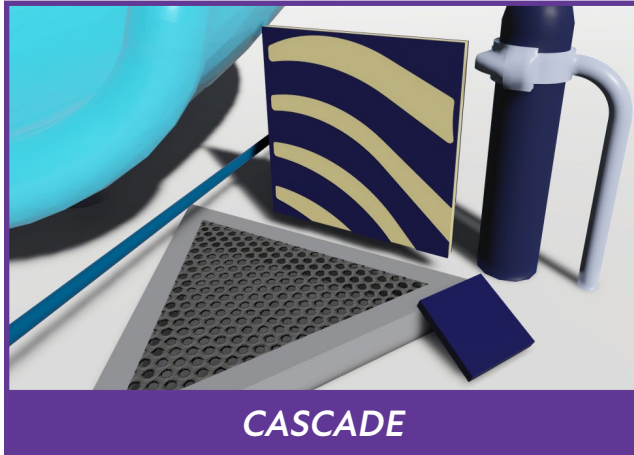
DATE: **14-Mar-24** **B**

**RIVER'S EDGE PARK**

OPTION B - REV 3

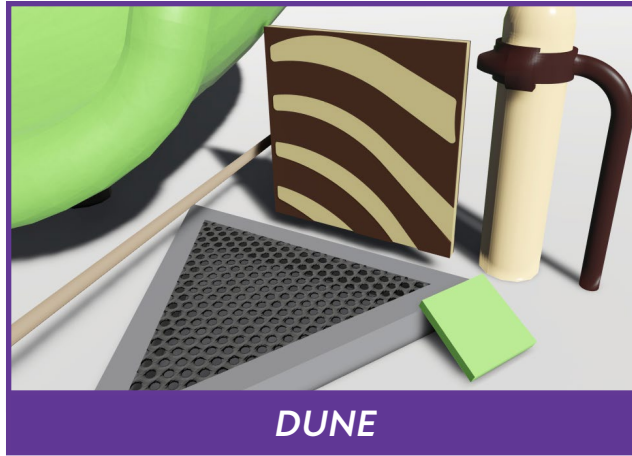


\*PLAYGROUND SUPERVISION REQUIRED





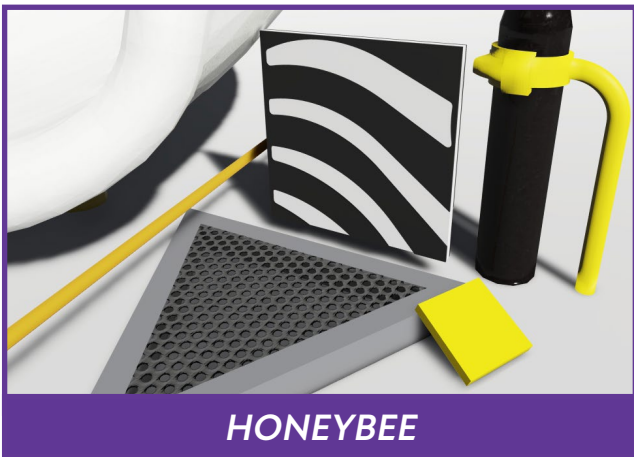
LAGOON



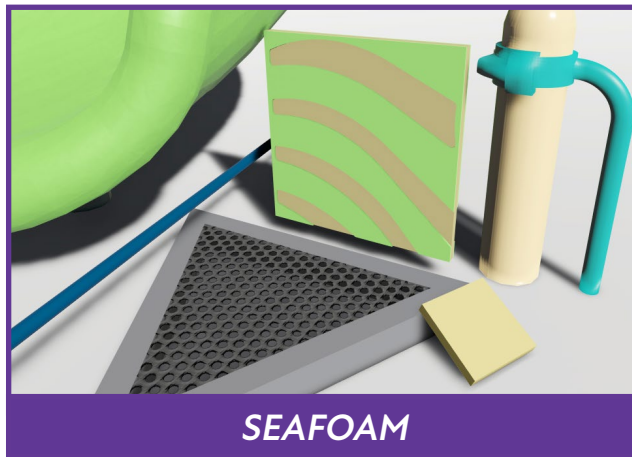
DUNE



FOREST



HONEYBEE



SEAFOAM



CARDINAL



OASIS



LUNAR

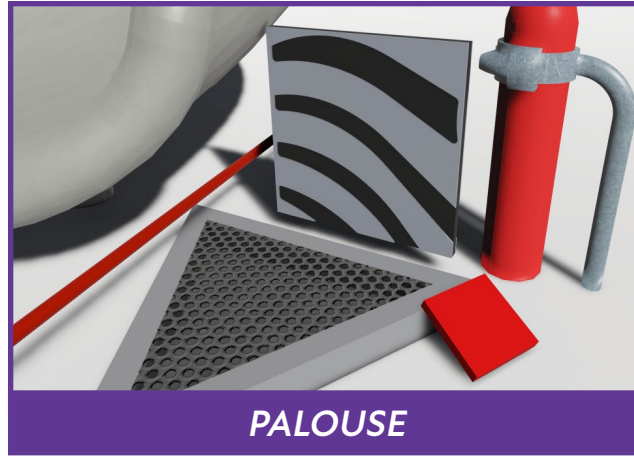


OBSIDIAN





NOCTURN



PALOUSE



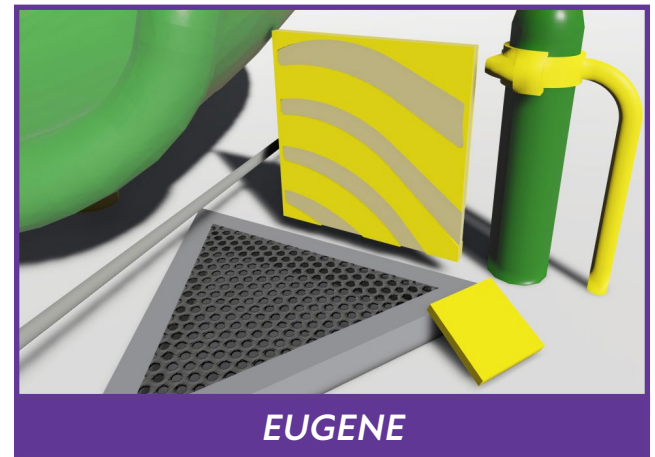
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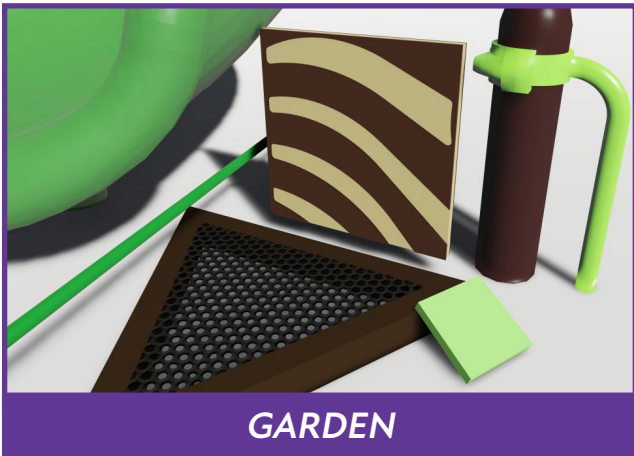
BLITZ



CORVALLIS



EUGENE



GARDEN



PALMS



MEADOWS



# Northwest Playground Equipment, Inc.

PO Box 2410, Issaquah, WA 98027-0109  
 Phone (425) 313-9161 FAX (425) 642-8117  
 Email: sales@nwplayground.com

## QUOTE

Quote # RG-3252024-00005953

To: Carnation, City of  
 Re: River's Edge Park

Date: 03-25-2024

Quote Name: River's Edge Park - IHD-157-23BR2

Bill To: 4621 Tolt Avenue  
 PO Box 1238  
 Carnation, WA 98014

Site Address: River's Edge Park at the corner of NE  
 45th Street and 336th Ave NE in  
 Carnation

Name: Rhonda Ender  
 Email: rhonda.ender@carnationwa.gov

Phone: (425) 786-4435  
 Cell:

Item #	Qty	Description	Price	Total Price
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### EQUIPMENT

#### Playworld

IHD-Playworld	1	IHD-157-23BR2 - Playworld Systems Structure: Equipment Including Rumble Seat, Nuvo 360 Spiral Slide, Steering Wheel, Slide-N-Learn Panel, Solar Climber, Beanstalk Climber, Loop Ladder and Square Hat Shade	\$54,910.00	\$54,910.00
ZZXX0065	1	Spin Cup	\$1,142.00	\$1,142.00
ZZXX0341	2	Balance Trax Pond	\$519.00	\$1,038.00
ZZXX0342	1	Balance Trax Mountain	\$2,501.00	\$2,501.00
ZZXX0366	1	Unity Dome	\$21,654.00	\$21,654.00
ZZXX8905	1	Wheelchair Access Border Timber	\$1,955.00	\$1,955.00
ZZXX9409	5	1Ft Border Timber W/Stake	\$55.00	\$275.00
ZZXX9410	2	2Ft Border Timbers W/Stake	\$65.00	\$130.00
ZZXX9430	61	4Ft Border Timbers W/Stake	\$83.00	\$5,063.00

#### Engineered Wood Fiber Safety

Engineered Wood Fiber Safety Supply	1	139 Cubic Yards of Certified Engineered Wood Fiber Safety Surfacing (12in After Compaction) and One Layer of Fabric for a 2480 Square Feet Area. Price Includes Blower Installation. NOTE: Semi-Truck Must Have Access to Unload Material On-Site. Typical Truck Size is 53' or Additional Charges May Apply	\$13,955.00	\$13,955.00
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Equipment Subtotal (less tax): \$102,623.00

### CONTRACT DISCOUNT

Playworld	KCDA - King County Directors Association Discount: BID #22-315	10%	(\$9,280.70)
DuMor	KCDA - King County Directors Association Discount: BID #22-315	3%	(\$75.30)

### FREIGHT

Playworld	Freight	\$9,050.00
Engineered Wood Fiber Safety	Freight	\$350.00

**Equipment Total (less tax):** \$102,667.00

### CERTIFIED INSTALLATION



# Northwest Playground Equipment, Inc.

PO Box 2410, Issaquah, WA 98027-0109  
Phone (425) 313-9161 FAX (425) 642-8117  
Email: sales@nwplayground.com

Deluxe Install	1	Deluxe Installation of Listed Playworld Systems Equipment. Price Includes Receiving Equipment and Offloading Onsite, Installation Through Dirt, Disposal of Dirt from Holes and Debris Offsite. Customer is Responsible for all Permits or Fees. Quote doesn't include Site Prep	\$47,885.00	\$47,885.00
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**Prevailing Wage**

		Performance Bond (If Required):	3.0%	
		Credit Card Fee (If Required):	3.5%	
Location Code: 1707	Resale Certificate Required for Tax Exemption:	Tax:	8.70%	\$13,098.02

**Installation Total:** \$47,885.00

**ORDER TOTAL:** \$163,650.02

### Acceptance of Proposal:

*(Please be sure you have read, signed, initialed and understand the Terms and Conditions on Page 2 of this Quote)*  
The items, prices and conditions listed herein are satisfactory and are hereby accepted.

Dustin Deer  
Sales Rep

Customer Signature

Date



# Northwest Playground Equipment, Inc.

PO Box 2410, Issaquah, WA 98027-0109  
Phone (425) 313-9161 FAX (425) 642-8117  
Email: sales@nwplayground.com

Project Name: River's Edge Park

Quote # RG-3252024-00005953

## TERMS AND CONDITIONS

### QUOTE CONDITIONS AND ACCEPTANCE:

***This quote is only valid for 10 days.***

*Orders placed or requested for delivery after 10 days are subject to Steel and Material price increases and Surcharges.*

**\*\*\*** (Pls Initial) It is the Buyer's responsibility to verify quantities and description of items quoted.

Once your order has been placed, any changes including additions, deletions or color changes, will delay your shipment.

### EXCLUSIONS: Unless specified, this quote specifically **excludes** all of the following:

- Required Permits; Davis Bacon, Certified Payroll or Prevailing Wage fees
- Performance/Payment Bonds
- Site work and landscaping
- Removal of existing equipment
- Unloading; Receiving of inventory or equipment; Storage of equipment
- Equipment assembly and/or installation
- Safety surfacing; Borders or drainage requirements
- Landscaping Repairs DUE to poor access or in climatic weather

### FREIGHT AND DELIVERY:

Shipping is FOB Origin. A 24-hr Call Ahead is available at additional cost.

Delivery is currently 5+ weeks after order submittal. Unless otherwise noted, all equipment is delivered unassembled.

~~**\*\*\*** (Pls Initial) Buyer is responsible to meet and provide a minimum of 2 ADULTS to unload truck~~

A Check List, detailing all items shipped, will be mailed to you and a copy will be included with the shipment.

Buyer is responsible for ensuring the Sales Order and Item Numbers on all boxes and pieces match the Check List.

~~**\*\*\*** (Pls Initial) Shortages or damages must be noted on the driver's delivery receipt. Shortages or damages not noted become the buyers financial responsibility.~~

Damaged Freight must be refused. Please notify Northwest Playground Equipment immediately of any damages.

Shortages and Concealed Damage must be reported to Northwest Playground Equipment within 10 days of delivery.

A reconsignment fee will be charged for any changes made to delivery address after order has been placed.

### TAXES:

All orders delivering in Washington are subject to applicable sales tax unless a tax exemption or Reseller Permit is on file at the time the order is placed.

**PAYMENT TERMS:** An approved Credit Application is required for new customers. 50% down payment is due at time of order with balance due upon delivery, unless other credit terms have been approved. Interest may be charged on past due

balances at an annual rate of 18%. A 3% charge will be added to all credit card orders.

**RESTOCKING:** Items canceled, returned or refused will be subject to a minimum 25% restocking fee. All return freight charges are the responsibility of the Buyer.

### MAINTENANCE/WARRANTY:

Manufacturer's standard product warranties apply and cover equipment replacement and freight costs only; labor is not included. Northwest Playground Equipment offers no additional warranties.

Maintenance of the equipment and safety surfacing is the responsibility of the customer.

Any unauthorized alterations or modifications to the equipment (including layout) will void your warranty.

### INSTALLATION: (if applicable)

A private locate service for underground utilities must be completed before your scheduled installation.

Site must be level and free of loose debris (this includes ground cover/chips).

A minimum 6 foot opening with good access must be available to the site for delivery trucks and tractor.

An onsite dumpster must be provided for disposal of packaging materials.

Arrangements must be made in advance for the disposal of dirt/rocks from within the installation area.

Arrangements must be made in advance for the removal/disposal of existing equipment.

Additional charges may apply if large rocks or concrete are found beneath the surface.

Access to power and water must be available.

Site supervision is quoted in 8-hour days.

### Acceptance of Terms & Conditions:

*Acceptance of this proposal, made by an authorized agent of your company, indicates agreement to the above terms and conditions.*

Dustin Deer

Sales Rep

Customer Signature

Date

# River's Edge Park

Design Number: IHD\_157\_23BR3 - Bill Of Material

Ref. No.	Part No.	Description	Quantity
<b>Posts</b>			
1	ZZCH0018	3.5in OD x 124in STEEL POST W/RIVETED CAP	4
2	ZZCH0028	3.5in OD x 136in STEEL POST W/ RIVETED CAP	4
3	ZZCH0038	3.5in OD x 148in STEEL POST W/ RIVETED CAP	2
4	ZZCH0048	3.5in OD x 160in STEEL POST W/ RIVETED CAP	2
5	ZZCH0385	3.5in OD X 174in SHADE POST (24in AND 36in DECKS)	4
<b>Decks &amp; Kick Plates</b>			
6	ZZCH0616	SQUARE COATED DECK ASSEMBLY	2
7	ZZCH0636	DOUBLE SLIDE COATED DECK ASSEMBLY	2
8	ZZCH2530	12in DECK TO DECK KICK PLATE	1
9	ZZUN2290	COATED DECK TO DECK CONNECTION KIT	1
<b>ADA Items</b>			
10	ZZCH2008	TRANSFER STATION w/BARRIERS (36in DECK)	2
11	ZZUN2019	APPROACH STEP FOR TRANSFER STATION	2
<b>Slides</b>			
12	ZZCH2737	RUMBLE SEAT (60in DECK)	1
13	ZZCH3537	SLIDE- NUVO 360 SPIRAL SLIDE	1
14	ZZCH3538	NUVO 36in DOUBLE SLIDE	1
<b>Activity Panels</b>			
15	ZZCH4290	POST MOUNTED STEERING WHEEL	1
16	ZZCH4446	SLIDE-N-LEARN PANEL	1
<b>Barriers</b>			
17	ZZCH4095	CENTERLINE PIPE WALL BARRIER	1
<b>Climbers</b>			
18	ZZCH7087	CLIMBING SQUARES BLOCK CLIMBER (36in)	1
19	ZZCH7657	SOLAR CLIMBER (36in & 30in DECK)	1
20	ZZCH7956	SILO CLIMBER (60in DECK)	1
21	ZZCH8100	BEANSTALK CLIMBER (36in DECK)	1
<b>Overhead Events</b>			
22	ZZCH5770	LEG LIFT	1
23	ZZCH5780	6ft HORIZONTAL LOOP LADDER	1
24	ZZCH5970	OVERHEAD EVENT ACCESS LADDER (36in DECK)	1
<b>Audible Activities</b>			
25	ZZCH4409	ACCESSIBLE BELL PANEL	1
<b>Roofs &amp; Arches</b>			
26	ZZCH4716	12ft SQUARE HAT SHADE	1
27	ZZCH9726	CH SQUARE HAT POST BRACES	1
<b>Stairs and Ladders</b>			
28	ZZCH9170	24in ACCESS STEPPED PLATFORM (DECK TO DECK)	1
<b>Additional Tool &amp; Maintenance Kits</b>			
29	ZZUN1471	INSTALLER HARDWARE KIT	2
30	ZZUN9930	PIPE SYSTEMS MAINTENANCE KIT W/ AEROSOL	2
31	ZZUN9936	MAINTENANCE BOOK	1



# River's Edge Park

Design Number: IHD\_157\_23BR3 - Bill Of Material

Ref. No.	Part No.	Description	Quantity
32	ZZXX0678	LABEL KIT- COMPOSITE STRUCTURE - ASTM	1
33	ZZXXGNGUID	GENERAL INSTALLERS GUIDE	3



# River's Edge Park

Design Number: IHD\_157\_23BR3 - Compliance and Technical Data

Reference Document: ASTM F1487

Ref. No.	Part No.	Qty.	Description	Unit ASTM Status	Total Weight (lbs)	Pre-Consumer Recycled Content (lbs)	Post-Consumer Content (lbs)	CO2e Footprint (kgs)	Users	Install Hours	Concrete (Yds3)	Active Play Events
1	ZZCH0018	4	3.5in OD x 124in STEEL POST W/RIVETED CAP	Certified	155.64			215	0	4.00	0.50	0
2	ZZCH0028	4	3.5in OD x 136in STEEL POST W/ RIVETED CAP	Certified	174.04			234	0	4.00	0.50	0
3	ZZCH0038	2	3.5in OD x 148in STEEL POST W/ RIVETED CAP	Certified	94.22			127	0	2.00	0.25	0
4	ZZCH0048	2	3.5in OD x 160in STEEL POST W/ RIVETED CAP	Certified	100.42			136	0	2.00	0.25	0
5	ZZCH0385	4	3.5in OD X 174in SHADE POST (24in AND 36in DECKS)	Certified	374.00			0	0	4.00	0.00	0
6	ZZCH0616	2	SQUARE COATED DECK ASSEMBLY	Certified	109.72			348	6	2.00	0.00	0
7	ZZCH0636	2	DOUBLE SLIDE COATED DECK ASSEMBLY	Certified	127.72			370	6	2.00	0.00	0
8	ZZCH2008	2	TRANSFER STATION w/BARRIERS (36in DECK)	Certified	353.00			769	4	4.00	0.18	0
9	ZZCH2530	1	12in DECK TO DECK KICK PLATE	Certified	8.85			17	0	0.50	0.00	0
10	ZZCH2737	1	RUMBLE SEAT (60in DECK)	Certified	201.86			762	4	3.00	0.06	1
11	ZZCH3537	1	SLIDE- NUVO 360 SPIRAL SLIDE	Certified	650.00			1,417	2	6.00	0.15	1
12	ZZCH3538	1	NUVO 36in DOUBLE SLIDE	Certified	157.29			683	2	2.00	0.06	1
13	ZZCH4095	1	CENTERLINE PIPE WALL BARRIER	Certified	28.74			71	0	0.50	0.00	0
14	ZZCH4290	1	POST MOUNTED STEERING WHEEL	Certified	7.83			44	1	0.25	0.00	1
15	ZZCH4409	1	ACCESSIBLE BELL PANEL	Certified	22.16			211	1	0.50	0.00	1
16	ZZCH4446	1	SLIDE-N-LEARN PANEL	Certified	57.80			516	1	1.00	0.00	1
17	ZZCH4716	1	12ft SQUARE HAT SHADE	Certified	415.00			1,685	0	10.00	0.13	0
18	ZZCH5770	1	LEG LIFT	Certified	6.76			30	1	0.50	0.00	1
19	ZZCH5780	1	6ft HORIZONTAL LOOP LADDER	Certified	55.72			124	4	1.00	0.00	1
20	ZZCH5970	1	OVERHEAD EVENT ACCESS LADDER (36in DECK)	Certified	25.12			71	1	1.50	0.06	0
21	ZZCH7087	1	CLIMBING SQUARES BLOCK CLIMBER (36in)	Certified	129.12			437	2	4.00	0.12	1
22	ZZCH7657	1	SOLAR CLIMBER (36in & 30in DECK)	Certified	79.63			236	2	1.50	0.03	1
23	ZZCH7956	1	SILO CLIMBER (60in DECK)	Certified	78.25			139	1	1.50	0.06	1



# River's Edge Park

Design Number: IHD\_157\_23BR3 - Compliance and Technical Data

Reference Document: ASTM F1487

Ref. No.	Part No.	Qty.	Description	Unit ASTM Status	Total Weight (lbs)	Pre-Consumer Recycled Content (lbs)	Post-Consumer Content (lbs)	CO2e Footprint (kgs)	Users	Install Hours	Concrete (Yds3)	Active Play Events
24	ZZCH8100	1	BEANSTALK CLIMBER (36in DECK)	Certified	69.63			273	1	1.00	0.03	1
25	ZZCH9170	1	24in ACCESS STEPPED PLATFORM (DECK TO DECK)	Certified	135.24			296	1	2.00	0.00	0
26	ZZCH9726	1	CH SQUARE HAT POST BRACES	Certified	74.74			280	0	1.00	0.00	0
27	ZZUN1471	2	INSTALLER HARDWARE KIT	N/A	7.80			114	0	0.00	0.00	0
28	ZZUN2019	2	APPROACH STEP FOR TRANSFER STATION	Certified	71.66			144	2	2.00	0.08	0
29	ZZUN2290	1	COATED DECK TO DECK CONNECTION KIT	Certified	0.29			4	0	0.50	0.00	0
30	ZZUN9936	1	MAINTENANCE BOOK	N/A	1.00			0	0	0.25	0.00	0
31	ZZXX0065	1	SPIN CUP	Certified	57.21			301	1	2.00	0.12	1
32	ZZXX0341	2	BALANCE TRAX POND	Certified	33.60			81	2	1.50	0.06	2
33	ZZXX0342	1	BALANCE TRAX MOUNTAIN	Certified	142.91			233	2	3.50	0.18	1
34	ZZXX0366	1	UNITY DOME	Certified	579.20			2,878	17	20.00	1.80	1
35	ZZXX0678	1	LABEL KIT- COMPOSITE STRUCTURE - ASTM	N/A	0.04			0	0	0.08	0.00	0
36	ZZXX8905	1	WHEELCHAIR ACCESS RAMP - BORDER TIMBER	N/A	213.68			456	0	1.00	0.00	0
37	ZZXX9409	5	1ft BORDER TIMBER w/STAKE	N/A	27.55			65	0	1.25	0.00	0
38	ZZXX9410	2	2ft BORDER TIMBERS w/STAKE	N/A	15.22			32	0	0.50	0.00	0
39	ZZXX9430	61	4ft BORDER TIMBERS w/STAKE	N/A	628.91			1,214	0	15.25	0.00	0
<b>Totals:</b>					<b>5,471.57</b>	<b>1,113</b>	<b>1,346</b>	<b>15,008</b>	<b>64</b>	<b>109.58</b>	<b>4.62</b>	<b>17</b>
					<b>0 Kg</b>	<b>0 Kg</b>	<b>0 Kg</b>	<b>0 Metric Tons</b>				<b>0 m3</b>





# River's Edge Park

Design Number: IHD\_157\_23BR3 - Compliance and Technical Data

Reference Document: ASTM F1487

Ref. No.	Part No.	Qty.	Description	Unit ASTM Status	Total Weight (lbs)	Pre-Consumer Recycled Content (lbs)	Post-Consumer Recycled Content (lbs)	CO2e Footprint (kgs)	Install Users	Install Hours	Concrete (Yds3)	Active Play Events
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## ASTM F1487

The lay-out for this custom playscape, design number IHD\_157\_23BR3, has been configured to meet the requirements of the ASTM F1487 standard. In addition, each of the above components listed as "Certified" have been tested and are IPEMA certified. Components listed as "Not Applicable" do not fall within the scope of the ASTM F1487 standard and have not been tested. IPEMA certification can be verified on the IPEMA website, [www.ipema.org](http://www.ipema.org). In the interest of playground safety, IPEMA provides a Third Party Certification Service which validates compliance.

## 2010 ADA Standards for Accessible Design

The lay-out was also designed to meet the 2010 Standards published 15-Sep-2010, by the Department of Justice when installed over a properly maintained surfacing material that is in compliance with ASTM F1951 "Accessibility of Surface Systems Under and Around Playground Equipment" as well as ASTM F1292, "Impact Attenuation of Surfacing Materials Within the Use Zone of Playground Equipment", appropriate for the fall height of the structure.

## Installation Times

Installation times are based on one experienced installer. A crew of three experienced individuals can perform the installation within the given time, each member working 1/3 of the given hours. [Eg. Installation Time = 30 hours. For a crew of three, each member will work 10 hours on the installation for a total of 30 hours on the project.]

## Carbon Footprint

The CO2e (carbon footprint given in Kilograms and Metric Tons) listed above is a measure of the environmental impact this play structure represents from harvesting raw materials to the time it leaves our shipping dock. Playworld Systems nurtures a total corporate culture that is focused on eliminating carbon producing processes and products, reducing our use of precious raw materials, reusing materials whenever possible and recycling materials at every opportunity. Playworld Systems elected to adopt the Publicly Available Specification; PAS 2050 as published by the British Standards Institute and sponsored by Defra and the Carbon Trust. The PAS 2050 has gained international acceptance as a specification that measures the greenhouse gas emissions in services and goods throughout their entire life cycle.

## Pre-Consumer Recycle Content

A measurement, in pounds, that qualifies the amount of material that was captured as waste and diverted from landfill during an initial manufacturing process and is being redirected to a separate manufacturing process to become a different product. E.g. 100% of our Aluminum Tubing is made from captured waste material during the manufacturing process of extruded Aluminum products such as rods, flat bars and H-channels.

## Post-Consumer Recycle Content

A measurement, in pounds, that qualifies the amount of material that was once another product that has completed its lifecycle and has been diverted from a landfill as a solid waste through recycling and is now being used in a Playworld Systems' product. E.g. \*\*20% to 40% of the steel in our steel tubing and sheet steel have been diverted from landfills. Automobiles are scrapped and recyclable steel is purchased by the steel mill that produces our raw product.

\*\* The amount of Post-Consumer recycled steel fluctuates daily based on the availability of the recycled steel.



# CITY OF CARNATION



## OFFICIAL PROCLAMATION

*Whereas*, The City of Carnation is guided by the principles of inclusivity in its commitment to help improve the lives of all individuals in the diverse community we serve

*Whereas*, Autism impacts people regardless of race, ethnicity, and social-economic backgrounds; and; and

*Whereas*, the prevalence of autism in the United States is 1 in 68 children; and

*Whereas*, while conditions characterized with Autism may challenge communication, social skills, and behavior; and individuals within the Autism Spectrum Disorder (ASD) community present varying qualities, strengths and challenges; and

*Whereas*, in the month of April, we strive to promote Autism awareness, inclusion, and acceptance, and the City strives to promote equitable access to services, events and activities that support self-determination for all Autistic individuals;

*Whereas*, the City recognizes the importance of creating spaces that, beyond acceptance, provide opportunities for representation and celebration of all autism groups; and

*Whereas*, The City wishes to create a socially conscience community that values and celebrates the unique individuals within the ASD community which celebrates all kinds of minds; and

*Now, Therefore*, we, the City Council of the City of Carnation, King County, Washington, do hereby proclaim

*April 2024 as Autism Awareness  
and Acceptance Month*

Approved this 2<sup>nd</sup> day of April 2024

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Mayor Jim Ribail

# CITY OF CARNATION



## OFFICIAL PROCLAMATION

*Whereas*, Sexual assault is pervasive: Every 68 seconds, someone is sexually assaulted in the United States; and

*Whereas*, Black, Indigenous and other people of color, people living in poverty, LGBTQ+ people, elders, people with disabilities and others who have been historically oppressed are disproportionately affected by sexual violence in significant and complex ways; and

*Whereas*, Sexual assault is among the most underreported crimes for many reasons, but survivors who are already most marginalized face additional barriers to reporting, such as language, immigration status or disability; and

*Whereas*, Ending sexual violence requires us to address racism, sexism, and all forms of oppression that contribute to the perpetration of sexual assault; and

*Whereas*, Sexual violence exists on a continuum of behavior that includes racist, sexist, transphobic, homophobic, ableist or other hate speech. This ranges from rape jokes to verbal harassment to physical assaults; and

*Whereas*, Sexual violence exists on a continuum of behavior that includes racist, sexist, transphobic, homophobic, ableist or other hate speech. This ranges from rape jokes to verbal harassment to physical assaults; and

*Whereas*, By working together as a community, we can alleviate the trauma of sexual violence by ensuring supportive resources are available to all survivors, while standing up to and actively disrupting harmful attitudes and behaviors that contribute to sexual violence.

*Now, Therefore*, we, the City Council of the City of Carnation, King County, Washington, do hereby proclaim

*April 2024 as Sexual Assault  
Awareness Month*

Approved this 2<sup>nd</sup> day of April 2024

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Mayor Jim Ribail



# CARNATION CITY COUNCIL AGENDA BILL

<b>TITLE:</b> A Motion to authorize the City Manager to enter into contract with AHBL for consultant engineering services for development projects for the amount not to exceed \$100,000.00 including tax.	<b>Agenda Bill No.:</b>	AB24-37
	<b>Type of Action:</b>	MOTION
<b>EXHIBITS:</b> <ul style="list-style-type: none"> <li>• Consultant Agreement</li> </ul>	<b>Origin: (Council/Manager)</b>	City Manager
	<b>Agenda Bill Author:</b>	City Manager
	<b>Date Submitted:</b>	04/02/2024
	<b>For Agenda of:</b>	04/02/2024
	<b>Expenditure Required:</b>	\$100,000.00
	<b>Amount Budgeted:</b>	\$100,000.00
	<b>Appropriation Required:</b>	\$0

**SUMMARY STATEMENT AND DISCUSSION:**

Our prior engineering firm for development projects, HNTB, is no longer able to provide services to the City of Carnation due to their workload. The City put development engineering services out to competitive bid. AHBL is the selected consultant for the City's engineering services for development projects. Most of the fees incurred by AHBL will be cost recovered with developers and applicants.

**RECOMMENDED ACTION:** I move to to authorize the City Manager to enter into contract with AHBL for consultant engineering services for development projects for the amount not to exceed \$100,000.00 including tax.

**LEGISLATIVE HISTORY:**

ACTION TAKEN					
MOTION AS PROPOSED			MOTION AS AMENDED		
Motion made by:			Motion made by:		
Second by:			Second by:		
	YES Vote	NO Vote		YES Vote	NO Vote
Hawkins			Hawkins		
Ribail			Ribail		
Nelson			Nelson		
Burrell			Burrell		
Merizan			Merizan		
Passed/Failed			Passed/Failed		
Ordinance/Resolution No.:			Ordinance/Resolution No.:		

<b>CONSULTANT AGREEMENT</b> (V2.24)	
<b>PROJECT TITLE AND IDENTIFICATION NUMBER</b> AHBL Contract <b>24-16</b>	<b>WORK DESCRIPTION</b>  On-call engineering services for development projects.
<b>CONSULTANT</b> AHBL Inc. 2215 N 30 <sup>th</sup> Street, #300 Tacoma, WA 98403	<b>CONSULTANT CONTACT NAME, AND TELEPHONE NO.</b>  Name: William Fierst Phone: 253-383-2422 Email: wfierst@ahbl.com
91-0915991	<b>BUDGET OR FUNDING SOURCE</b> 001 General Fund 558 Planning & Community Development Cost Recovery
<b>PROJECT ADMINISTRATOR NAME, ADDRESS AND TELEPHONE NO.</b> Rhonda Ender P.O. Box 1238, Carnation, WA 98014 425-786-4435	<b>MAXIMUM AMOUNT PAYABLE, IF ANY</b>  \$100,000.00
<b>COMPLETION DATE</b>  12/31/25 or when the maximum amount payable is met, whichever is sooner.	<input type="checkbox"/> Lump Sum <input type="checkbox"/> Cost Plus a Fixed Fee <input type="checkbox"/> Schedule Rate/Time and Materials <input checked="" type="checkbox"/> Time and Materials/Not to Exceed

THIS AGREEMENT is entered into on April 2, 2024 between the City of Carnation, Washington, hereinafter called "the CITY", and the above person, firm or organization, hereinafter called "the CONSULTANT".

WHEREAS, the CITY desires to accomplish the above-referenced project; and

WHEREAS, the CITY does not have sufficient staff or expertise to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the project; and

WHEREAS, the CONSULTANT has represented to the CITY that the CONSULTANT is in compliance with the professional registration statutes of the State of Washington, if applicable, and

has signified a willingness to furnish consulting services to the CITY, now, therefore,

IN CONSIDERATION OF the terms and conditions set forth below, or attached and incorporated and made a part hereof, the parties agree as follows:

1. Retention of Consultant - Scope of Work. The CITY hereby retains the CONSULTANT to provide professional services as defined in this agreement and as necessary to accomplish the scope of work attached hereto as Exhibit A and incorporated herein by this reference as if set forth in full. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this agreement.

2. Completion of Work. The CONSULTANT shall not begin any work under the terms of this agreement until authorized in writing by the CITY. The CONSULTANT shall complete all work required by this agreement according to the schedule attached as Exhibit B and incorporated herein by this reference as if set forth in full. A failure to complete the work according to the attached schedule, except where such failure is due to circumstances beyond the control of the CONSULTANT, shall be deemed a breach of this agreement. The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays caused by circumstances beyond the control of the CONSULTANT. All such extensions shall be in writing and shall be executed by both parties.

3. Payment. The CONSULTANT shall be paid by the CITY for satisfactorily completed work and services satisfactorily rendered under this agreement as provided in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in the Scope of Work attached. The CONSULTANT shall be entitled to invoice the CITY no more frequently than once per month during the course of the completion of work and services by the CONSULTANT. Invoices shall detail the work performed or services rendered, the time involved (if compensation is based on an hourly rate) and the amount to be paid. The CITY shall pay all such invoices within 45 days of submittal, unless the CITY gives notice that the invoice is in dispute. In no event shall the total of all invoices paid exceed the maximum amount payable set forth above, if any, and the CONSULTANT agrees to perform all services contemplated by this agreement for no more than said maximum amount.

4. Changes in Work. The CONSULTANT shall promptly make such changes and revisions in the complete work provided by this agreement as may be necessary to correct errors made by the CONSULTANT and appearing therein when required to do so by the CITY. The CONSULTANT shall make such corrective changes and revisions without additional compensation from the CITY. Should the CITY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the CITY; this work shall be considered as Extra Work and will be paid for as provided in Section 5.

5. Extra Work.

A. The CITY may, at any time, by written order, make changes within the general scope of the agreement in the services to be performed. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work or services under this agreement, whether or not changed by the order, or otherwise affects any other terms or conditions of the agreement, the CITY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule or both; and (3) other affected terms, and shall modify the agreement accordingly.

B. The CONSULTANT must submit any "proposal for adjustment" under this clause within 30 days from the date of receipt of the written order to make changes. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a proposal submitted before final payment of the agreement.

C. Failure to agree to any adjustment shall be a dispute as provided in Section 18. Notwithstanding any such dispute, the CONSULTANT shall proceed with the agreement as changed.

D. Notwithstanding any other provision in this section, the maximum amount payable for this agreement shall not be increased or considered to be increased except by specific written amendment of this agreement.

6. Ownership of Work Product. Any and all documents, drawings, reports, and other work product produced by the CONSULTANT under this agreement shall become the property of the CITY upon payment of the CONSULTANT'S fees and charges therefore. The CITY shall have the complete right to use and re-use such work product in any manner deemed appropriate by the CITY, provided, that use on any project other than that for which the work product is prepared shall be at the CITY'S risk unless such use is agreed to by the CONSULTANT. Electronic versions of all work products shall be provided to the CITY in a format compatible with CITY software, except to the extent expressly waived in the attached exhibits.

7. Independent Contractor. The CONSULTANT is an independent contractor for the performance of services under this agreement. The CITY shall not be liable for, nor obligated to pay to the CONSULTANT, or any employee of the CONSULTANT, sick leave, vacation pay, overtime or any other benefit applicable to employees of the CITY, nor to pay or deduct any social security, income tax, or other tax from the payments made to the CONSULTANT which may arise as an incident of the CONSULTANT performing services for the CITY. The CITY shall not be obligated to pay industrial insurance for the services rendered by the CONSULTANT.

8. Indemnity. The CONSULTANT agrees to hold harmless, indemnify and defend the CITY, its officers, agents, employees and volunteers from and against any and all claims, injuries, losses, suits, costs or liability, including attorneys' fees (collectively, "Claims"), specifically including without limitation Claims resulting from injuries, sickness or death of employees of the CONSULTANT and/or damage to property, arising out of or otherwise resulting from the negligent acts, errors, or omissions of the CONSULTANT, its officers, agents, subconsultants or employees, in connection with the services required by this agreement, provided, however, that: The CONSULTANT's obligation to indemnify, defend and hold harmless shall not extend to Claims caused by or resulting

from the sole willful misconduct or sole negligence of the City.

Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of services, or out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the CONSULTANT and the CITY, its officers, officials, employees, and volunteers, the CONSULTANT's liability, including the duty and cost to defend, hereunder shall be only to the extent of the CONSULTANT's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the CONSULTANT'S waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

The CITY's acceptance or approval of any services or work product under this agreement shall not be deemed to reduce, abridge, limit or otherwise alter the CONSULTANT's obligations as set forth in this section, unless such intent is expressly stated in writing by the CITY.

The provisions of this section shall survive the expiration or termination of this agreement.

9. Insurance. The CONSULTANT shall procure and maintain for the duration of the agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, or employees.

A. Minimum Scope of Insurance

CONSULTANT shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The CITY shall be named as an additional insured under the CONSULTANT's Commercial General Liability insurance policy with respect to the work performed for the CITY using an additional insured endorsement at least as broad as ISO CG 20 26.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability Professional liability insurance appropriate to the CONSULTANT's profession.



B. Minimum Amounts of Insurance

CONSULTANT shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

The amounts listed above are the minimum deemed necessary by the CITY to protect the CITY'S interests in this matter. The CITY has made no recommendation to the CONSULTANT as to the insurance necessary to protect the CONSULTANT'S interests and any decision by the CONSULTANT to carry or not carry insurance amounts in excess of the above is solely that of the CONSULTANT.

C. Other Insurance Provisions.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. Excepting the professional liability insurance, the CITY will be named on all insurance as an additional insured. The CONSULTANT shall submit a certificate of insurance to the CITY evidencing the coverages specified above, together with an additional insured endorsement naming the CITY, within fifteen (15) days of the execution of this agreement and prior to the performance of any work specified hereunder. The certificates of insurance shall cover the work specified in or performed under this agreement. The certificate and endorsement must be project and/or site specific.

D. Cancellation.

The CONSULTANT shall provide the CITY with written notice of any policy cancellation within two business days of its receipt of such notice. No cancellation of the foregoing policies shall be effective without thirty (30) days prior written notice to the CITY.

The CONSULTANT's insurance coverage except for workers compensation and professional liability shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the CONSULTANT's insurance and shall not contribute with it.

E. Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

F. No Limitation.

The CONSULTANT's maintenance of insurance as required by this agreement shall not be construed to limit the liability of the CONSULTANT to the coverage provided by such insurance, or otherwise limit the CITY'S recourse to any remedy available at law or equity.

G. Failure to Maintain Insurance.

Failure on the part of the CONSULTANT to maintain the insurance as required shall constitute a material breach of contract, upon which the CITY may, after giving five business days notice to the CONSULTANT to correct the breach, immediately terminate this agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the CITY on demand, or at the sole discretion of the CITY, offset against funds due the CONSULTANT from the CITY.

H. City Full Availability of Consultant Limits.

If the CONSULTANT maintains higher insurance limits than the minimums shown above, the CITY shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the CONSULTANT, irrespective of whether such limits maintained by the CONSULTANT are greater than those required by this agreement or whether any certificate of insurance furnished to the CITY evidences limits of liability lower than those maintained by the CONSULTANT.

10. Records Retention and Disclosure. The CONSULTANT shall keep all records related to this agreement for a period of three years following completion of the work for which the CONSULTANT is retained. The CONSULTANT shall permit any authorized representative of the CITY, and any person authorized by the CITY for audit purposes, to inspect such records at all reasonable times during regular business hours of the CONSULTANT. Upon request, the CONSULTANT will provide the CITY with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the CONSULTANT, but the CONSULTANT may charge the CITY for copies requested for any other purpose. The CONSULTANT shall also provide a complete electronic copy of all reports, plans, and specifications upon completion of the work or upon request of the CITY.

Separate from and additional to the foregoing, the CONSULTANT shall fully cooperate with and assist the CITY with respect to any request for public records received by the CITY and related to any public records generated, produced, created and/or possessed by the CONSULTANT and related to the services performed under this agreement. Upon written demand by the CITY, the CONSULTANT shall furnish the CITY with full and complete copies of any such records within five business days.

The CONSULTANT's failure to timely provide such records upon demand shall be deemed a material breach of this agreement. To the extent that the CITY incurs any monetary penalties, attorneys' fees, and/or any other expenses as a result of such breach, the CONSULTANT shall fully indemnify and hold harmless the CITY as set forth in Section 8.

For purposes of this section, the term “public records” shall have the same meaning as defined by Chapter 42.17 RCW and Chapter 42.56 RCW, as said chapters have been construed by Washington courts.

The provisions of this section shall survive the expiration or termination of this agreement.

11. Notices. All notices required to be given by either party to the other under this agreement shall be in writing and shall be given in person or by mail to the addresses set forth in the box for the same appearing at the outset of this agreement. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

12. Project Administrator. The Project Administrator shall be responsible for coordinating the work of the CONSULTANT, for providing any necessary information for and direction of the CONSULTANT's work in order to ensure that it generally meets the requirements of this agreement, and for reviewing, monitoring and approving the general quality and quantity of such work. The CONSULTANT shall report to and take any necessary direction from the Project Administrator. Provided, that nothing in this section shall be construed as altering the CONSULTANT'S duty of care or otherwise limiting, abridging, waiving or reducing the CONSULTANT'S obligations under this agreement.

13. Conflict Amongst Main Agreement and Attachments. In case of conflict between the Exhibits to this agreement and the portions of this agreement preceding the signature lines (Sections 1-22), the terms of Sections 1-22 shall prevail. Any limitations on liability and indemnification expressed in the attached exhibits beyond those specified in Sections 8 and 9 (prior to signature line) shall be null and void.

14. Termination. The CITY reserves the right to terminate this agreement at any time upon ten (10) days written notice to the CONSULTANT. Any such notice shall be given to the address specified in Box 3 on page 1. In the event that this agreement is terminated by the CITY other than for fault on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for all services satisfactorily performed. No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. In the event that services of the CONSULTANT are terminated by the CITY for fault on part of the CONSULTANT, the amount to be paid shall be determined by the CITY with consideration given to the actual cost incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the CITY at the time of termination, the cost of the CITY of employing another firm to complete the work required, and the time which may be required to do so.

15. Non-Discrimination. The CONSULTANT agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The CONSULTANT understands that if it violates this provision, this agreement may be terminated by the CITY and that the CONSULTANT may be

barred from performing any services for the CITY now or in the future.

16. Subcontracting or Assignment. The CONSULTANT may not assign or subcontract any portion of the services to be provided under this agreement without the express written consent of the CITY. Any subconsultants approved by the CITY at the outset of this agreement are named on Exhibit D attached hereto and incorporated herein by this reference as if set forth in full.

17. Non-Waiver. Payment for any part of the work or services by the CITY shall not constitute a waiver by the CITY of any remedies of any type it may have against the CONSULTANT for any breach of the agreement by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it under the agreement by the CITY. Waiver of any right or entitlement under this agreement by the CITY shall not constitute waiver of any other right or entitlement.

18. Resolution of Disputes; Governing Law and Venue. This agreement shall be governed by and construed in accordance with the laws of the State of Washington. If any dispute arises out of or in connection with this agreement, including any question regarding its existence, enforceability, interpretation, or validity, the parties will, if practicable, meet and confer in good faith for a period of fourteen (14) days to attempt to resolve such dispute without an adversary proceeding. If at the end of the fourteen (14) day period such attempt at resolution is unsuccessful, the parties may resort to litigation. The exclusive venue for any litigation arising out this agreement shall be the King County Superior Court. The substantially prevailing party in any such litigation shall be entitled to an award of its reasonable attorneys' fees.

19. Taxes. The CONSULTANT will be solely responsible for the payment of any and all applicable taxes related to the services provided under this agreement and if such taxes are required to be passed through to the CITY by law, the same shall be duly itemized on any billings submitted to the CITY by the CONSULTANT.

20. Entire Agreement. This agreement represents the entire integrated agreement between the CITY and the CONSULTANT, superseding all prior negotiations, representations or agreements, written or oral. This agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

21. Legal Compliance. In the performance of work under this agreement, the CONSULTANT shall comply with all federal, state and municipal laws, ordinances, rules and regulations that are applicable to the CONSULTANT's business, equipment, and personnel engaged in operations covered by this agreement or accruing out of the performance of such operations.

22. Risk of Loss. The CONSULTANT shall be solely responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at the CONSULTANT's own risk, and the CONSULTANT shall be solely responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

CONSULTANT:

CITY OF CARNATION:

\_\_\_\_\_

\_\_\_\_\_

By: William Fierst

Ana Cortez, City Manager

Title: Principal

ATTEST/AUTHENTICATED:

\_\_\_\_\_

Lora Wilmes, City Clerk

## EXHIBIT A

### SCOPE OF WORK

#### ENGINEERING SCOPE OF SERVICES:

Firm will provide the City with a designated on-call Consultant Engineer to provide the following services which include, but are not limited to:

- Civil plan review
- Review of developer extension of City utilities and preliminary and final plat engineering drawings for compliance with City design specifications and comprehensive plans
- Review permits and land use applications for adherence to City code and standards
- Participate in pre-application conferences and preparation of reports
- Lead pre-construction meetings
- Assist the City in enforcing regulations and codes related to street and utility improvements by providing interpretations of relevant regulations and codes
- Review traffic control plans, right of way permits and other
- Provide technical observation of construction to assist City staff when requested
- Prepare responses to questions or issues relating to Public Works and Planning matters
- Provide preliminary design, surveying and design engineering services for small construction projects, as needed
- Make periodic construction observations, consult and provide advice to the City on construction matters, and make a final inspection in conjunction with the City's representative, as requested
- Review CC&Rs and other planning and development documents
- Monitor and inspect developer's compliance with City Standards for sewer, drainage, streets, stormwater and more
- Receiving, distributing and logging all Contractor submittals and correspondence
- Attend meetings as requested by the City
- Provide other professional support and consultation as requested by the City

**Construction Inspector/Administrator:** Engineering firm will provide a Construction Inspector and/or Administrator, as needed, to be responsible for and experienced with the following, but are not limited to:

- Quality assurance inspection and enforcement of City standards
- Reading and understanding engineering plans and specifications
- Completing inspector daily reports, field note records and force account daily reports
- Knowledge of WSDOT standards, materials acceptance procedures, and construction documentation
- Testing and coordination of public utilities
- Performing engineering calculations.
- Identifying and solving engineering problems between contract documents and field conditions
- Coordination and scheduling of material testing provided or subcontracted by consultant
- Receiving, distributing and logging all Contractor submittals and correspondence
- Tracking material submittals and approvals on Record of Materials
- Tracking material quantities for quality assurance testing
- Coordinating right-of-way schedules and work completed

## **EXHIBIT B**

### **COMPLETION SCHEDULE**

The contract will expire 12/31/25 or when the maximum amount payable is met, whichever is sooner.



**EXHIBIT C  
FEE SCHEDULE**



# SCHEDULE OF CHARGES & COMPENSATION

Principal.....	260.00/Hour	Director of Landscape Architecture .....	185.00/Hour
Associate Principal.....	240.00/Hour	Senior Landscape Architect .....	160.00/Hour
Senior Project Manager.....	215.00/Hour	Landscape Architect 2 .....	145.00/Hour
Project Manager .....	205.00/Hour	Landscape Architect 1 .....	135.00/Hour
Senior Planning Project Manager .....	195.00/Hour	Senior Landscape Designer.....	135.00/Hour
Planning Project Manager .....	185.00/Hour	Landscape Designer 3.....	125.00/Hour
Survey Project Manager.....	185.00/Hour	Landscape Designer 2.....	115.00/Hour
Assistant Project Manager.....	145.00/Hour	Landscape Designer 1.....	105.00/Hour
Project Engineer 6.....	195.00/Hour	Senior Landscape Technician.....	135.00/Hour
Project Engineer 5.....	185.00/Hour	Landscape Technician 3.....	110.00/Hour
Project Engineer 4.....	175.00/Hour	Landscape Technician 2.....	95.00/Hour
Project Engineer 3.....	155.00/Hour	Landscape Technician 1 .....	85.00/Hour
Project Engineer 2.....	140.00/Hour	Project Surveyor.....	165.00/Hour
Project Engineer 1.....	120.00/Hour	Senior Survey Technician.....	140.00/Hour
Senior Engineer Technician.....	140.00/Hour	Survey Technician 3 .....	130.00/Hour
Engineer Technician 3.....	130.00/Hour	Survey Technician 2 .....	115.00/Hour
Engineer Technician 2.....	115.00/Hour	Survey Technician 1 .....	100.00/Hour
Engineer Technician 1.....	100.00/Hour	Chief of Parties.....	175.00/Hour
Engineer Technician .....	85.00/Hour	Survey Crew.....	220.00/Hour
Project Administrator.....	115.00/Hour	1-Person Survey Crew.....	130.00/Hour
Project Expeditor.....	90.00/Hour	Graphic Designer .....	120.00/Hour
Senior Urban Designer.....	165.00/Hour	Technical Editor.....	120.00/Hour
Urban Designer.....	155.00/Hour	Word Processor/Sr. Administrative Asst.....	90.00/Hour
Planner 5 .....	165.00/Hour	Administrative Assistant.....	85.00/Hour
Planner 4 .....	155.00/Hour	Outside Consultants .....	Separate Fee Proposal
Planner 3 .....	140.00/Hour	Geotechnical Engineers .....	Separate Fee Proposal
Planner 2 .....	120.00/Hour	Environmental Consultants.....	Separate Fee Proposal
Planner 1 .....	110.00/Hour		
Planning Technician.....	85.00/Hour		
		Large Format Bond.....	0.50/sf
		Large Format High Density Color Bond .....	2.00/sf
		Large Format Mylar .....	2.00/sf
		Small Format Color Bond 11 X 17 .....	0.50/Sheet
		Small Format Color Bond 8.5 X 11 .....	0.40/Sheet

**The Schedule of Charges and Compensation is subject to change.**

Charges are made for technical typing, as in the preparation of reports, and for technical clerical services directly related to projects. Direct charges are not made for general secretarial services, office management, accounting, or maintenance.

**EXHIBIT D**

**SUBCONSULTANT LIST**

CivilAir Engineerings, PLLC - Construction Observation

## **EXHIBIT E**

### **INVOICING**

All invoicing shall be sent to [rhonda.ender@carnationwa.gov](mailto:rhonda.ender@carnationwa.gov). Invoices will be submitted monthly, no later than the 10<sup>th</sup> of each month. Each invoice will be separated by project.



# CARNATION CITY COUNCIL AGENDA BILL

<p><b>TITLE:</b> An Ordinance Granting Comcast Cable Communications Management, LLC, The Right, Privilege, Authority, And Franchise To Construct, Operate, Maintain, Reconstruct, Repair, And Upgrade The Cable System Upon, Over, Under, Along, Across And Through The Franchise Area For The Purpose Of Providing Cable Services, Subject To The Terms And Conditions Set Forth In This Ordinance And Applicable Law.</p> <p><b>EXHIBITS:</b> Proposed Ordinance 24-984 Proposed Franchise Agreement</p>	<b>Agenda Bill No.:</b>	AB24-38
	<b>Type of Action:</b>	ORDINANCE
	<b>Origin: (Council/Manager)</b>	City Manager
	<b>Agenda Bill Author:</b>	City Manager
	<b>Date Submitted:</b>	04/02/24
	<b>For Agenda of:</b>	04/02/24
<b>Expenditure Required:</b>	\$0	
<b>Amount Budgeted:</b>	N/A	
<b>Appropriation Required:</b>	N/A	

**RECOMMENDED ACTION:** I move to adopt Ordinance 984 granting Comcast Communications Management, LLC, the right, privilege, authority, and franchise to construct, operate, maintain, reconstruct, repair, and upgrade the Cable System, upon, over, under, along, across and through the Franchise Area for the purpose of providing Cable Services, subject to the terms and conditions set forth in this Ordinance and applicable law.

**LEGISLATIVE HISTORY:**

ACTION TAKEN					
MOTION AS PROPOSED			MOTION AS AMENDED		
Motion made by:			Motion made by:		
Second by:			Second by:		
	YES Vote	NO Vote		YES Vote	NO Vote
Hawkins			Hawkins		
Ribail			Ribail		
Nelson			Nelson		
Burrell			Burrell		
Merizan			Merizan		
Passed/Failed			Passed/Failed		
Ordinance/Resolution No.:			Ordinance/Resolution No.:		

CITY OF CARNATION

ORDINANCE NO. 24-984

GRANTING COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC, THE RIGHT, PRIVILEGE, AUTHORITY, AND FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN, RECONSTRUCT, REPAIR, AND UPGRADE THE CABLE SYSTEM UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA FOR THE PURPOSE OF PROVIDING CABLE SERVICES, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THIS ORDINANCE AND APPLICABLE LAW

AN ORDINANCE granting Comcast Cable Communications Management, LLC, the right, privilege, authority, and franchise to construct, operate, maintain, reconstruct, repair, and upgrade the Cable System upon, over, under, along, across and through the Franchise Area for the purpose of providing Cable Services, subject to the terms and conditions set forth in this Ordinance and applicable law.

WHEREAS, the City has a legitimate and necessary regulatory role in ensuring the availability of cable communications service, and reliability of cable systems in its jurisdiction, the availability of local programming (including public, educational and Governmental Access programming) and quality Customer service; and

WHEREAS, diversity in Cable Service programming is an important policy goal and Grantee's Cable System offers a wide range of programming services; and

WHEREAS, the City is authorized by applicable law to grant one or more nonexclusive Franchises to construct, operate and maintain cable systems within the boundaries of the City; and

WHEREAS, in consideration of the mutual promises made herein, and other good and valuable consideration as provided herein, the receipt and adequacy of which are hereby acknowledged, the City and Grantee do hereby agree as follows; NOW THEREFORE

THE CITY COUNCIL OF THE CITY OF CARNATION, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Purpose. The purpose of this Ordinance is to the right, privilege, authority, and franchise to construct, operate, maintain, reconstruct, repair, and upgrade the cable system upon, over, under, along, across and through the franchise area for the purpose of providing cable services, subject to the terms and conditions set forth in this ordinance and applicable law.

# CABLE FRANCHISE AGREEMENT

Between

CITY OF CARNATION, WASHINGTON

And

COMCAST CABLE COMMUNICATIONS  
MANAGEMENT, LLC

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## INTRODUCTORY STATEMENT

**CABLE TELEVISION FRANCHISE.** This Cable Television Franchise is entered into in Carnation, Washington, this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the City of Carnation, Washington, a municipal corporation, hereinafter (the “the City”) and Comcast Cable Communications Management, LLC who is hereinafter known as (“Grantee”). The City and Grantee are sometimes referred to hereinafter collectively as the “parties.”

## **SECTION 1. - DEFINITIONS**

For the purposes of this Franchise and the Exhibits attached hereto the following terms, phrases, words, and their derivations shall have the meanings given herein when indicated with the text of the Franchise by being capitalized. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined, or those defined, but not capitalized within the text shall be given their common and ordinary meaning. The word “shall” is always mandatory and not merely directory.

- 1.1 “Access” or “Access Programming”  
includes Educational Access and Governmental Access, collectively, and means the availability for Noncommercial use by various governmental and educational agencies, institutions, and organizations, in the community, including the City and its designees, of particular channels on the Cable System to receive and distribute Video Programming to Subscribers, as permitted under applicable law, including, but not limited to:
- 1.1.1 “Educational Access  
means Access where Schools are the primary users having editorial control over programming and services.
- 1.1.2 “Governmental Access”  
means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.
- 1.2 “Access Channel”  
means any Channel or portion thereof, designated for Noncommercial Access purposes or otherwise made available to facilitate Access programming.
- 1.3 “Activation” or “Activated”  
means the status of any capacity on or part of the Cable System wherein the use of that capacity or part thereof may be made available without further installation of Cable System equipment other than Subscriber premise equipment, whether hardware or software.
- 1.4 “Affiliated Entity” or “Affiliate”  
when used in connection with Grantee means any Person who owns or controls, is owned or controlled by, or is under common ownership or control of Grantee and its successor entities.
- 1.5 “Bad Debt”  
means amounts lawfully owed by a Subscriber and accrued as revenues on the books of Grantee, but not collected after reasonable efforts by Grantee.
- 1.6 “Basic Service”  
means any Cable Service Tier that includes, at a minimum, the retransmission of local television Broadcast Signals.
- 1.7 “Broadcast Signal”  
means a television or radio signal transmitted over the air to a wide geographic audience

and received by a Cable System off-the-air by antenna, microwave, satellite dishes or any other means.

1.8 “Cable Act”

means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and as amended by the Telecommunications Act of 1996, and any amendments thereto.

1.9 “Cable Operator”

means any Person or group of Persons, including Grantee, who provides Cable Service over the Cable System and directly or through one or more Affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of the Cable System.

1.10 “Cable Service”

means the one-way transmission to Subscribers of Video Programming, or other programming service and Subscriber interaction, if any, that is required for the selection or use of such Video Programming or other programming service.

1.11 “Cable System”

means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service that includes Video Programming and that is provided to multiple Subscribers within a community, but such term does not include:

- (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (2) a facility that serves Subscribers without using any public right-of-way;
- (3) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. Section 201 et seq.), except that such facility shall be considered a cable system (other than for purposes of Section 621(c) (47 U.S.C. Section 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- (4) an open video system that complies with Section 653 of the Cable Act;  
or
- (5) any facilities of any electric utility used solely for operating its electric utility systems. When used herein, the term “Cable System” shall mean Grantee’s Cable System in the Franchise Area unless the context indicates otherwise.

1.12 “Channel”

means a portion of the frequency band capable of carrying a Video Programming Service or combination of Video Programming Services, whether by analog or digital signal, on a twenty-four (24) hour per day basis or a portion thereof.

- 1.13 “City”  
means the City of Carnation, Washington, a municipal corporation, of the State of Washington.
- 1.14 “Customer Service Representative” or “CSR”  
shall mean any person employed by Grantee to assist, or provide service to, Customers, whether by answering public telephone lines, writing service or installation orders, answering Customers’ questions, receiving, and processing payments, or performing other Customer service-related tasks.
- 1.15 “Dwelling Unit”  
means any building or portion thereof that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy.
- 1.16 “FCC”  
means the Federal Communications Commission or its lawful successor.
- 1.17 “Fiber Optic”  
means a transmission medium of optical fiber cable, along with all associated electronics and equipment capable of carrying electric lightwave pulses.
- 1.18 “Franchise”  
means the document, in which this definition appears, that is executed between the City and Grantee, containing the specific provisions of the authorization granted and the contractual and regulatory agreement created hereby.
- 1.19 “Franchise Area”  
means the area within the jurisdictional boundaries of the City, including any areas annexed by the City during the term of this Franchise.
- 1.20 “Franchise Fee”  
includes any tax, fee or assessment of any kind imposed by the City on Grantee or Subscribers, or both solely because of their status as such. The term Franchise Fee does not include:
- 1.20.1 Any tax, fee or assessment of general applicability (including any such tax, fee, or assessment on both utilities and Cable Operators or their services, but not including a tax, fee, or assessment that is unduly discriminatory against Cable Operators or cable Subscribers);
- 1.20.2 Capital costs that are required by the Franchise to be incurred by Grantee for Educational or Governmental Access facilities;
- 1.20.3 Requirements or charges incidental to the awarding or enforcing of the Franchise, including but not limited to, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or
- 1.20.4 Any fee imposed under Title 17, United States Code.

1.21 “Grantee”

means Comcast Cable Communications Management, LLC or its lawful successor, transferee, or assignee.

1.22 “Gross Revenues”

means any and all revenue, recognized as revenue under generally accepted accounting principles (GAAP), derived directly or indirectly by Grantee, or by Grantee’s Affiliates from the operation of Grantee’s Cable System to provide Cable Services in the Franchise Area. Gross Revenues include, by way of illustration and not limitation, monthly and other fees charged Subscribers for Cable Services including Basic Service, any expanded Tiers of Cable Service, other Tiers of Cable Service, optional Premium Service, pay-per-view and per-program Channels, Cable Service installation, disconnection, reconnection and change-in-service fees, fees for service calls, Leased Access Channel fees, remote control rental fees, late fees and administrative fees or other consideration received by Grantee from programmers for carriage of Cable Services on the Cable System under GAAP, revenues from rentals of converters or other Cable System equipment, advertising sales revenues (including local, regional and a pro rata share of national advertising carried on the Cable System in the Franchise Area), net of commissions due to advertising agencies that arrange for the advertising buy, revenues from program guides, additional outlet fees, revenue from the sale or carriage of other Cable Services, and revenues from home shopping. Gross Revenues shall not include:

- (1) Bad Debt, provided, however, that all or part of any such Bad Debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected;
- (2) any taxes on services furnished by Grantee that are imposed directly on any Subscriber or user by the State, the City, or other governmental unit and that are collected by Grantee on behalf of said governmental unit; or

The Franchise Fees are not a tax and are therefore included in this definition of Gross Revenues. If new Cable Service revenue streams develop from Grantee’s operation of its Cable System within the City, those new revenue streams shall be included within Gross Revenues, unless the parties agree otherwise. To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a pro rata basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, State or local law. Grantee reserves the right to change the allocation methodologies set forth in this definition in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Grantee will explain and document the required changes to the City within three (3) months of making such changes, and as part of any audit or review of Franchise Fee payments. Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to GAAP as promulgated and defined by the FASB, EITF and/or the SEC. Notwithstanding the forgoing, the City reserves its right to challenge Grantee’s calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

- 1.23 “Headend” or “Hub”  
means any Facility for signal reception and dissemination on a Cable System, including cable, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals or other signals, and all other related equipment and Facilities.
- 1.24 “Leased Access Channel”  
means any Channel or portion of a Channel commercially available for programming in accordance with Section 612 of the Cable Act.
- 1.25 “Normal Business Hours”  
means those hours during which most similar businesses in the community are open to serve Customers. In all cases, “normal business hours” must include some evening hours at least one night per week and/or some hours on Saturday.
- 1.26 “Normal Operating Conditions”  
means those service conditions that are within the control of Grantee. Those conditions that are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, severe or unusual weather conditions, and availability of materials, equipment, or labor. Those conditions that are ordinarily within the control of Grantee include, but are not limited to, regular peak or seasonal demand periods and maintenance or upgrade of the Cable System.
- 1.27 “Pay Service” or “Premium Service”  
means Video Programming or other programming service choices (such as movie Channels or pay-per-view programs) offered to Subscribers on a package tier, per-Channel, per-program, or per-event basis.
- 1.28 “Person”  
means any natural person, sole proprietorship, partnership, joint venture, association, or limited liability entity or corporation, or any other form of entity or organization.
- 1.29 “Rights-of-Way”  
means land acquired or dedicated for public roads and streets including easements dedicated for compatible use and consistent with Section 621 of the Cable Act, but does not include:
- 1.29.1 State highways;
  - 1.29.2 Land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public, unless specifically used as a utility corridor;
  - 1.29.3 Structures, including poles and conduits, located within the right-of-way;
  - 1.29.4 Federally granted trust lands or forest board trust lands;
  - 1.29.5 Lands owned or managed by the State parks and recreation commission; or
  - 1.29.6 Federally granted railroad rights-of-way acquired under 43 U.S.C. Sec. 912 and related provisions of federal law that are not open for motor vehicle use.
- 1.30 “School”  
means any State accredited K-12 public or private educational institution not including

home schools, prisons, or jails (provided that State accredited juvenile schools within prisons or jails shall be included).

- 1.31 “Service Interruption”  
means the loss of picture or sound on one or more cable Channels.
- 1.32 “State”  
means the State of Washington.
- 1.33 “Subscriber” or “Customer”  
means any Person who lawfully receives Cable Services provided by Grantee by means of the Cable System with Grantee’s express permission.
- 1.34 “Tier”  
means a category of Cable Services provided by Grantee for which a separate rate is charged.
- 1.35 “Video Programming”  
means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, or cable programming provider.

## **SECTION 2. - GRANT OF FRANCHISE**

- 2.1 Grant
  - 2.1.1 The City hereby grants to Grantee a nonexclusive and revocable authorization to make reasonable and lawful use of the Rights-of-Way within the Franchise Area to construct, operate, maintain, reconstruct, repair, and upgrade the Cable System for the purpose of providing Cable Services, subject to the terms and conditions set forth in this Franchise and applicable law.
  - 2.1.2 Grantee, through this Franchise, is granted the right to operate its Cable System using the public Rights-of-Way within the Franchise Area in compliance with all lawfully enacted applicable construction codes and regulations. This Franchise is intended to convey limited rights and interests only as to those streets in which the City has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide Grantee any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof. This Franchise does not deprive the City of any powers, rights or privileges it now has, or may later acquire in the future, to use, perform work on or to regulate the use of and to control the City’s streets covered by this Franchise, including without limitation the right to perform work on its roadways, Right-of-Way or appurtenant drainage facilities, including constructing, altering, paving, widening, grading, or excavating thereof.
  - 2.1.3 This Franchise is subject to and shall be governed by all applicable provisions now existing or hereafter amended of federal, State, and local laws and regulations. This Franchise is subject to the general lawful police power of the City affecting matters of municipal concern as per Section 2.8. Nothing in this Franchise shall be deemed to waive the requirements of the other codes



and ordinances of general applicability enacted, or hereafter enacted, by the City. Grantee agrees to comply with the provisions of the City ordinances provided that in the event of a conflict between the provisions of ordinances and the Franchise, the express provisions of the Franchise shall govern.

- 2.1.4 Grantee agrees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of Grantee that is a Cable Operator of the Cable System in the Franchise Area, as defined herein, or directly involved in the management or operation of the Cable System in the Franchise Area, will comply with the terms and conditions of this Franchise.
- 2.1.5 No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:
- (1) any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City.
  - (2) any permit, agreement or authorization required by the City for Rights-of-Way users in connection with operations on or in Rights-of-Way or public property; or
  - (3) any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise.
- 2.1.6 This Franchise is an express authorization to provide Cable Services as allowed by applicable law. This Franchise is not a bar to the imposition of any lawful conditions on Grantee with respect to non-Cable Services, telecommunications services, or information services, whether similar, different or the same as the condition specified herein. However, this Franchise shall not be read as a concession by Grantee that it needs authorization to provide non-Cable Services, telecommunications services, or information services.

## 2.2 Use of Rights-of-Way

- 2.2.1 Subject to the City's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, through, below and along the Rights-of-Way within the Franchise Area, such wires, cables (both coaxial and Fiber Optic), conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System for the provision of Cable Service within the Franchise Area. Grantee shall comply with all lawfully enacted and applicable construction codes, laws, ordinances, regulations and procedures regarding placement and installation of Cable System facilities in the Rights-of Way.
- 2.2.2 Grantee must follow the City-established requirements, as well as all the City codes, ordinances, and other regulations regarding placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way. Grantee must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. To protect

public health, safety and welfare, the City may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Rights-of-Way; may deny access if Grantee is not willing to comply with the City's requirements; and may remove, or require removal of, any facility that is not installed in compliance with the requirements established by the City, or that is installed without prior City approval of the time, place or manner of installation (including charging Grantee for all the costs associated with removal); and the City may require Grantee to cooperate with others to minimize adverse impacts on the Rights-of-Way through joint trenching and other arrangements. Grantee shall assume its costs (in accordance with applicable law) associated with any requirement of the City in the exercise of its police powers, to relocate its Cable System facilities located in the Rights-of-Way.

### 2.3 Term

2.3.1 This Franchise and the rights, privileges, and authority granted hereunder and the contractual relationship established hereby shall remain in full force and effect for a period of five (5) years from and after the effective date of this Ordinance, as specified in Section 19, subject to acceptance of this Franchise by Grantee pursuant to 18.16. Provided, however, if both the City and the Grantee mutually agree to extend this Franchise's current terms and conditions and any new terms and conditions to be included in this Franchise, the term of this Franchise shall be extended for an additional five (5) years.

2.3.2 The grant of this Franchise shall have no effect on any ordinance in effect prior to the effective date of this Franchise to indemnify or insure the City against acts and omissions occurring during the period that the prior franchise was in effect, nor shall it have any effect upon liability to pay all Franchise Fees (for any prior years) that were due and owed under a prior franchise and the franchise ordinance.

### 2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements, or franchises granted by the City or its predecessors to any Person to use any property, Right-of-Way, easement, including the right of the City to use same for any purpose it lawfully deems fit, including the same or similar purposes allowed Grantee hereunder. The City may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems, as the City deems appropriate.

### 2.5 Grant of Other Franchises

2.5.1 Grantee acknowledges and agrees that the City reserves the right to grant one or more additional franchises subsequent to this Franchise to provide Cable Service or wireline video service within the Franchise Area; provided, the City agrees that it shall amend this Franchise to include any material terms or conditions that it makes available to the new entrant within ninety (90) days of Grantee's request, so as to ensure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include but are not limited to: Franchise Fees; insurance; system build-out requirements; security instruments; Access Channels; customer service standards; required reports and

related record keeping; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word-for-word identical franchise or authorization so long as the regulatory and financial burdens on each entity are materially equivalent. If any additional franchise for a system to provide Cable Services or wireline video services, is granted by the City which, in the reasonable opinion of Grantee, contains more favorable or less burdensome terms or conditions than this Franchise, the City agrees that it shall amend this Franchise to include any more favorable or less burdensome terms or conditions in a manner mutually agreed upon by the City and Grantee. Video Programming services delivered over wireless broadband networks are specifically exempted from the requirements of this Section so long as the City does not have lawful authority to regulate such wireless broadband networks within the Franchise Area.

- 2.5.2 In the event an application for a new cable television franchise is filed with the City proposing to serve the Franchise Area, in whole or in part, the City ~~shall~~ will endeavor to provide notice of such application to the Grantee. Failure to provide such notice shall not constitute a breach of this agreement.
- 2.5.3 In the event that a wireline multichannel video provider distributor, legally authorized by State or federal law, makes available for purchase by Subscribers or customers, Cable Services or wireline video services within the City without a Cable Service franchise or other similar lawful authorization granted by the City, then Grantee shall have a right to request Franchise amendments that relieve the Grantee of regulatory burdens that create a competitive disadvantage to Grantee. In requesting amendments, Grantee shall file a petition seeking to amend this Franchise. Such petition shall: (a) indicate the presence of such wireline competitor; (b) identify the Franchise terms and conditions for which Grantee is seeking amendments; (c) provide the text of all proposed Franchise amendments to the City, (d) identify all material terms or conditions in the applicable State or federal authorization which are substantially more favorable or less burdensome to the competitive entity. The City shall not unreasonably withhold consent to Grantee's petition.
- 2.6 Familiarity with Franchise  
Grantee acknowledges and warrants by acceptance of the rights, privileges and agreement granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all reasonable risks of the meaning of the provisions, terms, and conditions herein. Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise and finds that the same are commercially practicable at this time and consistent with all local, State, and federal laws and regulations currently in effect, including the Cable Act.
- 2.7 Effect of Acceptance  
By accepting the Franchise, Grantee:
- (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise;
  - (2) agrees that it will not oppose the City's intervening to the extent it is legally entitled to do so in any legal or regulatory proceeding affecting the Cable System;

- (3) accepts and agrees to comply with each and every provision of this Franchise subject to applicable law; and
- (4) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

2.8 Police Powers

Grantee's rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to the safety, health and welfare of the public, and Grantee agrees to comply with all generally applicable laws, ordinances and regulations lawfully enacted pursuant to the police powers of the City, or hereafter enacted in accordance therewith, by the City or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City reserves the right to exercise its police powers, notwithstanding anything in this Franchise to the contrary.

2.9 Franchise Area

Grantee shall provide Cable Services, as authorized under this Franchise, within the Franchise Area in accordance with line extension and density provisions as provided herein.

2.10 Reservation of Rights

Nothing in this Franchise shall:

- (1) abrogate the right of the City to perform any public works or public improvements of any description;
- (2) be construed as a waiver of any codes or ordinances of general applicability promulgated by the City; or
- (3) be construed as a waiver or release of the rights of the City in and to the Rights-of-Way.

### **SECTION 3. - FRANCHISE FEE AND FINANCIAL CONTROLS**

3.1 Franchise Fee

As compensation for the use of the City's Rights-of-Way, Grantee shall pay as a Franchise Fee to the City, throughout the duration of this Franchise, an amount equal to five percent (5.0%) of Grantee's Gross Revenues. Accrual of such Franchise Fee shall commence as of the effective date of this Franchise.

3.2 Payments

Grantee's Franchise Fee payments to the City shall be computed quarterly for the preceding quarter. Each quarterly payment shall be due and payable no later than forty-five (45) days after the end of the preceding quarter. The quarters shall end respectively on the last day of March, June, September, and December.

3.3 Acceptance of Payment

No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be

construed as a release of any claim the City may have for further or additional sums payable or for the performance of any other obligation of Grantee.

### 3.4 Franchise Fee Reports

3.4.1 Each payment shall be accompanied by a written report to the City on a form commonly used by Grantee, verified by an officer of Grantee, containing an accurate statement in summarized form, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall include all Gross Revenues of the Cable System.

3.4.2 Grantee shall, no later than ninety (90) days after the end of each calendar year, furnish to the City an accurate statement of Grantee's Gross Revenues and the computation of the payment amount for the prior calendar year. Such reports shall include all Gross Revenues of the Cable System.

### 3.5 Audits

On an annual basis, upon thirty (30) days' prior written notice, the City shall have the right to conduct an independent audit of Grantee's financial records necessary to enforce compliance with this Franchise and to calculate any amounts determined to be payable under this Franchise. Provided Grantee cooperates in making all relevant records available upon request, the City will in good faith attempt to complete each audit within six (6) months, and the audit period shall not be any greater than the previous five (5) years. Any additional amounts due to the City as a result of the audit shall be paid within sixty (60) days following written notice to Grantee, and Grantee's agreement that the audit findings are correct, which notice shall include a copy of the audit findings. If a Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay, in addition to the amount due, interest at the maximum allowed rate as provided under State law calculated from the date the underpayment was originally due until the date the City receives the payment. If the audit shows that Franchise Fees have been underpaid, by five percent (5%) or more in a calendar year, Grantee shall pay the cost of the audit in an amount up to \$15,000 for the audit period. If Grantee disputes all or part of the audit findings, then that matter may be referred to nonbinding arbitration by either of the parties. Each party shall bear one-half of the costs and expenses of the arbitration proceedings. The decision of the arbitrator(s) shall be subject to judicial review at the request of either party.

### 3.6 Financial Records

Grantee agrees to meet with a representative of the City upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the City deems necessary for reviewing reports and records that are relevant to the enforcement of this Franchise.

### 3.7 Underpayments

In the event any payment is not received within forty-five (45) days from the end of the scheduled payment period, Grantee shall pay, in addition to the amount due, interest at the maximum allowed rate as provided under State law calculated from the date the underpayment was originally due until the date the City receives the payment.

- 3.8 Maximum Franchise Fee  
The parties acknowledge that, at present, applicable federal law limits City to collection of a maximum Franchise fee of five percent (5%) of Gross Subscriber Revenues in any twelve (12) month period. In the event that at any time during the duration of this Franchise applicable federal law changes the maximum allowable Franchise Fee, to be collected in any twelve (12) month period, then this Franchise shall be amended by the parties with sixty (60) days written notice by either party to the other party. The City agrees that all Cable operators in the Franchise Area over which the City has jurisdiction will be treated in an equivalent manner.
- 3.9 Payment on Termination  
If this Franchise terminates for any reason, Grantee shall file with the City within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by Grantee since the end of the previous fiscal year. Within forty-five (45) days of the filing of the certified statement with the City, Grantee shall pay any unpaid amounts as indicated. If Grantee fails to satisfy its remaining financial obligations as required in this Franchise, the City may do so by utilizing the funds available in a letter of credit or other security provided by Grantee pursuant to Section 5.3 or may exercise any other remedies provided to the City in law or equity to collect on such financial obligations.
- 3.10 Additional Compensation  
In the event that Franchise Fees are prohibited by any law or regulation, Grantee shall pay to the City that amount, if any, which is determined by applicable law.
- 3.11 Tax Liability  
The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses by any law of the City, the State, or the United States including, without limitation, sales, use, utility, property, permits and other taxes, or business license fees.

#### **SECTION 4. - ADMINISTRATION AND REGULATION**

- 4.1 The City shall be vested with the power and right to administer and enforce this Franchise and the regulations and requirements of applicable law, including the Cable Act, or to delegate that power and right of administration, or any part thereof, to the extent permitted under federal, State, and local law, to any agent in the sole discretion of the City. Nothing in this Franchise shall limit or expand the City's right of eminent domain under State law.
- 4.2 Rates and Charges  
Grantee rates and charges related to or regarding Cable Services shall be subject to regulation by the City to the full extent authorized by applicable federal, State, and local laws. Customer billing shall be itemized by service(s) per FCC Regulation 76.309(B)(ii)(A) and 76.1619 or as amended. Grantee shall comply with all applicable laws regarding rates for Cable Services and all applicable laws covering issues of cross subsidization.

#### 4.3 No Rate Discrimination

All Grantee rates and charges shall be published (in the form of a publicly available rate card), made available to the public, and shall be non-discriminatory as to all Persons of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with governing law. Nothing herein shall be construed to prohibit:

- (1) the temporary reduction or waiving of rates or charges in conjunction with promotional campaigns;
- (2) the offering of reasonable discounts to similarly situated Persons;
- (3) the offering of rate discounts for either Cable Service generally, or
- (4) the offering of bulk discounts for Multiple Dwelling Units.

#### 4.4 Filing of Rates and Charges

Upon request, Grantee shall maintain on file with the City a complete schedule of applicable rates and charges for Cable Services provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

#### 4.5 Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a breach of this Franchise.

#### 4.6 Performance Evaluation

Special evaluation sessions may be held at any time upon request by the City during the term of this Franchise following Grantee's repeated failure to comply with the terms of this Franchise or no more than once in any thirty-six (36) month period. All evaluation sessions shall be open to the public and announced at least one week in advance in a newspaper of general circulation in the Franchise Area.

4.6.1 Topics that may be discussed at any evaluation session may include but are not limited to, Cable Service rate structures; Franchise Fees; liquidated damages; application of new technologies; system performance; Cable Services provided; programming offered; customer complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and City's or Grantee's rules, provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise or any term or provision therein and further provided that this subsection need not be followed before other legal or equitable remedies within this Franchise.

4.6.2 Grantee agrees to participate in such special evaluation sessions described in this Section 4.6.

#### 4.7 Leased Access Channel Rates

Upon request, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee.

#### 4.8 Late Fees

- 4.8.1 For purposes of this subsection, any assessment, charge, cost, fee or sum, however, characterized, that Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with applicable local, State, and federal laws.
- 4.8.2 Grantee's late fee and disconnection policies and practices shall be nondiscriminatory, and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of the City without regard to the neighborhood or income level of the subscribers.

## **SECTION 5. - FINANCIAL AND INSURANCE REQUIREMENTS**

### 5.1 Indemnification

#### 5.1.1 General Indemnification

Grantee, at its sole cost and expense, shall indemnify, defend and hold the City, its officers, officials, boards, commissions, agents, representatives, and employees, harmless from any action or claim for injury, damage, loss, liability, settlement, proceeding, judgment, or cost or expense, including court and appeal costs and attorneys' fees and expenses, arising from any casualty or accident to Person or property, including all damages in any way arising out of, or by reason of, any construction, excavation, erection, operation, maintenance, repair or reconstruction, or any other act done under this Franchise, by or for Grantee, its authorized agents, or by reason of any neglect or omission of Grantee its authorized agents or its employees. Grantee shall consult and cooperate with the City while conducting its defense of the City. Said indemnification obligations shall extend to any settlement made by Grantee.

#### 5.1.2 Indemnification for Relocation

Grantee shall indemnify, defend and hold the City, its elected officials, officers, agents, boards, and employees, harmless for any damages, claims, additional costs, or expenses payable by, the City arising out of, or resulting from Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any lawful relocation required by the City and in accordance with this Franchise. Pursuant to Section 5.1.1, the provisions of this Section 5.1.2 may specifically include claims for damages, and/or costs incurred by a contractor while performing public work for or on behalf of the City.

#### 5.1.3 Additional Circumstances

Grantee shall also indemnify, defend and hold the City harmless for any claim for injury, damage, loss, liability, cost and expense, including court and appeal costs and attorneys' fees and expenses in any way arising out of any failure by Grantee to secure consents from the owners, authorized distributors or franchisees/licensors of programs to be delivered by the Cable System, provided however, that Grantee will not be required to indemnify the City for any claims arising out of the use of Access Channels by the City and/or its Designated Access Providers or use by the City of the Emergency Alert Cable System.

#### 5.1.4 Procedures and Defense

If a claim or action arises, the City or any other indemnified party shall tender the



defense of the claim or action to Grantee, which defense shall be at Grantee's expense. The City may participate in the defense of a claim, and, in any event, Grantee may not agree to any settlement of claims financially affecting the City without the City's written approval that shall not be unreasonably withheld.

5.1.5 Duty of Defense

The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this Section 5.1.

5.1.6 Duty to Give Notice

The City shall give Grantee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this Section. The City's failure to so notify and request indemnification shall not relieve Grantee of any liability that Grantee might have, except to the extent that such failure prejudices Grantee's ability to defend such claim or suit. In the event any such claim arises, the City or any other indemnified party shall tender the defense thereof to Grantee and Grantee shall have the obligation and duty to defend any claims arising thereunder, and the City shall cooperate fully therein.

5.1.7 Separate Representation

If separate representation to fully protect the interests of both parties is necessary, such as a conflict of interest between the City and the counsel selected by Grantee to represent the City, Grantee shall select other counsel without conflict of interest with the City and pay for such costs in accordance with Section 5.1.1 above.

5.1.8 Prior Franchises

The grant of this Franchise shall have no effect on Grantee's duty under the prior franchises to indemnify or insure the City against acts and omissions occurring during the period that the prior franchises were in effect, nor shall it have any effect upon Grantee's liability to pay all Franchise Fees which were due and owed under prior franchises.

5.1.9 Waiver of Title 51 RCW Immunity

Grantee's indemnification obligations shall include indemnifying the City for actions brought by Grantee's own employees and the employees of Grantee's agents, representatives, contractors, and subcontractors even though Grantee might be immune under Title 51 RCW from direct suit brought by such an employee. It is expressly agreed and understood that this indemnification for actions brought by the aforementioned employees is limited solely to claims against the City arising by virtue of Grantee's exercise of the rights set forth in this Franchise. To the extent required to provide this indemnification and this indemnification only, Grantee waives its immunity under Title 51 RCW as provided in RCW 4.24.115; provided however, the forgoing waiver shall not in any way preclude Grantee from raising such immunity as a defense against any claim brought against Grantee by any of its employees or other third party. The obligations of Grantee under this Section 5.1.9 have been mutually negotiated by the parties hereto.

5.1.10 Concurrent Negligence

In the event that a particular activity conducted under this Franchise is subject to RCW 4.24.115, this Section 5.1.10 shall apply. Liability for damages arising out

of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Grantee and the City, its officers, officials, employees, and volunteers, Grantee's liability shall be only to the extent of Grantee's negligence.

5.1.11 Inspection

Inspection or acceptance by the City of any work performed by Grantee at the time of completion of construction or maintenance projects shall not be grounds for avoidance of any of these covenants of indemnification.

5.2 Insurance Requirements

5.2.1 General Requirement each of the following policies of insurance:

- (1) Commercial General Liability coverage for bodily injury, personal injury, and property damage with limits of no less than two million dollars (\$2,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate, and one million dollars (\$1,000,000) products/completed operations aggregate. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no endorsement or modification of the Commercial General Liability insurance to restrict coverage for liability arising from explosion, collapse, or underground property damage to be more restrictive than the ISO CG 00 01 form. The City shall be named by endorsement or blanket provision as an additional insured under the Grantee's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 and Additional Insured-Completed Operations endorsement CG 20 37 or substitute endorsements providing equivalent coverage.
- (2) Commercial Automobile Liability Insurance with minimum combined single limits of at least two million dollars (\$2,000,000). Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
- (3) Umbrella or excess liability insurance in the amount of five million dollars (\$5,000,000) each occurrence and five million dollars (\$5,000,000) policy limit.
- (4) Workers' Compensation insurance shall be maintained during the life of this Franchise to comply with State, law for all employees.
- (5) Employer's Liability with a limit of one million dollars (\$1,000,000) which shall include stop gap liability.

5.2.2 Each policy shall provide that the insurance shall not be canceled or terminated so as to be out of compliance with these requirements without forty-five (45) days' written notice first provided to the City via mail, and ten (10) days' notice for nonpayment of any premium. If the insurance is canceled or terminated so as to be out of compliance with the requirements of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous

uninterrupted insurance coverage, in at least the amounts required under the terms of this Section 5.2 for so long as Grantee utilizes the Rights-of-Way or upon renewal of this Franchise. This obligation is separate and apart from any construction-related insurance obligation as required under a construction permit. Any failure of Grantee to comply with the claim reporting provisions of the policy(ies) or any breach of an insurance policy warranty shall not affect coverage afforded under the policy to protect the City. However, if coverage is not afforded under these circumstances, Grantee will indemnify the City for losses the City otherwise would have been covered for as an additional insured. All insurance policies, except Workers Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the City, its officers, officials, agents, and employees for any claims arising out of Grantee's work or service. Grantee solely shall be responsible for deductibles and/or self-insured retention, and the City, at its option, may require Grantee to secure the payment of such deductible or self-insured retention by a surety bond or an irrevocable letter of credit.

### 5.2.3 Endorsements

All policies shall contain, or shall be endorsed so that:

- (1) the City, and the City's officers, officials, boards, commissions, agents, representatives, and employees are to be covered as, and have the rights of, additional insured's with respect to liability arising out of activities performed by, or on behalf of, Grantee under this Franchise or applicable law, or in the construction, operation, upgrade, maintenance, repair, replacement or ownership of the Cable System;
- (2) Grantee's insurance coverage shall be primary insurance with respect to the City, the City Council and the City's officers, officials, boards, commissions, agents, and employees. Any insurance or self-insurance maintained by the City, the City Council and the City's officers, officials, boards, commissions, agents, representatives, volunteers, or employees shall be in excess of Grantee's insurance and shall not contribute to it, provided the occurrence arises out of Grantee's negligence; and
- (3) Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

### 5.2.4 Verification of Coverage

Grantee shall furnish the City with certificates of insurance and an endorsement reflecting additional insured status upon the acceptance of this Franchise pursuant to Section 18.16. The certificates for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices and are to be received and approved by the City at the time of acceptance of this Franchise by Grantee with existing insurance coverage to be maintained by Grantee until that date. Grantee hereby warrants that its insurance policies satisfy the requirements of this Franchise.

### 5.2.5 No Limitation of Liability

Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such

insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

5.2.6 Subcontractors

Grantee shall ensure that each subcontractor and sub-subcontractors of every tier obtain insurance reasonably appropriate to the scope of such party's work.

- 5.2.7 Grantee's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit or otherwise alter the liability of the Grantee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

5.3 Security

- 5.3.1 Grantee shall provide a performance bond ("Performance Bond") in the amount of twenty-five thousand dollars (\$25,000) to ensure the faithful performance of its responsibilities under this Franchise and applicable law, including, by way of example and not limitation, its obligations to relocate and remove its facilities and to restore the City Rights-of-Way and other property. The Performance Bond shall be in a standard industry form and shall be reviewed and approved by the City Attorney. Grantee shall pay all premiums or costs associated with maintaining the Performance Bond and any other construction or maintenance bonds required by the City and shall keep the same in full force and effect at all times. Except as expressly provided herein, Grantee shall not be required to obtain or maintain other bonds as a condition of being awarded the Franchise or continuing its existence. The performance bond shall be with a surety with a rating no less than "A- VII" in the latest edition of "Bests Rating Guide," published by A.M. Best Company.

- 5.3.2 If there is an uncured breach by Grantee of a material provision of this Franchise or a pattern of repeated violations of any provision(s) of this Franchise, then the City may request and Grantee shall establish and provide within thirty (30) days from receiving notice from the City, to the City, as security for the faithful performance by Grantee of all of the provisions of this Franchise, an irrevocable letter of credit from a financial institution satisfactory to the City in the amount twenty thousand dollars (\$20,000).

- 5.3.3 If a letter of credit is furnished pursuant to Section 5.3.2, the letter of credit shall then be maintained at that same amount until the breach is cured and both parties agree the letter of credit is no longer necessary. At such time the Grantee will maintain the Performance Bond under Section 5.3.1.

- 5.3.4 After the giving of notice by the City to Grantee and expiration of any applicable cure period, the letter of credit may be drawn upon by the City for purposes including, but not limited to, the following:

- (1) Failure of Grantee to pay the City sums due under the terms of this Franchise;
- (2) Reimbursement of costs borne by the City to correct Franchise violations not corrected by Grantee;
- (3) Liquidated damages assessed against Grantee as provided in this Franchise.

- 5.3.5 The City shall give Grantee written notice of any withdrawal from the Performance Bond or letter of credit. Within thirty (30) days following notice that a withdrawal has occurred from the Performance Bond or letter of credit, Grantee shall restore the Performance Bond or letter of credit to the full amount required under this Franchise. Grantee's maintenance of the letter of credit shall not be construed to excuse unfaithful performance by Grantee or limit the liability of Grantee to the amount of the letter of credit or otherwise limit the City's recourse to any other remedy available at law or in equity.
- 5.3.6 Grantee shall have the right to appeal to the City Council for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the City erroneously or wrongfully withdraws from the Performance Bond or letter of credit, as determined by either the City Council or judicial appeal, shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in The Wall Street Journal as of the date of such decision.

## **SECTION 6. - CUSTOMER SERVICE**

- 6.1 Customer Service Standards  
Grantee shall comply with Customer Service Standards as provided in FCC Standards 47 C.F.R. Sections 76.309, 76.1602, 76.1603 and 76.1619.
- 6.2 Subscriber Privacy  
Grantee shall comply with privacy rights of Subscribers in accordance with applicable law.

## **SECTION 7. - REPORTS AND RECORDS**

- 7.1 Open Records
- 7.1.1 Books and Records  
The City shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations, and affiliated entities, necessary for the enforcement of the terms of this Franchise. Grantee shall not deny the City access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, affiliated entity or a third party. The City may, in writing, request copies of any such records or books, and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One copy of all reports and records required under this or any other Section shall be furnished to the City at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the City inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to City upon written

request as set forth above, and if the City determines that an examination of such records is necessary for the enforcement of this Franchise, then all reasonable travel and maintenance expenses incurred in making such examination shall be paid by Grantee. All such documents pertaining to financial matters that may be the subject of an inspection by the City shall be retained by Grantee for a minimum period of six (6) years.

7.1.2 File for Public Inspection

Throughout the term of this Franchise, Grantee shall maintain at its business office, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

7.2 Confidential / Proprietary Information

Notwithstanding anything to the contrary set forth in this Section, Grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature. That said, Grantee does agree to provide all information reasonably required to verify compliance with the material terms of the Franchise. The City agrees to keep confidential any proprietary or confidential books or records to the extent permitted by law. Grantee shall be responsible for clearly and conspicuously identifying the work confidential or proprietary and shall provide a brief written explanation as to why such information is confidential and how it may be treated as such under State or federal law. If the City receives a demand from any Person for disclosure of any information designated by Grantee as confidential, and currently within the City's possession, the City shall promptly advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information so that Grantee can take appropriate steps to protect its interests within ten (10) business days of receiving notification of the City's intended disclosure. Nothing in the Section 7.2 prohibits the City from complying with RCW 42.56, or any other applicable law or court order requiring the release of public records, and the City shall not be liable to Grantee for compliance with any law or court order requiring the release of public records. The City shall comply with any injunction or court order requested by Grantee which prohibits the disclosure of any such confidential records; however, in the event a higher court overturns such injunction or court order, Grantee shall reimburse the City for any fines or penalties imposed for failure to disclose such records.

7.3 Records Required

Grantee shall at all times maintain and provide, upon request from the City:

- (1) access to a full and complete set of plans, records and "route" maps showing the location of all Cable System equipment installed or in use in the Rights-of-Way, that are generated in Grantee's normal course of business;
- (2) a copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates that relate to the operation of the Cable System in the Franchise Area;
- (3) a list of Grantee's Cable Services, rates and Channel line-ups;
- (4) a compilation of Subscriber complaints over the previous twelve (12) months, actions taken and resolution, and a log of service calls; and
- (5) financial records as referred to in Section 3

7.4 Copies of Federal and State Reports

Upon written request, Grantee shall submit to the City copies of any pleading, applications, notifications, communications, and documents of any kind, submitted by Grantee or its Affiliates to any federal, State, or local courts, regulatory agencies, and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the Franchise Area. Grantee shall submit such documents to the City no later than thirty (30) days after receipt of the City's request. Grantee shall not claim confidential, privileged, or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency. With respect to all other reports, documents and notifications provided to any federal, State, or local regulatory agency as a routine matter in the due course of operating Grantee's Cable System within the Franchise Area, Grantee shall make such documents available to the City upon the City's written request.

7.5 Annual Report

Grantee shall provide, upon request, an executive summary report to the City on an annual basis within ninety (90) days of the end of each year that shall include the following information:

- (1) Nature and type of Customer complaints;
- (2) Number, duration, general location and customer impact of unplanned service interruptions;
- (3) Any significant construction activities which affect the quality or otherwise enhance the service of the System;
- (4) Average response time for service calls;
- (5) Phone activity report; and
- (6) A summary of the previous year's activities regarding the development of the Cable System, including any technological changes occurring in the Cable System.

7.6 False Statements

Any intentional false or misleading statement or representation in any report required by this Franchise shall be a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, that are available to the City under this Franchise.

7.7 Complaint File

Grantee shall keep an accurate and comprehensive compilation of any and all Customer complaints received and Grantee's actions in response to those complaints, in a manner consistent with the privacy rights of Subscribers. Those complaints, in a manner consistent with the privacy rights of Subscribers. Those files shall remain open to Grantor during normal business hours and shall be retained for a period of one year.

**SECTION 8. - PROGRAMMING**

8.1 Broad Programming Categories

Grantee shall provide at least the following broad categories of programming to the extent such categories are reasonably available:

- (1) Educational programming
- (2) News, government, weather, and information
- (3) Sports
- (4) General entertainment including movies
- (5) Foreign language programming
- (6) Children's programming

8.2 Deletion of Broad Programming Categories

8.2.1 Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without prior written notice to the City.

8.2.2 In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee shall follow the guidelines of federal law.

8.3 Obscenity

Grantee shall not transmit, or permit to be transmitted, over any Channel subject to its editorial control any programming which is obscene under applicable federal, State, or local laws.

8.4 Services for the Disabled

Grantee shall comply with the Americans With Disabilities Act and any amendments or successor legislation thereto.

8.5 Parental Control Device

Upon request by any Subscriber, Grantee shall make available at no charge a parental control or lockout device, traps, or filters to enable a Subscriber to control access to both the audio and video portions of any Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter.

**SECTION 9. - EDUCATIONAL AND GOVERNMENTAL ACCESS**

The City agrees that the Educational and Governmental Access programming provided on Grantee's Cable System as part of the King County regional lineup adequately meets the needs of the community. Grantee agrees to continue all regional Access Channels across the Franchise Area throughout the term of this Franchise, provided that the Channels remain programmed by the applicable Access provider(s).

**SECTION 10. - GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION**



## 10.1 Construction

- 10.1.1 Grantee shall perform all maintenance, construction, repair, upgrade, and reconstruction necessary for the operation of its Cable System in accordance with applicable laws, regulations, ordinances, City standards, and provisions of this Franchise. Prior to doing such work (with the exception of installations or general maintenance that involves no physical impact and with no disruption to the use of the Right-of-Way), Grantee shall apply for, and obtain, appropriate permits from the City, and give appropriate notices to the City, and Grantee shall pay all applicable fees upon issuance of the requisite permits by the City to Grantee. As a condition of any permits so issued, the City officials may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, protection of the public and the continuity of pedestrian or vehicular traffic. To the extent practicable and economically feasible, Grantee's construction and location of its facilities shall be of minimal impact to the City streets and sidewalks located within the Rights-of-Way. All construction and maintenance of any and all of Grantee's facilities within the Rights-of-Way shall, regardless of who performs the construction, be and remain Grantee's responsibility.
- 10.1.2 Prior to beginning any construction, excavations, or significant repair, Grantee shall provide the City with a construction schedule for work in the Rights-of-Ways as required by the City's permitting regulations. Further, Grantee shall meet with the City and other franchise and master permit holders and users of the Rights-of-Way upon written notice as determined by the City, to discuss options regarding scheduling and coordinating construction in the Rights-of-Way.
- 10.1.3 Grantee may make excavations in Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, permittees, and franchisees so as to reduce so far as possible the number of Rights-of-Way cuts within the Franchise Area.
- 10.1.4 In the event that emergency repairs are necessary, Grantee will make best efforts to contact the City's Public Works Department prior to the repair; however, Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

## 10.2 Location of Facilities

Prior to doing any digging or excavation in the Rights-of-Way, Grantee shall follow established procedures, including contacting the Utility Notification Center in Washington and comply with all applicable State statutes regarding the One Call Locator Service pursuant to RCW 19.122. Within three (3) business days, unless otherwise specified in federal, State, or local regulations, after the City or any franchisee or permittee of the City notifies Grantee of a proposed Right-of-Way excavation, Grantee shall, at Grantee's expense, mark on the surface all of its located underground facilities within the area of the proposed excavation.

## 10.3 Restoration of Rights-of-Way

- 10.3.1 When any opening is made by Grantee in a hard surface pavement in any Rights-of-Way, Grantee shall promptly refill the opening and restore the surface as

required by its permit to a condition as good or better than before the opening. The Grantee shall protect public and private property within the Rights-of-Way from damage.

- 10.3.2 If Grantee excavates the surface of any Rights-of-Way, Grantee shall be responsible for restoration in accordance with applicable regulations regarding the Rights-of-Way and its surface within the area affected by the excavation. The City may, after providing notice to Grantee, and Grantee's failure to respond within the agreed upon time, refill or repave any opening made by Grantee in the Rights-of-Way, and the expense thereof shall be paid by Grantee. In the event Grantee does not repair a Right-of-Way or an improvement in or to a Right-of-Way in a prompt timeframe or as agreed to with the City Engineer or any other department director as the City may designate, the City may repair the damage and shall be reimbursed its actual cost within thirty (30) days of submitting an invoice to Grantee. The cost of all repairs and restoration, including the costs of inspection and supervision shall be paid by Grantee. All of Grantee's work under this Franchise, and this Section in particular, shall be done in compliance with all laws, regulations and ordinances of the City and State. All work by Grantee pursuant to this Section shall be performed in accordance with applicable City standards.
- 10.3.3 The Public Works Director or any other department director as the City may designate shall have final approval of the condition of such streets and public places after restoration.

#### 10.4 Maintenance and Workmanship

- 10.4.1 Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, stormwater, water pipes or any other property of the City, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in Rights-of-Way by, or under, the City's authority.
- 10.4.2 Grantee shall provide and use any equipment and appliances necessary to control and carry Grantee's signals so as to prevent injury to the City's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change, and improve its facilities to keep them in safe condition.
- 10.4.3 Grantee's transmission and distribution Cable System, wires and appurtenances shall be located, erected, and maintained so as not to endanger or interfere with the lives of Persons, or to unnecessarily hinder or obstruct the free use of Rights-of-Way, or other public property.
- 10.4.4 Grantee shall give reasonable notice, to private property owners of underground construction work in adjacent Rights-of-Way.

#### 10.5 Acquisition of Facilities

Upon Grantee's acquisition of facilities in any Rights-of-Way to the City of any area in which Grantee owns or operates any facility, such facilities shall immediately be subject to the terms of this Franchise. Further, at the City's request, Grantee shall submit to the City a statement describing all facilities involved, whether authorized by franchise, permit, license, or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information.

## 10.6 Reservation of Rights-of-Way

Nothing in this Franchise shall prevent the City from constructing any public work or improvement. The City may require Grantee to relocate the Cable System within the right-of-way when reasonably necessary for construction, alteration, repair, or improvement of the right-of-way for purposes of public welfare, health, or safety. Nothing contained within this Franchise shall limit Grantee's ability to seek reimbursement for relocation costs when permitted pursuant to RCW 35.99.060. In the case of a joint relocation project, Grantee shall be responsible for the cost of relocating its facilities. All such removal or relocation shall be preceded by sixty (60) days written notice or such additional time as may be provided by the City. Upon notice, both parties shall agree upon an appropriate relocation timeline that takes into consideration permitting and other utility involvement and coordination. Grantee shall provide routine updates on meeting agreed upon relocation timeline(s). Should Grantee fail to remove, adjust, or relocate its facilities by the agreed upon timeline, the City may affect such removal, adjustment or relocation, and the expense thereof shall be paid by Grantee.

### 10.6.1 Movement of Cable System For and By the City

The City may remove or disconnect Grantee's facilities and equipment located in the Right-of-Way or on any other property of the City in the case of fire, disaster or other emergency. Except during an emergency, the City shall provide reasonable notice to Grantee prior to taking such action and shall provide Grantee with the opportunity to perform such action. Following notice by the City, Grantee shall remove, replace, relocate, modify, or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the City, except that the City shall provide at least sixty (60) days' written notice of any major capital improvement project that would require the removal, relocation, replacement, modification or disconnection of Grantee's facilities or equipment. Upon notice, both parties shall agree upon an appropriate relocation timeline that takes into consideration permitting and other utility involvement and coordination. Grantee shall provide routine updates on meeting agreed upon relocation timeline(s). If Grantee fails to complete this work within the agreed upon time prescribed and to the City's satisfaction, the City may cause such work to be done and bill the cost of the work to Grantee. Grantee shall remit payment to the City within thirty (30) days of receipt of an itemized list of those costs.

### 10.6.2 Movement for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower, or remove its wires as necessary to permit the moving of a building, vehicle, equipment, or other item. The cost of such temporary change must be paid by the permit holder, and Grantee may require the estimated payment in advance.

## 10.7 Rights-of-Way Vacation

If any Rights-of-Way or portion thereof used by Grantee is vacated by the City during the term of this Franchise, unless the City specifically reserves to Grantee the right to continue the use of vacated Rights-of-Way, Grantee shall, without delay or expense to the City, remove its facilities from such Rights-of-Way, and restore, repair, or reconstruct the Rights-of-Way where such removal has occurred. In the event of failure, neglect or refusal of Grantee, after thirty (30) days' notice by the City, to restore, repair or reconstruct such Rights-of-Way, the City may do such work or cause it to be done, and

the reasonable cost thereof, as found and declared by the City, shall be paid by Grantee within thirty (30) days of receipt of an invoice and documentation.

10.8 Removal of Discontinued Facilities

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

10.9 Hazardous Substances

10.9.1 Grantee shall comply with all applicable State, and federal laws, statutes, regulations, and orders concerning hazardous substances within the Rights-of-Way.

10.9.2 Upon reasonable notice to Grantee, the City may inspect Grantee's facilities in the Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise, Grantee shall also remove all residue of hazardous substances related thereto.

10.10 Undergrounding of Cable

10.10.1 Wiring

(1) Where electric and telephone utility wiring is installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines, wiring and equipment shall also be placed underground with other wireline service at no expense to the City. Related Cable System equipment, such as pedestals, must be placed in accordance with applicable City Code requirements and rules and in a manner that allows Grantee to maintain its signal integrity in accordance with FCC requirements. In areas where electric or telephone utility wiring are aerial, Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(2) Grantee shall utilize existing poles and conduit wherever possible.

- (3) This Franchise does not grant, give, or convey to Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the City or any other Person.
- (4) Grantee and the City recognize that situations may occur in the future where the City may desire to place its own cable or conduit for Fiber Optic cable in trenches or bores opened by Grantee. Therefore, if Grantee constructs, relocates, or places ducts or conduits in the Rights-of-Way it shall submit these plans to the City in accordance with the City's permitting process so as to provide the City with an opportunity to request that Grantee place additional duct or conduit and related structures necessary to access the conduit pursuant to RCW 35.99.070. Other than submission of plans in accordance with the City's permitting requirements, nothing set forth herein shall obligate Grantee to slow the progress of any future construction of the Cable System to accommodate the City. In addition, Grantee agrees to cooperate with the City in any other construction by Grantee that involves trenching or boring. The City shall be responsible for maintaining its respective cable, conduit and Fiber Optic cable buried in Grantee's trenches and bores under this paragraph.
- (5) The City shall not be required to obtain easements for Grantee.
- (6) Grantee may participate with other providers in joint trench projects to relocate its overhead facilities underground and remove its overhead facilities in areas where all utilities are being converted to underground facilities. If funds from a Utility Local Improvement District are provided to aerial providers to offset the cost of undergrounding, excluding any entity operating under a tariff, Grantee's costs shall be proportionality paid for out of such funds.

10.10.2 Repair and Restoration of Property

If public property is disturbed or damaged by Grantee arising out of or in connection with the provision of Cable Service, Grantee shall restore the property to its former condition. Rights-of-Way or other City property shall be restored in a manner and within a timeframe approved by the City's Public Works Director, or his/her designee. If restoration of Rights-of-Way or other property of the City is not satisfactorily performed within a reasonable time, the Public Works Director, or his/her designee, may, after prior notice to Grantee, or without notice where the disturbance or damage may create a risk to public health, safety or welfare, or cause delay or added expense to a public project or activity, cause the repairs to be made at Grantee's expense and recover the cost of those repairs from Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, Grantee shall issue payment to the City.

10.11 Codes

Grantee shall strictly adhere to City codes that do not directly conflict with the specific provisions of this Franchise. 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 with the use of said public or private property by any Person. In the event of such interference or if such construction does not comply with City codes

or the permit, the City may require the removal or relocation of Grantee's lines, cables, and other appurtenances from the property in question at Grantee's sole expense.

#### 10.12 Construction and Use of Poles

Grantee shall use existing poles when the installation of facilities above-ground is permitted. In the event Grantee cannot obtain the necessary poles and related facilities and only in such event, then it may request permission from the City to install new poles and associated improvements. Only upon issuance of permits from the City shall it be lawful for Grantee to make excavations in the streets for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, conduits, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be erected between the curb and the sidewalk unless otherwise designated by the proper authorities of the City, and each pole shall be set whenever practicable at an extension lot line. The City shall have the right to require Grantee to change the location of any pole, conduit, structure, or other facility within Rights-of-Way when, in the opinion of the City, the public convenience requires such change, and the expense thereof shall be paid by Grantee.

#### 10.13 Tree Trimming

Upon obtaining a written permit from the City, if such a permit is required, Grantee may prune or cause to be pruned, using proper pruning practices in accordance with such permit, any tree in the Rights-of-Way that interferes with the Cable System. Grantee shall be responsible for any damage caused by such trimming and shall make every attempt to trim such trees and shrubbery in a fashion that maintains their aesthetic appeal and the health of the tree. Grantee may not remove any trees without the express consent from the City.

#### 10.14 Standards

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

10.14.2 All installations of equipment shall be permanent in nature and shall not interfere with the travel and use of public places by the public during the construction, repair, operation, or removal thereof, and shall not obstruct or impede traffic.

10.14.3 Grantee shall endeavor to maintain all equipment lines and facilities in an orderly manner, including, but not limited to, the removal of bundles of unused cables.

10.14.4 Grantee shall ensure that all cable drops are properly bonded to the electrical power ground at the home, consistent with applicable code requirements. All non-conforming or non-performing cable drops shall be replaced by Grantee as necessary.

10.14.5 In the maintenance and operation of its System in Rights-of-Way, alleys and other public places, and in the course of any new construction or addition to its facilities, the Grantee shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the Rights-of-Way or other public places made by the Grantee in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.15 Stop Work

On notice from the City that any work is being conducted contrary to the provisions of this Franchise, or in violation of the terms of any applicable permit, laws, regulations, ordinances or standards, the work may immediately be stopped by the City. The stop work order shall:

- (1) be in writing;
- (2) be given to the Person doing the work, or posted on the work site;
- (3) be sent to Grantee by mail at the address given herein;
- (4) indicate the nature of the alleged violation or unsafe condition; and
- (5) establish conditions under which work may be resumed.

Grantee shall comply immediately with any stop work order issued by the City.

10.16 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be bonded in accordance with local ordinances, regulations, and requirements. Work by contractors and subcontractors shall be subject to the same restrictions, limitations, and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf and shall ensure that all such work is performed in compliance with this Franchise and other applicable law and shall be jointly and severally liable for all damages caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors, or other persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other applicable laws governing the work performed by them. When pulling permits, a subcontractor must clearly state their connection to Grantee.

10.17 Pole Transfers

If Grantee leases a pole from a third party and such third party later abandons the pole, for example by building a replacement pole, Grantee shall remove or relocate its facilities within the Rights-of-Way within sixty (60) days of such notification from the third party pole owner, provided that such other structure or place has been made available to the Grantee with sufficient time to allow for the relocation, and provided further that if Grantee needs additional time, that Grantee notify the City of the anticipated schedule.

10.18 Strand Mounted WiFi Facilities

10.18.1 Subject to the provisions of this Franchise and applicable safety and electrical codes, Grantee is allowed to place strand mounted wireless facilities on its own cables strung between existing utility poles.

- 10.18.2 Grantee shall comply with the following requirements:
- (1) each strand mounted WiFi facility must be less than two and half (2.5) cubic feet in volume;
  - (2) only one strand mounted WiFi facility is permitted per cable strung between two poles;
  - (3) the WiFi strand mounted facilities shall be placed as close to the pole as technically feasible and may not be placed more than six (6) feet from the pole or in that portion of the Right-of-Way used for vehicular travel;
  - (4) Grantee may not place an ancillary pole or ground mounted equipment to accommodate such strand mounted WiFi facilities, unless in the case of ground mounted equipment placed in pre-existing equipment cabinets;
  - (5) the strand mounted WiFi facilities must comply with any applicable FCC requirements related to RF emissions and interference. Upon request, Grantee shall validate that such device meets FCC standards by producing documentation certified by an RF engineer; and
  - (6) such strand mounted WiFi facilities must be removed if they cause a threat to public health or safety.
- 10.18.3 The deployment of these strand mounted WiFi facilities shall not be considered small cell facilities. To the extent Grantee performs work in the Rights-of-Way associated with the installation, maintenance, construction, repair or upgrade of these strand mounted WiFi facilities, Grantee is required to obtain the appropriate permits consistent with Section 10. Further, such strand mounted facilities must be operated as part of the Cable System.

## **SECTION 11. - CABLE SYSTEM DESIGN**

- 11.1 Cable System Specifications  
Prior to the effective date of this Franchise, Grantee undertook a voluntary upgrade of its Cable System to a fiber-to-the-node Cable System architecture, with fiber-optic cable deployed from the Headend to the nodes and tying into a coaxial Cable System already serving Subscribers. Active and passive devices currently are passing a minimum of 750 MHz, and the Cable System is capable of delivering high quality signals that meet or exceed FCC technical quality standards regardless of a particular manner in which the signal is transmitted. Grantee agrees to maintain the Cable System in a manner consistent with, or in excess of these specifications throughout the term of the Franchise.
- 11.2 Closed Captioning  
Equipment must be installed so that all closed-captioned programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards.
- 11.3 No Income Discrimination  
Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.



- 11.4 Enforceability of Design and Performance Requirements  
Grantee acknowledges that the minimum Cable System design and performance requirements set forth in this Franchise are enforceable, to the extent allowed by law.
- 11.5 System Review  
The City may hold a hearing to review whether or not the Cable System and the Cable Services offered by Grantee are meeting demonstrated community needs and interests, taking into account the cost of meeting those needs and interests. The parties recognize that, as of the Effective Date, the City is not permitted to require the provision of specific Video Programming pursuant to this subsection.
- 11.6 Equal and Uniform Service  
The Grantee shall provide access to equal and uniform Cable Service offerings throughout the Franchise Area along public rights-of-way, provided that nothing shall prohibit the Grantee from activating additional Cable Services to Subscribers on a node-by-node basis during an upgrade of its Cable System.

## **SECTION 12. - TECHNICAL STANDARDS**

- 12.1 Technical Performance  
The technical performance of the Cable System shall meet or exceed all applicable technical standards authorized or required by law, including, FCC technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The City shall have the full authority permitted by applicable law to enforce compliance with these technical standards.
- 12.2 Cable System Performance Testing  
Grantee shall, at its expense, perform all tests on its Cable System required by the FCC (including FCC required test points located within the City) and shall maintain written records of its test results. Upon request, all FCC required technical performance tests may be witnessed by representatives of the City. Copies of such test results will be provided to the City upon request. All required technical performance or other Cable System tests shall be at the expense of Grantee and may be witnessed by representatives of the City. Upon request, Grantee will notify the City before any required technical proof-of-performance or other testing occurs. Grantee shall promptly take such measures as are necessary and diligently continue the same until completion in order to correct any performance deficiencies fully and to prevent their recurrence. Grantee's failure to correct deficiencies identified through this testing process shall be a violation of this Franchise. Sites shall be re-tested within five (5) days following correction until correction has been confirmed and satisfactory results are obtained.

## **SECTION 13. - SERVICE EXTENSION**

- 13.1 Service Availability
- 13.1.1 In general, except as otherwise provided herein, Grantee shall provide a standard aerial installation of Cable Service within seven (7) days of a request by any

Person within the Franchise Area. For standard underground installations scheduling shall be done within seven (7) days of a request for service. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Grantee shall provide such service:

- (1) with no line extension charge except as specifically authorized elsewhere in this Franchise;
- (2) at a non-discriminatory installation charge for a Standard Installation, consisting of a one hundred twenty-five (125) foot aerial drop or sixty (60) foot underground drop connecting to the exterior demarcation point for Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations; and
- (3) at non-discriminatory monthly rates for all Subscribers, excepting commercial Subscribers, MDU Bulk Subscribers and other lawful exceptions to uniform pricing.

13.1.2 No Customer shall be refused service arbitrarily. However, for non-Standard Installations of service to Subscribers, or a density of less than thirty (30) residences per 5280 aerial cable-bearing strand feet of trunk or distribution cable, or sixty (60) residences per 5280 underground trench feet of trunk or distribution cable, Cable Service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. Grantee may require that the payment of the capital contribution in aid of construction be borne by such potential Subscribers be paid in advance. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and Customers in the area in which service shall be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per cable-bearing mile of its trunk or distribution cable and whose denominator equals thirty (30) for an aerial extension or sixty (60) for an underground extension. Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential Customers be paid in advance.

13.1.3 Grantee shall provide Cable Service to Multiple Dwelling Units in accordance with an agreement with the property owner or owners, this Franchise, and all applicable laws.

## **SECTION 14. - STANDBY POWER AND EAS**

### 14.1 Standby Power

Grantee shall provide standby power generating capacity at the Cable System Headend capable of providing at least twelve (12) hours of emergency operation. Grantee shall maintain standby power supplies that will supply back-up power of at least two (2) hours duration throughout the distribution networks, and four (4) hours duration at all nodes

and hubs. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than two (2) hours. This outage plan and evidence of requisite implementation resources shall be presented to the City no later than thirty (30) days following receipt of a request therefore.

14.2 Emergency Alert Capability

14.2.1 In accordance with, and at the time required by, the provisions of FCC Regulations or other federal or State requirements, as such provisions may from time to time be amended, Emergency Alert System (“EAS”) implementation will be accomplished in compliance with the Washington State EAS Plan and to be in compliance with or further Homeland Security requirements or applications.

14.2.2 Grantee shall ensure that the EAS is functioning properly at all times in accordance with FCC regulations.

**SECTION 15. - FRANCHISE BREACHES; TERMINATION OF FRANCHISE**

15.1 Procedure for Remedying Franchise Violations

15.1.1 If the City believes that Grantee has failed to perform any material obligation under this Franchise or has failed to perform in a timely manner, the City shall notify Grantee in writing, stating with documented specificity, the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

- (1) respond to the City in writing, contesting the City’s assertion that a default has occurred, and requesting a hearing in accordance with subsection 15.1.2, below;
- (2) cure the default; or
- (3) notify the City in writing that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the City in writing and in detail as to the exact steps that will be taken and the projected completion date. Upon five (5) business days’ prior written notice, either the City or Grantee may call an informal meeting to discuss the alleged default. In such case, if matters are not resolved at such meeting, the City may set a hearing, in front of the hearing examiner, in accordance with subsection 15.1.2 below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee’s proposed completion schedule and steps are reasonable.

15.1.2 If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection 15.1.1(3), or denies the default and requests a hearing in accordance with subsection 15.1.1(1), or the City orders a hearing in accordance with subsection 15.1.1(3), the City shall set a public hearing, in front of the hearing examiner, to investigate said issues or the

existence of the alleged default. The City shall notify Grantee of the hearing in writing and such hearing shall take place no less than seven (7) days after Grantee's receipt of notice of the hearing. At the hearing, Grantee shall be provided an opportunity to be heard, to present and question witnesses, and to present evidence in its defense. At any such hearing, the City or the hearing examiner shall not unreasonably limit Grantee's opportunity to make a record that may be reviewed should any final decision of the City be appealed to a court of competent jurisdiction. The determination as to whether a default or a material breach of this Franchise has occurred shall be within the City's sole discretion, but any such determination shall be subject to appeal to a court of competent jurisdiction.

15.1.3 If, after the public hearing in front of the hearing examiner, the hearing examiner determines that a default still exists, the hearing examiner shall order Grantee to correct or remedy the default or breach within fourteen (14) days of the hearing examiner's notification or within such other reasonable timeframe as the hearing examiner shall determine. In the event Grantee does not cure within such time as per the direction of the hearing examiner, the hearing examiner may:

- (1) Assess and collect monetary damages in accordance with this Franchise; and
- (2) Recommend to the City Council termination of this Franchise; or
- (3) Recommend to the City Council to pursue any other legal or equitable remedy available under this Franchise or applicable law.

15.1.4 The determination as to whether a violation of this Franchise has occurred pursuant to this Section herein shall be within the sole discretion of the hearing examiner. Any such determination by the hearing examiner shall be accompanied by a record, to which Grantee's contribution shall not be limited by the City or the hearing examiner (i.e., the hearing examiner shall hear any interested Persons and shall allow Grantee an opportunity to be heard, to cross examine witnesses, to present evidence and to make additions to the hearing record). Any such final determination made by either the hearing examiner pursuant to 15.1.3(1) or the City Council pursuant to 15.1.3(2) or 15.1.3(3) shall be subject to appeal to a court of competent jurisdiction. Such appeal to the appropriate Court shall be taken within thirty (30) days of the issuance of the final determination. The City shall receive notice from Grantee of any appeal concurrent with any filing to a court of competent jurisdiction.

15.1.5 The intent of the Parties is to require compliance with this Section before either Party may commence legal action in a court of proper jurisdiction.

## 15.2 Alternative Remedies

15.2.1 No provision of this Franchise shall be deemed to bar the right of either party to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement, or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of either party to recover monetary damages, as allowed under applicable law, or to seek and obtain judicial enforcement of obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

15.2.2 The City specifically does not, by any provision of this Franchise, waive any right, immunity, limitation, or protection (including complete damage immunity) otherwise available to the City, its officers, officials, Boards, commissions, agents, or employees under federal, State, or local law including by example Section 635A of the Cable Act. Grantee shall not have any monetary recourse against the City, or its officers, officials, Board, commissions, authorized agents or employees for any loss, costs, expenses, or damages arising out of any provision, requirement of this Franchise or the enforcement thereof.

15.3 Assessment of Liquidated Damages and Letter of Credit

Subject to Section 5.3:

15.3.1 The Performance Bond or letter of credit shall provide that funds will be paid to the City; and in an amount for liquidated damages charged pursuant to this Section, in payment for any monies owed by Grantee to the City as a result of any material acts or material omissions by Grantee pursuant to this Franchise or a pattern of repeated violations of any provisions of this Franchise.

15.3.2 In addition to the recovery of any monies owed by Grantee to the City or damages to the City as a result of any material acts or material omissions by Grantee pursuant to the Franchise; the City in its sole discretion may, after notice and opportunity to cure as provided in Section 15.1, charge to and collect from the Performance Bond or letter of credit the following liquidated damages:

- (1) For failure to provide data, documents, reports or information or to cooperate with the City during an application process or Cable System review or as otherwise provided herein, the liquidated damages shall be \$50.00 per day for each day, or part thereof, such failure occurs or continues.
- (2) For a material breach of the customer service standards, the liquidated damages shall be \$150.00 per day for each day, or part thereof, such failure occurs or continues.
- (3) For failure to comply with any of the material provisions of this Franchise or customer service standards, or other City ordinance for which liquidated damages is not otherwise specifically provided pursuant to this paragraph (C), the liquidated damages shall be up to \$200.00 per day for each day, or part thereof, such failure occurs or continues.

15.3.3 Each violation of any material provision of this Franchise shall be considered a separate violation for which separate liquidated damages can be imposed. Any liquidated damages for any given violation shall be imposed upon Grantee for a maximum of ninety (90) days in any given year.

15.3.4 Unless provided herein, if any subsequent letter of credit delivered pursuant thereto expires prior to twelve (12) months after the expiration of the term of this Franchise, it shall be renewed or replaced during the term of this Franchise to provide that it will not expire earlier than twelve (12) months after the expiration of this Franchise. The renewed or replaced Letter of Credit shall be of the same form and with a bank authorized herein and for the full amount stated in Section 15.3.1.

15.3.5 The City and Grantee recognize the delays, expense and unique difficulties involved in proving in a legal proceeding the actual loss suffered by the City as a result of Grantee's breach of this Franchise. Accordingly, instead of requiring such proof, the City and Grantee agree that Grantee shall pay to the City the sums set forth above for each day that Grantee shall be in breach of the specific provisions of this Franchise. Such amounts are agreed by both parties to be a reasonable estimate of the actual damages the City would suffer in the event of Grantee's breach of such provisions of this Franchise.

15.3.6 Collection of Liquidated Damages

- (1) The Performance Bond and letter of credit referred to in Section 5.3 may be drawn upon by the City for breach of a material provision after notice and opportunity to cure.
- (2) The City shall give Grantee written notice of any intent to withdraw under this subsection. Within seven (7) days following receipt of such notice, Grantee shall restore the Performance Bond and letter of credit to the amount required under this Franchise. Grantee's maintenance of the Performance Bond or letter of credit shall not be construed to excuse unfaithful performance by Grantee or to limit the liability of Grantee to the amount of the Performance Bond or letter of credit or otherwise to limit the City's recourse to any other remedy available at law or in equity.
- (3) The assessment of liquidated damages does not constitute a waiver by the City of any other right or remedy it may have under the Franchise or applicable law, including its right to recover from Grantee any additional damages, losses, costs, and expenses that are incurred by the City by reason of the breach of this Franchise or to seek specific performance.
- (4) Grantee's maintenance of the security required herein or by applicable code shall not be construed to excuse unfaithful performance by Grantee of this Franchise; to limit liability of Grantee to the amount of the security; or to otherwise limit the City's recourse to any other remedy available at law or equity.

15.4 Revocation

15.4.1 This Franchise may be revoked and all rights and privileges rescinded if a material breach of the Franchise is not cured pursuant to Section 15.1, or in the event that:

- (1) Grantee attempts to evade or fails to perform any material provision of this Franchise or to practice any fraud or deceit upon the City or Subscribers;
- (2) Grantee makes a material misrepresentation of fact in the negotiation of this Franchise;
- (3) Grantee abandons the Cable System, or terminates the Cable System's operations;
- (4) Grantee fails to restore service to the Cable System after three (3) consecutive days of an outage or interruption in service; except in the

case of an emergency or during a force majeure occurrence, or when approval of such outage or interruption is obtained from the City, it being the intent that there shall be continuous operation of the Cable System; or

- (5) Grantee becomes insolvent, unable, or unwilling to pay its debts, or is adjudged bankrupt, there is an assignment for the benefit of Grantee's creditors, or all or part of Grantee's Cable System is sold under an instrument to secure a debt and is not redeemed by Grantee within thirty (30) days from said sale.

15.4.2 Additionally, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee (at the option of the City and subject to applicable law) whether in a receivership, reorganization, bankruptcy, or other action or proceeding, unless directed otherwise by a court of competent jurisdiction.

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

- (1) the City has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and
- (2) the purchaser has covenanted and agreed with the City to assume and be bound by all of the terms and provisions of this Franchise.

15.4.4 Grantee shall have no obligation to remove the Cable System where it utilizes the System to provide non-Cable Services and has any other authority under Applicable Law to maintain facilities in the Rights-of-Way, or where Grantee is able to find a purchaser of the Cable System who then or will subsequently hold such authorization.

## 15.5 Abandonment; Purchase of the Cable System

15.5.1 If Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with any duty to provide continuous service to Subscribers or Persons as required herein, the City, at its option, may operate the System or; designate another entity to operate the System temporarily until Grantee restores service under conditions acceptable to the City, or until the Franchise is revoked and a new franchisee is selected by the City. Grantee shall reimburse the City for all reasonable costs, expenses and damages incurred, including reasonable attorney fees, court expenses and attributed expenses for work conducted by City's staff or authorized agents.

15.5.2 If at any time this Franchise lawfully terminates, the City shall have the option to purchase the Cable System.

## **SECTION 16. - FRANCHISE TRANSFER**

### 16.1 Transfer of Ownership or Control

- 16.1.1 The Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger, consolidation or change of control; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person or entity without the prior written consent of the City, which consent shall be by the City Council, acting by ordinance or resolution.
- 16.1.2 Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of control of Grantee. The word “control” as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer, or acquisition of control of Grantee shall make this Franchise subject to cancellation unless and until the City shall have consented in writing thereto.
- 16.1.3 The parties to the sale, change in control or transfer shall make a written request to the City for its approval of a sale or transfer or change in control and shall furnish all information required by applicable law.
- 16.1.4 In seeking the City’s consent to any change in ownership or control, the proposed transferee or controlling entity shall indicate whether it:
- (1) has ever been convicted or held liable for acts involving deceit including any violation of federal, State, or local law or regulations, or is currently under an indictment, investigation, or complaint charging such acts;
  - (2) has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;
  - (3) has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system;
  - (4) is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee or controlling entity, along with any other data that is lawfully required; and
  - (5) has the financial, legal, and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.
- 16.1.5 The City shall act by ordinance or resolution on the request within one hundred twenty (120) days of receipt of the FCC Form 394 application, provided it has received a complete application. Subject to the foregoing, if the City fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.
- 16.1.6 Within thirty (30) days of any transfer or sale or change in control, if approved or deemed granted by the City, Grantee shall file with the City a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee or controlling entity, and the transferee or controlling entity shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to applicable law. In the event of a change in control, in which Grantee is not replaced by another entity, Grantee will continue to be bound by



all of the provisions of the Franchise, subject to applicable law, and will not be required to file an additional written acceptance. The approval of any change in control shall not be deemed to waive any rights of the City to subsequently enforce noncompliance issues relating to this Franchise. For purposes herein, to the extent that a change of control involves an entity that was not an Affiliate prior to the contemplated transaction, the City's consent shall be required for such change in control.

- 16.1.7 In reviewing a request for sale or transfer or change in control, the City may inquire into the legal, technical, and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the City in so inquiring. The City may condition said sale or transfer or change in control upon such terms and conditions as it deems reasonably appropriate, provided, however, any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective controlling party or transferee and to the resolution of outstanding and unresolved issues of noncompliance with the terms and conditions of this Franchise by Grantee.
- 16.1.8 Notwithstanding anything to the contrary in this subsection, the prior approval of the City shall not be required for any sale, assignment, change in control or transfer of the Franchise or Cable System to an Affiliate of Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the City and must agree in writing to comply with all of the provisions of the Franchise including resolution of any non-compliance issues. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the City; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

## **SECTION 17. - PROHIBITED PRACTICES AND NOTICES**

### 17.1 Preferential or Discriminatory Practices Prohibited

Grantee shall not discriminate in hiring, employment, or promotion on the basis of ~~race, color, ethnic or national origin, religion, age, sex, sexual orientation, or physical or mental disability~~ any category or status protected under Washington State or Federal law. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment and non-discrimination provisions and requirements of federal, State, and local laws, and rules and regulations relating thereto.

### 17.2 Notices

Throughout the term of this Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent to such respective address, and such notices shall be effective upon the date of mailing. At the effective date of this Franchise:

Grantee's address shall be:

Government Affairs  
Comcast Cable Communications Management, LLC

900 132<sup>nd</sup> Street SW  
Everett, WA 98204

the City's address shall be:

City Clerk  
City of Carnation  
4621 Tolt Ave Avenue,  
PO Box 1238  
Carnation, WA 98014

## **SECTION 18. - MISCELLANEOUS PROVISIONS**

- 18.1 Cumulative Rights  
Subject to applicable law, all rights and remedies given to the City by this Franchise or retained by the City herein shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the City and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.
- 18.2 Costs to be Borne by Grantee  
Grantee shall pay for all costs of publication of this Franchise, and any and all notices prior to any public meeting or hearing provided for pursuant to this Franchise.
- 18.3 Binding Effect  
This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.
- 18.4 Authority to Amend  
This Franchise may be amended at any time by written agreement between the parties.
- 18.5 Venue  
The venue for any dispute related to this Franchise shall be United States District Court for the Western District of Washington or in King County Superior Court.
- 18.6 Governing Laws  
This Franchise shall be governed, construed, and enforced in accordance with the laws of the State of Washington (as amended), the Cable Act as amended, any applicable rules, regulations, and orders of the FCC, as amended, and any other applicable local, State, and federal laws, rules, and regulations, as amended.
- 18.7 Captions  
The captions and headings of this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of any provisions of this Franchise.

- 18.8 No Joint Venture  
Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in any manner that would indicate any such relationship with the other.
- 18.9 Waiver  
The failure of either party at any time to require performance by the other of any provision hereof shall in no way affect the right of the other party hereafter to enforce the same. Nor shall the waiver by either party of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.
- 18.10 Severability  
If any Section, subsection, paragraph, term, or provision of this Franchise is determined to be illegal, invalid, or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term, or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.
- 18.11 Compliance with Federal, State, and Local Laws  
Grantee shall comply with applicable federal, State, and local laws, rules, and regulations, now existing or hereafter adopted.
- 18.12 Force Majeure  
Grantee shall not be held in default under, or in noncompliance with, the provisions of this Franchise, nor suffer any enforcement or imposition of damages relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of Grantee to anticipate and control, including war or riots, civil disturbances, floods or other natural catastrophes, labor stoppages, slowdowns, availability of materials, labor or equipment, power outages exceeding back-up power supplies or work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's Cable System is attached.
- 18.13 Entire Agreement  
This Franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral and written negotiations between the parties.
- 18.14 Attorneys' Fees  
If any action or suit arises in connection with this Franchise, attorneys' fees, costs, and expenses in connection therewith shall be paid in accordance with the determination by the court.
- 18.15 Action of the City or Grantee  
In any action by the City or Grantee mandated or permitted under the terms hereof, it shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance

where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

18.16 Acceptance

Within sixty (60) days of receipt of an executed Franchise from the City, this Franchise shall be accepted by Grantee by filing with the City Clerk an unconditional, written acceptance of all of the terms, provisions and conditions of this Franchise, in a form substantially similar to Exhibit A attached hereto. In addition to the written acceptance, Grantee shall furnish the additional insured endorsements and certificates of insurance required pursuant to Section 5.2 and the Performance Bond pursuant to Section 5.3. The failure of Grantee to file such an acceptance shall be deemed a rejection by Grantee and this Franchise may then be voidable at the discretion of the City.

18.17 Construction of Franchise

The provisions of this Franchise shall be liberally construed to promote the public interest.

**SECTION 19. - EFFECTIVE DATE**

This Franchise, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after the passage and publication of an approved summary thereof consisting of the title.

APPROVED by the Carnation City Council this 2nd day of April, 2024.

THE CITY OF CARNATION

\_\_\_\_\_  
MAYOR,

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
CITY CLERK,

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY,

EXHIBIT A

In the matter of the application of Comcast :  
Cable Communications Management, LLC :  
for a franchise to construct, operate : Franchise Ordinance No. \_\_\_\_\_  
and maintain facilities in, upon, over, :  
under, along, across, and rough the :  
franchise area of the City of Carnation, :  
Washington : ACCEPTANCE

WHEREAS, the City Council of the City of Carnation, Washington, has granted a franchise to Comcast Cable Communications Management, LLC, its successors, and assigns, by enacting Ordinance No. \_\_\_\_\_, bearing the date of \_\_\_\_\_, 2024; and

WHEREAS, a copy of said Ordinance granting said franchise was received by Comcast Cable Communications Management, LLC on \_\_\_\_\_, 2024, from said City of Carnation, King County, Washington.

NOW, THEREFORE, Comcast Cable Communications Management, LLC for itself, its successors and assigns, hereby accepts said Ordinance and the franchise contained therein and all the terms and conditions thereof, and files this, its written acceptance, with the City of Carnation, King County, Washington.

IN TESTIMONY WHEREOF said Comcast Cable Communications Management, LLC has caused this written Acceptance to be executed in its name by its undersigned \_\_\_\_\_ thereunto duly authorized on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

	April 16, 2024 6:00 PM (Post Agenda April 12)	May 7, 2024 6:00 PM (Post Agenda May 3)	May 21, 2024 6:00 PM (Post Agenda May 17)	FUTURE ITEMS
<b>STUDY SESSION 5pm – 540pm</b>	<ul style="list-style-type: none"> <li>Comprehensive Plan Elements: Utilities, Capital Facilities, Transportation (RE)</li> <li>BUDGET - General Fund Expenditures and Revenues (AC)</li> </ul>	<ul style="list-style-type: none"> <li>BUDGET - Debt and CIP</li> <li>Master Plan</li> </ul>	<ul style="list-style-type: none"> <li>Housing and Land Use (May 21)</li> </ul>	<ul style="list-style-type: none"> <li>BUDGET – Utility Funds Expenses and Revenue (June 4)</li> <li>BUDGET – Utility and Restricted Expenses and Revenue (July 2)</li> </ul>
<b>5 – Public Comment (at 6:05 P.M.)</b>	<i>Public Comment</i>	<i>Public Comment</i>	<i>Public Comment</i>	
<b>6 - Consent 6a – Minutes</b>	Approval of Minutes <ul style="list-style-type: none"> <li>Special Session: April 2, 2024</li> <li>Regular Session: April 2, 2024 AB24-XX MainVue Final Plat</li> </ul>	Approval of Minutes <ul style="list-style-type: none"> <li>Special Session: April 16, 2024</li> <li>Regular Session: April 16, 2024</li> </ul>	Approval of Minutes <ul style="list-style-type: none"> <li>Special Session: April 16, 2024</li> </ul> Regular Session: April 16, 2024	
<b>6b – Payroll</b>	Approval of Payroll: <ul style="list-style-type: none"> <li>Mar 1 – Mar 31, 2024</li> </ul>	Approval of Payroll: <ul style="list-style-type: none"> <li>N/A</li> </ul>	Approval of Payroll: <ul style="list-style-type: none"> <li>Mar 1 – Mar 31, 2024</li> </ul>	
<b>7 - Proclamations</b>	<ul style="list-style-type: none"> <li>Arbor Day</li> <li>Earth Day</li> <li>Small Business Week</li> </ul>			
<b>8 - PH Date Setting</b>	NONE	NONE	NONE	
<b>9 - Public Hearings</b>	STIP Public Hearing	NONE	NONE	
<b>10 – Council Reports</b>	Council	Council	Council	
<b>11 – Staff Reports</b>	City Manager’s Office- Quarter Report	City Manager’s Office	City Manager’s Office	Emily about gift of public funds re: renting space and right of way
<b>12 – Executive Session</b>	City Manager Contract (Possibly Hold per Deputy Mayor)	NONE	NONE	
<b>13 – Presentations</b>	NONE	NONE	NONE	

<b>14 – Agenda Bills</b>	<ul style="list-style-type: none"> <li>AB24-XX Employee Manual (LW)</li> <li>AB24-XX Compost Ordinance (AF)</li> </ul>	<ul style="list-style-type: none"> <li>AB24-XX</li> </ul>	AB24-XX	
<b>15 – Discussion Items</b>	<ul style="list-style-type: none"> <li>Tree Ordinance - If Ready</li> </ul>	NONE	NONE	Parking Min Com Non- Profits
<b>16 – Capital Purchases</b>	NONE	NONE	NONE	
<b>17 – Information / Clarification / General Direction Items</b>	Council	Council		
<b>18 – Public Records Requests</b>	NONE	NONE	NONE	
<b>19 – Planning and Parks Board Minutes – First Tuesday</b>	March 26, 2024	N/A	April 23 <sup>rd</sup> , 2024	
<b>20 – Future Parks and Planning Meeting</b>	April 23, 2024	May 28, 2024	May 28 <sup>th</sup> , 2024	
<b>21 - Future Committee Meetings</b>	Finance and Operations <ul style="list-style-type: none"> <li>April 17, 2024</li> </ul> Housing and Land Use Committee <ul style="list-style-type: none"> <li>April 26, 2024, 4 PM</li> </ul>	Public Safety/KCSO <ul style="list-style-type: none"> <li>June 3, 2024</li> </ul> Community Development <ul style="list-style-type: none"> <li>June 5, 2024</li> </ul>	Public Safety/KCSO <ul style="list-style-type: none"> <li>June 3, 2024</li> </ul> Community Development <ul style="list-style-type: none"> <li>June 5, 2024</li> </ul>	
<b>22 – Future Council Meetings A</b>	May 7 <ul style="list-style-type: none"> <li>Regular Session</li> </ul>	May 21 <ul style="list-style-type: none"> <li>Regular Session</li> </ul>	June 4 <ul style="list-style-type: none"> <li>Regular Session</li> </ul>	
<b>B</b>	May 21 <ul style="list-style-type: none"> <li>Regular Session</li> </ul>	June 4 <ul style="list-style-type: none"> <li>Regular Session</li> </ul>	June 18 <sup>th</sup> <ul style="list-style-type: none"> <li>Regular Session</li> </ul>	