

**ORDINANCE NO. 1480**

**AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON, RENEWING AN EXISTING FRANCHISE FOR CABLE TELEVISION FOR A FIVE-YEAR PERIOD WITH COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC (FORMERLY KNOWN AS COMCAST OF TACOMA, INC.) AND ESTABLISHING AN EFFECTIVE DATE.**

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WHEREAS, in accordance with RCW 35A.11.020, RCW 35A.11.030 and RCW 35A.47.040, the City has the right to control its streets and rights of way; and

WHEREAS, in accordance with RCW 35A.11.030 and RCW 35A.47.040, the City has the right to allow use of its rights of way by franchise agreement or other methods; and

WHEREAS, the City of Ruston granted a five-year cable television franchise to Comcast (now known as Comcast Communications Management, LLC) ("Comcast") by adoption of Resolution No. 469 on April 19, 2010 which was accepted by Comcast on July 15, 2010; and

WHEREAS, Comcast sent the City a "626 letter" pursuant to 47 USC §546, which was received by the City on August 20, 2012; and

WHEREAS, under the Terms of the Franchise Agreement, the parties have the option to extend the Franchise Agreement for an additional five-years "by mutual agreement of the parties" (Section 2.3 of Franchise Agreement); and

WHEREAS, both the City and Comcast desire to extend the Franchise Agreement for an additional five-year period; and

WHEREAS, the City is a "franchising authority" in accordance with Title VI of the Cable Act (*see* 47 U.S.C. §522(10)) and Washington State law; and

WHEREAS, Comcast has substantially complied with the material terms of the existing franchise and with applicable law; and

WHEREAS, Comcast's service, including signal quality, response to consumer complaints, and billing practices has been reasonable in light of community needs; and

WHEREAS, the City has determined that the renewal of a nonexclusive cable franchise to Comcast is consistent with the public interest; and

WHEREAS, the City and Comcast have reached agreement on the terms and conditions set forth herein and the parties have agreed to be bound by those terms and conditions; and

WHEREAS, the City and Comcast find it mutually beneficial to extend for a five year period the nonexclusive franchise to construct, install, maintain, extend and operate a cable communications system in the Franchise Area as designated in this Franchise; and

WHEREAS, on December 1, 2015, the City Council held the first reading on this Ordinance; and

WHEREAS, on December 15, 2015, the City Council adopted this Ordinance during its regular meeting at second reading; **NOW, THEREFORE**

**THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Franchise Extension.** The term of the cable franchise granted under Resolution No. 469 (the "Franchise") to Comcast is hereby extended for a five (5) year period, and the Mayor is hereby authorized and approved to execute the Franchise Extension in the form as attached hereto as Exhibit "1".

**Section 2. Compliance with Franchise Terms.** As a condition of the extension granted by this Ordinance, Comcast shall provide its written and acknowledged unconditional acceptance and promise to comply with all provisions, terms and conditions of the Franchise during this extension period. By the adoption of this Ordinance, the City agrees to comply with all provisions,

terms and conditions of the Franchise during the extension period. All previous provisions in Resolution No. 469 shall remain in effect throughout the duration of the Franchise extension as identified in this Ordinance, except the names of the parties and the provision for the duration of the Franchise which will be extended for a five (5) year period, expiring on December 20, 2020.

**Section 3. Performance Bond and Insurance.** The Performance Bond and insurance policies provided by Comcast pursuant to the Franchise shall remain in effect during the extension period.

**Section 4. Acceptance.** The rights and privileges granted pursuant to this Ordinance shall not become effective until its terms and conditions are accepted by Comcast. Acceptance shall be accomplished by the submission of a written instrument, executed and sworn to by a corporate officer of Comcast before a Notary Public, and filed with the City within sixty (60) days after the effective date of this Ordinance. Such instrument shall evidence the unconditional acceptance of the terms hereof and a promise to comply with and abide by the provisions, terms and conditions hereof.

**Section 5. Reservation of Rights.** Both the City and Comcast reserve and retain all of their rights under both the formal renewal process and informal renewal process under 47 U.S.C. § 546.

**Section 6. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

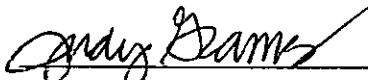
**Section 7. Effective date.** This ordinance shall take effect and be in force five (5) days after passage and legal publication. This extension is expressly conditioned upon the City's receipt of Comcast Cable's written acceptance as described in Section 4.

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 15th day of December, 2015.

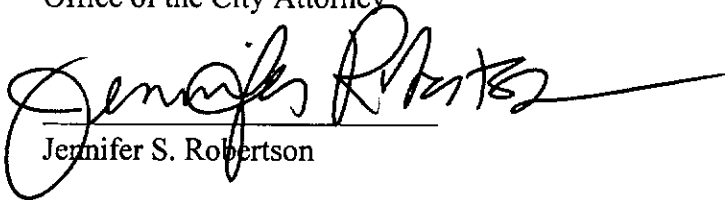
APPROVED by the Mayor this 15th day of December, 2015.

  
\_\_\_\_\_  
D. Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Judy Grams, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

  
\_\_\_\_\_  
Jennifer S. Robertson

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_  
ORDINANCE NO: 1480

**Exhibit "1"**  
**Cable TV Franchise Extension**  
**Between**  
**City of Ruston**  
**and**  
**Comcast Cable Communications Management, LLC**

## ACKNOWLEDGEMENT OF EXTENSION OF FRANCHISE

THIS ACKNOWLEDGEMENT OF EXTENSION OF FRANCHISE is made this 15<sup>th</sup> day of December, 2015 by and between Comcast Cable Communications Management, LLC ("Comcast") and the City of Ruston, Washington, a Washington municipal corporation (the "City").

WHEREAS, the City conferred a franchise on Comcast in Resolution No. 469 (the "Franchise"); and

WHEREAS, since the time of the granting of the Franchise Agreement both parties have changed their names. The "Town of Ruston" changed its classification to a code city and is now the "City of Ruston." "Comcast of Tacoma, Inc." is now known as "Comcast Cable Communications Management, LLC" (hereinafter "Comcast"); and

WHEREAS, Section 2.3 of the Franchise Agreement, the parties have the option to extend the Franchise Agreement for an additional five years "by mutual agreement of the parties," and both parties desire to extend the Franchise; and

WHEREAS, the parties wish to agree to and acknowledge the continued effect of the Franchise for a five (5) year period; **NOW, THEREFORE,**

Comcast and the City acknowledge and agree as follows:

1. **Term.** The Franchise is hereby acknowledged and agreed to be extended for a five (5) year term, such term expiring December 20, 2020.

2. **Ratification.** All terms and conditions of the Franchise are hereby ratified and confirmed, except to change the name of the Grantor to "City of Ruston" and the name of the Grantee to "Comcast Cable Communications Management, LLC" and to change the provision for

the duration of the Franchise which is hereby extended to for a five (5) year period expiring on December 20, 2020. Comcast hereby unconditionally accepts and promises to comply with all provisions, terms and conditions of the Franchise during the extension period, and shall maintain during this extended term the Performance Bond and insurance policies as described in the Franchise.

**IN WITNESS WHEREOF**, and pursuant to the vote of approval of the City Council of the City of Ruston, Washington and approval of the Mayor of Ruston, this Franchise Extension is signed in the name of the City of Ruston, Washington, this 15<sup>th</sup> day of December, 2015.

**CITY OF RUSTON**

  
\_\_\_\_\_  
D. Bruce Hopkins, Mayor

ATTEST:

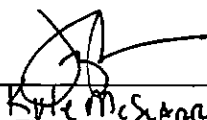
  
\_\_\_\_\_  
Judy Grams, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

\_\_\_\_\_  
Jennifer S. Robertson

ACCEPTED this 21<sup>st</sup> day of January, 20 16 subject to applicable federal, state and local law.


**COMCAST CABLE COMMUNICATIONS  
MANAGEMENT, LLC**

  
\_\_\_\_\_  
By: Kyle McSorrow  
(Authorized Representative Signature)

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**IN WITNESS WHEREOF**, and pursuant to the vote of approval of the City Council of the City of Ruston, Washington and approval of the Mayor of Ruston, this Franchise Extension is signed in the name of the City of Ruston, Washington, this 15<sup>th</sup> day of December, 2015.

**CITY OF RUSTON**

  
\_\_\_\_\_  
D. Bruce Hopkins, Mayor

ATTEST:

  
\_\_\_\_\_  
Judy Grams, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

  
\_\_\_\_\_  
Jennifer S. Robertson

**ACCEPTED** this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, subject to applicable federal, state and local law.

**COMCAST CABLE COMMUNICATIONS  
MANAGEMENT, LLC**

\_\_\_\_\_  
By: \_\_\_\_\_  
(Authorized Representative Signature)

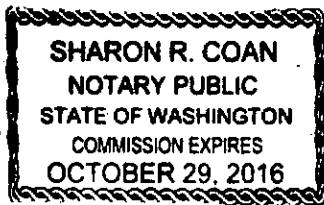


STATE OF WASHINGTON )

County of Snohomish ) SS.

On this this 21<sup>st</sup> day of January, 2016 before me personally appeared Kyle McSlarrow, to me known to be the Regional Senior VP of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

SUBSCRIBED AND SWORN TO before me this 21<sup>st</sup> day of January, 2016.



Sharon R Coan  
NOTARY PUBLIC in and for the State of  
Washington, residing at Snohomish County  
My commission expires: 10.29.16