Section 1. NATURE AND TERM OF GRANT.

1.1 Grant of Franchise.

(A) The City of Portland, Oregon does hereby grant to [insert Company's legal name], [insert state of incorporation] qualified to do business in Oregon, and to its successors and assigns as approved by the City under Section 16, a franchise to construct, operate, repair and maintain a [describe utility system (i.e. telecommunications, gas, electric, etc.)], with all necessary Facilities, located within the Streets.

(B) Throughout this Franchise, the City of Portland, Oregon, shall be referred to as the "City" and [insert Company's legal name] shall be referred to as the "Grantee."

(C) Grantee may construct, operate, repair and maintain Grantee's [describe utility system] within the Streets in the manner and under the conditions set forth in this Franchise.

(D) This Franchise does not authorize Grantee to operate a cable system or provide video programming, as defined by 47 U.S.C. §522.

1.2 Duration of Franchise. The term of this Franchise, and all the rights and obligations pertaining thereto, shall be [ten (10)] years from the effective date of this Franchise, unless terminated sooner as provided herein.

1.3 Effective Date. The effective date of this Franchise shall be sixty (60) days after passage of the Franchise by the City Council, unless Grantee fails to file an unconditional written acceptance of this Franchise in accordance with Section 20.10, in which event this Franchise shall be null and void. The passage date of this Franchise is set forth on the last page of the original hereof, as stamped by the Council Clerk.

1.4 Franchise Not Exclusive. This Franchise is not exclusive. The City expressly reserves the right to grant franchises, licenses, permits or other similar rights to other Persons, as well as the right in its own name as a municipality, to use the Streets for similar or different purposes allowed Grantee under this Franchise.

1.5 Charter and General Ordinances to Apply. To the extent authorized by law, this Franchise is subject to the Charter of the City of Portland and general ordinance provisions passed pursuant thereto, affecting matters of general City concern and not merely existing contractual rights of Grantee, now in effect or hereafter made effective. Section 10-201 through 10-218, inclusive, of the Charter of the City of Portland, (1942 compilation, as revised in part by subsequent amendments), as the same now exist or hereafter are amended by the people of the City, are hereby incorporated by reference and made a part of this Franchise. Nothing in this Franchise shall be deemed to waive the requirements of the various codes and ordinances of the City regarding permits, fees to be paid or the manner of construction.

Section 2. DEFINITIONS.

2.1 Captions. Throughout this Franchise, captions are intended solely to facilitate reading and reference provisions of this Franchise. The captions shall not affect the meaning and interpretation of this Franchise.

2.2 Definitions. For the purpose of this Franchise, the following terms, phrases, and their derivations shall have the meanings given below unless the context indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular include the plural number. The word "shall" is always mandatory and not merely directory.

(A) "Attachment" means any wire, optical fiber, or other cable, or any related device, apparatus or auxiliary equipment, for the purpose of voice, video, or data transmission.

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

(C) "City Council" means the Council of the City of Portland.

(D) "Conduit" means any structure, or section thereof, containing two or more Ducts in use or planned for use in connection with Grantee's System.

(E) "Duct" means any single enclosed raceway for power or communication lines, conductors, optical fiber, wire or other Facilities for use in connection with Grantee's System.

(F) "Facility" means any tangible component of Grantee's System.

(G) "Franchise" means this ordinance, as approved by the City Council and accepted by the Grantee pursuant to Section 20.10.

(H) "Gross Revenues" means any and all revenues derived by Grantee within the City from Grantee's System, and includes, but is not limited to, the sale of and use of [Service], and the use, rental, or lease of its operating Facilities, after adjustment for the net write-off of uncollectible accounts. Gross Revenues do not include proceeds from the sale of bonds, mortgages or other evidence of indebtedness, securities or stocks, or sales at wholesale by Grantee to another utility when the utility purchasing such services is not the ultimate consumer. Gross revenues may be adjusted for the net write-off of uncollectible amounts of such revenues.

(I) "Hazardous Substances" has the meaning given by ORS 465.200(16) (2009)

(J) "Licensee" means any Person franchised, licensed or otherwise permitted by the City to use the Streets including, if appropriate, the City itself. For the purposes of Section 12.2, the Grantee shall not be construed to be a "Licensee" as defined herein.

(K) "Minimum Annual Franchise Fee" shall mean $10,000 in the first year of this Franchise, and shall increase by $1,000 annually, until reaching a minimum of $19,000 in year ten (10) of this Franchise.

(L) "Person" means any natural person, and any individual, sole proprietorship, partnership, association, corporation, cooperative, municipal corporation or other form of organization authorized to do business in the State of Oregon.

(M) "Qualified Worker" means one who is knowledgeable about the construction and operation of the Telecommunications System as it relates to his or her work, along with the associated hazards. The Parties acknowledge that for purposes of this Franchise, a Qualified Worker need not be an employee of the City or Grantee. [definition to be verified by Grantee]

(N) "Services" means [Grantee to provide description of services]

(O) "Streets" means the surface of and the space above and below any public street, road, alley or highway within the City, used or intended to be used by the general public, to the extent the City has the right to allow the Grantee to use them.

(P) "Surplus Ducts or Conduits" are Ducts or Conduit other than those: (i) occupied by the Grantee or any prior Licensee, (ii) unoccupied Ducts or Conduit held by Grantee as an emergency use spare, and (iii) unoccupied Ducts or Conduit that the Grantee reasonably expects to use within the next eighteen (18) months.

(Q) "[System]" means all wires, cables, Ducts, Conduits, vaults, poles, anchors, cabinets, fixtures, transformers, and other necessary Facilities owned or used by the Grantee for the purpose of providing Services and located in, above or below the Streets excluding Ducts, Conduits and vaults leased from any other Licensee.

(R) "Year," "Annual," or "Annually" means the period consisting of a full calendar year, beginning January 1 and ending December 31, unless otherwise provided in this Franchise.

Section 3. COMPENSATION.

3.1 Amount of Compensation. As compensation for the benefits and privileges under this Franchise, and in consideration of permission to use the Streets, the Grantee shall pay to the City, through the duration of this Franchise, the greater of either: (a) the Minimum Annual Franchise Fee; or (b) an amount equal to five percent (5%) of the Grantee's Gross Revenues.

3.2 Payment of Compensation.

(A) Grantee's Minimum Annual Franchise Fee payable under Section 3.1 shall be paid to the City annually following the effective date of this Franchise. Each annual payment shall be made for the immediately preceding calendar year ending December 31. Each annual payment of the Grantee's Minimum Annual Franchise Fee shall be paid on or before the forty-fifth (45th) day following December 31st.

(B) The Gross Revenue based Franchise fee payments to the City under Section 3.1 shall be computed based on Grantee's Gross Revenues from each calendar year quarter period (January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31) and paid on or before the forty-fifth (45th) day following each calendar quarter period during the term of this Franchise.

(C) Payment not received by the City by the due date shall be assessed interest equal to the rate of one percent (1%) over the existing prime rate as set by the Wells Fargo Bank, National Association, or its successors and assigns as designated by the City, compounded daily. Interest shall be due on the entire late payment from the date on which the payment was due until the date on which the City receives the payment.

3.3 Reports. Accompanying each payment to the City under Section 3.1, Grantee shall file with the City a written report containing an accurate statement in summarized form, as well as in detail, of its calculation of the amount of the payment, verified by an officer or other authorized representative of Grantee, setting forth its Gross Revenues according to their accounting subdivisions, and any deductions claimed for the period upon which the payment is computed. Such reports shall be in form satisfactory to the City.

3.4 Cost of Pre-franchising and Publication. Grantee shall pay for its actually incurred pre-franchising costs, including publication of this Franchise, as such publication is required by the City Charter.

3.5 Acceptance of Payment and Recomputation. No acceptance of any payment pursuant to Section 3 shall be construed as an accord 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. All amounts paid under Section 3 shall be subject to audit by the City, provided that only payments which occurred during a period of sixty (60) months prior to the date the City notifies Grantee of its intent to perform an audit shall be subject to such audit. The Grantee agrees to pay the City for:

(A) Interest on any underpayment of an amount due under Section 3 that is disclosed as the result of an audit, such interest to be calculated at one percent (1%) over the existing prime rate as set by the Wells Fargo Bank, National Association, or its successor and assigns as designated by the City, compounded quarterly from the date on which the payment was due. If such payment is not received within thirty (30) days of

notice from the City, then interest shall be compounded daily from the date on which the payment was due until the date the City receives the payment.

(B) A penalty of five percent (5%) of the underpayment shall be assessed and due within thirty (30) days of written notice from the City, if the City's audit discloses that the Grantee has paid ninety-five percent (95%) or less of the principal amount owing for the period under audit. If such payment is not received within thirty (30) days of written notice from the City, then interest shall be compounded daily from the date on which the payment was due until the date on which the City receives the payment, such interest to be calculated at one percent (1%) over the existing prime rate as set by the Wells Fargo Bank, National Association, or its successors and assigns as designated by the City.

3.6 Escrow. If the Grantee disputes the City's determination of underpayment under Section 3, the Grantee shall place the disputed amount in an escrow account at a financial institution with instructions agreed to by the City until final resolution.

3.7 Right to Audit. The City and its agents and representatives shall have authority to arrange for and conduct audits under Section 3.5, within the Portland metropolitan region, upon no less than thirty (30) days prior written notice, and during normal business hours. Within the limitations established by Section 3.5, the City may determine the scope of audit in each instance.

3.8 No Credit Against Other City Charges. Payment of the compensation owed pursuant to Section 3 shall not exempt Grantee from the payment of any license fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the City or other taxing authority, except as may otherwise be provided in the ordinance or ordinances imposing such other license fee, tax or charge.

Section 4. GENERAL FINANCIAL AND INSURANCE PROVISIONS.

4.1 Insurance.

(A) The Grantee shall maintain public liability and property damage insurance that protects the Grantee and the City, as well as the City's officers, agents, and employees from the claims referred to in Section 5. The insurance shall provide coverage at all times of not less than $1,000,000 combined single limit for bodily injury liability and property damage liability per occurrence with an annual aggregate limit of not less than $3,000,000. The limits of the insurance shall be subject to any changes as to maximum statutory limits of liability imposed on municipalities of the State of Oregon during the term of the Franchise. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the City and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must

apply as to claims between insureds on the policy. The insurance shall provide that the insurance shall not be canceled or materially altered without thirty (30) days prior written notice first being given to the City Auditor. If the insurance is canceled or materially altered within the term of this Franchise, Grantee shall provide a replacement policy with the same terms. Grantee agrees to maintain continuous uninterrupted coverage, in the terms and amounts required, for the duration of the Franchise.

(B) The Grantee shall maintain on file with the City Auditor a certificate of insurance certifying the coverage required above. The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain liability insurance shall be cause for immediate termination of this Franchise by the City.

(C) In the alternative to providing a certificate of insurance to the City certifying liability insurance coverage as required in Section 4.1(A), Grantee may provide the City with an Annual statement regarding its self-insurance. Grantee's self-insurance shall provide at least the same amount and scope of coverage for the Grantee and the City, its officers, agents and employees, as otherwise required under Section 4.1(A). The adequacy of such self-insurance shall be subject to the City Attorney's review and approval. Upon Grantee's election to provide self-insurance coverage under Section 4.1(C), any failure by the Grantee to maintain adequate self-insurance shall be cause for the City to declare a revocation of this Franchise under and subject to Section 17.

4.2 Faithful Performance Bond.

(A) Upon the effective date of this Franchise, the Grantee shall furnish proof of the posting of a faithful performance bond running to the City, with good and sufficient surety approved by the City, in the penal sum of not less than $100,000, conditioned that the Grantee shall well and truly observe, fulfill, and perform each term and condition of the Franchise. Grantee shall pay all premiums charged for the bond, and shall keep the bond in full force and effect at all times throughout the term of the Franchise, including, if necessary, the time required for removal of all of Grantee's System installed in the Streets. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without thirty (30) days prior written notice first being given to the City Auditor. The bond shall be reviewed and approved as to form by the City Attorney.

(B) During the term of the Franchise, Grantee shall file with the City Auditor a duplicate copy of the bond along with written evidence of payment of the required premiums. However, in no event shall the City exercise its rights against the performance bond under Section 4.2 if a bona fide, good faith dispute exists between the City and the Grantee.

4.3 Construction Bond. During all times when Grantee is performing any construction work in or under the Streets requiring a Street opening permit, Grantee shall post a faithful performance bond running to the City, as is required for Street opening permits, with good and sufficient surety approved by the City, in the sum of $100,000. The bond shall be conditioned that the Grantee shall well and truly observe, fulfill and

perform each term and condition under Section 6. Grantee shall pay all premiums or other costs associated with maintaining the bond, and shall keep the same in full force and effect at all times during the construction work. The bond shall provide that it may be terminated upon final approval of Grantee's construction work in or under the Streets by the City Engineer. Upon such approval, the City agrees to sign all documents necessary to release the bond in accordance with the terms of Section 4.3. During the duration of the construction work, Grantee shall file with the City Auditor a copy of the bond, along with written evidence of the required premiums. The bond shall be subject to the approval of the City Attorney as to its adequacy under the requirements of Section 4.3.

Section 5. COVENANT TO INDEMNIFY AND HOLD CITY HARMLESS.

5.1 Indemnification – General. Grantee hereby agrees and covenants to indemnify, defend and hold the City, its officers, agents and employees, harmless from any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorney fees or expenses, arising from any casualty or accident to Person or property by reason of any construction, excavation or any other act done under this Franchise, by or for Grantee, its agents or employees, or by reason of any neglect or omission of Grantee to keep its System with all necessary Facilities in a safe condition, but not if arising out of or by reason of any negligence or willful misconduct by the City, its officers, agents or employees. The City shall provide Grantee with prompt notice of any such claim which Grantee shall defend with counsel of its own choosing and no settlement or compromise of any such claim will be done without the prior written approval of Grantee. Grantee and its agents, contractors and others shall consult and cooperate with the City while conducting its defense of the City. Such indemnification shall not extend to claims by the City for outages, power quality or other claims by the City related to electricity services provided by Grantee to the City.

5.2 Indemnification – Relocation. Grantee also hereby agrees to indemnify the City, its officers, agents and employees, for any damages, claims, additional costs or expenses assessed against or payable by the City arising out of or resulting, directly or indirectly, from Grantee's failure to remove, adjust or relocate any of its System with all related Facilities in the Streets in a timely manner in accordance with a reasonable relocation schedule furnished to Grantee by the City Engineer in writing as provided in Section 6.3, unless Grantee's failure arises directly from the City's negligence or willful misconduct.

5.3 Indemnification – Hazardous Substances. Grantee agrees to forever indemnify the City, its officers, agents and employees, from and against any claims, costs and expenses of any kind, whether direct or indirect, or pursuant to any state or federal law statute, regulation or order, for the removal or remediation of any leaks, spills, contamination or residues of Hazardous Substances, associated with, arising from or due to Grantee's structures or other Facilities in the Streets.

Section 6. CONSTRUCTION AND RELOCATION.

6.1 Permits.

(A) Subject to applicable regulations of the City, Grantee may perform all necessary construction to construct, operate and maintain its System. All construction and maintenance of any and all System Facilities within the Streets shall, regardless of who performs installation and/or construction, be and remain the responsibility of Grantee. Grantee shall apply for and obtain all permits necessary for installation and/or construction of any such Facilities, and for excavation and laying of any System Facilities within the Streets. Grantee shall pay all applicable fees due for City construction permits.

(B) Maps.

(1) Prior to beginning any new construction in the Streets, Grantee shall provide the City Engineer through the permitting process with an initial construction schedule for work in the Streets and the estimated total cost of such work together with its permit application. When Grantee's construction in the Streets is completed, Grantee shall provide the City with electronic maps showing the location of its installed System Facilities in the Streets, as built. Such "as-built" maps shall be in a form acceptable to the City Engineer.

(2) One (1) year after the effective date of this Franchise, and annually thereafter in the event of any alterations, Grantee shall provide an electronic map to the City Engineer and the City's Office of Cable Communications and Franchise Management, or its successor, showing the location of Grantee's Facilities in the Streets on a scale of three thousand five hundred feet (3,500') per inch or whatever scale the City and Grantee agree upon.

(C) Grantee may make excavations in the Streets for any Facility needed for the maintenance, repair or extension of Grantee's System, subject to obtaining permits from the City. Prior to doing such work, Grantee must apply for, and obtain, appropriate permits from the City. As provided in Section 6.2, Grantee shall give appropriate notice to other Licensees, or bureaus of the City or other units of government owning or maintaining facilities located in the public right of way which may be affected by the proposed excavation.

(D) In the event that emergency repairs are necessary for its Facilities in the Streets, Grantee shall immediately notify the City of the need for such repairs. Grantee may immediately initiate such emergency repairs, and shall apply for appropriate permits as soon as possible, not to exceed two (2) business days following discovery of the emergency. Grantee must comply with all Charter and ordinance provisions relating to such excavations or construction, including the payment of permits or license fees.

6.2 Locates. Grantee shall comply with the requirements of ORS 757.542-757.562 and ORS 757.993 (2009), and the rules and regulations promulgated thereunder in OAR Chapter 952.

6.3 Relocation. The City shall have the right to require Grantee to change the location of its System within the Streets when the public convenience requires such change, and the expense thereof shall be paid by Grantee (however payment by Grantee shall in no way limit Grantee's right, if any, to seek reimbursement for such costs from any third-party). If in ordering relocation, the City imposes additional specifications regarding materials or design for Grantee's Facilities, the additional marginal increase shall not be considered relocation costs that are the Grantee's responsibility. The City Engineer shall have unlimited discretion in determining the reasonable relocation schedule, based upon the City Engineer's consideration of the total circumstances of the project schedule. If after receiving the City Engineer's relocation schedule, Grantee identifies in writing that the work associated with relocating Grantee's Facilities will be of such size or scope that Grantee believes that it is probable that Grantee will not be able to complete the work within the schedule, Grantee may request a meeting with the City Engineer to discuss whether modification of the relocation schedule, alternate construction methods or alternate locations are reasonably possible given other project constraints. The City Engineer, working with City bureaus, will consider Grantee's safety, reliability and cost concerns while considering potential effects on project schedules, project budget and any other relevant matters. However, the City Engineer will retain full authority and discretion to make any final decisions regarding any modifications to the relocation schedule, based upon the City Engineer's consideration of the total circumstances of the project schedule. The City shall provide the Grantee with the standard notice given under the circumstances to other Licensees. Should Grantee fail to remove or relocate any such Facilities by the date established by the City Engineer's schedule, the City may cause and/or effect such removal or relocation by Qualified Workers and the expense thereof shall be paid by Grantee, including all direct, indirect and/or consequential costs and expenses incurred by the City due to Grantee's delay (however payment by Grantee shall in no way limit Grantee's right, if any, to seek reimbursement for such costs from any third-party). If the City requires Grantee to relocate its Facilities located within the Streets, the City will make a reasonable effort to provide Grantee with an alternate location for its Facilities within the Streets, or if an alternate location is unavailable, will make the City's project management personnel available to meet with affected property owners and explain City project needs in support of Grantee's efforts to secure an alternate location on private property.

6.4 Maintenance of System. Grantee's System shall be constructed, maintained and repaired in such manner as not to interfere with sewers, water pipes, or any other property of the City, or with other facilities that may have been laid in the Streets by or under the City's authority. The System constructed, owned or controlled by Grantee shall be of good quality and workmanship and shall be maintained in good repair and efficiency.

6.5 Additional Facilities Subject to Franchise. Within thirty (30) days of Grantee's acquisition of any System Facilities in the Streets, or upon any addition or annexation to the City of any area in which Grantee retains any such Facilities in the Streets, the Grantee shall submit to the City a written statement describing all Facilities involved, whether authorized by franchise, license, permit or any other similar form of right granted by the City, and specifying the location of all such Facilities. At the City's sole

option, as expressed by ordinance adopted by the City Council, such acquired Facilities shall be subject to the terms of this Franchise, with a reasonable period of time provided to Grantee to bring such acquired Facilities into compliance with this Franchise, including payment of appropriate franchise fees as determined by the City in accordance with Section 3.

Section 7. RESTORATION OF STREETS.

7.1 Street Repairs. Whenever Grantee disturbs the surface of any Street for any purpose, Grantee shall promptly restore the Street to at least its prior condition, to the satisfaction of the City Engineer. When any opening is made by Grantee in a hard surface pavement in any Street, Grantee shall promptly refill the opening and restore the surface to a condition satisfactory to the City Engineer.

7.2 Excavation Repairs. If Grantee excavates the surface of any Street, Grantee shall be responsible for restoration of the Street and its surface within the area affected by the excavation. The City may, after providing notice to Grantee, refill and/or repave any opening made by Grantee in the Street, and the expense thereof shall be paid by Grantee. The City reserves the right, after providing notice to Grantee, to remove and/or repair any work done by Grantee which, in the determination of the City Engineer, is inadequate. The cost thereof, including the cost of inspection and supervision, shall be paid by the Grantee. All excavations made by Grantee in the Streets shall be properly safeguarded for the prevention of accidents. All of Grantee's work under Section 7.2 shall be done in strict compliance with all applicable rules, regulations and ordinances of the City. Grantee's responsibility for maintaining repairs to any surface areas disturbed by Grantee's work shall end upon the occurrence of either a reconstruction of the Street in an approved manner by the City (curb to curb) or upon subsequent work at the same location by any other Licensee, whichever occurs first.

Section 8. RESERVATION OF CITY STREET RIGHTS.

Nothing in this Franchise shall be construed to prevent the City from constructing sewers, grading, paving, repairing and/or altering any Street; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to injure or prevent the unrestricted use and operation of the Grantee's System under this Franchise. However, if any portion of the Grantee's System interferes with the construction or repair of any Street or public improvement, including construction, repair or removal of a sewer or water main, the City may direct Grantee to relocate as provided in Section 6.3.

Section 9. USE OF GRANTEE'S FACILITIES BY CITY.

9.1 New Construction. Upon written notice to and upon written request by the City, Grantee shall provide conduit to the City. Grantee shall provide maps to the City of the route of any planned duct construction. Such maps shall be provided at least thirty (30)

days prior to the beginning of construction. After receipt of the maps, the City will notify Grantee if it does not desire any ducts along the planned route.

(A) For new Grantee Duct installation, Grantee will provide additional duct(s) as needed by the City:

(1) Grantee will confer with City prior to finalizing plans and specs for any proposed new build, to establish City requirements for duct and access vaults;

(2) If the City determines a need for duct and access vaults, City will pay Grantee the incremental costs for this work, consisting of material, labor and engineering costs associated with modifications to the plans and specifications for the segments defined;

(3) Grantee will provide a deed and include location in map submitted per Section 6.1(B). City will then maintain ownership of and maintenance responsibilities for the additional duct(s).

(B) Grantee will provide separate access vaults for the City, at locations to be determined by the City during the conference noted in Section 9.1(A)(1) above.

9.2 City Use of Surplus Ducts or Conduits. As needed and specified by the City, City will be allowed to access and use Grantee's Surplus Ducts or Conduits without use fees, subject to the same process and other terms applicable to Licensees under Section 12 and subject to a separate written agreement between the City and Grantee specifying the terms of such access and usage by the City.

Section 10. STREET VACATION.

Upon receipt of any request for vacation of any Street or portion thereof used by Grantee, the City shall provide the Grantee with the standard notice provided for street vacations. If any Street or portion thereof used by Grantee is vacated by the City during the term of this Franchise, unless the City Council specifically reserves to Grantee the right to continue its installation in the vacated Street area or Grantee secures such right from the third party that will have title to the area in which Grantee has its Facilities, Grantee shall, without expense to the City, remove its Facilities from such Street, restore, repair or reconstruct the Street area where such removal has occurred, and place the Street area in such condition as may be required by the Council, which shall be no worse than the condition of such Street immediately prior to removal. In the event of failure, neglect or refusal of Grantee, after thirty (30) days notice by City Council, to repair, improve or maintain such Street portions, the City may do such work or cause it to be done, and the direct cost thereof, as found and declared by City Council, shall be entered in the Docket of City Liens against any property of Grantee which City may choose, and such lien shall be enforced in like manner and with like effect as other liens entered in such docket. The City shall make reasonable efforts to assist Grantee in identifying potential available

alternative locations within the Streets, or, if requested by Grantee, will cooperate with Grantee's efforts to secure an alternate location in the vacated Street area from the third party that shall have ownership after vacation.

Section 11. FACILITY MAINTENANCE.

Grantee shall provide and put in use all Facilities and equipment necessary for the operation of its System in a manner that will not cause injury to the City's property or to any property within the City belonging to any Person. Notwithstanding the foregoing, it shall not be a breach of Section 11 if such injury is not reasonably foreseeable by Grantee. Grantee, at no expense to the City, shall repair, renew, change and improve said Facilities and equipment from time to time as may be necessary to meet the requirement of Section 11. Grantee shall not require any customer (except the City) or any entity franchised or licensed by the City to install electric lines or cables in, under or over the Streets in order for such customer or entity to connect with or receive service from Grantee's System.

Section 12. COMMON USERS.

12.1 Use of Surplus Facilities by Third-parties. Grantee acknowledges that the Streets have a finite capacity for containing conduits, ducts and other facilities. Therefore, Grantee agrees that whenever the City Engineer determines it is impracticable to permit construction of an underground conduit system by any other Person which may at the time have authority from the City to construct or maintain conduits or ducts in the Streets, the City Engineer may require Grantee to afford to such Person the right as a Licensee to use Grantee's Surplus Ducts or Conduits in common with the Grantee, unless safety or engineering concerns cannot reasonably be mitigated or eliminated. This right of use shall be subject to Section 12.2, to the terms and conditions of an agreement for use of Surplus Ducts or Conduits entered into by the Grantee and the Licensee, and to the safety and reliability of Grantee's System and maintenance requirements. Any agreement governing the terms and conditions of use of Surplus Ducts or Conduits may, at Grantee's discretion, require use of Grantee's employees or contractors in any work occurring in Grantee's vaults. If the Grantee and the Licensee are unable to mutually agree upon the terms and conditions of the use of Surplus Ducts or Conduits, Grantee shall seek resolution of the dispute in accordance with OAR 860-028-0220.

12.2 Coordination of Licensee Usage.

(A) A Licensee occupying part of a Duct shall be deemed to occupy the entire Duct.

(B) Grantee shall give Licensee and the City one hundred twenty (120) calendar days written notice of its needs to occupy any licensed Conduit or Duct and within such notice period Licensee shall take one of the following actions as directed by Grantee:

(1) Pay revised conduit or duct rent designed to recover the cost of retrofitting the Conduit or Duct with multiplexing, optical fibers, or other space-saving technology sufficient to meet the Grantee's space needs;

(2) Pay revised conduit or duct rent designed to recover the cost of new Conduit or Duct constructed to meet the Grantee's space needs;

(3) Construct and maintain sufficient new Conduit or Duct to meet the Grantee's space needs; or

(4) Vacate the Conduit or Duct.

(C) When two or more Licensees occupy a section of Conduit or Duct, the last Licensee to occupy the Conduit or Duct shall be the first to vacate or construct new conduit or duct as directed by the Grantee; pursuant to Section 12.2(B)(4), Grantee may require all Licensees to vacate. When conduit or duct rent is revised because of retrofitting or space-saving technology or construction of new conduit or duct, all Licensees shall bear the revised cost.

(D) All Attachments shall meet local, state, and federal clearance and other safety requirements, be properly grounded and anchored, and meet the provisions of contracts executed between the Grantee and the Licensee. The Grantee may, at its option, correct any Attachment deficiencies and charge the Licensee for its costs. Each Licensee shall pay the Grantee for any fines, fees, damages, or other reasonable costs the Licensee's Attachments cause the Grantee to incur.

Section 13. DISCONTINUED USE OF FACILITIES.

13.1 Abandonment. If Grantee intends to discontinue using Facilities of its System within all or part of a particular portion of the Streets and does not intend to use said Facilities again in the future, Grantee shall, as required by the City Code, submit to the City Engineer for the City Engineer's approval a completed application describing the structures or other Facilities and the date on which the Grantee intends to discontinue using such Facilities. Grantee may elect to remove the Facilities or request that the City permit them to remain in place. If Grantee is permitted to abandon its Facilities in place, upon consent of the City, the ownership of Facilities in the Streets shall transfer to the City, and Grantee shall have no further obligation therefore. Grantee's sale of a portion of its System shall not, by itself, be considered a "discontinued use" under Section 13.

13.2 Removal or Modification. Notwithstanding the Grantee's request that any such Facility remain in place, the City Engineer may require the Grantee to remove the Facility from the Street or modify the Facility in order to protect the public health and safety or otherwise serve the public interest. The City Engineer may require the Grantee to perform a combination of modification and removal of the Facility. Grantee shall complete such removal or modification in accordance with a reasonable schedule set by the City Engineer. The City Engineer shall have unlimited discretion in determining the

reasonable removal schedule, based upon the Engineer's consideration of the total circumstances of the schedule. Until such time as Grantee removes or modifies the Facility as directed by the City Engineer, or until 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 all necessary repairs and relocations of the Facility, as well as restoration of the Street, in the same manner and degree as if the Facility were in active use, and Grantee shall retain all liability for such Facility.

Section 14. HAZARDOUS SUBSTANCES.

14.1 Compliance with Applicable Law. As required by the City Code, Grantee shall comply with all applicable state and federal laws, statutes, regulations and orders concerning Hazardous Substances relating to its System and Facilities in the Streets.

14.2 Maintenance, Inspection and Remediation. Grantee shall maintain and inspect its System Facilities located in the Streets. If Grantee discovers any Hazardous Substances in the course of Grantee's work on its Facilities in the Streets, Grantee shall provide a written report of the discovery to the City within two (2) business days. Grantee shall immediately proceed to remove and remediate, in accordance with, and only to the extent required by, all applicable local, state and federal laws, any Hazardous Substances in the Streets directly attributable to or caused by Grantee's Facilities or the acts or omissions of Grantee. Nothing in this Franchise transfers or is intended to transfer any liability to the City for removal or remediation of any such Hazardous Substances in the Streets.

14.3 Construction, Modification or Removal of Facilities. In the course of construction, modification or removal of any of its Facilities in the Streets, to the extent necessary to safely proceed with such work, Grantee shall remove and remediate Hazardous Substances encountered in the course of its activities in accordance with, and only to the extent required by, all applicable state and federal laws, statutes, regulations and orders. Grantee may use reasonable business efforts to recover its costs for such removal and disposal from all legally responsible third parties.

Section 15. TREE TRIMMING.

15.1 When Permits Needed. Upon obtaining a written permit from the City Forester, Grantee may prune or cause to be pruned, using proper utility arboricultural practices and in accordance with such permit, any tree in or overhanging the Streets which interferes with Grantee's Facilities. Except in emergencies or by special written permission of the City Forester, Grantee may not prune trees at a point below 30 feet above sidewalk grade until one week (seven (7) calendar days) after written notice has been given to the owner or occupant of the premises abutting the Street in or over which the tree is growing. The owner or occupant shall have one week from receipt of notice to have such trees pruned by a qualified line clearance arborist at his or her own expense in accordance with Grantee's standards for reliable utility service, provided that the owner or occupant agrees to use tree pruning personnel that are qualified to work in close proximity to

power lines. If the owner or occupant fails to do so in compliance with the notice, Grantee may prune such tree at its expense.

15.2 Blanket Permits. The City Forester may, at the City Forester's discretion, waive the notification and single tree permit process and issue a blanket tree pruning permit if Grantee adequately demonstrates to the City Forester's satisfaction the ability to consistently apply proper utility arboricultural practices to the pruning of trees. Before any blanket permit may be issued, any contractor of Grantee shall be subject to the approval of the City Forester. The City Forester shall have discretion to cancel the blanket permit, notification and single tree permit process if, at any time, the Grantee or its agents fail to either use proper utility arboricultural practices or to properly notify the public as specified in Section 15.1.

15.3 Emergencies. Notwithstanding the permit and notice requirements of Section 15, in the event of an emergency, Grantee may prune a tree or trees as necessary to abate the emergency. For purposes of Section 15, emergencies exist when it is necessary to prune a tree or trees in order to restore services, or to protect the public from imminent danger, or to prevent the imminent destruction of property.

Section 16. CITY'S CONSENT REQUIRED FOR ASSIGNMENT, TRANSFER, MERGER, LEASE OR MORTGAGE.

16.1 Council Consent. Neither this Franchise, nor all or substantially all of Grantee's System located in the Streets by authority of this Franchise, shall be sold, leased, mortgaged, assigned, merged or otherwise transferred without the prior written consent of the City as expressed by ordinance, which consent shall not be unreasonably withheld, except to entities that control, are controlled by, or are under common control with the Grantee. Grantee shall give written notice to the City of any transfers to entities under such common control within ten (10) days of such transfers. The City's granting of consent in one instance shall not render unnecessary any subsequent consent in any other instance. Nothing contained in this Franchise shall be deemed to prohibit the mortgage, pledge, or assignment of tangible assets of Grantee's System for the purpose of financing the acquisition of equipment for or the construction and operation of Grantee's System, within or outside the City, without the City's consent, but any such mortgage, pledge or assignment with respect to Grantee's System shall be subject to the City's other rights contained in this Franchise.

16.2 Review.

(A) In determining whether the City will consent to any sale, lease, mortgage, assignment, merger or transfer, the City may inquire into the technical, legal, and financial qualifications of the prospective party. Grantee shall assist the City in any such inquiry. The City may condition any sale, lease, mortgage, assignment, merger or transfer upon such conditions related to the technical, legal, and financial qualifications of the prospective party to perform according to the terms of this Franchise, as it deems

appropriate. The City shall not unreasonably delay or withhold its consent to any such sale, lease, mortgage, assignment, transfer or merger.

(B) No sale, lease, mortgage, assignment, transfer or merger for which the City's consent by ordinance is required may occur until the successor, assignee or lessee has complied with the requirements of Section 4, including, but not limited to, providing certificates of insurance, unless the City Council waives such compliance by ordinance. Within ten (10) days after execution and delivery of any instrument so consented to by the City, Grantee shall file with the City Auditor an executed counterpart or certified copy thereof.

16.3 Leases. Grantee shall not lease any portion of its franchised System without the City's prior consent as expressed by ordinance. However, and notwithstanding Section 16.1, Grantee may lease any portion of its System in the ordinary course of its business without otherwise obtaining the City's consent by ordinance, so long as Grantee remains solely responsible for locating, servicing, repairing, relocating or removing such portion of its System. A lessee of any portion of Grantee's System shall not obtain any rights under this Franchise.

16.4 Sales.

(A) Notwithstanding Section 16.1, Grantee may sell portions of its System in the ordinary course of its business, without otherwise obtaining the City's consent by ordinance, so long as Grantee complies with the following conditions:

(1) The sale is to the holder of a current existing, valid franchise, license, permit, or other similar right granted by the City;

(2) Within fourteen (14) days of the sale being executed and becoming final, Grantee shall provide written notice to the City, describing the portions of the System sold by the Grantee, identifying the purchaser of the Facilities, the location of the Facilities (in accordance with the requirements of Section 6.1(B)(2)) and providing an executed counterpart or certified copy of the sales documents;

(3) Grantee remains solely responsible for locating, servicing, repairing, relocating or removing its remaining System; and,

(4) Within fourteen (14) days of the sale being executed and becoming final, the purchaser of such Facilities shall file written notice to the City that it has assumed sole responsibility for locating, servicing, repairing, relocating or removing the purchased Facilities under the purchaser's current, existing valid franchise, license, permit or other similar right granted by the City. The purchaser shall not obtain any of the Grantee's rights under this Franchise.

Section 17. FRANCHISE VIOLATIONS AND REMEDIES.

17.1 Remedies for Franchise Violations.

(A) In addition to any rights set out elsewhere in this Franchise, or such other rights as it may possess, the City reserves the right at its discretion to apply any of the following remedies, alone or in combination, in the event Grantee violates any material provision of this Franchise, including but not limited to franchisee fees, reports, records, and maintenance of insurance or performance bonds.

(1) Impose liquidated damages as provided in Section 17.1(C);

(2) Recover specific damages from all or any part of the security provided pursuant to this Franchise, including without limitation any performance bond, letter of credit or other security, provided, however, the assessment shall be for such amount as the City reasonably determines is necessary to remedy the violation;

(3) Commence litigation seeking recovery of monetary damages or specific performance of this Franchise, as such remedy may be available;

(4) Suspend the Grantee's Franchise rights related to the violation, until the Grantee corrects or otherwise remedies the violation;

(5) Reduce the duration of the term of this Franchise on such basis as is reasonable provided that in no event shall the amount of the term remaining after the reduction be less than three (3) years; or

(6) Revoke this Franchise.

(B) (1) Grantee shall not be relieved of its obligations to comply promptly with this Franchise by reason of any failure of the City to enforce prompt compliance. The City's failure to enforce shall not constitute a waiver of any term, condition, or obligation imposed upon the Grantee under this Franchise; nor a waiver of rights by the City or acquiescence in Grantee's conduct. A specific waiver of a particular term, condition, or obligation imposed upon Grantee under this Franchise shall not be a waiver of any other or subsequent or future breach of the same or of any other term, condition or obligation. The acts or omissions of Affiliates are not beyond the Grantee's control, and the knowledge of Affiliates shall be imputed to Grantee.

(2) Subject to applicable law, the remedies provided for in this Franchise are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another remedy, or the exercise of any available rights of the City at law or equity.

(3) No cost or liability to Grantee arising from a breach or violation of this Franchise shall be offset against any other sums due to the City as a tax, franchise fee or otherwise regardless of whether the combination of franchise fees and said costs exceeds five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period.

(C) Liquidated Damages

(1) The City and Grantee recognize that delays, expense and unique difficulties would be involved in establishing actual losses suffered by the City and the public as a result of the Grantee's violation of material provisions of this Franchise. Instead of requiring proof of actual damages, the City and Grantee agree that Grantee shall pay liquidated damages to the City for any violation of material provisions of this Franchise. The parties agree that such amounts are a reasonable estimate of the actual damages (including increased costs of administration and other damages difficult to measure) the City and the public would suffer in the event of Grantee's breach such provisions of this Franchise.

(2) Subject to Grantee's right to notice and the opportunity to cure as provided in Section 17.2, if the City determines that Grantee has violated any material provision of this Franchise, the City may assess liquidated damages of $1,000. Liquidated damages will be assessed by the City based upon the number of days or incidents during which the violation continues.

(3) The liquidated damage amounts are stated in 2011 dollars and shall be adjusted each year for any increase in the amount of change in the Consumer Price Index for urban age earners and clerical workers for the Portland, Oregon metropolitan region for the prior year, unadjusted for seasonal variations, as determined by the Bureau of Labor Statistics of the Department of labor and as published in such Bureau of Labor Statistics' Detailed Report (CPI). The adjustment will be calculated by multiplying the base liquidated damages amount by the ratio of 1) the average CPI for January through June of the current Year, to 2) the average CPI for January through June of the prior Year.

(4) The assessment and recovery of liquidated damages will 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 City by reason of the breach of this Franchise. The assessment and recovery of liquidated damages for a particular violation will substitute for the recovery of actual damages for the period of the assessment.

(5) Each violation of any material provision of this Franchise shall be considered a separate violation for which separate liquidated damages may be imposed. Enumeration of material Franchise provisions set forth in Section 17.1 is not exhaustive and shall not be invoked under any guideline for contract interpretation to narrow the scope of other material terms, violation of which would be a material breach of this Franchise. Any liquidated damages for a specific franchise violation may be imposed upon Grantee. Thereafter, if Grantee has not cured or commenced to cure the alleged breach to the satisfaction of the City, the City may pursue any other remedies available under this Franchise or applicable law.

(D) In determining which of the remedies available under this Franchise is appropriate, the City may consider, among other things: (1) the nature and extent of the

violation; (2) whether Grantee has had a history of similar violations; (3) the Person burdened by the violation and the cost of remedying the violation; (4) the nature of the remedy required in order to prevent further such violations; and (5) such other factors as the City may deem appropriate.

(E) The City may shorten the term of this Franchise or revoke this Franchise in the manner described in Sections 17.1(A)(5) and (6) upon the occurrence of any of the following acts or events:

(1) Any failure to comply with the requirements of Section 4 of this Franchise, including but not limited to, any failure to provide uninterrupted insurance or performance bonds;

(2) Grantee is found by a court of competent jurisdiction to have practiced any fraud or deceit upon the City; or

(3) Grantee fails to obtain and maintain any permit required by any federal or state regulatory body in order to own and operate the System.

(F) In addition to its other rights and remedies as set forth in this Franchise, the City shall have the right to revoke this Franchise after the appointment of a receiver or trustee to take over and conduct the Grantee's business, or the initiation of receivership, reorganization, insolvency or other similar action or proceeding, unless Grantee, its receiver or trustee timely and fully perform all obligations, until such time as this Franchise is either rejected or assumed by Grantee, its receiver or trustee.

17.2 Notice and Opportunity to Cure.

(A) The City shall give Grantee thirty (30) days prior written notice of its intent to exercise any of its rights under Section 17.1, identifying the reasons for such action.

(B) If Grantee removes or otherwise cures the asserted violation constituting the stated reason within the thirty (30) day notice period, or if cure is not reasonably possible within the thirty (30) day period and the Grantee initiates good faith efforts satisfactory to the City within the thirty (30) day period to cure the asserted violation constituting the stated reason and the efforts continue in good faith, the City shall not exercise its rights under Section 17.1.

(C) If Grantee fails to remove or otherwise cure the asserted violation constituting the stated reason within the thirty (30) day notice period, or if the Grantee does not undertake and continue efforts satisfactory to the City to remedy the stated reason, then the City may exercise any or all of the remedies available under Section 17.1 or such other rights as the City may possess.

17.3 Minor Variances. The City may, upon request of the Grantee or its own motion, permit the Grantee to vary its manner of performance under this Franchise so long as the

variance does not result in a substantial change in the terms of this Franchise or a substantial reduction in the services to be provided.

17.4 Removal of Facilities. If the City has revoked this Franchise as provided in Section 17.1, or if this Franchise has expired without being renewed or extended, or in the event of the City's purchase, lease-purchase, condemnation, acquisition, taking over or holding of plant and equipment, all of Grantee's rights under this Franchise shall immediately cease and be divested. Thereafter, except as provided in this Section, or as otherwise provided by ordinance, the Grantee shall remove its Facilities from the Streets and restore the Streets to the standards provided in Section 13. In the event of a failure by the Grantee to properly perform such work, then the City may perform the work and collect the cost thereof from the Grantee. The cost thereof shall be a lien upon the system of the Grantee and a set-off against any sums owed Grantee by City.

Section 18. RENEGOTIATION.

In the event that any provision of this Franchise becomes invalid or unenforceable and the City Council or the Grantee expressly finds that such provision constituted a consideration material to entering into this Franchise, the City and the Grantee may mutually agree to renegotiate the terms of this Franchise. The party seeking renegotiation shall serve on the other party written notice of an offer to renegotiate. In the event the other party accepts the offer to renegotiate, the parties shall have ninety (90) days to conduct and complete the renegotiation. If both parties agree to renegotiations under Section 18, the parties shall proceed in good faith and in a manner that is reasonable under the circumstances.

Section 19. EXPIRATION.

(A) Upon the expiration of this Franchise, the City shall have the right, at its election, to: (1) renew or extend Grantee's Franchise; (2) invite additional proposals and award the Franchise to another Person; (3) terminate the Franchise without further action; or (4) take such further action as the City deems appropriate.

(B) Until such time as the City exercises its rights under Section 19, the Grantee's rights and responsibilities within the City shall be controlled by the terms of this Franchise.

Section 20. MISCELLANEOUS PROVISIONS.

20.1 Compliance with Laws.

(A) Both Grantee and the City shall comply with all applicable federal and state laws.

(B) Grantee shall comply with all applicable City ordinances, resolutions, rules and regulations adopted or established pursuant to the City's lawful authority.

20.2 Severability. If any section, provision or clause of this Franchise is held by a court of competent jurisdiction to be invalid or unenforceable, or is preempted by federal or state laws or regulations, the remainder of this Franchise shall not be affected, unless the City Council determines such section, provision, or clause was material to the City's agreement to issue a franchise to the Grantee.

20.3 Regulation and Nonenforcement by the City. The City Council shall be vested with the power and authority to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure of the City to enforce prompt compliance, nor does the City waive or limit any of its rights under this Franchise by reason of such failure or neglect. Services furnished by Grantee under this Franchise shall be rendered using the best practicable commercial methods and practices, insuring the least danger to life and property compatible with good engineering practice.

20.4 Force Majeure.

(A) For the purposes of Section 20.4, the term "Force Majeure" shall mean Acts of God, landslides, earthquakes, lightning, fires, hurricanes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, acts of terrorism or of the public enemy, partial or entire failure of utilities, strikes, explosions, lockouts or other industrial disturbances, insurrections, public riots or other similar events which are not reasonably within the control of the parties hereto.

(B) If the Grantee is wholly or partially unable to carry out its obligations under this Franchise as a result of Force Majeure, the Grantee shall give the City prompt notice of such Force Majeure, describing the same in reasonable detail, and Grantee's obligations under this Franchise, other than for the payment of monies due, shall not be deemed in violation or default for the duration of the Force Majeure. Grantee agrees to use its best efforts to remedy as soon as possible, under the circumstances, Grantee's inability, by reason of Force Majeure, to carry out its responsibility and duties under this Franchise.

20.5 Choice of Forum. Any litigation between the City and the Grantee arising under or regarding this Franchise shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon, Portland.

20.6 Choice of Law. This contract shall be governed by and construed in accordance with the laws of the State of Oregon, even if Oregon's choice of law rules would otherwise require application of the law of a different state.

20.7 Notice. Any notice provided for under this Franchise shall be sufficient if in writing and (1) delivered personally to the following addressee or deposited in the United

States mail, postage prepaid, certified mail, return receipt requested; or (2) sent by overnight or commercial air courier (such as Federal Express):

(A) If to the City:

Office of Cable Communications and Franchise Management
City of Portland, Oregon
1120 SW 5th Avenue, Room 1305
Portland, Oregon 97204

With a copy to:

City Attorney's Office
City of Portland
1221 SW 4th Avenue, Room 430
Portland, Oregon 97204

(B) If to the Grantee:

[insert Company contact and address]

With a copy to:

[insert second designated contact for Company and address]

(C) Any such notice, communication or delivery shall be deemed effective and delivered upon the earliest to occur of actual delivery, three (3) business days after depositing in the United States mail as aforesaid, one (1) business day after shipment by commercial air courier as aforesaid.

20.8 Public Records. All information and records submitted to the City are subject to disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. If Grantee reasonably believes that any information or records it submits to the City may be exempt from disclosure under the Oregon Public Records Law, Grantee must identify such information with particularity and include the following statement:

> "This data is exempt from disclosure under the Oregon Public Records Law pursuant to ORS 192, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS 192.410 through 192.505."

If Grantee fails to identify with particularity the portions of such information that Grantee believes are exempt from disclosure, and the basis for its conclusion that the identified information is exempt from disclosure, Grantee is deemed to waive any future claim regarding non-disclosure of that information.

20.9 Franchise Amendment. The City has negotiated this Franchise in good faith, in reliance upon the information provided by the Grantee regarding the scope of its authority to offer services associated with its System. In the event that Grantee offers or receives authority to offer services outside the scope of this Franchise that utilize Grantee's Facilities in the Streets, Grantee shall immediately notify the City. Within ninety (90) days of receiving such notice, the City may elect, without limitation, to enter into negotiations with Grantee to revise or amend this Franchise, or to extend separate authority to Grantee for such services to reflect such changed circumstances, or may proceed with early termination of this Franchise. The parties will negotiate in good faith to reach mutual agreement on the lawful means to provide the necessary authority for Grantee to provide such services using Streets.

20.10 Written Acceptance. On or before the thirtieth day after this ordinance becomes effective, Grantee shall file in the Office of the Auditor of the City of Portland a written acceptance of this ordinance, executed by the Grantee, meeting the approval of the City Attorney. Any failure on the part of Grantee to file such written acceptance within such time shall be deemed an abandonment and rejection of the rights and privileges conferred hereby and this ordinance shall thereupon be null and void. Such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in this ordinance.

20.11 Other Authority Superseded. Upon effectiveness of this Franchise, any and all authority to operate previously granted to Grantee by the City is superseded by this Franchise.